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**SUBSTITUTE HOUSE BILL 1884**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Children & Family Services (originally sponsored by Representatives Ogden, Poulsen, Crouse and Kenney; by request of Department of Social and Health Services)

Read first time . Referred to Committee on .

1 AN ACT Relating to telecommunications devices and services for the  
2 hearing or speech impaired; and amending RCW 43.20A.720 and 43.20A.725.

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

4 **Sec. 1.** RCW 43.20A.720 and 1992 c 144 s 2 are each amended to read  
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this section and RCW 43.20A.725.

8 (1) "Hearing impaired" means those persons who are certified to be  
9 deaf, deaf-blind, or hard of hearing, and those persons who are  
10 certified to have a hearing disability limiting their access to  
11 telecommunications.

12 (2) "Speech impaired" means persons who are certified to be unable  
13 to speak or who are certified to have a speech impairment limiting  
14 their access to telecommunications.

15 (~~"Text telephone (TT)," formerly known as a telecommunications~~  
16 ~~device for the deaf (TDD) means a telecommunications device that has a~~  
17 ~~typewriter or computer keyboard and a readable display that couples~~  
18 ~~with the telephone, allowing messages to be typed rather than spoken.~~  
19 ~~The device allows a person to make a telephone call directly to another~~

1 person possessing similar equipment. The conversation is typed through  
2 one machine to the other machine instead of spoken.

3 "Telecommunications relay service (TRS)" is a service for hearing  
4 and speech impaired people who have a TT to call someone who does not  
5 have a TT or vice versa. The service consists of several telephones  
6 being utilized by TRS communications assistants who receive either TT  
7 or voice phone calls. If a TRS communications assistant receives a  
8 phone call from a hearing or speech impaired person wishing to call a  
9 hearing person, the operator will call the hearing person and act as an  
10 intermediary by translating what is displayed on the TT to voice and  
11 typing what is voiced into the TT to be read by the hearing or speech  
12 impaired caller. This process can also be reversed with a hearing  
13 person calling a deaf person through the telecommunications relay  
14 service. "TRS program" as used in this chapter includes both the relay  
15 function and TTs.

16 "Qualified trainer" is a person who is knowledgeable about TTs,  
17 signal devices, and amplifying accessories; familiar with the technical  
18 aspects of equipment designed to meet hearing impaired people's needs;  
19 and is fluent in American sign language.

20 "Qualified contractor" shall have staff bilingual in American sign  
21 language and standard English available for quality language/cultural  
22 interpretations; quality training of operators; and policies, training,  
23 and operational procedures to be determined by the office.

24 "The department" means the department of social and health services  
25 of the state of Washington.))

26 (3) "Department" means the department of social and health  
27 services.

28 (4) "Office" means the office of deaf ((services)) and hard of  
29 hearing within the state department of social and health services.

30 **Sec. 2.** RCW 43.20A.725 and 1998 c 245 s 59 are each amended to  
31 read as follows:

32 (1) The department, through the sole authority of the office or its  
33 successor organization, shall maintain a program whereby ((TTs, signal  
34 devices, and amplifying accessories capable of serving the needs of the  
35 hearing and speech impaired shall be provided under the standards  
36 established in subsection (10) of this section to)) an individual of  
37 school age or older((:

1       (a) Who is certified as hearing impaired by a licensed physician,  
2 audiologist, or a qualified state agency, and to any subscriber that is  
3 an organization representing the hearing impaired, as determined and  
4 specified by the TRS program advisory committee; or

5       (b) Who is certified as speech impaired by a licensed physician,  
6 speech pathologist, or a qualified state agency, and to any subscriber  
7 that is an organization representing the speech impaired, as determined  
8 and specified by the TRS program advisory committee.

9       For the purpose of this section, certification implies that  
10 individuals cannot use the telephone for expressive or receptive  
11 communications due to hearing or speech impairment.

12       (2) The office shall award contracts on a competitive basis, to  
13 qualified persons for which eligibility to contract is determined by  
14 the office, for the distribution and maintenance of such TTs, signal  
15 devices, and amplifying accessories as shall be determined by the  
16 office. When awarding such contracts, the office may consider the  
17 quality of equipment and, with the director's approval, may award  
18 contracts on a basis other than cost. Such contracts may include a  
19 provision for the employment and use of a qualified trainer and the  
20 training of recipients in the use of such devices.

