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HOUSE BILL 2596

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State of Washington

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By Representatives Romero, Eickmeyer, Haigh, Carlson, Rockefeller, Santos, Boldt, Murray, Scott, Lantz, Dunn, Ruderman, Kenney, Morris, Ogden, Wolfe and Woods

Read first time 01/17/2000. Referred to Committee on Children & Family Services.

1 AN ACT Relating to licensing interpreters for the deaf and hard of  
2 hearing; amending RCW 2.42.010, 2.42.050, 2.42.110, 2.42.120, 2.42.130,  
3 2.42.140, 2.42.150, 2.42.160, 2.42.170, and 2.42.180; adding a new  
4 chapter to Title 18 RCW; creating new sections; prescribing penalties;  
5 and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** PURPOSE. The purpose of this act is to  
8 establish a system of licensing interpreters for the deaf and hard of  
9 hearing that will enhance the opportunities of persons who are deaf and  
10 hard of hearing to enjoy the fruits of our society, increase their  
11 educational opportunities, enhance their public safety and security,  
12 and allow them to more fully enjoy their constitutional rights.

13 **PART I - LICENSING INTERPRETERS**

14 NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this  
15 section apply throughout this chapter unless the context clearly  
16 requires otherwise.

1 (1) "Board" means the Washington board of interpreters for the deaf  
2 and hard of hearing.

3 (2) "Consumer" means a person who is deaf or hard of hearing or who  
4 requires special communication techniques in order to communicate.

5 (3) "Department" means the department of licensing.

6 (4) "Director" means the director of the department of licensing.

7 (5) "Interpreter" means a person who engages in the act or practice  
8 of interpreting for gain in the state of Washington, but does not  
9 include an intermediary interpreter, as defined under RCW 2.42.110.

10 (6) "Interpreting" means the act of translating or transliterating  
11 English concepts to any or all necessary specialized language used by  
12 a consumer or the act of translating a consumer's specialized  
13 vocabulary to English concepts.

14 (7) "Specialized vocabulary" means manual signs and gestures  
15 operating as visual or tactile ways of communicating thoughts, ideas,  
16 and feelings, including but not limited to American sign language,  
17 English-based sign language, cued speech, oral interpreting, manually  
18 coded English, and contact sign language.

19 NEW SECTION. **Sec. 102.** LICENSE REQUIREMENT. Effective December  
20 1, 2002, a person may not represent himself or herself as an  
21 interpreter, or engage in the practice of interpreting, for the deaf or  
22 hard of hearing, without applying for a license, meeting the required  
23 qualifications, and being licensed as an interpreter, except as  
24 exempted and provided by this chapter. Effective December 1, 2002, a  
25 person or a public or private entity may not knowingly employ a person  
26 for interpreting for the deaf or hard of hearing unless the person is  
27 licensed by the department as an interpreter to engage in the act of  
28 interpreting for the deaf or hard of hearing, except as exempted and  
29 provided by this chapter.

30 Interpreters in judicial or administrative proceedings are governed  
31 by chapter 2.42 RCW.

32 NEW SECTION. **Sec. 103.** REQUIREMENTS FOR BEING LICENSED AS AN  
33 INTERPRETER. In addition to any other requirements that may be  
34 established by departmental rule, a person may be licensed as an  
35 interpreter for the deaf or hard of hearing only if he or she: (1)  
36 Possesses current certification by the national association of the deaf  
37 or the registry of interpreters for the deaf; or (2) has obtained a

1 certificate of completion of a deaf interpretation program from a  
2 community or technical college in this state or an equivalent program.

3 A licensed interpreter must also have adequate professional  
4 liability insurance coverage and have passed a criminal background  
5 check through the Washington state patrol criminal identification  
6 system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050,  
7 but the criminal background check need not include a fingerprint check.  
8 The department shall determine the adequacy of professional liability  
9 insurance coverage and require each licensed interpreter to submit  
10 proof of adequate professional liability insurance coverage.

