

SENATE BILL REPORT

2SHB 2903

As Reported By Senate Committee On:
Judiciary, February 29, 2008

Title: An act relating to providing equal access to courts for persons with disabilities.

Brief Description: Creating an access coordinator for the administrative office of the courts.

Sponsors: House Committee on Apps Subcom GG (originally sponsored by Representatives Lantz, Rodne, McCoy, Wallace, Moeller, Williams, O'Brien and Goodman).

Brief History: Passed House: 2/19/08, 95-0.

Committee Activity: Judiciary: 2/29/08 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

Staff: Dawn Noel (786-7472)

Background: Both federal law, under the Americans with Disabilities Act of 1990 (ADA), and the state's law against discrimination prohibit discrimination by state and local government agencies based upon disability. In 2004 the United States Supreme Court ruled that courts have the affirmative obligation under the ADA to reasonably accommodate persons with disabilities in order to ensure their fundamental right of access to courts.

A Washington court rule, General Rule 33 (GR 33), provides a procedure for persons with disabilities to request accommodations from the court. The rule defines "person with a disability" as a person covered by the ADA, the state law against discrimination, or other similar local, state, or federal laws. The term includes, but is not limited to, an individual who has a physical or mental impairment that limits one or more major life activities, has a documented history of such an impairment, or is regarded as having such an impairment.

Under GR 33, if an applicant who is entitled to an accommodation files a request five or more court days prior to the date of the proceeding in which the accommodation is needed, the court will grant the request unless it is impossible for the court to provide it. If the applicant files less than five days before the proceeding, the court will grant the accommodation unless it is impractical. If the requested accommodation is not provided, the court must offer the applicant an alternative accommodation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A request can only be denied if the court finds that:

- the applicant failed to satisfy the substantive requirements of the court rule;
- the accommodation would create an undue financial or administrative burden;
- the accommodation would fundamentally alter the nature of the court service, program, or activity; or
- permitting the accommodation would create a direct threat to the safety or well-being of the applicant or others.

Recently, the Impediments to Access to Justice Committee (created by the Access to Justice Board) developed a guide for courts that explains options, devices, and services currently available to courts and other agencies to implement their duty to provide reasonable accommodations to persons with disabilities.

Summary of Bill: Washington courts are required to provide equal access to persons with disabilities. Subject to the availability of funds appropriated for the purpose, the Administrative Office of the Courts (AOC) must create the position of Court Access and Accommodations Coordinator (Coordinator).

The Coordinator must:

- review the needs of courts statewide for training and other assistance required to provide access and accommodation for persons with disabilities;
- provide guidance and assistance upon request; and
- identify appropriate assistive devices and establish a system to improve courts' access to such devices.

In carrying out these duties, the Coordinator must consult with persons with disabilities and must facilitate communication between the AOC and persons with disabilities and their representative groups.

If specific funding is not provided for this act, it is null and void.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Second Substitute Bill: PRO: People with disabilities often don't get the accessibility they need in courts. We really need this bill. It has strong support in the disability and legal communities with major endorsements from all kinds of folks. A lot of work has happened since the U.S. Supreme Court issued its decision that courts are liable if not accessible. This bill makes sure courts take the initiative. It has support from the counties because county courts want help from an access coordinator; someone they can call on to assist them in making courts accessible.

Persons Testifying: PRO: Cherie R. Tessier, Passport For Change; David Lord, Disability Rights Washington.