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**SENATE BILL 5288**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senators Fraser, Carlson, Prentice and Kohl-Welles

Read first time 01/17/2001. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to interpreters for the deaf; amending RCW  
2 2.42.010, 2.42.050, 2.42.110, 2.42.120, 2.42.130, 2.42.140, 2.42.150,  
3 2.42.160, 2.42.170, and 2.42.180; adding a new chapter to Title 18 RCW;  
4 creating new sections; prescribing penalties; and providing an  
5 effective date.

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

7 NEW SECTION. **Sec. 1.** PURPOSE. The purpose of this act is to  
8 establish a system of licensing interpreters for the deaf that will  
9 enhance the opportunities of persons who are deaf or hearing impaired  
10 to enjoy the fruits of our society, increase their educational  
11 opportunities, enhance their public safety and security, and allow them  
12 to more fully enjoy their constitutional rights.

13 **PART I - LICENSING INTERPRETERS**

14 NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this  
15 section apply throughout this chapter unless the context clearly  
16 requires otherwise.

1 (1) "Board" means the Washington board of interpreters for the  
2 deaf.

3 (2) "Consumer" means a person who is hearing impaired or who  
4 requires special communication techniques in order to communicate.

5 (3) "Department" means the department of licensing.

6 (4) "Director" means the director of the department of licensing.

7 (5) "Interpreter" means a person who engages in the act or practice  
8 of interpreting for gain in the state of Washington, but does not  
9 include an intermediary interpreter, as defined under RCW 2.42.110.

10 (6) "Interpreting" means the act of translating or transliterating  
11 English concepts to any or all necessary specialized language used by  
12 a consumer or the act of translating a consumer's specialized  
13 vocabulary to English concepts.

14 (7) "Specialized vocabulary" means manual signs and gestures  
15 operating as visual or tactile ways of communicating thoughts, ideas,  
16 and feelings, including but not limited to American sign language,  
17 English-based sign language, cued speech, oral interpreting, manually  
18 coded English, and contact sign language.

19 NEW SECTION. **Sec. 102.** LICENSE REQUIREMENT. Effective December  
20 1, 2003, a person may not represent himself or herself as an  
21 interpreter, or engage in the practice of interpreting, for the deaf or  
22 hearing impaired, without applying for a license, meeting the required  
23 qualifications, and being licensed as an interpreter, except as  
24 exempted and provided by this chapter. Effective December 1, 2003, a  
25 person or a public or private entity may not knowingly employ a person  
26 for interpreting for the deaf or hearing impaired unless the person is  
27 licensed by the department as an interpreter to engage in the act of  
28 interpreting for the deaf or hearing impaired, except as exempted and  
29 provided by this chapter.

30 Interpreters in judicial or administrative proceedings are governed  
31 by chapter 2.42 RCW.

32 NEW SECTION. **Sec. 103.** REQUIREMENTS FOR BEING LICENSED AS AN  
33 INTERPRETER. In addition to any other requirements that may be  
34 established by departmental rule, a person may be licensed as an  
35 interpreter for the deaf or hearing impaired only if he or she  
36 possesses current certification by the national association of the deaf  
37 or the registry of interpreters for the deaf.

1 A licensed interpreter must pass a criminal background check  
2 through the Washington state patrol criminal identification system  
3 under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050, but  
4 the criminal background check need not include a fingerprint check.

5 NEW SECTION. **Sec. 104.** EXCLUSIONS FROM CHAPTER. This chapter  
6 does not apply to:

7 (1) Persons interpreting for religious activities;

8 (2) Persons volunteering to interpret without compensation, but not  
9 including persons volunteering to interpret for state agency offices  
10 and state agency programs;

11 (3) Persons interpreting during emergency situations. For purposes  
12 of this section, "emergency situation" means a situation where an adult  
13 who receives the interpretation services decides that the delay  
14 necessary to obtain a licensed interpreter is likely to cause him or  
15 her injury or loss and signs a waiver holding all persons harmless.  
16 The waiver must clearly state that the adult who receives the  
17 interpretation services knows he or she has a right to interpretation  
18 by a licensed interpreter and willingly waives this right;

19 (4) Persons who interpret for family members and do not receive  
20 compensation for this interpretation;

21 (5) Persons with current certification from a recognized national  
22 association who interpret for two hundred or fewer hours in any year;

23 (6) Persons who interpret in public schools, except as provided  
24 under section 109 of this act;

25 (7) Persons who are interns or students in training who are:

26 (a) Enrolled in a program of study in interpreting at a recognized  
27 program of interpreter training or who have graduated from a recognized  
28 program of interpreter training within the previous two years;

29 (b) Interpreting under the supervision of a licensed interpreter as  
30 part of a supervised program of study;

31 (c) Otherwise identified as interpreter interns or students in  
32 training; or

33 (d) Interpreting in nonmental health, nonlegal, and nonlife-  
34 threatening situations.

