HOUSE BILL REPORT
HB 2006

As Reported by House Committee On:
Civil Rights & Judiciary
Appropriations

Title: An act relating to court interpreters.

Brief Description: Concerning court interpreters.

Sponsors: Representatives Peterson, Mena, Ryu, Ramel, Cortes, Reed, Ormsby, Kloba, Cheney, Doglio, Goodman, Thai, Ortiz-Self, Lekanoff, Hackney and Davis; by request of Administrative Office of the Courts.

Brief History:
Committee Activity:
Civil Rights & Judiciary: 1/9/24, 1/12/24 [DP];
Appropriations: 1/24/24, 1/29/24 [DPS].

Brief Summary of Substitute Bill

- Revises terms used throughout statutes governing court interpreters.
- Revises provisions governing credentialing of court interpreters, and authorizes the Administrative Office of the Courts (AOC) to create different credentials and provide guidance.
- Revises provisions governing appointment of court interpreters, and requires appointment of credentialed interpreters in all legal proceedings involving persons with limited English proficiency, absent good cause for appointing a noncredentialed interpreter.
- Revises provisions governing waiver of court interpreters, such that requests to waive must be made on the record and waiver does not preclude a person with limited English proficiency from exercising the right to an interpreter at a later time.
- Revises provisions governing payment of interpreter costs by limiting

---

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.

when a person with limited English proficiency is responsible for the costs of an interpreter and by requiring the AOC to reimburse participating state courts for agreed costs.

- Revises provisions governing language access plans by allowing courts to use AOC templates, requiring the AOC to provide technical assistance to courts, and requiring courts to submit language access plans to the AOC every two years.
- Removes three subsections from statute that were previously invalidated by the courts.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Taylor, Chair; Farivar, Vice Chair; Entenman, Goodman, Peterson, Thai and Walen.

Minority Report: Without recommendation. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Abbarno and Cheney.

Staff: John Burzynski (786-7133).

Background:

Court interpreters interpret in court proceedings for participants, such as a witness or defendant, who speak or understand little or no English. They interpret in both criminal and civil cases with a wide range of possible subjects.

Credentialing.
The Washington Administrative Office of the Courts (AOC) is required, subject to the availability of funds, to establish and administer a comprehensive testing and certification program for language interpreters. Additionally, state law directs the AOC to: (1) cooperate with community colleges and other private or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters; (2) establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted; (3) conduct periodic examinations to ensure the availability of certified interpreters; and (4) compile, maintain, and disseminate a current list of interpreters certified by the office. The AOC is authorized to charge reasonable fees for testing, training, and certification.

The AOC's Court Interpreter Program oversees the training and testing of certified and registered spoken language interpreters, channels state funding to trial courts for the

provision of interpreter services, and provides staffing and support to the Interpreter and Language Access Commission.

The AOC recognizes two kinds of credentialed interpreters: certified and registered. Whether someone is a certified interpreter or registered interpreter depends on the language they interpret for. To become a certified or registered interpreter, the applicant must pass a written and oral examination and complete orientation, ethics, and protocol training.

Once an interpreter is certified or registered, they must take an oath affirming they will make a true interpretation to the person being examined of all proceedings in a language which the person understands and repeat the statements of the person being examined to the court or agency conducting the proceedings, in the English language, to the best of their skill and judgment. The AOC is required to maintain a list of certified and registered interpreters and record of each interpreter's oath.

All language interpreters serving in a legal proceeding must abide by a code of ethics established by Washington Supreme Court rule.

Appointment.
Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority must appoint a certified or a qualified interpreter, unless the person makes a written waiver. A "qualified interpreter" is a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

The appointing authority must appoint an interpreter who has been certified by the AOC, unless good cause exists to appoint a noncertified interpreter. Good cause includes scenarios where a certified interpreter is not reasonably available or the AOC does not offer certification in a relevant language.

If good cause exists for appointing a noncertified interpreter or if a qualified interpreter is appointed, the appointing authority must make a preliminary determination that the proposed interpreter is able to interpret accurately all communications in the proceeding. The appointing authority must satisfy itself on the record that the proposed interpreter is capable of communicating effectively with the court or agency, and the person for whom the interpreter would interpret, and that the proposed interpreter has read, understands, and will abide by the code of ethics for language interpreters.

