
SUBSTITUTE SENATE BILL 5364

State of Washington

63rd Legislature

2013 Regular Session

By Senate Law & Justice (originally sponsored by Senators Kline and Padden)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to court reporting, communication access real-time
2 translation, and real-time captioning services; amending RCW
3 18.145.005, 18.145.040, and 18.145.120; reenacting and amending RCW
4 18.145.030 and 18.145.080; and adding a new section to chapter 18.145
5 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 18.145.005 and 1995 c 27 s 1 are each amended to read
8 as follows:

9 The legislature finds it necessary to regulate the practice of
10 court reporting and communication access real-time translation and
11 real-time captioning services at the level of certification to protect
12 the public safety and well-being. The legislature intends that only
13 individuals who meet and maintain minimum standards of competence may
14 represent themselves as court reporters, communication access real-time
15 translators, and real-time captioners.

16 **Sec. 2.** RCW 18.145.030 and 1995 c 269 s 501 and 1995 c 27 s 4 are
17 each reenacted and amended to read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Department" means the department of licensing.

4 (2) "Director" means the director of licensing.

5 (3) (~~"Court reporter"~~) "Communication access real-time
6 translation provider" means an individual certified as a communication
7 access real-time translation provider under this chapter.

8 (4) "Court reporter" means an individual certified as a court
9 reporter under this chapter.

10 (5) "Real-time captioner" means an individual certified as a real-
11 time captioner under this chapter.

12 (6) "Court reporting services" means:

13 (a) The creation of a verbatim translation of the spoken word into
14 English text using a stenographic machine, voice recognition software,
15 or computer and real-time captioning software;

16 (b) The creation of the official verbatim translation of a
17 deposition, court proceeding, or administrative proceeding; and

18 (c) Directly or indirectly arranging for another individual or
19 entity to perform the activities described in (a) or (b) of this
20 subsection, where the arranger receives compensation for doing so,
21 regardless of the source of compensation.

22 (7) The "practice of communication access real-time translation" or
23 "real-time captioning" means the immediate, verbatim translation of the
24 spoken word into English text using a stenographic machine or voice
25 recognition software, and a computer and real-time captioning software.

26 **Sec. 3.** RCW 18.145.040 and 1995 c 27 s 5 are each amended to read
27 as follows:

28 Nothing in this chapter prohibits or restricts:

29 (1) The practice of communication access real-time translation,
30 court reporting, or real-time captioners by individuals who are
31 licensed, certified, or registered as communication access real-time
32 translation providing, court reporters, or real-time captioners under
33 other laws of this state and who are performing services within their
34 authorized scope of practice;

35 (2) The practice of communication access real-time translation,
36 court reporting, or real-time captioning by an individual employed by

1 the government of the United States while the individual is performing
2 duties prescribed by the laws and regulations of the United States; or

3 (3) The introduction of alternate technology in communication
4 access real-time translation providing, court reporting, or real-time
5 captioning practice.

6 **Sec. 4.** RCW 18.145.080 and 1995 c 269 s 504 and 1995 c 27 s 8 are
7 each reenacted and amended to read as follows:

8 (1) The department shall issue a certificate to any applicant who
9 meets the standards established under this chapter and who:

10 ~~((1) Is holding))~~ (a) Has one of the following:

11 ~~((a) Certificate of proficiency,))~~ (i) A registered professional
12 reporter, registered merit reporter, ~~((or))~~ registered diplomate
13 reporter, certified real-time reporter, certified broadcast reporter,
14 or certified communication access real-time translation reporter
15 designation from ~~((the))~~ the national court reporters association;

16 ~~((b) Certificate of proficiency or))~~ (ii) A certified verbatim
17 reporter, certificate of merit, real-time verbatim reporter, registered
18 broadcast captioner, or registered communication access real-time
19 translation provider designation from ~~((the))~~ the national stenomask
20 verbatim reporters association; or

21 ~~((c))~~ (iii) A current Washington state court reporter
22 certification; or

23 ~~((2))~~ (b) Has passed an examination approved by the director or
24 an examination that meets or exceeds the standards established by the
25 director.

26 (2) The department shall issue a communication access real-time
27 translation provider or real-time captioner certificate to any
28 applicant who meets the standards established under this chapter and
29 who:

30 (a) Is a registered professional reporter, certified communication
31 access real-time translation provider, certified real-time reporter,
32 registered merit reporter, or registered diplomate reporter from the
33 national court reporters association;

34 (b) Has a certificate of merit from the national stenomask verbatim
35 reporters association; or

36 (c) Has a current Washington state court reporter certification in

1 conjunction with the successful completion of the certified
2 communication access real-time translation provider written examination
3 from the national court reporters association.

4 **Sec. 5.** RCW 18.145.120 and 1995 c 27 s 11 are each amended to read
5 as follows:

6 (1) Upon receipt of complaints against communication access real-
7 time translation providers, court reporters, or real-time captioners,
8 the director shall investigate and evaluate the complaint to determine
9 if disciplinary action is appropriate. The director shall hold
10 disciplinary hearings pursuant to chapter 34.05 RCW.