11 NEW SECTION. **Sec. 104.** EXCLUSIONS FROM CHAPTER. This chapter  
12 does not apply to:

13 (1) Persons interpreting for religious activities;

14 (2) Persons volunteering to interpret without compensation, but not  
15 including persons volunteering to interpret for state agency offices  
16 and state agency programs;

17 (3) Persons interpreting during emergency situations. For purposes  
18 of this section, "emergency situation" means a situation where an adult  
19 who receives the interpretation services decides that the delay  
20 necessary to obtain a licensed interpreter is likely to cause him or  
21 her injury or loss and signs a waiver holding all persons harmless.  
22 The waiver must clearly state that the adult who receives the  
23 interpretation services knows he or she has a right to interpretation  
24 by a licensed interpreter and willingly waives this right;

25 (4) Persons who interpret for family members and do not receive  
26 compensation for this interpretation;

27 (5) Residents of this state with current certification by the  
28 national association of the deaf or the registry of interpreters for  
29 the deaf who interpret for twenty or fewer days in any year;

30 (6) Persons who interpret in public schools, except as provided  
31 under section 109 of this act;

32 (7) Persons who are interns or students in training who are:

33 (a) Enrolled in a program of study in interpreting at a recognized  
34 program of interpreter training or who have graduated from a recognized  
35 program of interpreter training within the previous two years;

36 (b) Interpreting under the supervision of a licensed interpreter as  
37 part of a supervised program of study; or

1 (c) Otherwise identified as interpreter interns or students in  
2 training.

3 NEW SECTION. **Sec. 105.** BOARD OF INTERPRETERS FOR THE DEAF AND  
4 HARD OF HEARING. (1) The Washington board of interpreters for the deaf

5 and hard of hearing is created, consisting of ten members as follows:

6 (a) The president of the Washington state association of the deaf  
7 or the president's designee;

8 (b) The director of the office of deaf and hard of hearing of the  
9 department of social and health services or the director's designee;

10 (c) A representative from the office of the superintendent of  
11 public instruction, appointed by the superintendent of public  
12 instruction;

13 (d) A consumer of interpreting services appointed by the secretary  
14 of the department of social and health services; and

15 (e) One representative appointed by each of the following groups:

16 (i) The Washington state association of the deaf, interpreters  
17 chapter;

18 (ii) The Washington state registry of interpreters for the deaf;

19 (iii) The American sign language teachers association;

20 (iv) The Washington school for the deaf;

21 (v) The Washington deaf and blind citizens; and

22 (vi) Self-help for the hard of hearing.

23 (2) If one of these groups fails to appoint a person, the board  
24 shall select a person from that group to represent the group. Board  
25 members shall serve staggered three-year terms of office, except that  
26 the director shall determine the staggering of terms by determining  
27 three initial members who have a one-year term of office and three  
28 initial members who have two-year terms of office, with the remaining  
29 three initial members having three-year terms of office. If a vacancy  
30 arises, a person must be appointed by the appropriate appointing  
31 authority to fill the remainder of the unexpired term of office.

32 (3) The members of the board shall not receive compensation for  
33 their services on the board. Members shall be reimbursed for actual  
34 and necessary expenses incurred in the performance of their duties by,  
35 and the board shall receive administrative services and staff support  
36 from, the office of deaf and hard of hearing of the department of  
37 social and health services. Members of the board are immune,  
38 collectively and individually, from suit in any action, criminal or

1 civil, based upon any official acts performed in the course of their  
2 duties under this chapter.

3 NEW SECTION. **Sec. 106.** AUTHORITY OF THE DIRECTOR. The director  
4 shall:

5 (1) In consultation with the board, adopt rules under chapter 34.05  
6 RCW to carry out the provisions of this chapter, including  
7 qualifications required for a person to be licensed as an interpreter;

8 (2) Determine what education programs are equivalent to a deaf  
9 interpretation program from a community or technical college in this  
10 state;

11 (3) Establish a professional code of ethics for interpreters that  
12 is consistent with the code of professional ethics for both the  
13 national association of the deaf and the registry of interpreters for  
14 the deaf;

15 (4) Issue licenses for interpreters, including the authority to  
16 issue licenses to persons who hold licenses from other states with  
17 substantially equivalent licensing standards as this state, with the  
18 normal authority that the director possesses to regulate other licensed  
19 professions, including authorities authorized under chapters 18.118 and  
20 43.24 RCW;

21 (5) Establish forms and procedures necessary to administer this  
22 chapter; and

23 (6) Provide necessary clerical, administrative, investigative, and  
24 other staff as needed to implement this chapter apart from the staffing  
25 and administrative support for the board.