Before an interpreter begins to interpret, they must state their name on the record and whether they are a certified or registered interpreter. If the interpreter is not a certified or registered interpreter, they must submit their qualifications on the record, and take the same oath required of certified and registered interpreters.

Costs.
Court interpreters are entitled to a reasonable fee for their services and must be reimbursed for actual reasonable expenses. Whether the cost of a court interpreter is borne by the government or individual depends on the nature of the proceeding and other factors.

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, the cost of providing the interpreter must be borne by the governmental body initiating the legal proceedings.

In other legal proceedings, the cost of providing the interpreter must 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 must be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

Additionally, the AOC must reimburse an appointing authority for up to half of the cost of payment to an interpreter when certain conditions are met. Subject to the availability of funds that have been specifically appropriated for this purpose, the AOC must 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: (1) the interpreter appointed is an interpreter certified by the AOC or is a qualified interpreter registered by the AOC 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; (2) the court conducting the legal proceeding has an approved language assistance plan that complies with state law; and (3) the fee paid to the interpreter for services is in accordance with standards established by the AOC.

Waiver.
The right to a qualified interpreter may not be waived except when a non-English-speaking person requests a waiver, and the appointing authority determines on the record that the waiver has been made knowingly, voluntarily, and intelligently. Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceedings.

Language Plans.
Trial courts are required to develop a written language assistance plan to provide interpreter services for non-English-speaking persons accessing the court system in both civil and criminal legal matters. Each language plan must include procedures or processes for identifying and assessing language needs; appointing interpreters; notifying court users of the right to an interpreter and the availability of interpreter services in five languages; providing timely communication and meaningful access; evaluating translation needs; training judges, clerks, and staff; and evaluating and monitoring language access plans.

Language plans may not require non-English-speaking persons to make arrangements for an interpreter to appear in court.

In developing a language access plan, courts must consult with judges, administrators, court clerks, interpreters, and community members.

Each court must provide a copy of its language assistance plan to the interpreter commission established by Washington Supreme Court rule for approval prior to receiving state reimbursement for interpreter costs. Additionally, each court receiving reimbursement for interpreter costs must provide the AOC with specified information regarding interpreter services by November 15, 2009.

Defects and Omissions in the Law.
The Washington Constitution and state law require courts to identify and report on defects and omissions in the laws. The 2023 letter from the Chief Justice of the Washington Supreme Court on defects and omissions in the law identifies several statutory provisions that have been found unconstitutional by Washington or federal courts, or whose validity is in question based on court decisions, and that still remain codified in Washington law. When a statute is found unconstitutional, it is no longer valid or enforceable, but it remains in the law until the Legislature removes the unconstitutional provision by amendment or repeal of the statute.

Among other statutes, the 2023 letter identifies three sections of the revised code relating to the appointment of qualified interpreters for hearing-impaired persons, each of which have been found unconstitutional by the courts:

- RCW 2.42.120(3) requires a qualified interpreter be appointed and paid when 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.
- RCW 2.42.120(4) requires a qualified interpreter be appointed and paid when a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing-impaired person, or minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect.
- RCW 2.42.120(5) requires a qualified interpreter be appointed and paid when a hearing-impaired person is arrested for an alleged violation of a criminal law, for the purpose of any notification of rights, warning, interrogation, or taking of a statement.

In *Patrice v. Murphy* (1998), the Washington Supreme Court found RCW 2.42.120(4) and (5) to be unconstitutional because these provisions were attached to an unrelated bill in violation of the subject-in-title and anti-logrolling requirements of the Washington State Constitution. In *State v. Harris* (1999), the Washington Court of Appeals found RCW 2.42.120(3) to be unconstitutional on the same grounds articulated in *Patrice*.

Summary of Bill:

Defined Terms.
The term "credentialed interpreter" replaces existing references to certified and registered interpreters. "Credentialed interpreter" is defined as an interpreter who is credentialed by the Administrative Office of the Courts (AOC) in a spoken language. The definitions of the terms "certified interpreter," "qualified interpreter," and "registered interpreter" are removed.

