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HOUSE BILL 1727

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Appelwick, Jacobsen, Paris, Morton, Mielke, Brekke, Anderson, Forner, Day, Vance, R. Johnson and Wineberry.

Read first time February 7, 1991. Referred to Committee on Judiciary.

1            AN ACT Relating to interpreters; and amending RCW 2.42.020,  
2 2.42.030, 2.42.040, 2.42.050, 2.42.110, 2.42.120, 2.42.130, 2.42.160,  
3 2.42.170, and 2.42.180.

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

5            **Sec. 1.** RCW 2.42.020 and 1989 c 358 s 13 are each amended to read  
6 as follows:

7            As used in this chapter (1) an "impaired person" is any person  
8 involved in a legal proceeding who is deaf or who, because of other  
9 hearing or speech defects, cannot readily understand or communicate in  
10 spoken language and who, when involved as a ((party)) participant to a  
11 legal proceeding, is unable by reason of such defects to effectively  
12 obtain due process of law and/or to participate in a legal proceeding;  
13 (2) a "qualified interpreter" is one who is able readily to translate  
14 spoken language to impaired persons and to translate statements of  
15 impaired persons into spoken language; (3) "legal proceeding" is a

1 proceeding in any court in this state, at grand jury hearings or  
2 hearings before an inquiry judge, or before administrative boards,  
3 commissions, agencies, or licensing bodies of the state or any  
4 political subdivision thereof; (4) "participant" is any hearing  
5 impaired person that is a party, an officer of the court, a counsel, a  
6 witness, or a member of the jury present at any stage of a legal  
7 proceeding; and (5) "member of the public" is one or more hearing  
8 impaired person or persons, other than the participant, who has  
9 solicited the governmental body under the authority of which the  
10 proceeding is conducted for a qualified interpreter prior to the start  
11 of any stage of a legal proceeding.

12 **Sec. 2.** RCW 2.42.030 and 1973 c 22 s 3 are each amended to read as  
13 follows:

14 When an impaired person is a (~~(party to)~~) participant in any legal  
15 proceeding (~~(or a witness)~~) therein the judge, magistrate, or other  
16 presiding official shall, in the absence of a written waiver by the  
17 impaired person, appoint a qualified interpreter to assist the impaired  
18 person throughout the proceedings.

19 **Sec. 3.** RCW 2.42.040 and 1973 c 22 s 4 are each amended to read as  
20 follows:

21 Interpreters appointed pursuant to this chapter shall be adequately  
22 compensated for their services and shall be reimbursed for actual  
23 expenses as hereinafter provided:

24 (~~((1))~~) In (~~(criminal)~~) legal proceedings, grand jury proceedings,  
25 coroner's inquests, mental health commitment proceedings, and other  
26 proceedings initiated by agencies of government, the cost of providing  
27 the interpreter under this chapter shall be (~~(borne)~~) paid by the  
28 (~~(governmental body initiating the proceedings.~~

1       ~~(2) In other legal proceedings the cost of providing the~~  
2 ~~interpreter shall be borne by the impaired person unless the impaired~~  
3 ~~person is indigent, pursuant to adopted standards of the body, and thus~~  
4 ~~unable to pay for the interpreter, in which case the cost shall be~~  
5 ~~borne as an administrative cost of the governmental body under the~~  
6 ~~authority of which the proceeding is conducted.~~

7       ~~(3) The cost of providing the interpreter may be a taxable cost of~~  
8 ~~any proceeding in which costs are ordinarily taxed)) state.~~

9       **Sec. 4.** RCW 2.42.050 and 1989 c 358 s 14 are each amended to read  
10 as follows:

11       Every qualified interpreter appointed under this chapter in a  
12 ~~((judicial or administrative))~~ legal proceeding shall, before beginning  
13 to interpret, take an oath that a true interpretation will be made to  
14 the person being examined of all the proceedings in a manner which the  
15 person understands, and that the interpreter will repeat the statements  
16 of the person being examined to the court or other agency conducting  
17 the proceedings, to the best of the interpreter's skill and judgment.

18       **Sec. 5.** RCW 2.42.110 and 1985 c 389 s 11 are each amended to read  
19 as follows:

20       As used in this chapter, the following terms have the meanings  
21 indicated unless the context clearly requires otherwise.

22       (1) "Hearing impaired person" means a person who, because of a  
23 hearing impairment, cannot readily understand or communicate in spoken  
24 language; and includes persons who are deaf, deaf and blind, or hard of  
25 hearing.

26       (2) "Qualified interpreter" means ~~((an interpreter who is certified~~  
27 ~~by the registry of interpreters for the deaf with the certificate level~~  
28 ~~specified below and who meets the requirements of RCW 2.42.130.~~

1       ~~(a) For judicial proceedings involving a class A felony, use of the~~  
2 ~~services of a qualified interpreter holding the specialist certificate~~  
3 ~~legal is required.~~

4       ~~(b) For other judicial, quasi-judicial, or administrative~~  
5 ~~proceedings, use of the services of a qualified interpreter holding the~~  
6 ~~specialist certificate legal, master's comprehensive skills~~  
7 ~~certificate, or comprehensive skills certificate is required.~~

8       ~~(c))~~ a visual language interpreter who is certified by the state  
9 or is certified by the registry of interpreters for the deaf to hold  
10 the comprehensive skills certificate or both certificates of  
11 interpretation and transliteration.

