

HOUSE BILL REPORT

ESSB 5984

As Reported by House Committee On: Civil Rights & Judiciary

Title: An act relating to language understanding of documents used in dissolution proceedings.

Brief Description: Concerning language understanding of documents used in dissolution proceedings.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Wellman, Rivers, Hasegawa, Padden, Cleveland, Walsh, Hunt, Brown, Zeiger, Randall, Takko, Lovelett, Nguyen, Kuderer, Das and Wilson, C.).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/26/20, 2/28/20 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by Committee)

- Requires an order in dissolution and legal separation proceedings to be certified by an interpreter if a party has limited English proficiency or is deaf, deaf-blind, or hard of hearing.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass as amended. Signed by 15 members: Representatives Kilduff, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kirby, Klippert, Orwall, Peterson, Rude, Valdez, Walen and Ybarra.

Staff: Ingrid Lewis (786-7289).

Background:

A court must, absent a written waiver, appoint a certified or qualified interpreter to assist any party or witness who is unable to readily use the English language in a legal proceeding. The requirement applies to both civil and criminal cases, and it applies to persons with speech or

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hearing impairments as well as to those who have limited English proficiency. Dissolution and legal separation proceedings include, but are not limited to, proceedings where the court divides property and debts; awards alimony; limits one spouse's contact with children or the other spouse; enters a parenting plan; and orders child support.

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 limited English proficiency requirements, or it may bring a civil suit to enforce the laws. For courts that receive federal financial assistance, whether directly or indirectly, interpreter services must be provided to a person with limited English proficiency without charge.

State Standard.

Non-English Speaking Persons. Washington law specifies the legal proceedings in which an appointed language interpreter must be provided at public expense. 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. 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 Amended Bill:

In any matter brought pursuant to a domestic relations proceeding under the statutes relating to dissolution and legal separation, an order presented to the court for signature on behalf of a party or by agreement of parties must be accompanied by a certification from an interpreter certifying that the order has been interpreted to the party in the relevant language if the party requests interpretation services or a court has reason to know that the party may require an interpreter, and the party has limited English proficiency or is deaf, deaf-blind, or hard of hearing and relies on sign language to communicate.

Given reasonable advance notice, an interpreter must be provided by the court to a party who has limited English proficiency upon request and at no cost to the party. The interpreter must be certified, registered, or qualified by the Administrative Office of the Courts, or qualified by a judicial officer if the necessary language is not certified or registered.

The interpreter for a party who is deaf, deaf-blind, or hard of hearing must be appointed pursuant to law.

Amended Bill Compared to Engrossed Substitute Bill:

The striking amendment changes the structure of a sentence for clarity.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) The purpose of this bill is to enhance equal access to the courts for immigrant spouses and the deaf or blind in divorce proceedings.

A spouse who has limited English proficiency does not know what they are agreeing to in a divorce proceeding. Many are living in a foreign country, and they do not understand the

law. They do not have knowledge of their rights as a spouse to common property, support, or custody issues. There is a misconception that if an immigrant speaks English well, they should be able to decipher and comprehend the complicated legal verbiage of a court document.

When one party does not understand the language that court documents are in, the documents must be translated to them for the divorce to be considered legitimate.

(Opposed) None.

Persons Testifying: Senator Wellman, prime sponsor; Naoko Shatz, International Families Justice Coalition and Interpreter Commission; and Linda Inagawa, International Families Justice Coalition.

Persons Signed In To Testify But Not Testifying: None.