The term "Person with limited English proficiency" replaces the term "non-English-speaking person." "Person with limited English proficiency" means a person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include deaf, deaf-blind, and hard of hearing individuals who are covered under chapter 2.42 RCW.

The definition of "legal proceeding" is modified to include any proceeding in any court, and in any type of hearing before a judicial officer, an administrative law judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision.

The term "judicial or presiding officer" replaces existing references to "appointing authority." Definitions for the terms "judicial officer" and "language access plan" are added.

Credentialing.
After obtaining an interpreter credential from the AOC, the credentialed interpreter must take a permanent oath, affirming they will make a true interpretation of all proceedings, and repeat the statements of the person with limited English proficiency to the court or agency conducting the proceeding, in the English language, to the best of their skill and judgment.

The AOC must: (1) subject to the availability of funds, establish and maintain a credentialing program for spoken language interpreters and administer comprehensive testing; (2) maintain a list of credentialed interpreters and record of their oaths; and (3) work with public or private educational institutions and other organizations to establish suitable training programs and engage in recruitment efforts to ensure the availability of credentialed interpreters.

The AOC may create different credentials and provide guidance for the selection and use of credentialed and noncredentialed interpreters.

All language interpreters serving in a legal proceeding must abide by a code of professional responsibility for judiciary interpreters established by Washington Supreme Court rule.

Appointment.

Credentialed interpreters must be appointed in all legal proceedings involving persons with limited English proficiency, unless good cause is found on the record for appointing a noncredentialed interpreter.

Before appointing a noncredentialed interpreter, the judicial or presiding officer must determine the proposed interpreter is able to interpret accurately all communications to and from the person with limited English proficiency.

For all interpreters, the judicial or presiding officer must find on the record that: (1) the proposed interpreter is capable of communicating effectively in English and in the non-English language, unless they are relay interpreting between two non-English languages, in which case they are not required to communicate in English; (2) the proposed interpreter has read, understands, and will abide by the code of professional responsibility for judiciary interpreters; and (3) the person with limited English proficiency can understand the interpreter. If the proposed interpreter does not meet these criteria, another interpreter must be used.

Courts must appoint a team of interpreters when required to do so by Washington Supreme Court rule.

Costs.
In all legal proceedings and court-mandated classes in which the person with limited English proficiency is a party; is subpoenaed or summoned; are parents, guardians, or custodians of a juvenile; or is compelled to appear, the person with limited English proficiency is not responsible for the cost of the interpreter.

Subject to the availability of funds specifically appropriated for this purpose, the AOC must reimburse a participating state court for language access services costs in accordance with the terms of agreement established by the AOC and agreed to by the participating state court.

Waiver.
A request to waive the right to an interpreter must be made on the record. The waiver of the right to an interpreter does not preclude a person with limited English proficiency from exercising the right to an interpreter at a later time.

Language Plans.
Trial courts must develop and maintain a written language access plan to provide a framework for the provision of language access services. Courts may use a template developed by the AOC in developing their language access plan. The AOC must provide technical assistance to trial courts in developing language access plans.

Each language access plan must include procedures or processes for: identifying and providing for language needs; requesting and appointing interpreters; notifying court users

of the right to an interpreter and the availability of interpreter services in five or more languages other than English that predominate in the jurisdiction; providing timely communication and effective access; evaluating translation needs; training judges, clerks, and staff; and evaluating and monitoring language access plans.

In developing a language access plan, courts must consult with court staff in addition to judges, administrators, clerks, interpreters, and community members.

Beginning on January 1, 2025, courts must submit their most recent language access plan to the AOC every two years. Each court must provide a copy of its language access plan in accordance with criteria established by the Interpreter and Language Access Commission for approval prior to receiving state reimbursement for interpreter costs.

Each court must make available on its website translated information regarding access to the court's language access services and programs, and such information must be provided in five or more languages other than English that predominate in the jurisdiction.

Defects and Omissions in the Law.
An interpreter statute identified in the 2023 letter from the Chief Justice of the Washington Supreme Court regarding defects and omissions in the law is amended to remove the following subsections that have been found unconstitutional by the courts:

- RCW 2.42.120(3) requires a qualified interpreter be appointed and paid when 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.
- RCW 2.42.120(4) requires a qualified interpreter be appointed and paid when a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing-impaired person; or minor child whose parent, guardian, or custodian is hearing impaired; whether as a victim, witness, or suspect.
- RCW 2.42.120(5) requires a qualified interpreter be appointed and paid when a hearing-impaired person is arrested for an alleged violation of a criminal law, for the purpose of any notification of rights, warning, interrogation, or taking of a statement.

