
SENATE BILL 5364

State of Washington

63rd Legislature

2013 Regular Session

By Senators Kline and Padden

Read first time 01/28/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to court reporting, communication access real-time
2 translation, and real-time captioning services; amending RCW
3 18.145.005, 18.145.040, and 18.145.120; reenacting and amending RCW
4 18.145.030 and 18.145.080; and adding new sections to chapter 18.145
5 RCW.

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

7 **Sec. 1.** RCW 18.145.005 and 1995 c 27 s 1 are each amended to read
8 as follows:

9 The legislature finds it necessary to regulate the practice of
10 court reporting and communication access real-time translation and
11 real-time captioning services at the level of certification to protect
12 the public safety and well-being. The legislature intends that only
13 individuals who meet and maintain minimum standards of competence may
14 represent themselves as court reporters.

15 NEW SECTION. **Sec. 2.** The "practice of communication access real-
16 time translation" or "real-time captioning" means the immediate,
17 verbatim translation of the spoken word into English text using a

1 stenographic machine or voice recognition software, and a computer and
2 real-time captioning software.

3 **Sec. 3.** RCW 18.145.030 and 1995 c 269 s 501 and 1995 c 27 s 4 are
4 each reenacted and amended to read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Department" means the department of licensing.

8 (2) "Director" means the director of licensing.

9 (3) "Communication access real-time translation provider," "court
10 reporter," or "real-time captioner" means an individual certified under
11 this chapter.

12 **Sec. 4.** RCW 18.145.040 and 1995 c 27 s 5 are each amended to read
13 as follows:

14 Nothing in this chapter prohibits or restricts:

15 (1) The practice of communication access real-time translation,
16 court reporting, or real-time captioners by individuals who are
17 licensed, certified, or registered as communication access real-time
18 translation providing, court reporters, or real-time captioners under
19 other laws of this state and who are performing services within their
20 authorized scope of practice;

21 (2) The practice of communication access real-time translation,
22 court reporting, or real-time captioning by an individual employed by
23 the government of the United States while the individual is performing
24 duties prescribed by the laws and regulations of the United States; or

25 (3) The introduction of alternate technology in communication
26 access real-time translation providing, court reporting, or real-time
27 captioning practice.

28 **Sec. 5.** RCW 18.145.080 and 1995 c 269 s 504 and 1995 c 27 s 8 are
29 each reenacted and amended to read as follows:

30 The department shall issue a certificate to any applicant who meets
31 the standards established under this chapter and who:

32 (1) Is holding one of the following:

33 (a) Certificate of proficiency, registered professional reporter,
34 certified communication access real-time translation provider,

1 certified real-time captioning reporter, registered merit reporter, or
2 registered diplomate reporter from (~~{the}~~) the national court
3 reporters association;

4 (b) Certificate of proficiency or certificate of merit from
5 (~~{the}~~) the national stenomask verbatim reporters association; or

6 (c) A current Washington state court reporter certification, in
7 conjunction with the successful completion of the certified
8 communication access real-time translation provider written examination
9 from the national court reporters association; or

10 (2) Has passed an examination approved by the director or an
11 examination that meets or exceeds the standards established by the
12 director.

13 **Sec. 6.** RCW 18.145.120 and 1995 c 27 s 11 are each amended to read
14 as follows:

15 (1) Upon receipt of complaints against communication access real-
16 time translation providers, court reporters, or real-time captioners,
17 the director shall investigate and evaluate the complaint to determine
18 if disciplinary action is appropriate. The director shall hold
19 disciplinary hearings pursuant to chapter 34.05 RCW.

20 (2) After a hearing conducted under chapter 34.05 RCW and upon a
21 finding that a certificate holder or applicant has committed
22 unprofessional conduct or is unable to practice with reasonable skill
23 and safety due to a physical or mental condition, the director may
24 issue an order providing for one or any combination of the following:

25 (a) Revocation of the certification;

26 (b) Suspension of the certificate for a fixed or indefinite term;

27 (c) Restriction or limitation of the practice;

28 (d) Requiring the satisfactory completion of a specific program or
29 remedial education;

30 (e) The monitoring of the practice by a supervisor approved by the
31 director;

32 (f) Censure or reprimand;

33 (g) Compliance with conditions of probation for a designated period
34 of time;

35 (h) Denial of the certification request;

36 (i) Corrective action;

37 (j) Refund of fees billed to or collected from the consumer.

1 Any of the actions under this section may be totally or partly
2 stayed by the director. In determining what action is appropriate, the
3 director shall consider sanctions necessary to protect the public,
4 after which the director may consider and include in the order
5 requirements designed to rehabilitate the certificate holder or
6 applicant. All costs associated with compliance to orders issued under
7 this section are the obligation of the certificate holder or applicant.

