HOUSE BILL REPORT
HB 1174

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to court interpreters.

Brief Description: Concerning court interpreters.

Sponsors: Representatives Peterson, Thai, Ryu, Taylor, Ortiz-Self, Simmons, Goodman, Davis, Ormsby, Lekanoff, Salahuddin and Hill; by request of Administrative Office of the Courts.

Brief History:
Committee Activity:
Civil Rights & Judiciary: 1/22/25, 2/14/25 [DPS].

Brief Summary of Substitute Bill

- 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 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 language access services costs and one-half of the payment of interpreter costs unless a higher reimbursement rate is established in the omnibus budget.

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.

- 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.
- Revises terms used throughout statutes governing court interpreters.
- Removes three subsections from state law that were previously invalidated by the courts.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Taylor, Chair; Farivar, Vice Chair; Entenman, Goodman, Peterson, Salahuddin, Thai and Walen.

Minority Report: Do not pass. Signed by 1 member: Representative Walsh, Ranking Minority Member.

Minority Report: Without recommendation. Signed by 4 members: Representatives Abell, Assistant Ranking Minority Member; Burnett, Graham and Jacobsen.

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 organizations, to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters; (2) establish and adopt standards of written and oral proficiency 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 AOC. 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 interpreters' 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.

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 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; (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 AOC standards.

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, at 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 staff, court clerks, 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.

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 identified 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 codified law until the Legislature removes the unconstitutional provision by amendment or repeal.

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

- RCW 2.42.120(4) and (5). These provisions required appointment of qualified interpreters when law enforcement interviewed or arrested people with hearing impairments. In *Patrice v. Murphy* (1998), the Washington Supreme Court held these provisions were attached to an unrelated bill in violation of the subject-in-title and anti logrolling requirements of the Washington State Constitution.
- RCW 2.42.120(3). This provision required the appointment of a qualified interpreter whenever a hearing-impaired defendant participated in a court ordered program or activity. It was enacted in the same bill examined in *Patrice* and was found to suffer from the same constitutional infirmity by the Court of Appeals in *State v. Harris* (1999).

Summary of Substitute Bill:

Defined Terms.
The term "credentialed interpreter" replaces existing references to certified and registered interpreters. "Credentialed interpreter" means 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 covered under other state law.

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," "presiding 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 the interpreter's 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, whether or not credentialed, 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. Good cause includes, but is not limited to, a determination that a credentialed interpreter is not reasonably available or that the current list of interpreters maintained by the AOC does not include an interpreter credentialed in the relevant language. 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 office must find on the record that: (1) the proposed interpreter is capable of communicating effectively in English and in the non-English language, unless the interpreter is relay interpreting between two non-English languages, in which case the interpreter is 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 and Reimbursement.
In all legal proceedings a person with limited English proficiency is not responsible for the cost of the interpreter if that person is: (1) a party; (2) subpoenaed or summoned; (3) a parent, guardian, or custodian of a juvenile; or (4) compelled to appear. In legal proceedings initiated by government agencies, the cost of providing the interpreter must be borne by the governmental body initiating the legal proceedings.

Subject to the availability of amounts appropriated for this specific purpose, in all court-mandated classes, a person with limited English proficiency is not responsible for the cost of the interpreter if that person is: (1) a party; (2) subpoenaed or summoned; (3) a parent, guardian, or custodian of a juvenile; or (4) compelled to appear. Court-mandated classes do not require the use of court-credentialed interpreters. Where court-mandated classes are provided through a court-contracted outside provider, the contract may require the provider to bear the cost of interpreter services.

Subject to the availability of funds specifically appropriated for this purpose, the AOC must reimburse participating state courts for language access services costs and one-half of the payment of interpreter costs unless a higher reimbursement rate is established in the omnibus budget.

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 and providing translated materials; training judges, clerks, and staff; and evaluating language access plans and monitoring implementation. 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, 2026, and every two years thereafter, courts must submit their most recent language access plan to the AOC. 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 are predominant in the court's 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(4) and (5). These provisions required appointment of qualified interpreters when law enforcement interviewed or arrested people with hearing impairments.
- RCW 2.42.120(3). This provision required the appointment of a qualified interpreter whenever a hearing-impaired defendant participated in a court ordered program or activity.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- Subject to the availability of amounts appropriated for this specific purpose, in all court-mandated classes, a person with limited English proficiency is not responsible for the cost of the interpreter if that person is: (1) a party; (2) subpoenaed or summoned; (3) a parent, guardian, or custodian of a juvenile; or (4) compelled to appear.
- Court-mandated classes do not require the use of court-credentialed interpreters. Where court-mandated classes are provided through a court-contracted outside provider, the contract may require the provider to bear the cost of interpreter services.

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) This bill is about access to justice. Residents of Washington are diverse and the state welcomes people from around the world. Interpreters allow equal access to justice and are critical in court proceedings to ensure participants are aware of their rights. Individuals with limited English proficiency are particularly vulnerable to labor law violations and interpreters are essential to protecting their rights. The bill opens state courts to all regardless of what language they speak.

This legislation is largely budget neutral, will make courts more efficient, and will help avoid unnecessary appeals.

The bill makes changes to interpreter reimbursement. The Administrative Office of the Courts previously received funding for court interpreters and wants to use the funds as efficiently as possible.

This bill modernizes language access and meets obligations under state and federal law. Washington was one of the first courts to establish language access policies and an interpreter credentialing system, but state law has fallen behind and needs to be updated.

The bill clarifies state law, emphasizes accuracy, and provides judges with guidance on how to make a good cause determination.

(Opposed) None.

Persons Testifying: Representative Strom Peterson, prime sponsor; Michael Díaz, Interpreter and Language Access Commission (ILAC); James Wells, Administrative Office of the Courts (AOC); Luisa Gracia; Brittany Gregory, Administrative Office of the Courts; and Alexis Rufi, Fair Work Center/ Working Washington.

Persons Signed In To Testify But Not Testifying: None.