Appropriation: None.

Fiscal Note: Available.

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 bill is request legislation from the Administrative Office of the Courts

(AOC) and reflects the work of the Interpreter and Language Access Commission. In 2019 the AOC received significant funding from the Legislature to facilitate court interpreter services, but the AOC can only partially reimburse for these services under current law. House Bill 2006 removes restrictions and increases flexibility, allowing the AOC to reimburse more freely, and will free up funding and enhance the ability of the courts to increase the types of interpreters they have access to.

While many courts already have robust language service programs, some barriers remain, including courts working with noncredentialed interpreters in languages for which credentials exist, interpreter costs being charged to parties, interpreters working for long time periods and thereby risking translation accuracy, and failing to provide interpreters for court-mandated classes or mediation. In some rural parts of the state, access to court interpreters is currently limited. In some instances, local interpreters may be sympathetic to an abusive partner or may raise concerns regarding maintaining confidentiality. Additionally, current state law does not require interpreters to be provided in civil cases, including family and landlord-tenant cases, and disputes between neighbors. Without court interpreter services, the only remedy for some people is self-help. This bill will help address these issues.

This bill is about access to justice. There are many languages spoken throughout the state. Courtroom doors are closed without language access. The better the courts can support language access, the better the results for justice. The bill helps provide support for everyone who comes before the court and all court users across the state. Access to language interpretation is a top issue for legal advocates for domestic violence and sexual assault survivors. This bill will preserve the rights of individuals who do not speak English. The bill provides interpreters in all legal proceedings and court-mandated programs free of charge, prioritizes use of credentialed interpreters, and provides consistent guidance to courts on process to assure noncredentialed interpreters are qualified.

Additionally, the bill brings the state's court interpreter laws into alignment with federal law and national standards, updates and modernizes terminology in the court interpreter statutes, and allows team interpreting and will be cost effective.

(Opposed) None.

Persons Testifying: Representative Strom Peterson, prime sponsor; Brittany Gregory, Administrative Office of the Courts; Michael Diaz, Interpreter Language and Access Commission; Luisa Gracia; Kristi Cruz, Northwest Justice Project; and Em Stone, Washington State Coalition Against Domestic Violence.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Callan, Chopp, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 5 members: Representatives Chambers, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Chandler, Dye and Schmick.

Minority Report: Without recommendation. Signed by 3 members: Representatives Connors, Assistant Ranking Minority Member; Rude and Sandlin.

Staff: Yvonne Walker (786-7841).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Civil Rights & Judiciary:

The substitute bill:

- clarifies that a person with limited English proficiency is not responsible for the cost of an interpreter if the person is a party, subpoenaed or summoned, a parent or guardian of a juvenile, or if they are compelled to appear in court;
- requires that the cost for providing an interpreter for a person with limited English proficiency in a legal proceeding must be borne by the governmental body initiating the legal proceeding; and
- requires the Administrative Office of the Courts to reimburse for 50 percent of the payment of interpreter costs unless a higher reimbursement rate is established differently in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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) Access to adequate language interpretation is a top issue raised amongst sexual and domestic violence survivors across the state and assists survivors in understanding what is happening with their case in real time. Court interpreters are also important to the deaf community.

This bill aligns state law with federal law, modernizes terminology, allows the Administrative Office of the Courts (AOC) to have more flexibility in using its resources, and captures best practices that are currently being implemented in Washington. The court

interpreter program was originally established in 2009 and over the last couple of years has had sufficient funding to reimburse those courts participating in the program and add additional courts to the program. The AOC does not anticipate needing additional funding to implement this bill.

(Opposed) None.

Persons Testifying: Brittany Gregory and James Wells, Administrative Office of the Courts; Michael Diaz, Interpreter and Language Access Commission; Em Stone, Washington State Coalition Against Domestic Violence; and Keysi Severino-Gomez.

Persons Signed In To Testify But Not Testifying: None.