26 NEW SECTION. **Sec. 107.** RESPONSIBILITIES OF THE BOARD. The board  
27 shall advise the director and provide the director with ongoing reviews  
28 of professional development and support systems for interpreters,  
29 including a review of:

30 (1) Existing public and private education programs and training  
31 resources for interpretation that are provided in this state;

32 (2) The current number of licensed interpreters; and

33 (3) Areas of interpreter shortage based upon geographic areas and  
34 types of interpreting, such as mental health, education, and ethnic  
35 diversity.

1        NEW SECTION.    **Sec. 108.**    REVOKING OR SUSPENDING LICENSES.    The  
2 director, in consultation with the board, shall establish a system to  
3 suspend or revoke licenses issued under this chapter and take other  
4 disciplinary action in the form of imposing a fine not to exceed five  
5 hundred dollars for each offense, if a licensee is found to be guilty  
6 of: (1) Obtaining a license by means of fraud, misrepresentation, or  
7 concealment; or (2) violating any of the provisions of this chapter,  
8 including any rules adopted by the director to implement this chapter.  
9 A proceeding to suspend or revoke a license, or take disciplinary  
10 action, must be initiated on the motion of the director or a deputy  
11 appointed by the director. The director or a deputy may preliminarily  
12 investigate a licensee on his or her own motion or may investigate a  
13 licensee in response to a written complaint requesting suspension or  
14 revocation, or the taking of disciplinary action, that is signed and  
15 verified by a person or persons familiar with the facts. After the  
16 preliminary investigation, the director or a deputy may initiate a  
17 formal proceeding for the suspension or revocation of a license, or  
18 taking of disciplinary action, before an administrative law judge of  
19 the office of administrative hearings. The license must be suspended  
20 or revoked, or the disciplinary action taken, if, by a preponderance of  
21 evidence, the administrative law judge determines that the licensee  
22 does not meet the requirements necessary to be licensed as an  
23 interpreter under this chapter or has violated the provisions of this  
24 chapter, including any rules adopted by the director to implement this  
25 chapter.

26        NEW SECTION.    **Sec. 109.**    EDUCATIONAL INTERPRETERS.    Educational  
27 interpreters employed in, by, or for a public school must have  
28 successfully completed a thirty-hour training course offered through  
29 the office of the superintendent of public instruction. Commencing in  
30 the year 2003, any person newly employed by or for a public school as  
31 an educational interpreter must be a licensed interpreter and must have  
32 completed the educational training offered by the office of the  
33 superintendent of public instruction. If an educational interpreter  
34 for a public school has been employed in that capacity for four or more  
35 years prior to January 1, 2003, with satisfactory evaluations and  
36 without a period of more than six months between employment in the  
37 public school, the employee may be retained by the public school as an  
38 educational interpreter without meeting these standards. If a public

1 school is unable to find a licensed interpreter, the public school may  
2 request a nonrenewable one-year waiver from the office of the  
3 superintendent of public instruction and must demonstrate that efforts  
4 have been made to seek an appropriately qualified person. The  
5 department shall annually provide a list of licensed interpreters to  
6 the superintendent of public instruction and shall make that list  
7 available upon request. The office of the superintendent of public  
8 instruction shall send a list of all licensed interpreters who have  
9 successfully completed the training to each school district every year.

10 NEW SECTION. **Sec. 110.** VIOLATIONS. Violation of or aiding in  
11 violation of any part of section 102 of this act constitutes a class 1  
12 civil infraction under chapter 7.80 RCW.

13 **PART II - INTERPRETERS IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS**

14 **Sec. 201.** RCW 2.42.010 and 1989 c 358 s 12 are each amended to  
15 read as follows:

16 It is hereby declared to be the policy of this state to secure the  
17 constitutional rights of deaf persons and of other persons who, because  
18 of impairment of hearing or speech, are unable to readily understand or  
19 communicate the spoken English language, and who consequently cannot be  
20 fully protected in legal proceedings unless ((qualified)) licensed  
21 interpreters are available to assist them.

