

HOUSE BILL REPORT

2E2SHB 2176

As Amended by the Senate

Title: An act relating to interpreter services.

Brief Description: Revising provisions involving court interpreters.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Lantz, Warnick, Pedersen, Ross, Hasegawa, Kenney, Santos and Goodman).

Brief History:

Committee Activity:

Judiciary: 2/20/07, 2/21/07 [DPS];

Appropriations: 3/1/07, 3/3/07 [DP2S(w/o sub JUDI)].

Floor Activity:

Passed House: 3/12/07, 98-0;

Passed House: 1/30/08, 97-0.

Senate Amended.

Passed Senate: 3/6/08, 47-2.

Brief Summary of Second Engrossed Second Substitute Bill

- Requires each trial court to develop a language assistance plan to provide a framework for the provision of interpreter services in both civil and criminal legal matters.
- Provides for state reimbursement of half the cost of interpreters appointed in court proceedings if certain conditions are met.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Edie Adams (786-7180).

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

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Judiciary. Signed by 29 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Haler, Assistant Ranking Minority Member; Buri, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Minority Report: Do not pass. Signed by 4 members: Representatives Alexander, Ranking Minority Member; Anderson, Chandler and Kretz.

Staff: Owen Rowe (786-7391).

Background:

State law makes provision for the appointment of interpreters in legal proceedings for both non-English-speaking persons and hearing impaired persons.

Interpreters must be appointed in all legal proceedings in which a non-English-speaking person is a party or is compelled to appear and the cost of providing the interpreter is borne by the governmental body conducting the legal proceeding. In all other legal proceedings, the cost of providing an interpreter is borne by the non-English-speaking person unless the person is indigent, in which case the cost is borne by the governmental body conducting the legal proceeding.

The Administrative Office of the Courts (AOC) is responsible for establishing and administering a comprehensive testing and certification program for language interpreters. The AOC certifies court interpreters in six languages: Cantonese, Korean, Laotian, Russian, Spanish, and Vietnamese. A registered interpreter status has been developed for languages where certification is not available.

When an interpreter is appointed in a legal proceeding in which a non-English-speaking person is a party or is compelled to appear, the interpreter must be certified unless the language spoken is not one for which certification is available or the services of a certified interpreter are not reasonably available. In that case, and in other legal proceedings, a qualified interpreter may be appointed. A qualified interpreter means a person who is able to translate spoken or written English for a non-English-speaking person and to translate oral or written statements of a non-English-speaking person into spoken English.

Interpreters for hearing impaired persons must be provided at government expense in legal proceedings where the hearing impaired person is a party or witness, in court-ordered programs or activities, and in law enforcement investigatory interviews. When an interpreter is required for a hearing impaired person, the interpreter must be requested through the Office of Deaf Services in the Department of Social and Health Services or through a community center interpreter referral service. The interpreter must be able to interpret accurately all

communication to and from the hearing impaired person in the particular proceeding, program, or activity.

Summary of Second Engrossed Second Substitute Bill:

Each trial court must develop a written language assistance plan to provide a framework for the provision of interpreter services for non-English-speaking persons accessing the court system in both civil and criminal legal matters. The language assistance plan must include provisions that address a variety of issues, including procedures that:

- assess the language needs of non-English-speaking persons using the courts and provide notice to court users of the right to and availability of interpreter services;
- provide for appointment of interpreters as required by law;
- provide timely communication with non-English speakers by all court employees who have regular contact with the public;
- evaluate the need for translation of written materials and provide for translation of the highest priority materials; and
- provide training to judges and court staff on the requirements of the language assistance plan and provide ongoing evaluation and monitoring of the implementation of the language assistance plan.

Each court must provide to the AOC a report that evaluates the need for, availability of, and estimated cost of providing interpreters in court-mandated classes or programs. The AOC must compile these reports and provide them to the appropriate committees of the Legislature by December 15, 2009.

State reimbursement is required for half of the costs of interpreter services provided in legal proceedings for non-English-speaking persons and hearing impaired persons. Where a qualified interpreter is appointed for a hearing impaired person by a judicial officer in a proceeding before a court, the state must reimburse the appointing authority for one-half of the payment to the qualified interpreter.

