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**SUBSTITUTE HOUSE BILL 1186**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Santos, Goodman, Jinkins, Kilduff, and Senn; by request of Board For Judicial Administration)

AN ACT Relating to the provision of and reimbursement for certain court interpreter services; and amending RCW 2.43.030, 2.43.040, and 2.42.120.

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

**Sec.**  RCW 2.43.030 and 2005 c 282 s 3 are each amended to read as follows:

(1) Whenever ((~~an interpreter is appointed to assist a non-English-speaking person in~~)) a non-English-speaking person is a party, is subpoenaed or summoned, or is otherwise compelled to appear at any stage of a legal proceeding, the appointing authority shall((~~, in the absence of a written waiver by the person,~~)) appoint a certified, registered, or ((~~a~~)) qualified interpreter to assist the non-English-speaking person ((~~throughout~~)) in the proceeding((~~s~~)).

(a) ((~~Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.~~

~~(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding,~~)) The appointing authority shall use the services of only those language interpreters who have been certified or registered by the administrative office of the courts, unless good cause is found and noted on the record by the appointing authority. For purposes of this chapter ((~~358, Laws of 1989~~)), "good cause" includes, but is not limited to, a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified or registered interpreter are not reasonably available to the appointing authority; ((~~or~~))

(ii) The current list of certified interpreters maintained by the administrative office of the courts does not include an interpreter certified in the language spoken by the non-English-speaking person; or

(iii) The current list of registered interpreters maintained by the administrative office of the courts does not include an interpreter registered in the language spoken by the non-English-speaking person.

((~~(c) Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding~~)) (b) If good cause is found, the appointing authority shall appoint a qualified interpreter.

(2) If good cause is found for using an interpreter who is not certified ((~~or if~~)) or registered and a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.

**Sec.**  RCW 2.43.040 and 2008 c 291 s 3 are each amended to read as follows:

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, ((~~or~~)) is subpoenaed or summoned ((~~by the appointing authority~~)), or is otherwise compelled ((~~by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government~~)) to appear, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings or, in cases that are not initiated by a governmental body, the governmental body under the authority of which the legal proceeding is conducted.

(3) ((~~In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.~~

~~(4)~~)) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.

((~~(5)~~)) (4) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for ((~~up to~~)) one-half of the payment to the interpreter where an interpreter is appointed by a judicial officer in a proceeding before a court at public expense and:

(a) The interpreter appointed is an interpreter certified by the administrative office of the courts or is a qualified interpreter registered by the administrative office of the courts in a noncertified language, or where the necessary language is not certified or registered, the interpreter has been qualified by the judicial officer pursuant to this chapter;

(b) The court conducting the legal proceeding has an approved language assistance plan that complies with RCW 2.43.090; and

(c) The fee paid to the interpreter for services is in accordance with standards established by the administrative office of the courts.

(5) The appointing authority shall track and provide interpreter cost and usage data, including best practices and innovations, to the administrative office of the courts at least annually in a manner that is determined by the administrative office of the courts.

**Sec.**  RCW 2.42.120 and 2008 c 291 s 2 are each amended to read as follows:

(1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(3) If a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.

(4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

(7) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for ((~~up to~~)) one-half of the payment to the interpreter where a qualified interpreter is appointed for a hearing impaired person by a judicial officer in a proceeding before a court under subsection (1), (2), or (3) of this section in compliance with the provisions of RCW 2.42.130 and 2.42.170.

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