35 NEW SECTION. **Sec. 105.** BOARD OF INTERPRETERS FOR THE DEAF. (1)  
36 The Washington board of interpreters for the deaf is created,  
37 consisting of ten members as follows:

1 (a) The president of the Washington state association of the deaf  
2 or the president's designee;

3 (b) The director of the office of deaf and hard of hearing of the  
4 department of social and health services or the director's designee;

5 (c) A representative from the office of the superintendent of  
6 public instruction, appointed by the superintendent of public  
7 instruction;

8 (d) A consumer of interpreting services appointed by the secretary  
9 of the department of social and health services; and

10 (e) One representative appointed by each of the following groups:

11 (i) The Washington state association of the deaf, interpreters  
12 chapter;

13 (ii) The Washington state registry of interpreters for the deaf;

14 (iii) The American sign language teachers association;

15 (iv) The Washington school for the deaf;

16 (v) The Washington deaf and blind citizens; and

17 (vi) Self-help for the hard of hearing.

18 (2) If one of these groups fails to appoint a person, the board  
19 shall select a person from that group to represent the group. Board  
20 members shall serve staggered three-year terms of office, except that  
21 the director shall determine the staggering of terms by determining  
22 three initial members who have a one-year term of office and three  
23 initial members who have two-year terms of office, with the remaining  
24 three initial members having three-year terms of office. If a vacancy  
25 arises, a person must be appointed by the appropriate appointing  
26 authority to fill the remainder of the unexpired term of office.

27 (3) The members of the board shall not receive compensation for  
28 their services on the board. Members shall be reimbursed for actual  
29 and necessary expenses incurred in the performance of their duties by,  
30 and the board shall receive administrative services and staff support  
31 from, the office of deaf and hard of hearing of the department of  
32 social and health services. Members of the board are immune,  
33 collectively and individually, from suit in any action, criminal or  
34 civil, based upon any official acts performed in the course of their  
35 duties under this chapter.

36 NEW SECTION. **Sec. 106.** AUTHORITY OF THE DIRECTOR. The director  
37 shall:

1 (1) In consultation with the board, adopt rules under chapter 34.05  
2 RCW to carry out the provisions of this chapter, including  
3 qualifications required for a person to be licensed as an interpreter;

4 (2) Determine what education programs are equivalent to a deaf  
5 interpretation program from a community or technical college in this  
6 state;

7 (3) Establish a professional code of ethics for interpreters that  
8 is consistent with the code of professional ethics for both the  
9 national association of the deaf and the registry of interpreters for  
10 the deaf;

11 (4) Issue licenses for interpreters, including the authority to  
12 issue licenses to persons who hold licenses from other states with  
13 substantially equivalent licensing standards as this state, with the  
14 normal authority that the director possesses to regulate other licensed  
15 professions, including authorities authorized under chapters 18.118 and  
16 43.24 RCW;

17 (5) Establish forms and procedures necessary to administer this  
18 chapter; and

19 (6) Provide necessary clerical, administrative, investigative, and  
20 other staff as needed to implement this chapter apart from the staffing  
21 and administrative support for the board.

22 NEW SECTION. **Sec. 107.** RESPONSIBILITIES OF THE BOARD. The board  
23 shall make recommendations to the director and provide the director  
24 with ongoing reviews of interpreter services and support systems for  
25 interpreters, including a review of:

26 (1) Existing public and private education programs and training  
27 resources for interpretation that are provided in this state;

28 (2) The current number of licensed interpreters;

29 (3) Areas of interpreter shortage based upon geographic areas and  
30 types of interpreting, such as mental health, education, and ethnic  
31 diversity; and

32 (4) The findings of the regional centers for the deaf and hard of  
33 hearing, state affiliations of nationally recognized organizations, and  
34 any other institution's lists of interpreter problems and complaints.

