
SUBSTITUTE HOUSE BILL 1727

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Jacobsen, Paris, Morton, Mielke, Brekke, Anderson, Forner, Day, Vance, R. Johnson and Wineberry).

Read first time March 6, 1991.

1 AN ACT Relating to interpreters; and amending RCW 2.42.020,
2 2.42.030, 2.42.040, 2.42.050, 2.42.110, 2.42.120, 2.42.130, 2.42.160,
3 2.42.170, and 2.42.180.

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

5 **Sec. 1.** RCW 2.42.020 and 1989 c 358 s 13 are each amended to read
6 as follows:

7 As used in this chapter (1) an "impaired person" is any person
8 involved in a legal proceeding who is deaf or who, because of other
9 hearing or speech defects, cannot readily understand or communicate in
10 spoken language and who, when involved as a ((party)) participant to a
11 legal proceeding, is unable by reason of such defects to effectively
12 obtain due process of law and/or to participate in a legal proceeding;
13 (2) a "qualified interpreter" is one who is able readily to translate
14 spoken language to impaired persons and to translate statements of
15 impaired persons into spoken language; (3) "legal proceeding" is a

1 proceeding in any court in this state, at grand jury hearings or
2 hearings before an inquiry judge, or before administrative boards,
3 commissions, agencies, or licensing bodies of the state or any
4 political subdivision thereof; (4) "participant" is any hearing
5 impaired person that is a party, an officer of the court, a counsel, a
6 witness, or a member of the jury present at any stage of a legal
7 proceeding; and (5) "member of the public" is one or more hearing
8 impaired person or persons, other than the participant, who has
9 solicited the governmental body under the authority of which the
10 proceeding is conducted for a qualified interpreter prior to the start
11 of any stage of a legal proceeding.

12 **Sec. 2.** RCW 2.42.030 and 1973 c 22 s 3 are each amended to read as
13 follows:

14 When an impaired person is a (~~(party to)~~) participant in any legal
15 proceeding (~~(or a witness therein)~~) the judge, magistrate, or other
16 presiding official shall, in the absence of a written waiver by the
17 impaired person, appoint a qualified interpreter to assist the impaired
18 person throughout the proceedings.

19 **Sec. 3.** RCW 2.42.040 and 1973 c 22 s 4 are each amended to read as
20 follows:

21 Interpreters appointed pursuant to this chapter shall be adequately
22 compensated for their services and shall be reimbursed for actual
23 expenses as hereinafter provided:

24 (~~(1)~~) In (~~(criminal)~~) legal proceedings, grand jury proceedings,
25 coroner's inquests, mental health commitment proceedings, and other
26 proceedings initiated by agencies of government, the cost of providing
27 the interpreter under this chapter shall be (~~(borne)~~) paid by the
28 (~~(governmental body initiating the proceedings.~~

1 ~~(2) In other legal proceedings the cost of providing the~~
2 ~~interpreter shall be borne by the impaired person unless the impaired~~
3 ~~person is indigent, pursuant to adopted standards of the body, and thus~~
4 ~~unable to pay for the interpreter, in which case the cost shall be~~
5 ~~borne as an administrative cost of the governmental body under the~~
6 ~~authority of which the proceeding is conducted.~~

7 ~~(3) The cost of providing the interpreter may be a taxable cost of~~
8 ~~any proceeding in which costs are ordinarily taxed)) governmental body~~
9 ~~under the authority of which the proceeding is conducted.~~

10 **Sec. 4.** RCW 2.42.050 and 1989 c 358 s 14 are each amended to read
11 as follows:

12 Every qualified interpreter appointed under this chapter in a
13 ~~((judicial or administrative))~~ legal proceeding shall, before beginning
14 to interpret, take an oath that a true interpretation will be made to
15 the person being examined of all the proceedings in a manner which the
16 person understands, and that the interpreter will repeat the statements
17 of the person being examined to the court or other agency conducting
18 the proceedings, to the best of the interpreter's skill and judgment.

19 **Sec. 5.** RCW 2.42.110 and 1985 c 389 s 11 are each amended to read
20 as follows:

21 As used in this chapter, the following terms have the meanings
22 indicated unless the context clearly requires otherwise.

23 (1) "Hearing impaired person" means a person who, because of a
24 hearing impairment, cannot readily understand or communicate in spoken
25 language; and includes persons who are deaf, deaf and blind, or hard of
26 hearing.

1 (2) "Qualified interpreter" means ~~((an interpreter who is certified~~
2 ~~by the registry of interpreters for the deaf with the certificate level~~
3 ~~specified below and who meets the requirements of RCW 2.42.130.~~

4 ~~(a) For judicial proceedings involving a class A felony, use of the~~
5 ~~services of a qualified interpreter holding the specialist certificate~~
6 ~~legal is required.~~

7 ~~(b) For other judicial, quasi-judicial, or administrative~~
8 ~~proceedings, use of the services of a qualified interpreter holding the~~
9 ~~specialist certificate legal, master's comprehensive skills~~
10 ~~certificate, or comprehensive skills certificate is required.~~

11 ~~(c))~~ a visual language interpreter who is certified by the state
12 or is certified by the registry of interpreters for the deaf to hold
13 the comprehensive skills certificate or both certificates of
14 interpretation and transliteration.