11 (2) After a hearing conducted under chapter 34.05 RCW and upon a
12 finding that a certificate holder or applicant has committed
13 unprofessional conduct or is unable to practice with reasonable skill
14 and safety due to a physical or mental condition, the director may
15 issue an order providing for one or any combination of the following:

- 16 (a) Revocation of the certification;
- 17 (b) Suspension of the certificate for a fixed or indefinite term;
- 18 (c) Restriction or limitation of the practice;
- 19 (d) Requiring the satisfactory completion of a specific program or
20 remedial education;
- 21 (e) The monitoring of the practice by a supervisor approved by the
22 director;
- 23 (f) Censure or reprimand;
- 24 (g) Compliance with conditions of probation for a designated period
25 of time;
- 26 (h) Denial of the certification request;
- 27 (i) Corrective action;
- 28 (j) Refund of fees billed to or collected from the consumer.

29 Any of the actions under this section may be totally or partly
30 stayed by the director. In determining what action is appropriate, the
31 director shall consider sanctions necessary to protect the public,
32 after which the director may consider and include in the order
33 requirements designed to rehabilitate the certificate holder or
34 applicant. All costs associated with compliance to orders issued under
35 this section are the obligation of the certificate holder or applicant.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.145 RCW
2 to read as follows:

3 (1)(a) Court reporters must not:

4 (i) Provide or arrange for the provision of court reporting
5 services if the court reporter is financially interested in the
6 litigation or administrative proceeding;

7 (ii) Enter into or arrange a financial relationship that:

8 (A) Provides special financial terms or other services that are not
9 offered at the same time and on the same terms to all other parties in
10 the litigation;

11 (B) Gives any economic or other advantage to any party, or their
12 attorney, representative, agent, or insurer; or

13 (C) Creates or may create the appearance that the impartiality of
14 the court reporter could be compromised;

15 (iii) Enter into any contract to provide court reporting services
16 that restricts the ability of an attorney or party to use the service
17 of another court reporter;

18 (iv) Provide or arrange for the provision of a no cost copy of a
19 certified transcript of a deposition to any attorney, party, or witness
20 if provision of the no cost copy is not offered to all parties to a
21 proceeding. This does not preclude providing a courtesy copy to a
22 nonparty witness at the court reporter's discretion;

23 (v) Deviate from department rules regarding formatting or
24 manipulate the transcript to affect the overall cost;

25 (vi) Provide advocacy support services to one party that is not
26 offered to all parties to a proceeding;

27 (vii) Enter into a contract for the provision of court reporting
28 services if:

29 (A) The court reporting services relate in whole or in part to any
30 contract for court reporting services offered by a party litigant
31 directly or indirectly through a third-party administrator;

32 (B) The impartiality of the court reporter providing court
33 reporting services may be reasonably questioned;

34 (C) A court reporter, with regard to cases venued in Washington
35 state, is required to relinquish control of the final original
36 transcript and copies of that transcript outside of the Washington
37 court reporter's business address before the transcript is certified
38 and delivered to any party to the action ordering said transcript, and

1 before the original transcript is delivered to the custodial attorney.
2 This does not preclude a court reporter sending rough draft copies,
3 real-time feeds, or excerpts in advance of delivery of the final
4 transcript; or

5 (D) The provisions of the contract or agreement confer or appear to
6 confer an unfair advantage upon a party;

7 (viii) Contract with any other court reporter when to do so would
8 result in a violation of this section by the other contracting party.

9 (b) The provisions of (a) of this subsection do not apply to:

10 (i) The provision of services to a governmental body or providing
11 court reporting service for the courts;

12 (ii) A court reporter who agrees to provide services for a matter
13 that is not related to litigation; or

14 (iii) A court reporter, consortium, or other organization providing
15 a court reporter that is bidding reasonable court reporting fees, equal
16 to all parties, on a case-by-case basis with full disclosure to all
17 parties of said negotiations.

18 (2) A court reporter must not take a deposition if the court
19 reporter:

20 (a) Is a party to the action;

21 (b) Is a relative, employee, or attorney of one of the parties;

22 (c) Has a financial interest in the action or its outcome; or

23 (d) Is a relative, employee, or attorney of someone with a
24 financial interest in the action or the outcome.

25 (3) For the purposes of this section, an "employee" includes a
26 person who has a continuing contractual relationship, express or
27 implied, with a person or entity interested in the outcome of the
28 litigation, including anyone who may have ultimate responsibility for
29 payment to provide reporting or other court services, and a person who
30 is employed part time or full time under contract or otherwise by a
31 person who has a contractual relationship with a party to provide
32 reporting or other court service.

33 (4) A judicial officer may declare a deposition void if a certified
34 reporter with an association to a matter, as described in this section,
35 takes a deposition.

36 (5) The provisions of this section may not be waived by disclosure,

1 agreement, stipulation, or otherwise.

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