35 NEW SECTION. **Sec. 108.** REVOKING OR SUSPENDING LICENSES. The  
36 director, in consultation with the board, shall establish a system to  
37 suspend or revoke licenses issued under this chapter and take other

1 disciplinary action in the form of imposing a fine not to exceed five  
2 hundred dollars for each offense, if a licensee is found to be guilty  
3 of: (1) Obtaining a license by means of fraud, misrepresentation, or  
4 concealment; or (2) violating any of the provisions of this chapter,  
5 including any rules adopted by the director to implement this chapter.  
6 A proceeding to suspend or revoke a license, or take disciplinary  
7 action, must be initiated on the motion of the director or a deputy  
8 appointed by the director. The director or a deputy may preliminarily  
9 investigate a licensee on his or her own motion or may investigate a  
10 licensee in response to a written complaint requesting suspension or  
11 revocation, or the taking of disciplinary action, that is signed and  
12 verified by a person or persons familiar with the facts. After the  
13 preliminary investigation, the director or a deputy may initiate a  
14 formal proceeding for the suspension or revocation of a license, or  
15 taking of disciplinary action, before an administrative law judge of  
16 the office of administrative hearings. The license must be suspended  
17 or revoked, or the disciplinary action taken, if, by a preponderance of  
18 evidence, the administrative law judge determines that the licensee  
19 does not meet the requirements necessary to be licensed as an  
20 interpreter under this chapter or has violated the provisions of this  
21 chapter, including any rules adopted by the director to implement this  
22 chapter.

23 NEW SECTION. **Sec. 109.** EDUCATIONAL INTERPRETERS. Educational  
24 interpreters employed in, by, or for a public school must have  
25 successfully completed a thirty-hour training course offered through  
26 the office of the superintendent of public instruction. Commencing in  
27 the year 2003, any person newly employed by or for a public school as  
28 an educational interpreter must be a licensed interpreter and must have  
29 completed the educational training offered by the office of the  
30 superintendent of public instruction. If an educational interpreter  
31 for a public school has been employed in that capacity for four or more  
32 years prior to January 1, 2003, with satisfactory evaluations and  
33 without a period of more than six months between employment in the  
34 public school, the employee may be retained by the public school as an  
35 educational interpreter without meeting these standards. If a public  
36 school is unable to find a licensed interpreter, the public school may  
37 request a nonrenewable one-year waiver from the office of the  
38 superintendent of public instruction and must demonstrate that efforts

1 have been made to seek an appropriately qualified person. The  
2 department shall annually provide a list of licensed interpreters to  
3 the superintendent of public instruction and shall make that list  
4 available upon request. The office of the superintendent of public  
5 instruction shall send a list of all licensed interpreters who have  
6 successfully completed the training to each school district every year.

7 NEW SECTION. **Sec. 110.** VIOLATIONS. Violation of or aiding in  
8 violation of any part of section 102 of this act constitutes a class 1  
9 civil infraction under chapter 7.80 RCW.

10 **PART II - INTERPRETERS IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS**

11 **Sec. 201.** RCW 2.42.010 and 1989 c 358 s 12 are each amended to  
12 read as follows:

13 It is hereby declared to be the policy of this state to secure the  
14 constitutional rights of deaf persons and of other persons who, because  
15 of impairment of hearing or speech, are unable to readily understand or  
16 communicate the spoken English language, and who consequently cannot be  
17 fully protected in legal proceedings unless ((qualified)) licensed  
18 interpreters are available to assist them.

19 It is the intent of the legislature in the passage of this chapter  
20 to provide for the appointment of ((such)) licensed interpreters.

21 **Sec. 202.** RCW 2.42.050 and 1989 c 358 s 14 are each amended to  
22 read as follows:

23 Every ((qualified)) licensed interpreter, or other person,  
24 appointed under this chapter in a judicial or administrative proceeding  
25 shall, before beginning to interpret, take an oath that a true  
26 interpretation will be made to the person being examined of all the  
27 proceedings in a manner which the person understands, and that the  
28 interpreter will repeat the statements of the person being examined to  
29 the court or other agency conducting the proceedings, to the best of  
30 the interpreter's skill and judgment.

