

HOUSE BILL REPORT

ESHB 2518

As Passed House:
February 10, 2010

Title: An act relating to oath requirements for interpreters.

Brief Description: Modifying oath requirements for interpreters.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne and Kelley; by request of Board For Judicial Administration).

Brief History:

Committee Activity:

Judiciary: 1/13/10, 1/21/10 [DPS].

Floor Activity:

Passed House: 2/10/10, 96-0.

Brief Summary of Engrossed Substitute Bill

- Permits certified or registered interpreters to forego taking the required oath at the beginning of each interpreting session, but requires the oath to be taken upon certification or registration and every two years thereafter.
- Maintains the oath requirement at the beginning of each interpreting session for interpreters who are neither certified nor registered.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts and Ross.

Staff: Rebecca Jones (786-5793) and Edie Adams (786-7180).

Background:

Interpreting in Washington 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.

In 2009 Washington courts hired interpreters in more than 75 languages. Testimony is interpreted consecutively, meaning the person giving testimony finishes a clause while the interpreter waits, and then the person giving testimony waits for the interpreter to finish before continuing. While arguments and discussion are often interpreted simultaneously, pauses are sometimes needed to allow the interpreter to fully interpret what was stated.

Certified and Registered Interpreters.

The Administrative Office of the Courts (AOC) is responsible for both certifying and registering interpreters. Interpreters can be certified in more than 10 languages and must complete several requirements in order to be certified. If not certified, a qualified interpreter has the option of being registered in more than 40 languages. An interpreter must complete a series of requirements in order to be registered.

The AOC administers the oath taken by interpreters at the time of certification or registration, requiring the interpreters to uphold their code of conduct and accurately interpret for legal proceedings. Every two years, certified and registered interpreters must submit a form to the AOC affirming their compliance with continuing education requirements. The AOC must maintain a current list of certified and registered interpreters.

Interpreter Requirements.

Where a non-English speaking person is compelled to appear at a legal proceeding, the presiding officer of the proceeding must appoint an interpreter certified by the AOC unless good cause is noted on the record by the presiding officer. If good cause exists, the officer must appoint a qualified interpreter.

Before beginning to interpret, an interpreter is required to take an oath affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language that the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency, in English, to the best of the interpreter's ability.

State v. Flores.

In a 2009 Court of Appeals (Court) case, *State v. Flores*, the appellant argued that he was deprived of his constitutional right to a fair trial because his certified interpreter was not sworn in, nor were the interpreter's credentials and qualifications examined. While the Court stated that interpreters are statutorily required to be sworn in at trial, the Court upheld Flores' conviction for third degree Assault because there was no objection to the interpreter at trial, and no indication of inadequate interpretation or prejudice rising to the level of a constitutional violation.

Summary of Engrossed Substitute Bill:

Certified or registered interpreters must take the required oath upon certification or registration and every two years thereafter, but they may forego taking the oath at the beginning of each interpreting session. The AOC must maintain a record of the oath taken

by certified and registered interpreters in the manner that the list of certified and registered interpreters is maintained.

If the interpreter is not certified or registered, the interpreter must take the oath at the beginning of each interpreting session and submit the interpreter's qualifications on the record.

"Registered interpreter" means an interpreter who is registered by the AOC.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: 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 is really a housekeeping bill. All courts have a need for interpreters. Last year, Washington courts hired interpreters in more than 75 languages. Washington is a national leader in certifying interpreters and blazing the trail for high quality interpretation. Since interpretation happens consecutively, it is exhausting. The Court of Appeals case, *State v. Flores*, stated that interpreters are statutorily required to be sworn in at a legal proceeding, so this bill is needed. This would require no administrative time and would free up judicial time.

(Opposed) None.

Persons Testifying: Justice Susan Owens, Washington State Interpreter Commission.

Persons Signed In To Testify But Not Testifying: None.