

SENATE BILL REPORT

SB 5051

As of January 17, 2023

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: Senators Wellman, Dhingra, Hasegawa, Keiser, Kuderer, Nobles, Pedersen, Rolfes, Saldaña, Warnick and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 1/17/23.

Brief Summary of Bill

- Requires an order in dissolution and legal separation proceedings to be certified by an interpreter that a sight translation of the order was provided in the party's language if a party has limited English proficiency or is deaf, deaf-blind, or hard of hearing.
- Requires that, when requested with advanced reasonable notice, an interpreter be provided for limited English proficiency litigants by the court for sight translation of the court's order at no cost to the party.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: Appointment of Interpreters. A court must, absent a written waiver, appoint a certified or qualified interpreter to assist any party with limited English proficiency in a legal proceeding. A court must, absent a waiver, appoint a qualified interpreter for any party or witness in a judicial or quasi-judicial proceeding who has a hearing impairment. These requirements apply to both civil and criminal proceedings.

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

Costs of Interpreters. The cost of providing interpreters is typically borne by the state whenever a person with limited English proficiency is a party to or is subpoenaed or summoned to appear by the state to a state proceeding. In all other legal proceedings, the cost of providing an interpreter to a person with limited English proficiency is typically borne by the person unless the person is indigent, in which case, the government entity under the authority of which the legal proceeding is conducted bears the cost.

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.

Certification of Interpreters. Interpreters for people with limited English proficiency may be certified, registered, or otherwise qualified, depending on the circumstances. The Administrative Office of the Courts (AOC) certifies and registers interpreters. AOC will certify an interpreter if the certification exam is available in the interpreter's language. Otherwise, AOC will register the interpreter. Qualified interpreters are not certified or registered but can readily translate for persons with limited English proficiency.

Dissolution Proceedings. 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.

Summary of Bill: In any matter brought under a domestic relations proceeding relating to dissolution and legal separation, an order presented to the court for signature on behalf of a party or by agreement of the parties must be accompanied by a certification from an interpreter that a sight translation of the order has been provided to the limited English proficiency party in the relevant language when:

- a limited English proficiency party requests sight translation of written materials into a spoken message in the party's language; or
- a court has reason to know that the party may require an interpreter, has limited English proficiency, or is deaf, deaf-blind, or hard of hearing and relies on sign language to communicate.

The interpreter must be certified, registered, or qualified by AOC, or qualified by a judicial officer if the necessary language is not certified or registered. The interpreter for a person who is deaf, deaf-blind, or hard of hearing must be appointed pursuant to current law.

When requested, with reasonable advance notice, an interpreter must be provided for limited English proficiency litigants by the courts for sight translation of the court's orders at no cost to the party.

Appropriation: None.

Fiscal Note: Requested on January 9, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is the third year this bill will be heard. There are a few things that need to be tweaked on this, such as making sure there is adequate funding in terms of our judicial system for translation for people who are non-English speakers. In criminal cases, if a non-English speaker does not understand what is being said, a translation of what is happening in the court system will be provided. But, in many cases of marriage dissolution where one party is not an English speaker, an individual can be put in significant jeopardy of their rights, especially when there are children involved. Both parties should be aware of what is happening, and the implications of that. It can be tragic for someone to lose their children and not understand how they can do anything about it.

CON: Imposition of the "reason to know" standard on judges means that if a judge has reason to believe that one party has limited English proficiency, there has to be a sight translation, which is a difficult burden on judges. Courts have remedies when there has been fraud committed in signing documents. There are many built-in mechanisms to catch these types of cases. Making sure appropriate language access is given is highly important, but this bill would negatively impact courts and their ability to provide language access services to all litigants and would greatly increase interpreter expenses. Many family law litigants reach agreements on their own and this bill would cause delays for them and other litigants. Currently, parties will make a request if they need additional translation services and there are judges who will order this to be done if they have any concerns.

Persons Testifying: PRO: Senator Lisa Wellman, Prime Sponsor.

CON: Judge Samuel Chung, Superior Court Judges' Association; Rachael DeVillar, King County Superior Court.

Persons Signed In To Testify But Not Testifying: No one.