31 **Sec. 203.** RCW 2.42.110 and 1991 c 171 s 1 are each amended to read  
32 as follows:

33 As used in this chapter, the following terms have the meanings  
34 indicated unless the context clearly requires otherwise.

1       (1) (~~("Impaired person" means a person who, because of a hearing or~~  
2 ~~speech impairment, cannot readily understand or communicate in spoken~~  
3 ~~language; and includes persons who are deaf, deaf and blind, speech~~  
4 ~~impaired, or hard of hearing.~~

5       (2) ~~"Qualified interpreter" means a visual language interpreter who~~  
6 ~~is certified by the state or is certified by the registry of~~  
7 ~~interpreters for the deaf to hold the comprehensive skills certificate~~  
8 ~~or both certificates of interpretation and transliteration, or an~~  
9 ~~interpreter who can readily translate statements of speech impaired~~  
10 ~~persons into spoken language.~~

11       (3)) "Intermediary interpreter" means a hearing impaired  
12 interpreter who holds a (~~reverse skills certificate by the state or is~~  
13 ~~certified by the registry of interpreters for the deaf with a reverse~~  
14 ~~skills~~) certificate from a nationally recognized organization, who  
15 meets the requirements of RCW 2.42.130, and who is able to assist in  
16 providing an accurate interpretation between spoken and sign language  
17 or between variants of sign language by acting as an intermediary  
18 between a hearing impaired person and a (~~qualified~~) licensed hearing  
19 interpreter.

20       (~~(4))~~ (2) "Appointing authority" means the presiding officer or  
21 similar official of any court, department, board, commission, agency,  
22 licensing authority, or legislative body of the state or of any  
23 political subdivision.

24       **Sec. 204.** RCW 2.42.120 and 1985 c 389 s 12 are each amended to  
25 read as follows:

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

35       (2) If the parent, guardian, or custodian of a juvenile brought  
36 before a court is hearing impaired, the appointing authority shall  
37 appoint and pay for a (~~qualified~~) licensed interpreter to interpret  
38 the proceedings.



1 (3) If a hearing impaired person participates in a program or  
2 activity ordered by a court as part of the sentence or order of  
3 disposition, required as part of a diversion agreement or deferred  
4 prosecution program, or required as a condition of probation or parole,  
5 the appointing authority shall appoint and pay for a ((qualified))  
6 licensed interpreter to interpret exchange of information during the  
7 program or activity.

8 (4) If a law enforcement agency conducts a criminal investigation  
9 involving the interviewing of a hearing impaired person, whether as a  
10 victim, witness, or suspect, the appointing authority shall appoint  
11 and pay for a ((qualified)) licensed interpreter throughout the  
12 investigation. Whenever a law enforcement agency conducts a criminal  
13 investigation involving the interviewing of a minor child whose parent,  
14 guardian, or custodian is hearing impaired, whether as a victim,  
15 witness, or suspect, the appointing authority shall appoint and pay for  
16 a ((qualified)) licensed interpreter throughout the investigation.  
17 ((No)) An employee of the law enforcement agency who has  
18 responsibilities other than interpreting may not be appointed as the  
19 ((qualified)) licensed interpreter.

20 (5) If a hearing impaired person is arrested for an alleged  
21 violation of a criminal law the arresting officer or the officer's  
22 supervisor shall, at the earliest possible time, procure and arrange  
23 payment for a ((qualified)) licensed interpreter for any notification  
24 of rights, warning, interrogation, or taking of a statement. ((No)) An  
25 employee of the law enforcement agency who has responsibilities other  
26 than interpreting may not be appointed as the ((qualified)) licensed  
27 interpreter.

28 (6) Where it is the policy and practice of a court of this state or  
29 of a political subdivision to appoint and pay counsel for persons who  
30 are indigent, the appointing authority shall appoint and pay for a  
31 ((qualified)) licensed interpreter for hearing impaired persons to  
32 facilitate communication with counsel in all phases of the preparation  
33 and presentation of the case.

34 **Sec. 205.** RCW 2.42.130 and 1991 c 171 s 2 are each amended to read  
35 as follows:

36 (1) If a ((qualified)) licensed interpreter for a hearing impaired  
37 person is required, the appointing authority shall request a  
38 ((qualified interpreter and/or an intermediary)) licensed interpreter

1 through the department of social and health services, office of deaf  
2 services, or through any community center for hearing impaired persons  
3 which operates an interpreter referral service. The office of deaf  
4 services and these community centers shall maintain an up-to-date list  
5 or lists of licensed interpreters (~~that are certified by the state~~  
6 ~~and/or by the registry of interpreters for the deaf~~)).

