

SENATE BILL REPORT

SB 5364

As Reported by Senate Committee On:
Law & Justice, February 21, 2013

Title: An act relating to court reporting, communication access real-time translation, and real-time captioning services.

Brief Description: Concerning court reporters, communication access real-time translation, and real-time captioning services.

Sponsors: Senators Kline and Padden.

Brief History:

Committee Activity: Law & Justice: 2/11/13, 2/21/13 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5364 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Sharon Swanson (786-7447)

Background: Court reporters make verbatim records of court proceedings, depositions, and other official proceedings. Court reporters must be certified by the Department of Licensing (DOL). DOL establishes the requirements for certification and renewal of certification.

A person may become certified in Washington by passing the court reporter examination or being certified by the National Court Reporters Association (NCRA), the National Stenomask Verbatim Reporters Association (NVRA), or by another state.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): Real-time captioner means an individual certified as a real-time captioner.

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.

The practice of communication access real-time translation means the immediate, verbatim translation of the spoken word into English text using a stenographic machine or voice recognition software, and a computer with real-time captioning software.

DOL must issue a certificate to any applicant who meets the established standards and who has the following designation from NCRA:

- certified real-time reporter;
- certified broadcast reporter; or
- certified communication access real-time translation reporter designation.

Or, the following designation from NVRA:

- certified verbatim reporter;
- real-time verbatim reporter;
- registered broadcast captioner; or
- registered communication access real-time translation provider.

DOL must issue a communication access real-time translation provider or real-time captioner certificate to any applicant who meets the designated standards and who:

- is a registered professional reporter, certified communication access real-time translation provider, certified real-time reporter, registered merit reporter, or registered diplomate reporter from NCRA;
- has a certificate of merit from NVRA; or
- has a current Washington State court reporter certification in conjunction with the successful completion of the certified communication access real-time translation provider written examination from NCRA.

Prohibitions on activities that may present a real or apparent conflict of interest for court reporters are enumerated in the bill.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): Removes the definition of court-reporting firms as meaning any legal entity, including but not limited to a sole proprietorship corporation, partnership, limited liability company, consortium, or other organization that provides court-reporting services.

All references to court-reporting firms are removed from the bill.

Language is included to clarify that a court reporter may, at the court reporter's discretion, provide a courtesy copy of a certified transcript to a nonparty witness.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

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 Proposed Substitute as Heard in Committee:

PRO: Computerized Access Real Time Translation (CART) is a growing field with a shortage of qualified CART providers. This legislation will not create a new licensing exam. Since almost all of the CART providers in this state are currently certified as court reporters, it would be much less onerous to allow them to take the Certified CART Provider written test, continue to pay the licensing fees they are currently paying, and be locally certified in this state. These people provide the critical service of converting the spoken word into text for a variety of consumers in diverse and critical areas such as legal proceedings, government hearings, community meetings, hospitals and clinics, academic institutions, union and employer meetings, and webcasts, among others. These services affect everything including access to justice, health care, and to our fundamental rights as citizens. In spite of all of this, Washington consumers are not guaranteed a minimum level of competency in any of these areas except in legal proceedings. The legislation will provide significant protection to consumers in Washington State. This bill protects consumers by establishing minimum levels of competency for those who hold themselves out as CART providers and Realtime Captioners and by ensuring the impartiality of our judicial system by prohibiting the practice of contracting. Currently, 25 states have passed legislation or rules prohibiting or restricting the practice known as contracting. While DOL does certify court reporters, DOL does not regulate firms. Section 7 of the bill is problematic for DOL. As a hearing-impaired person, having a CART provider available was critical to be able to successfully complete an AA degree. It is vital that the person providing such essential services is certified and qualified to provide those services. Can you imagine if a term was incorrect during a CART with your medical provider?

CON: I would like to see Washington place the CART and Realtime Translators in RCW 2.42 for interpreters. If there is a need to certify, that seems appropriate, but they do not belong in the court reporters act. They have distinctly different professional responsibilities. If there is a need, why is there no regulatory authority provided over the entities that truly enter into contracts and are mentioned numerous times in the draft language? There is a need for this legislation but the regulatory language in the bill only goes half the way. This is a very complex bill and the issues are also quite involved. This bill is a work in progress and negotiations continue.

Persons Testifying: PRO: Louise Becker, Phyllis Lykken, Steve Crandall, WA Court Reporters Assn.; Janis Aaron Moore, citizen.

CON: Roger Flygare, Flygare & Associations; Dave Storey, citizen.