Where an interpreter is appointed at public expense for a non-English-speaking person in a court proceeding, the state must reimburse the appointing authority for one-half of the payment to the interpreter if: (a) the interpreter is certified or is a qualified interpreter registered in a non-certified language, or where the necessary language is not certified or registered, the interpreter has been qualified by the judicial officer to interpret in the proceeding; (b) the court conducting the legal proceeding has an approved language assistance plan; and (c) the fee paid to the interpreter meets standards established by the AOC.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment includes the following additional reporting requirements: (1) Courts receiving reimbursement for interpreter costs must report the amounts spent annually on interpreter services for fiscal years 2005 through 2009 to the Administrative Office of the Courts (AOC); and (2) the AOC must report this information, along with specific reimbursements provided to each court by fiscal year, to the Legislature.

The Senate amendment also changes the reimbursement provisions to specify that up to one-half of eligible interpreter payments will be reimbursed, subject to specific appropriation for this purpose. The bill as it passed the House required reimbursement of one-half of eligible interpreter payments, subject to funds appropriated for this purpose.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

Staff Summary of Public Testimony: (Judiciary)

(In support) This is an important bill to help provide equal access to our courts for non-English-speaking persons. There is an increasing need in this state for interpreters in our courts. This bill will help ensure consistently professional interpreters in all languages in all levels of the court. The state reimbursement for one-half the costs of certified interpreters will provide an incentive for courts to appoint the most qualified interpreters. This will result in an increase in the quality of interpreter services in our courts. It will also provide a meaningful career opportunity in interpreter services.

Educated, trained, and experienced interpreters are absolutely vital for providing due process and equal access to justice. Due process requires that all people have the right to know everything that is happening in court. The duties of an interpreter shouldn't be taken lightly or administered lightly. It isn't appropriate for a person with a casual knowledge of a language or for a family member to be asked or expected to interpret in these circumstances.

Advocates in every county report that courts struggle with their mandate to provide interpreters to those who need them. There are too many incidents of courts using unqualified interpreters, such as children or family members, in order to avoid delays or extra costs.

In court, it is very important to have an interpreter so that you can express yourself and understand exactly what is happening in the proceeding. It can be very difficult to learn a second language. Interpreters are necessary for those persons who aren't able to learn English easily so that they know what their rights are.

The language of the bill should be amended to remove the reference to providing the most competent interpreter reasonably available, which could be interpreted as lessening the requirements of the current law.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) On behalf of court interpreters we thank the General Government Audit and Review Subcommittee for providing \$1 million to support non-English speakers and the hearing impaired. There are more immigrants in Washington than ever before and the local courts are having difficulty in providing necessary services. We would like to see funding at

the level of \$7.9 million as proposed by the Board of Judicial Administration, in the Administrator Office of the Courts agency budget request. This would help to provide the pool of certified interpreters with the opportunity to earn a living wage. This bill requires courts to actively work on a plan, so that everyone involved in court proceedings is protected equally. Civil indigent courts in the state are struggling to provide interpreter services at the needed level.

(With concerns) Under this bill all cities and counties must plan under guidelines set by the Administrative Office of the Courts, and then would be reimbursed for up to half the cost of providing interpreter services. A better alternative would be to set up a financial incentive for each court to develop their own plan.

(Opposed) None.

Persons Testifying: (Judiciary) (In support) Representative Lantz, prime sponsor; Judge Stephen Shelton and Jeff Hall, Board for Judicial Administration; Kenneth Barger and Linda Noble, Washington State Court Interpreters and Translators Society; Robin Zukoski, Columbia Legal Services; Lucilia Santiago; Alejandro Rugarcia, Safe Place; and Jim Roe, Washington Association of Defense Council.

Persons Testifying: (Appropriations) (In support) Jeff Hall, Board for Judicial Administration; Karen A. Horn, Washington Interpreters and Translators Society; and Robin Zukoski, Columbia Legal Services.

(With concerns) Tammy Fellin, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: (Judiciary) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.