

HOUSE BILL REPORT

HB 1186

As Reported by House Committee On:

Judiciary
Appropriations

Title: An act relating to the provision of and reimbursement for certain court interpreter services.

Brief Description: Concerning the provision of and reimbursement for certain court interpreter services.

Sponsors: Representatives Santos, Goodman, Jinkins, Kilduff and Senn; by request of Board For Judicial Administration.

Brief History:

Committee Activity:

Judiciary: 1/19/17, 1/26/17 [DPS];
Appropriations: 2/21/17, 2/22/17 [DPS(JUDI)].

Brief Summary of Substitute Bill

- Requires the presiding officer to appoint a certified, registered, or qualified interpreter at public expense at any stage of a legal proceeding in which a non-English-speaking person is a party or is compelled to appear.
- Provides for reimbursement by the Administrative Office of the Courts for one-half of the payment for an interpreter appointed by a judicial officer to assist hearing impaired or non-English-speaking person in a court proceeding, subject to the availability of funds specifically appropriated for this purpose.
- Requires presiding officers to track and provide language interpreter cost and usage data annually.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 7 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Frame, Goodman, Hansen, Kirby and Orwall.

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.

Minority Report: Do not pass. Signed by 4 members: Representatives Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Graves and Shea.

Minority Report: Without recommendation. Signed by 2 members: Representatives Haler and Klippert.

Staff: Alex Arkfeld (786-7290) and Edie Adams (786-7180).

Background:

Federal requirements, under both Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act (Safe Streets Act), and Washington law require courts and other governmental entities conducting legal proceedings to provide meaningful access to parties or witnesses who are limited English proficient (LEP).

Federal Standard.

Title VI and the Safe Streets Act prohibit national origin discrimination by recipients of federal financial assistance, which includes state courts. The United States Department of Justice (DOJ) enforces Title VI and the Safe Streets Act. Accordingly, the DOJ may suspend or terminate federal financial assistance to court systems that do not comply with LEP requirements, or it may bring a civil suit to enforce the laws.

Through guidance documents and letters, the DOJ requires state courts receiving federal financial assistance to provide LEP parties and witnesses "meaningful access" to court proceedings. Under this standard, the DOJ has indicated that interpreter services should be provided to the parties involved in the proceedings free of charge, regardless of the involved parties' ability to pay.

State Standard.

Washington law provides for the appointment of interpreters to assist non-English-speaking and hearing impaired persons in specified legal proceedings.

Non-English-Speaking Persons. Washington law specifies the legal proceedings in which an appointed language interpreter must be provided at public expense. Legal proceedings include proceedings in any court, grand jury hearings, and hearings before an administrative board, commission, agency, or licensing body. When a presiding officer of a court or other governmental entity appoints an interpreter to assist a non-English-speaking person in a government initiated legal proceeding, the governmental entity initiating the proceeding bears the cost of providing the interpreter. In all other legal proceedings, including those not initiated by the government, the non-English-speaking person pays for the interpreter unless the person is indigent, in which case the governmental entity under the authority of which the legal proceeding is conducted bears the cost.

Interpreters for non-English-speaking persons may be certified, registered, or otherwise qualified, depending on the circumstances. For example, certified interpreters are preferred in legal proceedings in which the non-English-speaking person is a party or is compelled to appear. However, if good cause is found, a qualified interpreter is permitted. "Good cause" includes, but is not limited to, the following: (1) the services of a certified interpreter are not

reasonably available; or (2) no interpreter is currently certified in the language spoken by the non-English-speaking person.

The Administrative Office of the Courts (AOC) certifies and registers interpreters. The examination for certification is different than the examination for registration and is available in fewer languages. The AOC will certify an interpreter if the certification exam is available in the interpreter's language. Otherwise, the AOC will register the interpreter. Qualified interpreters are not certified or registered but can readily translate for non-English-speaking persons.

Trial courts 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.

