
HOUSE BILL 1186

State of Washington

65th Legislature

2017 Regular Session

By Representatives Santos, Goodman, Jenkins, Kilduff, and Senn; by request of Board For Judicial Administration

Read first time 01/13/17. Referred to Committee on Judiciary.

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
18 an 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 chapter 358, Laws of 1989,
3 "good cause" includes, but is not limited to, a determination that:

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

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

12 (iii) The current list of registered interpreters maintained by
13 the administrative office of the courts does not include an
14 interpreter registered in the language spoken by the non-English-
15 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
22 the basis of testimony or stated needs of the non-English-speaking
23 person, that the proposed interpreter is able to interpret accurately
24 all communications to and from such person in that particular
25 proceeding. The appointing authority shall satisfy itself on the
26 record that the 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
30 for 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~~
38 ~~appointing authority))~~, or is otherwise compelled ~~((by the appointing~~
39 ~~authority to appear, including criminal proceedings, grand jury~~

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

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

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

16 ~~((5))~~ (4) Subject to the availability of funds specifically
17 appropriated therefor, the administrative office of the courts shall
18 reimburse the appointing authority for ~~((up to))~~ one-half of the
19 payment to the interpreter where an interpreter is appointed by a
20 judicial officer in a proceeding before a court at public expense
21 and:

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

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

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

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

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

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

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

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

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

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

39 (6) Where it is the policy and practice of a court of this state
40 or of a political subdivision to appoint and pay counsel for persons

1 who are indigent, the appointing authority shall appoint and pay for
2 a qualified interpreter for hearing impaired persons to facilitate
3 communication with counsel in all phases of the preparation and
4 presentation of the case.

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

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