21       (3) The office shall establish and implement a policy for the  
22 ultimate responsibility for recovery of TTs, signal devices, and  
23 amplifying accessories from recipients who have been provided with the  
24 equipment without cost and who are moving from this state or who for  
25 other reasons are no longer using them.

26       (4) Pursuant to recommendations of the TRS program advisory  
27 committee, until July 26, 1993, the office shall maintain a program  
28 whereby a relay system will be provided state wide using operator  
29 intervention to connect hearing impaired and speech impaired persons  
30 and offices or organizations representing the hearing impaired and  
31 speech impaired, as determined and specified by the TDD advisory  
32 committee pursuant to RCW 43.20A.730. The relay system shall be the  
33 most cost-effective possible and shall operate in a manner consistent  
34 with federal requirements for such systems.

35       (5) Pursuant to the recommendations of the TDD task force report of  
36 December 1991, and with the express purpose of maintaining state  
37 control and jurisdiction, the office shall seek certification by the  
38 federal communications commission of the state wide relay service.

1       ~~(6) The office shall award contracts for the operation and~~  
2 ~~maintenance of the state-wide relay service. The initial contract~~  
3 ~~shall be for service commencing on or before July 26, 1993.)~~ who  
4 possesses a hearing or speech impairment is provided with  
5 telecommunications equipment, software, and/or peripheral devices,  
6 digital or otherwise, that is determined by the office to be necessary  
7 for such a person to access and use telecommunications transmission  
8 services effectively.

9       (2) The department, through the sole authority of the office or its  
10 successor organization, shall maintain a program where  
11 telecommunications relay services of a human or electronic nature will  
12 be provided to connect hearing impaired, deaf-blind, or speech impaired  
13 persons with persons who do not have a hearing or speech impairment.  
14 Such telecommunications relay services shall provide the ability for an  
15 individual who has a hearing or speech impairment to engage in voice,  
16 tactile, or visual communication by wire or radio with a hearing  
17 individual in a manner that is functionally equivalent to the ability  
18 of an individual who does not have a hearing or speech impairment to  
19 communicate using voice or visual communication services by wire or  
20 radio subject to subsection (4)(b) of this section.

21       (3) The telecommunications relay service and equipment distribution  
22 program may operate in such a manner as to provide communications  
23 transmission opportunities that are capable of incorporating new  
24 technologies that have demonstrated benefits consistent with the intent  
25 of this chapter and are in the best interests of the citizens of this  
26 state.

27       (4) The office shall administer and control the award of money to  
28 all parties incurring costs in implementing and maintaining  
29 telecommunications services, programs, equipment, and technical support  
30 services according to this section. The relay service contract shall  
31 be awarded to an individual company registered as a telecommunications  
32 company by the utilities and transportation commission, to a group of  
33 registered telecommunications companies, or to any other company or  
34 organization determined by the office as qualified to provide relay  
35 services, contingent upon that company or organization being approved  
36 as a registered telecommunications company prior to final contract  
37 approval. The relay system providers and telecommunications equipment  
38 vendors shall be selected on the basis of cost-effectiveness and

1 utility to the greatest extent possible under the program and technical  
2 specifications established by the office.

3 (a) To the extent funds are available under the then-current rate  
4 and not otherwise held in reserve or required for other purposes  
5 authorized by this chapter, the office may award contracts for  
6 communications and related services and equipment for hearing impaired  
7 or speech impaired individuals accessing or receiving services provided  
8 by, or contracted for, the department to meet access obligations under  
9 Title 2 of the federal Americans with disabilities act or related  
10 federal regulations.

11 (b) The office shall perform its duties under this section with the  
12 goal of achieving functional equivalency of access to and use of  
13 telecommunications services similar to the enjoyment of access to and  
14 use of such services experienced by an individual who does not have a  
15 hearing or speech impairment only to the extent that funds are  
16 available under the then-current rate and not otherwise held in reserve  
17 or required for other purposes authorized by this chapter.

