

# HOUSE BILL REPORT

## SSB 5304

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**As Passed House:**

April 5, 2023

**Title:** An act relating to testing individuals who provide language access to state services.

**Brief Description:** Testing individuals who provide language access to state services.

**Sponsors:** Senate Committee on Human Services (originally sponsored by Senators Saldaña, Nguyen, Nobles, Valdez and Wilson, C.).

**Brief History:**

**Committee Activity:**

Human Services, Youth, & Early Learning: 3/22/23, 3/24/23 [DP].

**Floor Activity:**

Passed House: 4/5/23, 94-4.

**Brief Summary of Substitute Bill**

- Provides that the Department of Social and Health Services (DSHS) must ensure that all language access providers are fluent in English and a primary non-English language through completion of oral and written tests.
- Prohibits the DSHS from granting testing or certification authority to a private entity with a financial interest in the direct provision of interpreter services.
- Requires the DSHS to convene a language access work group to study and make recommendations regarding interpretive service certification policies and programs for limited and non-English speaking Washingtonians with a final report due December 1, 2023.

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**HOUSE COMMITTEE ON HUMAN SERVICES, YOUTH, & EARLY LEARNING**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass. Signed by 8 members: Representatives Senn, Chair; Cortes, Vice Chair; Taylor, Vice Chair; Eslick, Ranking Minority Member; Couture, Assistant Ranking Minority Member; Callan, Goodman and Rule.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Dent and Walsh.

**Staff:** Omeara Harrington (786-7136).

**Background:**

The Department of Social and Health Services (DSHS) must ensure that bilingual services are provided to non-English speaking applicants for and recipients of state-administered assistance programs. Bilingual services must be provided to the extent necessary to assure that non-English speaking persons are not denied or unable to obtain or maintain services or benefits because of an inability to speak English.

If the number of non-English speaking applicants or recipients served by a DSHS community service office who share the same language exceeds 50 percent of the average caseload of a full-time position, the DSHS must employ bilingual personnel to serve the population. In other circumstances, the DSHS must certify, authorize, and qualify language access providers as needed to maintain an adequate pool of providers so that residents may access state services. Language access providers are independent contractors who provide spoken language services for state agencies, Medicaid enrollee appointments, and certain other state-administered services.

Except as needed to certify, authorize, or qualify bilingual employees, the DSHS only offers spoken language interpreter testing in the following circumstances:

- to interpreters of languages for which 10 percent or more of the requests for interpreter services in the prior year on behalf of limited English-speaking clients went unfilled through the statutory procurement process;
- to interpreters who were decertified or de-authorized due to noncompliance with continuing education requirements; and
- to current DSHS certified or authorized spoken language interpreters wanting to gain additional certification or authorization.

**Summary of Bill:**

The DSHS must require the successful completion of oral and written testing in accordance with established standards to ensure that all language access providers are fluent in English and a primary non-English language. Testing must include evaluation of language competence, interpreting performance skills, understanding of the interpreter's role, and knowledge of the DSHS's policies regarding confidentiality, accuracy, impartiality, and neutrality. The DSHS is not prohibited from developing and administering a program to

meet these requirements. The circumstances in current law in which the DSHS must offer spoken language interpreter testing are retained.

No testing or certification authority may be awarded to any private entity that has a financial interest in the direct provision of interpreter services.

The DSHS must convene a language access work group to study and make recommendations regarding interpretive service certification policies and programs for limited and non-English-speaking Washingtonians.

The work group must be composed of the following members:

- one member from each of the largest two caucuses of the Senate, appointed by the President of the Senate;
- one member from each of the largest two caucuses of the House of Representatives, appointed by the Speaker of the House of Representatives; and
- individuals selected by the DSHS who: (1) are geographically diverse and represent people with a variety of language barriers; and (2) represent, at a minimum, interpreters working in medical settings, interpreter unions, families with language access barriers, community-based organizations supporting families with language access barriers, leadership of the DSHS, professionals with experience delivering interpreter certification services online, and other parties the DSHS deems relevant.

The work group must make recommendations as to what is necessary to support language access and interpretative services. These recommendations must include, at a minimum:

- criteria necessary to demonstrate that certified language access providers have the skills necessary to ensure quality and accurate services;
- strategies for increasing access to language access providers in rural communities and for languages of lesser demand;
- strategies for workforce resiliency including adequate workload and compensation;
- standards of ethics and professional responsibility; and
- investments needed to implement online testing.

The work group must additionally develop an implementation plan for an online testing system for language access providers. The plan must require candidates to demonstrate written and oral proficiency in both English and another language in accordance with nationally recognized standards and ethics.

The work group must hold its first meeting on or before August 1, 2023, and submit its final report to the Legislature on or before December 1, 2023. Staff support for the work group must be provided by the DSHS.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) People with limited English proficiency should have access to high quality interpretation services in medical settings and for benefits. Interpreters certified by the DSHS are used by the Health Care Authority for Medicaid clients, the Department of Labor and Industries, and the Department of Children, Youth, and Families, in addition to the DSHS. The bill contains multiple components, one of which is the requirement that interpreters must pass oral and written and oral tests. Medical interpretation is more complex than mere translation, and interpreters should be certified by the state to protect patients. Courts also use interpreters. One court provided services in over 130 languages with frequent requests for new languages. A crucial source for filling this need was the DSHS certified interpreters. The DSHS testing is affordable and gives assurance that testing is adequate.

The bill prevents financially interested entities from performing certifications. The DSHS decided to save money by destroying a very successful testing and certification program for interpreters and outsourced its testing. Now Washington has more credentialed interpreters than California. In principal this is okay, but the chosen method is the equivalent of issuing a driver's license with just a written test and no driving test. There is also a conflict of interest in choosing a vendor that provides services, has no history of testing interpreters, and has decided to start testing. The bill will address these issues and create a work group to put together a process for adequate testing and make other recommendations, including ways to obtain more interpreters in rural communities and for languages of lesser demand.

(Opposed) None.

**Persons Testifying:** Dennis Eagle, Washington Federation of State Employees; Emma Garkavi; and Aida Sanchez-Vela, Interpreters United, Washington Federation of State Employees Local 1671.

**Persons Signed In To Testify But Not Testifying:** None.