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**SUBSTITUTE HOUSE BILL 1567**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representatives H. Myers, Johanson, Chappell, Riley, Ballasiotes, Ludwig, Appelwick, Tate, Jones, Quall and Wineberry)

Read first time 02/24/93.

1 AN ACT Relating to interpreters for hearing or speech impaired  
2 jurors; amending RCW 2.42.050, 2.42.120, 10.27.070, and 10.27.080;  
3 adding a new section to chapter 2.36 RCW; and adding a new section to  
4 chapter 4.44 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 2.36 RCW  
7 to read as follows:

8 If the court has appointed an interpreter for a hearing or speech  
9 impaired juror, the interpreter shall assist the juror throughout the  
10 proceedings including jury deliberation proceedings. The court shall  
11 swear the interpreter not to disclose, except as is necessary to  
12 interpret the proceedings, anything that any juror has said or how a  
13 juror has voted.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.44 RCW  
15 to read as follows:

16 If the court has appointed an interpreter for a hearing or speech  
17 impaired juror, the interpreter shall assist the juror throughout the  
18 proceedings including jury deliberation proceedings. The court shall

1 swear the interpreter not to disclose, except as is necessary to  
2 interpret the proceedings, anything that any juror has said or how a  
3 juror has voted.

4 **Sec. 3.** RCW 2.42.050 and 1989 c 358 s 14 are each amended to read  
5 as follows:

6 (1) Every qualified interpreter appointed under this chapter in a  
7 judicial or administrative proceeding shall, before beginning to  
8 interpret, take an oath that a true interpretation will be made to the  
9 person being examined of all the proceedings in a manner which the  
10 person understands, and that the interpreter will repeat the statements  
11 of the person being examined to the court or other agency conducting  
12 the proceedings, to the best of the interpreter's skill and judgment.

13 (2) Every interpreter appointed to interpret for a juror who is a  
14 hearing or speech impaired person in a judicial proceeding shall take  
15 an oath that the interpreter will not disclose statements made by the  
16 jurors while impaneled, deliberating, and voting, except as is  
17 necessary to interpret the proceedings.

18 **Sec. 4.** RCW 2.42.120 and 1985 c 389 s 12 are each amended to read  
19 as follows:

20 (1) If a hearing impaired person is a party or witness at any stage  
21 of a judicial or quasi-judicial proceeding in the state or in a  
22 political subdivision, including but not limited to civil and criminal  
23 court proceedings, grand jury proceedings, proceedings before a  
24 magistrate, juvenile proceedings, adoption proceedings, mental health  
25 commitment proceedings, and any proceeding in which a hearing impaired  
26 person may be subject to confinement or criminal sanction, the  
27 appointing authority shall appoint and pay for a qualified interpreter  
28 to interpret the proceedings.

29 (2) If the parent, guardian, or custodian of a juvenile brought  
30 before a court is hearing impaired, the appointing authority shall  
31 appoint and pay for a qualified interpreter to interpret the  
32 proceedings.

33 (3) If a hearing impaired person participates in a program or  
34 activity ordered by a court as part of the sentence or order of  
35 disposition, required as part of a diversion agreement or deferred  
36 prosecution program, or required as a condition of probation or parole,  
37 the appointing authority shall appoint and pay for a qualified

1 interpreter to interpret exchange of information during the program or  
2 activity.

3 (4) If a law enforcement agency conducts a criminal investigation  
4 involving the interviewing of a hearing impaired person, whether as a  
5 victim, witness, or suspect, the appointing authority shall appoint  
6 and pay for a qualified interpreter throughout the investigation.  
7 Whenever a law enforcement agency conducts a criminal investigation  
8 involving the interviewing of a minor child whose parent, guardian, or  
9 custodian is hearing impaired, whether as a victim, witness, or  
10 suspect, the appointing authority shall appoint and pay for a qualified  
11 interpreter throughout the investigation. No employee of the law  
12 enforcement agency who has responsibilities other than interpreting may  
13 be appointed as the qualified interpreter.

14 (5) If a hearing impaired person is arrested for an alleged  
15 violation of a criminal law the arresting officer or the officer's  
16 supervisor shall, at the earliest possible time, procure and arrange  
17 payment for a qualified interpreter for any notification of rights,  
18 warning, interrogation, or taking of a statement. No employee of the  
19 law enforcement agency who has responsibilities other than interpreting  
20 may be appointed as the qualified interpreter.

21 (6) Where it is the policy and practice of a court of this state or  
22 of a political subdivision to appoint and pay counsel for persons who  
23 are indigent, the appointing authority shall appoint and pay for a  
24 qualified interpreter for hearing impaired persons to facilitate  
25 communication with counsel in all phases of the preparation and  
26 presentation of the case.

27 (7) If a hearing impaired person is a juror in a judicial  
28 proceeding in the state or in a political subdivision, the appointing  
29 authority shall appoint and pay for a qualified interpreter to  
30 interpret the proceedings, including jury deliberation proceedings.

31 **Sec. 5.** RCW 10.27.070 and 1971 ex.s. c 67 s 7 are each amended to  
32 read as follows:

33 (1) When the grand jury is impaneled, the court shall appoint one  
34 of the jurors to be foreman, and also another of the jurors to act as  
35 foreman in case of the absence of the foreman.