12       For programs and activities other than judicial or administrative  
13 proceedings, the services of a qualified interpreter (~~holding a~~  
14 ~~partial certification~~) shall be required. (~~Efforts to obtain the~~  
15 ~~services of a qualified interpreter holding the master's comprehensive~~  
16 ~~certificate or comprehensive skills certificate shall be made before~~  
17 ~~obtaining the services of a qualified interpreter holding the~~  
18 ~~interpreting certificate and/or the transliterating certificate.~~

19       ~~(4))~~ (3) "Intermediary interpreter" means a hearing impaired  
20 interpreter who holds a reverse skills certificate by the state or is  
21 certified by the registry of interpreters for the deaf with a reverse  
22 skills certificate, who meets the requirements of RCW 2.42.130, and who  
23 is able to assist in providing an accurate interpretation between  
24 spoken and sign language or between variants of sign language by acting  
25 as an intermediary between a hearing impaired person and a qualified  
26 hearing interpreter.

27       ~~((5))~~ (4) "Appointing authority" means the presiding officer or  
28 similar official of any court, department, board, commission, agency,  
29 licensing authority, or legislative body of the state or of any  
30 political subdivision.

1       **Sec. 6.** RCW 2.42.120 and 1985 c 389 s 12 are each amended to read  
2 as follows:

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

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

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

24       (4) If a law enforcement agency conducts a criminal investigation  
25 involving the interviewing of a hearing impaired person, whether as a  
26 victim, witness, or suspect, the appointing authority shall appoint  
27 and pay for a qualified interpreter throughout the investigation.  
28 Whenever a law enforcement agency conducts a criminal investigation  
29 involving the interviewing of a minor child whose parent, guardian, or  
30 custodian is hearing impaired, whether as a victim, witness, or

1 suspect, the appointing authority shall appoint and pay for a qualified  
2 interpreter throughout the investigation. No employee of the law  
3 enforcement agency who has responsibilities other than interpreting may  
4 be appointed as the qualified interpreter.

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

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

18 (7) The state shall fully reimburse the appointing authority for  
19 any qualified interpreter and/or intermediary interpreter costs that  
20 have been incurred to interpret any proceeding.

21 **Sec. 7.** RCW 2.42.130 and 1985 c 389 s 13 are each amended to read  
22 as follows:

23 (1) If a qualified interpreter for a hearing impaired person is  
24 required, the appointing authority shall request a qualified  
25 interpreter and/or an intermediary interpreter through the department  
26 of social and health services, office of deaf services, or through any  
27 community center for hearing impaired persons which operates an  
28 interpreter referral service. The office of deaf services and these  
29 community centers shall maintain an up-to-date list or lists of

1 interpreters that are certified by the state and/or by the registry of  
2 interpreters for the deaf.

3 (2) The appointing authority shall make a preliminary  
4 determination, on the basis of testimony or stated needs of the hearing  
5 impaired person, that the interpreter is able in that particular  
6 proceeding, program, or activity to interpret accurately all  
7 communication to and from the hearing impaired person. If at any time  
8 during the proceeding, program, or activity, in the opinion of the  
9 hearing impaired person or a qualified observer, the interpreter does  
10 not provide accurate, impartial, and effective communication with the  
11 hearing impaired person the appointing authority shall appoint another  
12 qualified interpreter. No otherwise qualified interpreter who is a  
13 relative of any participant in the proceeding may be appointed.

14 **Sec. 8.** RCW 2.42.160 and 1985 c 389 s 16 are each amended to read  
15 as follows:

16 (1) A qualified and/or intermediary interpreter shall not, without  
17 the written consent of the ((parties)) participants to the  
18 communication, be examined as to any communication the interpreter  
19 interprets under circumstances where the communication is privileged by  
20 law.

21 (2) A qualified and/or intermediary interpreter shall not, without  
22 the written consent of the ((parties)) participants to the  
23 communication, be examined as to any information the interpreter  
24 obtains while interpreting pertaining to any proceeding then pending.

25 **Sec. 9.** RCW 2.42.170 and 1985 c 389 s 17 are each amended to read  
26 as follows:

27 A qualified and/or intermediary interpreter appointed under this  
28 chapter is entitled to a reasonable fee for services, including waiting

1 time and reimbursement for actual necessary travel expenses. The fee  
2 for services for interpreters for hearing impaired persons shall be in  
3 accordance with standards established by the department of social and  
4 health services, office of deaf services.

5 **Sec. 10.** RCW 2.42.180 and 1985 c 389 s 18 are each amended to read  
6 as follows:

7 At the request of any ((party)) participant to the proceeding or on  
8 the appointing authority's initiative, the appointing authority may  
9 order that the testimony of the hearing impaired person and the  
10 interpretation of the proceeding by the qualified interpreter be  
11 visually recorded for use in verification of the official transcript of  
12 the proceeding.

13 In any judicial proceeding involving a capital offense, the  
14 appointing authority shall order that the testimony of the hearing  
15 impaired person and the interpretation of the proceeding by the  
16 qualified interpreter be visually recorded for use in verification of  
17 the official transcript of the proceeding.