Texas Association of Judiciary Interpreters and Translators

HB 3627 and SB 2176
TALKING POINTS

One in seven Texas residents lacks a strong enough command of English to testify in court, or to listen to and understand the evidence brought against them, which effectively deprives them of equal access.

The practical effect of HB 3627 and SB 2176 is to lower the score necessary to pass the oral portion of the licensing exam to 60% accuracy for all licensed court interpreters in all courts and all types of cases. This would result in Texas courts having the lowest standard of accuracy, knowledge and skills in the United States.

Presently, Texas courts rely on the skills of approximately 490 spoken-language interpreters, who perform the complex mental task of instantly converting one spoken language into another. These licensed court interpreters (LCIs) are credentialed using a standardized oral exam shared by 35 states.

The exam used by Texas was developed by the Language Access Services Section of the National Center for State Courts, who set the "minimum acceptable level for entry into the profession of spoken language court interpretation" at 70%.
https://www.ncsc.org/~/media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Language%20Access/Written%20and%20Oral/2014%20January_Test%20Construction%20Manual%201%2029%2014.ashx

By setting the passing score at 60%, which is the Basic License level, the actual "competency" of Texas licensed interpreters could be questioned, leaving the courts vulnerable to legal challenges and appeals.

These bills directly impact the Court's ability to administer justice. Most of the time, interpreters work from English into a foreign language, interpreting what judges say to LEP persons during protective order hearings, custody cases, pleas, sentencing and rulings on evidentiary matters. These bills would force judges to rely on interpreters unable to pass the oral exam with a minimum score of 70% accuracy to convey often complex legal concepts. Additionally, attorneys who must rely on these interpreters to examine and cross-examine witnesses will have no assurance that the interpreter possesses the linguistic skills needed for accurate renditions beyond their 60% test score.

The informed participation of parties in any judicial proceeding, be it civil or criminal, is at the very heart of our judicial system. Effective communication and being linguistically present is critical to this process. Interpreters who are unable to meet the profession's minimum standard of 70% accuracy are in all likelihood unable to fulfill their obligation to convey all that is said accurately and completely, to the clear detriment of all stakeholders in the system of justice.

There is no shortage of linguistic talent in our state. One third of Texans speak a language other than English at home. With adequate training, this pool of bilinguals can amply supply any temporary shortages of qualified court interpreters in a given jurisdiction. Legislators who are concerned about the supply of licensed court interpreters can best assist by proposing measures for greater funding of language programs, higher education and professional training, rather than lowering standards.

Prosecutors are required to prove criminal cases beyond a reasonable doubt under Texas law. If relying on interpreters who are free to guess at 40% of the meaning of witness testimony, confessions and other evidence, prosecutors will be unable to reach the necessary burden of proof.

Court reporters are tasked with the vital responsibility of creating an accurate written record of proceedings and must demonstrate 95% accuracy on their Texas state exams (http://www.txcourts.gov/jbcc/court-reporters-certification/exam/). During interpreted testimony, the voice of the interpreter is treated as if it were the verbatim speech of the LEP party. The possibility that an interpreter is getting 40% of this testimony wrong completely undermines the required 95% accuracy.

Equal access to justice is the cornerstone of our judicial system; by lowering the standards to qualify court interpreters we are placing the administration of justice in serious jeopardy.