22 It is the intent of the legislature in the passage of this chapter  
23 to provide for the appointment of ((such)) licensed interpreters.

24 **Sec. 202.** RCW 2.42.050 and 1989 c 358 s 14 are each amended to  
25 read as follows:

26 Every ((qualified)) licensed interpreter, or other person,  
27 appointed under this chapter in a judicial or administrative proceeding  
28 shall, before beginning to interpret, take an oath that a true  
29 interpretation will be made to the person being examined of all the  
30 proceedings in a manner which the person understands, and that the  
31 interpreter will repeat the statements of the person being examined to  
32 the court or other agency conducting the proceedings, to the best of  
33 the interpreter's skill and judgment.

1       **Sec. 203.** RCW 2.42.110 and 1991 c 171 s 1 are each amended to read  
2 as follows:

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

5       (1) (~~"Impaired person" means a person who, because of a hearing or~~  
6 ~~speech impairment, cannot readily understand or communicate in spoken~~  
7 ~~language; and includes persons who are deaf, deaf and blind, speech~~  
8 ~~impaired, or hard of hearing.~~

9       (2) ~~"Qualified interpreter" means a visual language interpreter who~~  
10 ~~is certified by the state or is certified by the registry of~~  
11 ~~interpreters for the deaf to hold the comprehensive skills certificate~~  
12 ~~or both certificates of interpretation and transliteration, or an~~  
13 ~~interpreter who can readily translate statements of speech impaired~~  
14 ~~persons into spoken language.~~

15       (3)) "Licensed interpreter" or "licensed interpreter for the  
16 hearing impaired" means a person licensed to engage in interpreting  
17 under chapter 18.-- RCW (sections 101 through 110 of this act), but the  
18 exclusions from the requirements of those provisions that are contained  
19 in chapter 18.-- RCW (sections 101 through 110 of this act) do not  
20 apply to this chapter unless expressly permitted under the provisions  
21 of this chapter.

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

30       ((+4)) (3) "Appointing authority" means the presiding officer or  
31 similar official of any court, department, board, commission, agency,  
32 licensing authority, or legislative body of the state or of any  
33 political subdivision.

34       **Sec. 204.** RCW 2.42.120 and 1985 c 389 s 12 are each amended to  
35 read as follows:

36       (1) If a hearing impaired person is a party or witness at any stage  
37 of a judicial or quasi-judicial proceeding in the state or in a  
38 political subdivision, including but not limited to civil and criminal

1 court proceedings, grand jury proceedings, proceedings before a  
2 magistrate, juvenile proceedings, adoption proceedings, mental health  
3 commitment proceedings, and any proceeding in which a hearing impaired  
4 person may be subject to confinement or criminal sanction, the  
5 appointing authority shall appoint and pay for a ((qualified)) licensed  
6 interpreter to interpret the proceedings.

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

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

18 (4) If a law enforcement agency conducts a criminal investigation  
19 involving the interviewing of a hearing impaired person, whether as a  
20 victim, witness, or suspect, the appointing authority shall appoint  
21 and pay for a ((qualified)) licensed interpreter throughout the  
22 investigation. Whenever a law enforcement agency conducts a criminal  
23 investigation involving the interviewing of a minor child whose parent,  
24 guardian, or custodian is hearing impaired, whether as a victim,  
25 witness, or suspect, the appointing authority shall appoint and pay for  
26 a ((qualified)) licensed interpreter throughout the investigation.  
27 ((No)) An employee of the law enforcement agency who has  
28 responsibilities other than interpreting may not be appointed as the  
29 ((qualified)) licensed interpreter.

30 (5) If a hearing impaired person is arrested for an alleged  
31 violation of a criminal law the arresting officer or the officer's  
32 supervisor shall, at the earliest possible time, procure and arrange  
33 payment for a ((qualified)) licensed interpreter for any notification  
34 of rights, warning, interrogation, or taking of a statement. ((No)) An  
35 employee of the law enforcement agency who has responsibilities other  
36 than interpreting may not be appointed as the ((qualified)) licensed  
37 interpreter.

