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**SUBSTITUTE HOUSE BILL 1542**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Santos, Ryu, Moscoso, Kirby, Roberts, Appleton, Upthegrove, Stanford, Goodman, Bergquist, Pollet, and Fitzgibbon; by request of Board For Judicial Administration)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to the provision of and reimbursement for certain  
2 court interpreter services; and amending RCW 2.43.030, 2.43.040, and  
3 2.42.120.

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

5 **Sec. 1.** RCW 2.43.030 and 2005 c 282 s 3 are each amended to read  
6 as follows:

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

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

16 (b) Beginning on July 1, 1990, when a non-English-speaking person  
17 is a party to a legal proceeding, (~~(or)~~) is subpoenaed or summoned by  
18 an appointing authority, or is otherwise compelled by an appointing  
19 authority to appear at a legal proceeding, the appointing authority

1 shall use the services of only those language interpreters who have  
2 been certified or registered by the administrative office of the  
3 courts, unless good cause is found and noted on the record by the  
4 appointing authority. For purposes of chapter 358, Laws of 1989, "good  
5 cause" includes, but is not limited to, a determination that:

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

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

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

16 (c) Except as otherwise provided in this section, when a non-  
17 English-speaking person is involved in a legal proceeding, the  
18 appointing authority shall appoint a qualified interpreter.

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

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

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

31 **Sec. 2.** RCW 2.43.040 and 2008 c 291 s 3 are each amended to read  
32 as follows:

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

36 (2) In all legal proceedings in which the non-English-speaking  
37 person is a party, ~~((or))~~ is subpoenaed or summoned ~~((by the appointing~~

1 authority)), or is otherwise compelled (~~by the appointing authority to~~  
2 ~~appear, including criminal proceedings, grand jury proceedings,~~  
3 ~~coroner's inquests, mental health commitment proceedings, and other~~  
4 ~~legal proceedings initiated by agencies of government)) to appear, the  
5 cost of providing the interpreter shall be borne by the governmental  
6 body initiating the legal proceedings or, in cases that are not  
7 initiated by a governmental body, the governmental body under the  
8 authority of which the legal proceeding is conducted.~~

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

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

17 ~~((5))~~ (4) Subject to the availability of funds specifically  
18 appropriated therefor, the administrative office of the courts shall  
19 reimburse the appointing authority for ~~((up to))~~ one-half of the  
20 payment to the interpreter where an interpreter is appointed by a  
21 judicial officer in a proceeding before a court at public expense and:

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

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

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

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

36 **Sec. 3.** RCW 2.42.120 and 2008 c 291 s 2 are each amended to read  
37 as follows:

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

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

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

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

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

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

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

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