
SUBSTITUTE HOUSE BILL 1186

State of Washington

65th Legislature

2017 Regular Session

By House Judiciary (originally sponsored by Representatives Santos, Goodman, Jenkins, Kilduff, and Senn; by request of Board For Judicial Administration)

READ FIRST TIME 01/30/17.

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

14 (a) ~~((Except as otherwise provided for in (b) of this subsection,~~
15 ~~the 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 an~~
18 ~~appointing authority or is otherwise compelled by an appointing~~
19 ~~authority to appear at a legal proceeding,))~~ The appointing authority
20 shall use the services of only those language interpreters who have
21 been certified or registered by the administrative office of the

1 courts, unless good cause is found and noted on the record by the
2 appointing authority. For purposes of this chapter (~~(358, Laws of~~
3 ~~1989)~~), "good cause" includes, but is not limited to, a determination
4 that:

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

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

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

17 (~~(c) Except as otherwise provided in this section, when a non-~~
18 ~~English-speaking person is involved in a legal proceeding)~~) (b) If
19 good cause is found, the appointing authority shall appoint a
20 qualified interpreter.

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

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

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

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

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

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

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

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

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

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

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

30 (b) The court conducting the legal proceeding has an approved
31 language assistance plan that complies with RCW 2.43.090; and

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

35 (5) The appointing authority shall track and provide interpreter
36 cost and usage data, including best practices and innovations, to the
37 administrative office of the courts at least annually in a manner
38 that is determined by the administrative office of the courts.

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

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

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

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

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

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

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

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

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