
Judiciary Committee

HB 1511

Title: An act relating to court reporting, communication access real-time translation, and real-time captioning services.

Brief Description: Concerning court reporters, communication access real-time translation, and real-time captioning services.

Sponsors: Representatives Goodman, Kirby, Rodne and Ryu.

Brief Summary of Bill

- Adds business and professional certification provisions for providers of communication access real-time translation (CART) and real-time captioning.
- Prohibits a variety of practices with respect to court reporting.

Hearing Date: 2/12/13

Staff: Cece Clynch (786-7195).

Background:

Court Reporters and Court Reporting.

The "practice of court reporting" is defined as "the making by means of written symbols or abbreviations in shorthand or machine writing or oral recording by a stenomask reporter of a verbatim record of any oral court proceeding, deposition, or proceeding before a jury, referee, court commissioner, special master, governmental entity, or administrative agency and the producing of a transcript from the proceeding."

Generally, no person may represent himself or herself as a court reporter without first being so certified by the Department of Licensing (DOL). Court reporters appointed to the Superior Court are exempt, as are certain practices, including:

- the practice of court reporting by individuals who are licensed under other laws of this state and who are performing services within their authorized scope of practice;

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- the practice of court reporting by a United States government employee; or
- the introduction of alternate technology in court reporting practice.

The DOL is authorized to issue a court reporter certificate to any applicant who meets certain professional standards established by the DOL *and* either the first or second criteria below:

1. Holds one of the following:
 - a. certificate of proficiency, registered professional reporter, registered merit reporter, or registered diplomate reporter from the National Court Reporter Association;
 - b. certificate of proficiency or certificate of merit from the National Stenomask Verbatim Reporters Association; *or*
 - c. A current Washington State Court Reporter Certification.
2. Has passed an examination approved by the DOL director or an examination that meets or exceeds the standards established by the DOL director.

Pursuant to the professional standards set forth in the DOL's administrative regulations, certified court reporter must offer services and fee arrangements in a case to all parties on equal terms and disclose conflicts and potential conflicts, to all parties.

Court Rules.

In addition, several court rules govern various aspects of court reporting, including:

- CR 28(c) No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.
- CR 28(d) Any arrangement concerning court reporting services or fees in a case must be offered to all parties on equal terms.
- CR 30(f)(2) Upon payment of *reasonable* charges, the court reporter shall furnish a copy of the deposition transcript to any party or the deponent.
- CR 80 In any proceeding, electronic or mechanical recording devices approved by the Administrator for the Courts may be used to record oral testimony in lieu of or supplementary to causing shorthand notes to be taken and sole discretion as to the use of such devices rests with the court.

Summary of Bill:

Communication Access Real-time Translation (CART) and Real-time Captioning Services. CART and real-time captioning services are added to the chapter governing court reporters. These are defined as "the immediate, verbatim translation of the spoken word into English text using a stenographic machine or voice recognition software, and a computer and real-time captioning software."

A definition of "court reporting firm" is added, meaning a legal entity that provides "court reporting services," which include the following services:

- the creation of a verbatim translation of the spoken word into English text using a stenographic machine, voice recognition software, or computer and real-time captioning software;
- the creation of the official verbatim translation of a deposition, court proceeding, or administrative proceeding by any means; and

- arranging for another individual or entity to perform such activities where the arranger receives compensation for doing so, regardless of the source of the compensation.

The DOL is required to issue a certificate to an applicant who meets the standards established by the DOL in rule and who has:

- a designation from the National Court Reporters Association for registered professional reporter, registered merit reporter, registered diplomate reporter, certified real-time reporter, certified broadcast reporter, or certified CART reporter;
- a designation from the National Stenomask Verbatim Reporters Association for certified verbatim reporter, certificate of merit, real-time verbatim reporter, registered broadcast captioner, or registered CART provider; *or*
- a current Washington court reporter certificate in conjunction with the successful completion of the certified CART provider written examination.

Prohibitions on Court Reporters and Court Reporting Firms.

A variety of prohibitions on reporters and reporting firms are specified, none of which may be waived. Among other things, governed entities must not:

- provide or arrange for court reporting services if financially interested in the litigation;
- enter into or arrange a relationship that provides special terms or services that are not offered to all other parties in the litigation, requires the reporter or reporting firm to report in another case at a specific rate of compensation, or creates an appearance of bias;
- enter into a contract that restricts the ability of an attorney or party to use the services of another reporter or reporting firm;
- provide or arrange for the provision of a no cost copy to one but not all parties on a proceeding; or
- contract with another reporter or reporting firm when to do so would result in a violation.

The above prohibitions are not applicable to services to a governmental body or the courts, or that are unrelated to litigation, or to those that are bidding reasonable court reporting fees, equal to all parties, on a case by case basis with full disclosure to all parties of such negotiations.

The provisions of CR 28(c) with respect to prohibitions related to family, employment and financial relationships are duplicated in statute.

A judicial officer is authorized to declare a deposition void "if a certified reporter with an association to a matter, as described in [the new section setting forth prohibited practices] takes a deposition."

Appropriation: None.

Fiscal Note: Available.

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