

HOUSE BILL REPORT

HB 1567

As Reported By House Committee On:
Judiciary

Title: An act relating to interpreters for hearing or speech impaired jurors.

Brief Description: Authorizing interpreters for jurors in judicial and administrative proceedings.

Sponsors: Representatives H. Myers, Johanson, Chappell, Riley, Ballasiotes, Ludwig, Appelwick, Tate, Jones, Quall and Wineberry.

Brief History:

Reported by House Committee on:
Judiciary, February 23, 1993, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: A person is qualified to serve as a juror in the state of Washington unless that person: (1) is less than 18 years of age; (2) is not a United States citizen; (3) is not a resident of the county in which he or she has been summoned to serve; (4) is unable to communicate in the English language; or (5) has been convicted of a felony and has not had his or her civil rights restored. In addition to those minimum requirements, a judge must excuse from jury service any juror, who in the judge's opinion, has manifested unfitness as a juror by reason of bias, prejudice, indifference, inattention, or any physical or mental defect, or by reason of conduct or practices incompatible with proper and efficient jury service.

According to the Office of the Administrator for the Courts, at least some courts have not interpreted those requirements to exclude potential jurors who have a hearing or speech

impairment. If an otherwise qualified juror is hearing or speech impaired, the court appoints an interpreter for the juror. Apparently a question has arisen whether an interpreter may assist a juror in the jury room while the jury deliberates on the case. Jury deliberations are confidential. Usually no one but the jurors may be present during jury deliberations.

Several provisions govern the role, responsibility, and payment of interpreters who assist the hearing or speech impaired in legal proceedings. Every interpreter must take an oath that the interpreter will accurately interpret the proceedings. The provisions do not appear to contemplate that an interpreter may be appointed for a juror, and consequently do not address the issue of the interpreter's obligation to respect the confidentiality of jury deliberations.

If a hearing impaired person is a party or witness who is required to appear in a judicial or administrative hearing, or if a parent or guardian of a juvenile brought before the court is hearing impaired, the court or administrative body conducting the legal proceeding must appoint and pay for the cost of an interpreter. For example, the courts pay for the cost of interpreters for defendants and witnesses in criminal trials, for people with mental health problems who are subject to involuntary civil commitment, and for parents who may have their parental rights terminated by the state. The provisions do not address whether the court pays for interpreters for hearing or speech impaired jurors. However, because jurors are required to respond to jury duty and must participate in jury service if selected, the courts have paid for the interpreters.

Summary of Substitute Bill: If a court has appointed an interpreter for a hearing or speech impaired juror, the interpreter must be allowed to assist the juror throughout the proceedings including jury deliberation proceedings.

The court must swear the interpreter not to disclose, except as is necessary to interpret the proceedings, anything that any juror has said or how a juror has voted. Every interpreter must take an oath to obey the court's direction. Specific provisions regarding the presence and role of interpreters in grand jury proceedings are amended to reflect this provision.

If a hearing impaired person is a juror in a judicial proceeding in the state or in a political subdivision, the court must appoint and pay for a qualified interpreter to interpret the proceedings, including jury deliberation proceedings.

Nothing in the bill entitles a hearing or speech impaired person to serve as a juror.

Substitute Bill Compared to Original Bill: Reference to jurors in administrative proceedings is deleted, because "jurors" are not involved in administrative proceedings.

Fiscal Note: Requested February 15, 1993.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill does not impose any additional requirements upon courts to select hearing impaired jurors. It just clarifies that, if an otherwise qualified juror is selected by the parties, the interpreter may assist the juror throughout the proceedings. The federal Americans with Disabilities Act probably requires this anyway.

Testimony Against: Some hearing and speech impaired jurors may not be qualified to sit as jurors depending on the case. A concern exists that the bill may be interpreted to mean that more hearing impaired persons will have to be selected as jurors, which will place a financial burden on the counties because interpreters are expensive. If the bill does not require that, then there is no objection.

Witnesses: Mike Redman, Washington Association of Prosecuting Attorneys (with concerns); Kurt Sharar (with concerns); and Judge Robert McBeth, District and Municipal Court Judges Association (pro).