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

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

5 **Sec. 205.** RCW 2.42.130 and 1991 c 171 s 2 are each amended to read  
6 as follows:

7 (1) If a (~~qualified~~) licensed interpreter for a hearing impaired  
8 person is required, the appointing authority shall request a  
9 (~~qualified interpreter and/or an intermediary~~) licensed interpreter  
10 through the department of social and health services, office of deaf  
11 services, or through any community center for hearing impaired persons  
12 which operates an interpreter referral service. The office of deaf  
13 services and these community centers shall maintain an up-to-date list  
14 or lists of licensed interpreters (~~that are certified by the state~~  
15 ~~and/or by the registry of interpreters for the deaf~~)).

16 (2) The appointing authority shall make a preliminary  
17 determination, on the basis of testimony or stated needs of the hearing  
18 impaired person, that the licensed interpreter is able in that  
19 particular proceeding, program, or activity to interpret accurately all  
20 communication to and from the hearing impaired person. If at any time  
21 during the proceeding, program, or activity, in the opinion of the  
22 hearing impaired person or a qualified observer, the licensed  
23 interpreter does not provide accurate, impartial, and effective  
24 communication with the hearing impaired person the appointing authority  
25 shall appoint another (~~qualified~~) licensed interpreter. (~~No~~  
26 ~~otherwise qualified~~) A licensed interpreter who is a relative of any  
27 participant in the proceeding may not be appointed.

28 **Sec. 206.** RCW 2.42.140 and 1985 c 389 s 14 are each amended to  
29 read as follows:

30 If the communication mode or language of the hearing impaired  
31 person is not readily interpretable, the interpreter or hearing  
32 impaired person shall notify the appointing authority who shall appoint  
33 and pay an intermediary interpreter to assist the (~~qualified~~)  
34 licensed interpreter.

35 **Sec. 207.** RCW 2.42.150 and 1985 c 389 s 15 are each amended to  
36 read as follows:

1 (1) The right to a ((qualified)) licensed interpreter may not be  
2 waived except when:

3 (a) A hearing impaired person requests a waiver through the use of  
4 a ((qualified)) licensed interpreter;

5 (b) The counsel, if any, of the hearing impaired person consents;  
6 and

7 (c) The appointing authority determines that the waiver has been  
8 made knowingly, voluntarily, and intelligently.

9 (2) Waiver of a ((qualified)) licensed interpreter shall not  
10 preclude the hearing impaired person from claiming his or her right to  
11 a ((qualified)) licensed interpreter at a later time during the  
12 proceeding, program, or activity.

13 **Sec. 208.** RCW 2.42.160 and 1991 c 171 s 3 are each amended to read  
14 as follows:

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

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

23 **Sec. 209.** RCW 2.42.170 and 1991 c 171 s 4 are each amended to read  
24 as follows:

25 A ((qualified)) licensed and/or intermediary interpreter appointed  
26 under this chapter is entitled to a reasonable fee for services,  
27 including waiting time and reimbursement for actual necessary travel  
28 expenses. The fee for services for interpreters for hearing impaired  
29 persons shall be in accordance with standards established by the  
30 department of social and health services, office of deaf services.

31 **Sec. 210.** RCW 2.42.180 and 1985 c 389 s 18 are each amended to  
32 read as follows:

33 At the request of any party to the proceeding or on the appointing  
34 authority's initiative, the appointing authority may order that the  
35 testimony of the hearing impaired person and the interpretation of the  
36 proceeding by the ((qualified)) licensed interpreter be visually

1 recorded for use in verification of the official transcript of the  
2 proceeding.

3 In any judicial proceeding involving a capital offense, the  
4 appointing authority shall order that the testimony of the hearing  
5 impaired person and the interpretation of the proceeding by the  
6 (~~qualified~~) licensed interpreter be visually recorded for use in  
7 verification of the official transcript of the proceeding.

8 **PART III - MISCELLANEOUS**

9 NEW SECTION. **Sec. 301.** This act takes effect December 1, 2000.

10 NEW SECTION. **Sec. 302.** Sections 101 through 110 of this act  
11 constitute a new chapter in Title 18 RCW.

12 NEW SECTION. **Sec. 303.** Section captions and part headings used in  
13 this act are not part of the law.

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