7 (2) The appointing authority shall make a preliminary  
8 determination, on the basis of testimony or stated needs of the hearing  
9 impaired person, that the licensed interpreter is able in that  
10 particular proceeding, program, or activity to interpret accurately all  
11 communication to and from the hearing impaired person. If at any time  
12 during the proceeding, program, or activity, in the opinion of the  
13 hearing impaired person or a qualified observer, the licensed  
14 interpreter does not provide accurate, impartial, and effective  
15 communication with the hearing impaired person the appointing authority  
16 shall appoint another (~~qualified~~) licensed interpreter. (~~No~~  
17 ~~otherwise qualified~~) A licensed interpreter who is a relative of any  
18 participant in the proceeding may not be appointed.

19 **Sec. 206.** RCW 2.42.140 and 1985 c 389 s 14 are each amended to  
20 read as follows:

21 If the communication mode or language of the hearing impaired  
22 person is not readily interpretable, the interpreter or hearing  
23 impaired person shall notify the appointing authority who shall appoint  
24 and pay an intermediary interpreter to assist the (~~qualified~~)  
25 licensed interpreter.

26 **Sec. 207.** RCW 2.42.150 and 1985 c 389 s 15 are each amended to  
27 read as follows:

28 (1) The right to a (~~qualified~~) licensed interpreter may not be  
29 waived except when:

30 (a) A hearing impaired person requests a waiver through the use of  
31 a (~~qualified~~) licensed interpreter;

32 (b) The counsel, if any, of the hearing impaired person consents;  
33 and

34 (c) The appointing authority determines that the waiver has been  
35 made knowingly, voluntarily, and intelligently.

36 (2) Waiver of a (~~qualified~~) licensed interpreter shall not  
37 preclude the hearing impaired person from claiming his or her right to

1 a ((qualified)) licensed interpreter at a later time during the  
2 proceeding, program, or activity.

3 **Sec. 208.** RCW 2.42.160 and 1991 c 171 s 3 are each amended to read  
4 as follows:

5 (1) A ((qualified)) licensed and/or intermediary interpreter shall  
6 not, without the written consent of the parties to the communication,  
7 be examined as to any communication the interpreter interprets under  
8 circumstances where the communication is privileged by law.

9 (2) A ((qualified)) licensed and/or intermediary interpreter shall  
10 not, without the written consent of the parties to the communication,  
11 be examined as to any information the interpreter obtains while  
12 interpreting pertaining to any proceeding then pending.

13 **Sec. 209.** RCW 2.42.170 and 1991 c 171 s 4 are each amended to read  
14 as follows:

15 A ((qualified)) licensed and/or intermediary interpreter appointed  
16 under this chapter is entitled to a reasonable fee for services,  
17 including waiting time and reimbursement for actual necessary travel  
18 expenses. The fee for services for interpreters for hearing impaired  
19 persons shall be in accordance with standards established by the  
20 department of social and health services, office of deaf services.

21 **Sec. 210.** RCW 2.42.180 and 1985 c 389 s 18 are each amended to  
22 read as follows:

23 At the request of any party to the proceeding or on the appointing  
24 authority's initiative, the appointing authority may order that the  
25 testimony of the hearing impaired person and the interpretation of the  
26 proceeding by the ((qualified)) licensed interpreter be visually  
27 recorded for use in verification of the official transcript of the  
28 proceeding.

29 In any judicial proceeding involving a capital offense, the  
30 appointing authority shall order that the testimony of the hearing  
31 impaired person and the interpretation of the proceeding by the  
32 ((qualified)) licensed interpreter be visually recorded for use in  
33 verification of the official transcript of the proceeding.

34 **PART III - MISCELLANEOUS**

1        NEW SECTION.    **Sec. 301.**    This act takes effect December 1, 2001.

2        NEW SECTION.    **Sec. 302.**    Sections 101 through 110 of this act  
3    constitute a new chapter in Title 18 RCW.

4        NEW SECTION.    **Sec. 303.**    Section captions and part headings used in  
5    this act are not part of the law.

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