8 NEW SECTION. **Sec. 7.** (1)(a) Contracts entered into pursuant to
9 the practice of court reporting, not related to a particular case or
10 reporting incident, between a person before whom a deposition is taken
11 or a court reporter or court reporting firm, consortium, or other
12 organization providing a court reporter, and any party or any person
13 arranging or paying for court reporting services in the case, including
14 any attorney, law firm, person, or entity with a financial interest in
15 the outcome of the litigation, or person or entity paying for court
16 reporting services in the case is prohibited. Court reporters and court
17 reporting firms must not:

18 (i) Provide or arrange for the provision of services if the court
19 reporter or firm is financially interested in the litigation; or

20 (ii) Enter into or arrange a financial relationship that:

21 (A) Provides special financial terms or other services that are not
22 offered at the same time and on the same terms to all other parties in
23 the litigation;

24 (B) Give any economic or other advantage to any party, or their
25 attorney, representative, agent, or insurer; or

26 (C) Expressly or impliedly requires the certificate holder
27 reporting any proceeding or case to perform court reporting services in
28 any other proceeding or case at a specific rate of compensation or
29 compels, guarantees, regulates, or controls; or

30 (D) Creates or may create the appearance that the impartiality of
31 the court reporter to be compromised;

32 (iii) Enter into any contract or other agreement to provide
33 services that restricts the ability of an attorney or party to
34 repudiate the contract or agreement;

35 (iv) Allow an entity, other than the court reporter or court
36 reporting firm, consortium, or other organization providing a court

1 reporter, to establish the rates charged by the court reporter or court
2 reporting firm;

3 (v) Provide or arrange for the provision of a no cost copy of a
4 transcript of a deposition to any attorney, party, or witness if
5 provision of the no cost is not offered to all parties to a proceeding;
6 or

7 (vi) Manipulate the transcript to increase the overall cost; or

8 (vii) Provide advocacy support services to one party that is not
9 offered to all parties to a proceeding; or

10 (viii) Except as otherwise provided in (a)(ii)(B) of this
11 subsection, enter into a contract or other agreement with a person or
12 entity to provide ongoing services as a court reporter, court reporting
13 firm, consortium, or other organization providing a court reporter or
14 ongoing services that relate to the practice of court reporting if:

15 (A) The ongoing services relate to litigation that has not been
16 commenced;

17 (B) The impartiality of the court reporter, court reporting firm,
18 consortium, or other organization providing a court reporter firm may
19 be reasonably questioned;

20 (C) The court reporter, court reporting firm, consortium, or other
21 organization providing a court reporter is required to relinquish
22 control of an original transcript of a deposition and copies of that
23 transcript before the transcript is certified and delivered in
24 accordance with WAC 308-14-135; or

25 (D) The provisions of the contract or agreement confer or appear to
26 confer an unfair advantage upon a party.

27 (b) The provisions of (a)(vi) of this subsection do not apply to:

28 (i) The provision of services to a governmental body or providing
29 court reporting service for the courts;

30 (ii) A court reporter, court reporting firm, consortium, or other
31 organization providing a court reporter who agrees to provide services
32 for a matter that is not related to litigation; or

33 (iii) A court reporter, court reporting firm, consortium, or other
34 organization providing a court reporter that is bidding reasonable
35 court reporting fees, equal to all parties, on a case-by-case basis
36 with full disclosure to all parties of said negotiations.

37 (2) A court reporter or court reporting firm, consortium, or other

1 organization providing a court reporter must not take a deposition if
2 the court reporter or court reporting firm, consortium, or other
3 organization:

4 (a) Is a party to the action;

5 (b) Is a relative, employee, or attorney of one of the parties;

6 (c) Has a financial interest in the action or its outcome; or

7 (d) Is a relative, employee, or attorney of someone with a
8 financial interest in the action or the outcome.

9 (3) For the purposes of this section, an "employee" includes a
10 person who has a continuing contractual relationship, express or
11 implied, with a person or entity interested in the outcome of the
12 litigation, including anyone who may have ultimate responsibility for
13 payment to provide reporting or other court services, and a person who
14 is employed part time or full time under contract or otherwise by a
15 person who has a contractual relationship with a party to provide
16 reporting or other court service. "Employee" does not include an
17 employee or relative of the attorney or one of the parties.

18 (4) A judicial officer may declare a deposition void if a certified
19 reporter with an association to a matter, as described in this section,
20 takes a deposition.

21 (5) The provisions of this section may not be waived by disclosure,
22 agreement, stipulation, or otherwise.

23 NEW SECTION. **Sec. 8.** Sections 2 and 7 of this act are each added
24 to chapter 18.145 RCW.

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