18 ~~((+7))~~ (5) The program shall be funded by a telecommunications  
19 relay service (TRS) excise tax applied to each switched access line  
20 provided by the local exchange companies. The office shall determine,  
21 in consultation with the ((TRS)) office's program advisory committee,  
22 the budget needed to fund the program on an annual basis, including  
23 both operational costs and a reasonable amount for capital improvements  
24 such as equipment upgrade and replacement. The budget proposed by the  
25 office, together with documentation and supporting materials, shall be  
26 submitted to the office of financial management for review and  
27 approval. The approved budget shall be given by the department in an  
28 annual budget to the utilities and transportation commission no later  
29 than March 1 prior to the beginning of the fiscal year. The utilities  
30 and transportation commission shall then determine the amount of  
31 ((TRS)) telecommunications relay service excise tax to be placed on  
32 each access line and shall inform each local exchange company of this  
33 amount no later than May 15. The utilities and transportation  
34 commission shall determine the amount of ((TRS)) telecommunications  
35 relay service excise tax by dividing the total of the program budget,  
36 as submitted by the office, by the total number of access lines, and  
37 shall not exercise any further oversight of the program under this  
38 subsection. The ((TRS)) telecommunications relay service excise tax  
39 shall not exceed nineteen cents per month per access line. Each local

1 exchange company shall impose the amount of excise tax determined by  
2 the commission as of July 1, and shall remit the amount collected  
3 directly to the department on a monthly basis. The ((TRS))  
4 telecommunications relay service excise tax shall be separately  
5 identified on each ratepayer's bill with the following statement:  
6 "Funds federal ADA requirement." All proceeds from the ((TRS))  
7 telecommunications relay service excise tax shall be put into a fund to  
8 be administered by the office through the department.

9 ~~((8) The office shall administer and control the award of money to~~  
10 ~~all parties incurring costs in implementing and maintaining~~  
11 ~~telecommunications services, programs, equipment, and technical support~~  
12 ~~services in accordance with the provisions of RCW 43.20A.725.~~

13 ~~(9) The program shall be~~) (6) The telecommunications relay service  
14 program and equipment vendors shall provide services and equipment  
15 consistent with the requirements of federal law for the operation of  
16 both interstate and intrastate telecommunications services for the  
17 ~~((deaf or))~~ hearing impaired or speech impaired. The department and  
18 the utilities and transportation commission shall be responsible for  
19 ensuring compliance with federal requirements and shall provide timely  
20 notice to the legislature of any legislation that may be required to  
21 accomplish compliance.

22 ~~((10)(a) The department shall provide TTs, signal devices, and~~  
23 ~~amplifying accessories to a person eligible under subsection (1) of~~  
24 ~~this section at no charge in addition to the basic exchange rate if:~~

25 ~~(i) The person is eligible for participation in the Washington~~  
26 ~~telephone assistance program under RCW 80.36.470;~~

27 ~~(ii) The person's annual family income is equal to or less than one~~  
28 ~~hundred sixty five percent of the federal poverty level; or~~

29 ~~(iii) The person is a child eighteen years of age or younger with~~  
30 ~~a family income less than or equal to two hundred percent of the~~  
31 ~~federal poverty level.~~

32 ~~(b) A person eligible under subsection (1) of this section with a~~  
33 ~~family income greater than one hundred sixty five percent and less than~~  
34 ~~or equal to two hundred percent of the federal poverty level shall be~~  
35 ~~assessed a charge for the cost of TTs, signal devices, and amplifying~~  
36 ~~accessories based on a sliding scale of charges established by rule~~  
37 ~~adopted by the department.~~

38 ~~(c) The department shall charge a person eligible under subsection~~  
39 ~~(1) of this section whose income exceeds two hundred percent of the~~

1 federal poverty level the cost to the department of purchasing the  
2 equipment provided to that person.

3 (d) The department may waive part or all of the charges assessed  
4 under this subsection if the department finds that (i) the eligible  
5 person requires telebraille equipment or other equipment of similar  
6 cost and (ii) the charges normally assessed for the equipment under  
7 this subsection would create an exceptional or undue hardship on the  
8 eligible person.

9 (e) For the purposes of this subsection, certification of family  
10 income by the eligible person or the person's guardian or head of  
11 household is sufficient to determine eligibility.))

12 (7) The department shall adopt rules establishing eligibility  
13 criteria, ownership obligations, financial contributions, and a program  
14 for distribution to individuals requesting and receiving such  
15 telecommunications devices distributed by the office, and other rules  
16 necessary to administer programs and services consistent with this  
17 chapter.

--- END ---