

HOUSE BILL REPORT

HB 1542

As Reported by House Committee On:

Judiciary
Appropriations

Title: An act relating to the provision of and reimbursement for certain court interpreter services.

Brief Description: Concerning the provision of and reimbursement for certain court interpreter services.

Sponsors: Representatives Santos, Ryu, Moscoso, Kirby, Roberts, Appleton, Upthegrove, Stanford, Goodman, Bergquist, Pollet and Fitzgibbon; by request of Board For Judicial Administration.

Brief History:

Committee Activity:

Judiciary: 2/12/13, 2/19/13 [DP];

Appropriations: 2/26/13, 3/1/13 [DPS].

Brief Summary of Substitute Bill

- Requires courts to appoint a certified or registered interpreter at public expense in all legal proceedings in which a non-English-speaking person is a party or is compelled to appear.
- Provides for state reimbursement of one-half of the costs for qualified interpreters, subject to the availability of funds specifically appropriated for this purpose.
- Requires courts to track and provide interpreter cost and usage data annually to the Administrative Office of the Courts.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Goodman, Jinkins, Kirby, Orwall and Roberts.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 6 members: Representatives Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Hope, Klippert, Nealey and Shea.

Staff: Sara Campbell (786-7119).

Background:

Court systems must provide meaningful access to parties or witnesses who are limited English proficient (LEP) in order to comply with Title VI of the Civil Rights Act of 1964 (Title VI), the Omnibus Crime Control and Safe Streets Act (Safe Streets Act), and Washington law.

Federal Standard.

Title VI provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The Safe Streets Act states that "No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this chapter."

The Department of Justice (DOJ) has enforcement authority of Title VI and the Safe Streets Act. Accordingly, the DOJ has the power to suspend or terminate federal financial assistance to court systems that do not comply with LEP requirements, or to bring a civil suit to enforce the rights. Through guidance documents and letters, the DOJ requires state courts to provide LEP parties and witnesses with "meaningful access" to court proceedings. Under this standard, the DOJ has indicated that state courts receiving federal financial assistance cannot allocate or otherwise charge the costs of interpreter services to the parties involved in the litigation or make any type of indigent determinations in assessing the ability of a party to contribute to the costs.

State Standard.

Washington law makes provision for the appointment of interpreters in court proceedings for both non-English-speaking parties and hearing impaired persons.

Interpreters must be appointed in all legal proceedings in which a non-English-speaking person is a party or is compelled to appear. The cost of providing the interpreter is borne by the governmental body that initiated the legal proceeding. In all other legal proceedings, the cost of providing an interpreter is borne by the non-English-speaking person unless the person is indigent, in which case the cost is borne by the governmental body conducting the legal proceeding.

An interpreter appointed for a non-English-speaking person must be certified by the Administrative Office of the Courts (AOC), unless the language is one for which certification is not available, or the services of a certified interpreter are not reasonably available. In those cases, a qualified interpreter may be appointed. A qualified interpreter is a person who is

able to translate spoken or written English for a non-English-speaking person and to translate oral or written statements of the non-English-speaking person into spoken English.

Interpreters for hearing impaired persons must be provided at government expense in legal proceedings where the hearing impaired person is a party or witness, in court-ordered programs or activities, and in law enforcement investigatory interviews. Such requests must go through the Office of Deaf Services in the Department of Social and Health Services or through a community center interpreter referral service.

Subject to the availability of funds, the AOC is required to reimburse courts for up to 50 percent of the cost of interpreters appointed in court proceedings for non-English-speaking or hearing impaired parties or witnesses.

Summary of Bill:

Courts are required to provide interpreter services at public expense in all types of legal proceedings, civil and criminal, when a non-English-speaking person is a party or is compelled to appear. The interpreters must be certified or registered by the AOC, unless good cause is found and noted on the record.

Beginning January 1, 2017, the state must pay 50 percent of the cost of interpreters appointed in legal proceedings for non-English-speaking or hearing impaired parties or those compelled to appear.

Each court that appoints interpreters for non-English-speaking persons is required to track and provide interpreter cost and usage data annually to the AOC.

Appropriation: None.

Fiscal Note: Preliminary 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) Translator services are vitally important to protect the benefits of the rule of law, and the inherent rights offered through our justice system. Simple justice mandates this bill. There is a population that needs legal services and needs interpreter services. If court proceedings are to have any meaning at all, they must be translated. Interpreter services must be provided in civil as well as criminal proceedings. Without interpreter services, non-English-speaking litigants are limited to something less than a full proceeding. This bill goes a long way to correct that problem.

Additionally, the federal Department of Justice may cut off federal funding provided to the Washington court system if there is not a process in place to provide interpreter services when they are required by federal law.

(Opposed) None.

Persons Testifying: Representative Santos, prime sponsor; Mellani McAleenan, Board for Judicial Administration; Judge Mary Yu, Superior Court Judges Association; Latricia Kinlow, Tukwila Court; Gillian Dutton, Seattle University School of Law; Kristi Cruz, Northwest Justice Project; Ed Zaldibar, E-Interpreters, Inc.; and Pin Lau.

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 18 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Cody, Dunshee, Fagan, Green, Haigh, Hudgins, Hunt, Jinkins, Kagi, Maxwell, Morrell, Pedersen, Pettigrew, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 12 members: Representatives Alexander, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dahlquist, Haler, Harris, Parker, Pike, Ross, Schmick and Taylor.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Judiciary:

The Appropriations Committee recommended making the state reimbursement of one-half of the payments for qualified interpreters beginning when the bill takes effect, subject to the availability of funds specifically appropriated for this purpose.

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) The Board for Judicial Administration (BJA) requested this legislation and it is one of the most significant bills that the BJA has brought before the Legislature in the last several years. The bill will ensure access to quality interpreters. The bill will also allow the BJA to develop better data regarding interpreter services. There are as many practices around the delivery of interpreter services as there are courts. In order to ease fiscal issues for local

courts, this bill balances the provision of additional interpreter services with additional state funding. Due to the state fiscal issues, the bill delays the state funding until January 2017. There is an imperative to do something because there is heightened scrutiny from the United States Department of Justice (US DOJ). The US DOJ has found Washington courts to be out of compliance with Title VI of the Civil Rights Act. Failure to comply with the US DOJ standards could impact federal funding. It is a financial difficulty to comply with unfunded mandates. Tukwila is a small city with a high need for interpreter services. This will have a significant impact on local courts. With supplemental funding, Tukwila can provide services with no cost to defendants. Interpreters fully support the bill. The bill will align state law with federal law.

(Opposed) The counties oppose this bill for fiscal rather than policy reasons. Mandating the additional interpreter services will have a large impact on local governments. The local government fiscal note is not yet available, but based on the information from the Administrative Office of the Courts' fiscal note it could increase costs for local courts by \$3.6 million per biennium.

Persons Testifying: (In support) Mellani McAleenan, Board for Judicial Administration; Latricia Kinlow, Tukwila Municipal Court; Milena Calderari, Washington Interpreters and Translators Society; and Ed Zaldibar, e-Interpreters.com.

(Opposed) Brian Enslow, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.