15 For programs and activities other than judicial or administrative
16 proceedings, the services of a qualified interpreter ~~((holding a~~
17 ~~partial certification)) shall be required. ~~((Efforts to obtain the~~
18 ~~services of a qualified interpreter holding the master's comprehensive~~
19 ~~certificate or comprehensive skills certificate shall be made before~~
20 ~~obtaining the services of a qualified interpreter holding the~~
21 ~~interpreting certificate and/or the transliterating certificate.~~~~

22 ~~(4))~~ (3) "Intermediary interpreter" means a hearing impaired
23 interpreter who holds a reverse skills certificate by the state or is
24 certified by the registry of interpreters for the deaf with a reverse
25 skills certificate, who meets the requirements of RCW 2.42.130, and who
26 is able to assist in providing an accurate interpretation between
27 spoken and sign language or between variants of sign language by acting
28 as an intermediary between a hearing impaired person and a qualified
29 hearing interpreter.

1 (~~(5)~~) (4) "Appointing authority" means the presiding officer or
2 similar official of any court, department, board, commission, agency,
3 licensing authority, or legislative body of the state or of any
4 political subdivision.

5 **Sec. 6.** RCW 2.42.120 and 1985 c 389 s 12 are each amended to read
6 as follows:

7 (1) If a hearing impaired person is a (~~party or witness~~)
8 participant and/or a member of the public at any stage of a judicial or
9 quasi-judicial proceeding in the state or in a political subdivision,
10 including but not limited to (~~civil and criminal court~~) legal
11 proceedings, grand jury proceedings, proceedings before a magistrate,
12 juvenile proceedings, adoption proceedings, mental health commitment
13 proceedings, and any proceeding in which a hearing impaired person may
14 be subject to confinement or criminal sanction, the appointing
15 authority shall appoint (~~and pay for~~) a qualified interpreter to
16 interpret the proceedings.

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

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

28 (4) If a law enforcement agency conducts a criminal investigation
29 involving the interviewing of a hearing impaired person, whether as a

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

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

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

23 (7) The appointing authority shall pay for any qualified
24 interpreter and/or intermediary interpreter costs that have been
25 incurred to interpret any proceeding.

26 **Sec. 7.** RCW 2.42.130 and 1985 c 389 s 13 are each amended to read
27 as follows:

28 (1) If a qualified interpreter for a hearing impaired person is
29 required, the appointing authority shall request a qualified

1 interpreter and/or an intermediary interpreter through the department
2 of social and health services, office of deaf services, or through any
3 community center for hearing impaired persons which operates an
4 interpreter referral service. The office of deaf services and these
5 community centers shall maintain an up-to-date list or lists of
6 interpreters that are certified by the state and/or by the registry of
7 interpreters for the deaf.

8 (2) The appointing authority shall make a preliminary
9 determination, on the basis of testimony or stated needs of the hearing
10 impaired person, that the interpreter is able in that particular
11 proceeding, program, or activity to interpret accurately all
12 communication to and from the hearing impaired person. If at any time
13 during the proceeding, program, or activity, in the opinion of the
14 hearing impaired person or a qualified observer, the interpreter does
15 not provide accurate, impartial, and effective communication with the
16 hearing impaired person the appointing authority shall appoint another
17 qualified interpreter. No otherwise qualified interpreter who is a
18 relative of any participant in the proceeding may be appointed.

19 **Sec. 8.** RCW 2.42.160 and 1985 c 389 s 16 are each amended to read
20 as follows:

21 (1) A qualified and/or intermediary interpreter shall not, without
22 the written consent of the ((parties)) participants to the
23 communication, be examined as to any communication the interpreter
24 interprets under circumstances where the communication is privileged by
25 law.

26 (2) A qualified and/or intermediary interpreter shall not, without
27 the written consent of the ((parties)) participants to the
28 communication, be examined as to any information the interpreter
29 obtains while interpreting pertaining to any proceeding then pending.

1 **Sec. 9.** RCW 2.42.170 and 1985 c 389 s 17 are each amended to read
2 as follows:

3 A qualified and/or intermediary interpreter appointed under this
4 chapter is entitled to a reasonable fee for services, including waiting
5 time and reimbursement for actual necessary travel expenses. The fee
6 for services for interpreters for hearing impaired persons shall be in
7 accordance with standards established by the department of social and
8 health services, office of deaf services.

9 **Sec. 10.** RCW 2.42.180 and 1985 c 389 s 18 are each amended to read
10 as follows:

11 At the request of any ((party)) participant to the proceeding or on
12 the appointing authority's initiative, the appointing authority may
13 order that the testimony of the hearing impaired person and the
14 interpretation of the proceeding by the qualified interpreter be
15 visually recorded for use in verification of the official transcript of
16 the proceeding.

17 In any judicial proceeding involving a capital offense, the
18 appointing authority shall order that the testimony of the hearing
19 impaired person and the interpretation of the proceeding by the
20 qualified interpreter be visually recorded for use in verification of
21 the official transcript of the proceeding.