
SENATE BILL 5398

State of Washington

63rd Legislature

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By Senators Darneille, Kline, Shin, and McAuliffe; by request of Board For Judicial Administration

Read first time 01/29/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to the provision of and reimbursement for certain
2 court interpreter services; and amending RCW 2.43.030, 2.43.040, and
3 2.42.120.

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

5 **Sec. 1.** RCW 2.43.030 and 2005 c 282 s 3 are each amended to read
6 as follows:

7 (1) Whenever (~~an interpreter is appointed to assist a non-English-~~
8 ~~speaking person in~~) a non-English-speaking person is a party, is
9 subpoenaed or summoned, or is otherwise compelled to appear at any
10 stage of a legal proceeding, the appointing authority shall(~~(, in the~~
11 ~~absence of a written waiver by the person,)~~) appoint a certified,
12 registered, or ((a)) qualified interpreter to assist the non-English-
13 speaking person (~~(throughout)~~) in the proceeding(~~(s)~~).

14 (a) Except as otherwise provided for in (b) of this subsection, the
15 interpreter appointed shall be a qualified interpreter.

16 (b) Beginning on July 1, 1990, when a non-English-speaking person
17 is a party to a legal proceeding, (~~(or)~~) is subpoenaed or summoned by
18 an appointing authority, or is otherwise compelled by an appointing
19 authority to appear at a legal proceeding, the appointing authority

1 shall use the services of only those language interpreters who have
2 been certified or registered by the administrative office of the
3 courts, unless good cause is found and noted on the record by the
4 appointing authority. For purposes of chapter 358, Laws of 1989, "good
5 cause" includes, but is not limited to, a determination that:

6 (i) Given the totality of the circumstances, including the nature
7 of the proceeding and the potential penalty or consequences involved,
8 the services of a certified interpreter are not reasonably available to
9 the appointing authority; ~~((or))~~

10 (ii) The current list of certified interpreters maintained by the
11 administrative office of the courts does not include an interpreter
12 certified in the language spoken by the non-English-speaking person; or

13 (iii) The current list of registered interpreters maintained by the
14 administrative office of the courts does not include an interpreter
15 registered in the language spoken by the non-English-speaking person.

16 (c) Except as otherwise provided in this section, when a non-
17 English-speaking person is involved in a legal proceeding, the
18 appointing authority shall appoint a qualified interpreter.

19 (2) If good cause is found for using an interpreter who is not
20 certified or registered, or if a qualified interpreter is appointed,
21 the appointing authority shall make a preliminary determination, on the
22 basis of testimony or stated needs of the non-English-speaking person,
23 that the proposed interpreter is able to interpret accurately all
24 communications to and from such person in that particular proceeding.
25 The appointing authority shall satisfy itself on the record that the
26 proposed interpreter:

27 (a) Is capable of communicating effectively with the court or
28 agency and the person for whom the interpreter would interpret; and

29 (b) Has read, understands, and will abide by the code of ethics for
30 language interpreters established by court rules.

31 **Sec. 2.** RCW 2.43.040 and 2008 c 291 s 3 are each amended to read
32 as follows:

33 (1) Interpreters appointed according to this chapter are entitled
34 to a reasonable fee for their services and shall be reimbursed for
35 actual expenses which are reasonable as provided in this section.

36 (2) In all legal proceedings in which the non-English-speaking
37 person is a party, ~~((or))~~ is subpoenaed or summoned ~~((by the appointing~~

1 authority)), or is otherwise compelled (~~by the appointing authority to~~
2 ~~appear, including criminal proceedings, grand jury proceedings,~~
3 ~~coroner's inquests, mental health commitment proceedings, and other~~
4 ~~legal proceedings initiated by agencies of government~~) to appear, the
5 cost of providing the interpreter shall be borne by the governmental
6 body initiating the legal proceedings or, in cases that are not
7 initiated by a governmental body, the governmental body under the
8 authority of which the legal proceeding is conducted.

9 ~~(3) ((In other legal proceedings, the cost of providing the~~
10 ~~interpreter shall be borne by the non-English speaking person unless~~
11 ~~such person is indigent according to adopted standards of the body. In~~
12 ~~such a case the cost shall be an administrative cost of the~~
13 ~~governmental body under the authority of which the legal proceeding is~~
14 ~~conducted.~~

15 ~~(4))~~ The cost of providing the interpreter is a taxable cost of
16 any proceeding in which costs ordinarily are taxed.