Subject to the availability of funds, the AOC must reimburse up to 50 percent of the payment for certified, registered, and qualified interpreters appointed by judicial officers in court proceedings at public expense if:

- the interpreter commission has approved the court's language assistance plan; and
- the fee paid to the interpreter for services is in accordance with standards established by the AOC.

Hearing Impaired Persons. The presiding officer of a court or other governmental entity must appoint and pay for a qualified interpreter to assist hearing impaired persons in several circumstances, including when a hearing impaired person is a party or witness in a judicial proceeding, is the parent or guardian of a juvenile brought before the court, or is participating in a court ordered program. Qualified interpreters are those who are certified by the state or by the Registry of Interpreters for the Deaf, or who can otherwise readily translate for hearing impaired persons.

Subject to the availability of funds, the AOC must reimburse up to 50 percent of the payment for interpreters appointed by judicial officers to assist hearing impaired persons when the hearing impaired person:

- is a party or witness in a judicial proceeding;
- is the parent or guardian of a juvenile brought before the court; or
- is participating in a court ordered program.

Summary of Substitute Bill:

The presiding officer is required to provide interpreter services at public expense at any stage of a legal proceeding in which a non-English-speaking person is a party or is compelled to appear. When a governmental entity initiates a legal proceeding, the initiating entity must bear the cost of providing an interpreter. In legal proceedings not initiated by a governmental entity, the governmental entity under the authority of which the legal proceeding is conducted must pay for an interpreter. The interpreters must be certified or registered by the Administrative Office of the Courts (AOC) unless good cause is found. When good cause is found, the appointed interpreter must be a qualified interpreter.

Subject to the availability of funds, the AOC must reimburse 50 percent of the payment for certified, registered, and qualified interpreters appointed by judicial officers to assist non-English-speaking persons in court proceedings at public expense if:

- the court conducting the legal proceeding has an approved language assistance plan; and
- the fee paid to the interpreter for services is in accordance with standards established by the AOC.

Similarly, and also subject to the availability of funds, the AOC must reimburse 50 percent of the payment to interpreters appointed by judicial officers to assist hearing impaired persons when the hearing impaired person:

- is a party or witness in a judicial proceeding;
- is the parent or guardian of a juvenile brought before the court; or
- is participating in a court ordered program.

Each court that appoints interpreters for non-English-speaking persons is required to track and provide interpreter cost and usage data, including best practices and innovations, annually in a manner determined by the AOC.

Substitute Bill Compared to Original Bill:

Language governing when an interpreter must be appointed is revised for clarity and to remove an outdated date.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is vitally important to the integrity of our government. We are a diverse state with an increasingly diverse population of residents with limited proficiency in the English language. Language access is a growing issue. Conversational English skills are not necessarily adequate to help individuals understand complex legal proceedings. This bill ensures quality interpreter services.

It is crucially important for everyone to feel welcome in our courts. Many immigrants and refugees come to our state from places that do not share our legal protections. The American ideal of equal justice under the law rings hollow when a person must interact with our justice system but cannot understand the proceedings and their potential effects. The courts identify the need for interpreters and interpreter funding as a high priority. Interpreter costs are part of the court system's operation and ability to pay should not matter. The court should appoint

and pay for interpreters for all who need services. This bill aligns our state with federal law and makes a huge difference in access to justice.

(Opposed) None.

Persons Testifying: Representative Santos, prime sponsor; and Brady Horenstein and Bob Lichtenberg, Administrative Office of the Courts.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Nealey, Schmick, Taylor, Vick, Volz and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Manweller.

Staff: Meghan Morris (786-7119).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Judiciary:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Providing funding for interpreter services is the number one priority in the judicial branch's budget request. There is an unmet need statewide for funding interpreter services in our courts. This is a huge and growing issue as our population changes. In 2015 over 54,000 cases had an interpreter need. This bill aligns state law with what has been the United States Department of Justice's (DOJ) policy since 2000 and with the DOJ's interpretation of the Civil Rights Act.

(Opposed) None.

Persons Testifying: Brady Horenstein, Board for Judicial Administration.

Persons Signed In To Testify But Not Testifying: None.