36 (2) The grand jurors must be sworn pursuant to the following oath:  
37 "You, as grand jurors for the county of . . . . ., do solemnly swear  
38 (or affirm) that you will diligently inquire into and true presentment

1 make of all such matters and things as shall come to your knowledge and  
2 you will submit things truly as they come to your knowledge, according  
3 to your charge the laws of this state and your understanding; you shall  
4 indict no person through envy, hatred, malice, or political  
5 consideration; neither will you leave any person unindicted through  
6 fear, favor, affection, reward or the hope thereof, or political  
7 consideration. The counsel of the state, his or her advice, and that  
8 of your fellows you shall keep secret."

9 (3) After a grand jury has been sworn, the court must deliver or  
10 cause to be delivered to each grand juror a printed copy of all the  
11 provisions of this chapter, and the court may give the grand jurors any  
12 oral or written instructions, or both, relating to the proper  
13 performance of their duties at any time it deems necessary or  
14 appropriate.

15 (4) The court shall appoint a reporter to record the proceedings  
16 before the grand jury or special inquiry judge, and shall swear him or  
17 her not to disclose any testimony or the name of any witness except as  
18 provided in RCW 10.27.090. In addition, the foreman of the grand jury  
19 may, in his or her discretion, select one of the grand jurors to act as  
20 secretary to keep records of the grand jury's business.

21 (5) The court, whenever necessary, shall appoint an interpreter,  
22 and shall swear him or her not to disclose, except as necessary to  
23 accurately interpret the proceedings and as provided in RCW 10.27.090,  
24 any testimony ((or)), the name of any witness ((except as provided in  
25 RCW 10.27.090)), and in cases in which an interpreter is appointed for  
26 a hearing or speech impaired juror, anything a grand juror has said or  
27 how any grand juror has voted.

28 (6) When a person held in official custody is a witness before a  
29 grand jury or special inquiry judge, a public servant, assigned to  
30 guard him or her during his or her appearance may accompany him or her.  
31 The court shall swear such public servant not to disclose any testimony  
32 or the name of any witness except as provided in RCW 10.27.090.

33 (7) Proceedings of a grand jury shall not be valid unless at least  
34 twelve of its members are present. The foreman or acting foreman of  
35 the grand jury shall conduct proceedings in an orderly manner and shall  
36 administer an oath or affirmation in the manner prescribed by law to  
37 any witness who shall testify before the grand jury.

38 (8) The legal advisers of a grand jury are the court and public  
39 attorneys, and a grand jury may not seek or receive legal advice from

1 any other source. When necessary or appropriate, the court or public  
2 attorneys or both must instruct the grand jury concerning the law with  
3 respect to its duties or any matter before it, and such instructions  
4 shall be recorded by the reporter.

5 (9)(a) Upon request of the prosecuting attorney of the county in  
6 which a grand jury or special inquiry judge is impaneled, the attorney  
7 general shall assist such prosecuting attorney in attending such grand  
8 jury or special inquiry judge.

9 (b) Whenever directed by the court, the attorney general shall  
10 supersede the prosecuting attorney in attending the grand jury and in  
11 which event the attorney general shall be responsible for the  
12 prosecution of any indictment returned by the grand jury.

13 (c) When the attorney general is conducting a criminal  
14 investigation pursuant to powers otherwise granted to him or her, he or  
15 she shall attend all grand juries or special inquiry judges in relation  
16 thereto and shall prosecute any indictments returned by a grand jury.

17 (10) After consulting with the court and receiving its approval,  
18 the grand jury may request the governor to appoint a special prosecutor  
19 to attend the grand jury. The grand jury shall in the request nominate  
20 three persons approved by the court. From those nominated, the  
21 governor shall appoint a special prosecutor, who shall supersede the  
22 prosecuting attorney and the attorney general and who shall be  
23 responsible for the prosecution of any indictments returned by the  
24 grand jury attended by him or her.

25 (11) A public attorney shall attend the grand jurors when requested  
26 by them, and he or she may do so on his or her own motion within the  
27 limitations of RCW 10.27.020(2)((~~, 10.27.070(9) and 10.27.070(10)~~  
28 ~~hereof~~)) and subsections (9) and (10) of this section, for the purpose  
29 of examining witnesses in their presence, or of giving the grand jurors  
30 legal advice regarding any matter cognizable by them. He or she shall  
31 also, when requested by them, draft indictments and issue process for  
32 the attendance of witnesses.

33 (12) Subject to the approval of the court, the corporation counsel  
34 or city attorney for any city or town in the county where any grand  
35 jury has been convened may appear as a witness before the grand jury to  
36 advise the grand jury of any criminal activity or corruption within his  
37 or her jurisdiction.

1       **Sec. 6.** RCW 10.27.080 and 1971 ex.s. c 67 s 8 are each amended to  
2 read as follows:

3       No person shall be present at sessions of the grand jury or special  
4 inquiry judge except the witness under examination and his or her  
5 attorney, public attorneys, the reporter, an interpreter, a public  
6 servant guarding a witness who has been held in custody, if any, and,  
7 for the purposes provided for in RCW 10.27.170, any corporation counsel  
8 or city attorney. The attorney advising the witness shall only advise  
9 such witness concerning his or her right to answer or not answer any  
10 questions and the form of his or her answer and shall not otherwise  
11 engage in the proceedings. No person other than grand jurors and  
12 interpreters for hearing or speech impaired jurors, if any, shall be  
13 present while the grand jurors are deliberating or voting. Any person  
14 violating either of the above provisions may be held in contempt of  
15 court.

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