17 ~~((5))~~ (4)(a) Subject to the availability of funds specifically
18 appropriated therefor, the administrative office of the courts shall
19 reimburse the appointing authority for up to one-half of the payment to
20 the interpreter where an interpreter is appointed by a judicial officer
21 in a proceeding before a court at public expense and:

22 ~~((a))~~ (i) The interpreter appointed is an interpreter certified
23 by the administrative office of the courts or is a qualified
24 interpreter registered by the administrative office of the courts in a
25 noncertified language, or where the necessary language is not certified
26 or registered, the interpreter has been qualified by the judicial
27 officer pursuant to this chapter;

28 ~~((b))~~ (ii) The court conducting the legal proceeding has an
29 approved language assistance plan that complies with RCW 2.43.090; and

30 ~~((c))~~ (iii) The fee paid to the interpreter for services is in
31 accordance with standards established by the administrative office of
32 the courts.

33 (b) By January 1, 2017, the state must reimburse the appointing
34 authority for one-half of the payment to the interpreter when an
35 interpreter is appointed by a judicial officer in a proceeding before
36 a court at public expense.

37 (5) The appointing authority shall track and provide interpreter

1 cost and usage data, including best practices and innovations, to the
2 administrative office of the courts at least annually in a manner that
3 is determined by the administrative office of the courts.

4 **Sec. 3.** RCW 2.42.120 and 2008 c 291 s 2 are each amended to read
5 as follows:

6 (1) If a hearing impaired person is a party or witness at any stage
7 of a judicial or quasi-judicial proceeding in the state or in a
8 political subdivision, including but not limited to civil and criminal
9 court proceedings, grand jury proceedings, proceedings before a
10 magistrate, juvenile proceedings, adoption proceedings, mental health
11 commitment proceedings, and any proceeding in which a hearing impaired
12 person may be subject to confinement or criminal sanction, the
13 appointing authority shall appoint and pay for a qualified interpreter
14 to interpret the proceedings.

15 (2) If the parent, guardian, or custodian of a juvenile brought
16 before a court is hearing impaired, the appointing authority shall
17 appoint and pay for a qualified interpreter to interpret the
18 proceedings.

19 (3) If a hearing impaired person participates in a program or
20 activity ordered by a court as part of the sentence or order of
21 disposition, required as part of a diversion agreement or deferred
22 prosecution program, or required as a condition of probation or parole,
23 the appointing authority shall appoint and pay for a qualified
24 interpreter to interpret exchange of information during the program or
25 activity.

26 (4) If a law enforcement agency conducts a criminal investigation
27 involving the interviewing of a hearing impaired person, whether as a
28 victim, witness, or suspect, the appointing authority shall appoint
29 and pay for a qualified interpreter throughout the investigation.
30 Whenever a law enforcement agency conducts a criminal investigation
31 involving the interviewing of a minor child whose parent, guardian, or
32 custodian is hearing impaired, whether as a victim, witness, or
33 suspect, the appointing authority shall appoint and pay for a qualified
34 interpreter throughout the investigation. No employee of the law
35 enforcement agency who has responsibilities other than interpreting may
36 be appointed as the qualified interpreter.

1 (5) If a hearing impaired person is arrested for an alleged
2 violation of a criminal law the arresting officer or the officer's
3 supervisor shall, at the earliest possible time, procure and arrange
4 payment for a qualified interpreter for any notification of rights,
5 warning, interrogation, or taking of a statement. No employee of the
6 law enforcement agency who has responsibilities other than interpreting
7 may be appointed as the qualified interpreter.

8 (6) Where it is the policy and practice of a court of this state or
9 of a political subdivision to appoint and pay counsel for persons who
10 are indigent, the appointing authority shall appoint and pay for a
11 qualified interpreter for hearing impaired persons to facilitate
12 communication with counsel in all phases of the preparation and
13 presentation of the case.

14 (7)(a) Subject to the availability of funds specifically
15 appropriated therefor, the administrative office of the courts shall
16 reimburse the appointing authority for up to one-half of the payment to
17 the interpreter where a qualified interpreter is appointed for a
18 hearing impaired person by a judicial officer in a proceeding before a
19 court under subsection (1), (2), or (3) of this section in compliance
20 with the provisions of RCW 2.42.130 and 2.42.170.

21 (b) By January 1, 2017, the state shall reimburse the appointing
22 authority for one-half of the payment to the interpreter when a
23 qualified interpreter is appointed as described under (a) of this
24 subsection.

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