

HOUSE BILL REPORT

HB 2903

As Reported by House Committee On:
Judiciary

Title: An act relating to providing equal access to courts for persons with disabilities.

Brief Description: Creating an access coordinator for the administrative office of the courts.

Sponsors: Representatives Lantz, Rodne, McCoy, Wallace, Moeller, Williams, O'Brien and Goodman.

Brief History:

Committee Activity:

Judiciary: 1/18/08, 2/1/08 [DPS].

Brief Summary of Substitute Bill

- Requires the Administrative Office of the Courts to create the position of Court Access and Accommodations Coordinator to address access to courts by persons with disabilities.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Trudes Tango (786-7384).

Background:

Both federal law, under the Americans with Disabilities Act of 1990 (ADA), and the state's law against discrimination prohibit discrimination by state and local government agencies based upon disability. In 2004 the United States Supreme Court ruled that courts have the affirmative obligation under the ADA to reasonably accommodate persons with disabilities in order to ensure their fundamental right of access to courts.

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.

Washington's Court Rule 33 (CR 33) provides a procedure for persons with disabilities to request accommodations from the court. The rule defines "person with a disability" as a person covered by the ADA, the state law against discrimination, or other similar local, state, or federal laws. The term includes but is not limited to, an individual who has a physical or mental impairment that limits one or more major life activities, has a documented history of such an impairment, or is regarded as having such an impairment.

Under CR 33, if an applicant who is entitled to an accommodation files a request five or more court days prior to the date of the proceeding in which the accommodation is needed, the court will grant the request unless it is impossible for the court to provide it. If the applicant files less than five days before the proceeding, the court will grant the accommodation unless it is impractical. If the requested accommodation is not provided, the court must offer the applicant an alternative accommodation.

A request can only be denied if the court finds that:

- the applicant failed to satisfy the substantive requirements of the court rule;
- the accommodation would create an undue financial or administrative burden;
- the accommodation would fundamentally alter the nature of the court service, program, or activity; or
- permitting the accommodation would create a direct threat to the safety or well-being of the applicant or others.

Recently, the Impediments to Access to Justice Committee (created by the Access to Justice Board) developed a guide for courts that explains options, devices, and services currently available to courts and other agencies to implement their duty to provide reasonable accommodations to persons with disabilities.

Summary of Substitute Bill:

Washington courts are required to provide equal access to persons with disabilities. Subject to the availability of funds appropriated for the purpose, the Administrative Office of the Courts (AOC) must create the position of Court Access and Accommodations Coordinator (Coordinator). The Coordinator must:

- review the needs of courts statewide for training and other assistance required to provide access and accommodation for persons with disabilities;
- provide guidance and assistance upon request; and
- identify appropriate assistive devices and establish a system to improve courts' access to such devices.

In carrying out these duties, the Coordinator must consult with persons with disabilities and must facilitate communication between the AOC and persons with disabilities and their representative groups.

Substitute Bill Compared to Original Bill:

The substitute: (a) provides that the Coordinator position must be created subject to available funds appropriated for the purpose; and (b) removes the requirement that the Coordinator acquire assistive devices for the courts.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The state has an obligation to provide access to courts, and people with disabilities face barriers to access to justice. The court rule creates a pathway for persons to require accommodations, but it's important to have someone at the AOC to provide assistance to counties with training and technical advice. The groundwork has been done to make this AOC position possible. There is a lot of resources and interest to help the Coordinator.

(Neutral) The AOC has discussed the policy of this bill, but the Coordinator position required in the bill is not in the AOC's budget proposal.

(Opposed) None.

Persons Testifying: (In support) Representative Lantz, prime sponsor; David Lord, Disability Rights of Washington; and Cherie R. Tessier.

(Neutral) Mellani McAleenan, Board of Judicial Administration.

Persons Signed In To Testify But Not Testifying: None.