

Chapter 2.42 RCW
INTERPRETERS IN LEGAL PROCEEDINGS

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Rules of court: *ER 604.*

RCW 2.42.010 Legislative declaration—Intent. It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters. [1989 c 358 § 12; 1983 c 222 § 1; 1973 c 22 § 1.]

Severability—1989 c 358: See note following RCW 2.43.010.

RCW 2.42.050 Oath. Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, upon receiving the interpreter's initial qualification from the office of the deaf and hard of hearing, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or other agency conducting the proceedings, to the best of the interpreter's skill and judgment. [2017 c 83 § 1; 1989 c 358 § 14; 1985 c 389 § 20; 1973 c 22 § 5.]

Rules of court: *ER 604.*

Severability—1989 c 358: See note following RCW 2.43.010.

RCW 2.42.110 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

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

(2) "Qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf to hold the comprehensive skills certificate or both certificates of interpretation and transliteration, or an interpreter who can readily translate statements of speech impaired persons into spoken language.

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

(4) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision. [1991 c 171 § 1; 1985 c 389 § 11.]

RCW 2.42.120 Appointment of interpreter—Responsibility for compensation—Reimbursement. (1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

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

(3) If 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, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.

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

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange

payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

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

(7) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where a qualified interpreter is appointed for a hearing impaired person by a judicial officer in a proceeding before a court under subsection (1), (2), or (3) of this section in compliance with the provisions of RCW 2.42.130 and 2.42.170. [2008 c 291 § 2; 1985 c 389 § 12.]

Reviser's note: As to the constitutionality of subsection (3) of this section, see *State v. Harris*, 97 Wn. App. 647, 985 P.2d 417 (1999). As to the constitutionality of subsections (4) and (5) of this section, see *Patrice v. Murphy*, 136 Wn.2d 845, 966 P.2d 1271 (1998).

RCW 2.42.130 Source of interpreters, qualifications. (1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services, or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed. [1991 c 171 § 2; 1985 c 389 § 13.]

RCW 2.42.140 Intermediary interpreter, when. If the communication mode or language of the hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the appointing authority who shall appoint and pay an intermediary interpreter to assist the qualified interpreter. [1985 c 389 § 14.]

RCW 2.42.150 Waiver of right to interpreter. (1) The right to a qualified interpreter may not be waived except when:

(a) A hearing impaired person requests a waiver through the use of a qualified interpreter;

(b) The counsel, if any, of the hearing impaired person consents; and

(c) The appointing authority determines that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter shall not preclude the hearing impaired person from claiming his or her right to a qualified interpreter at a later time during the proceeding, program, or activity. [1985 c 389 § 15.]

RCW 2.42.160 Privileged communication. (1) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law.

(2) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending. [1991 c 171 § 3; 1985 c 389 § 16.]

RCW 2.42.170 Fee. A qualified and/or intermediary interpreter appointed under this chapter is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services. [1991 c 171 § 4; 1985 c 389 § 17.]

RCW 2.42.180 Visual recording of testimony. At the request of any party to the proceeding or on the appointing authority's initiative, the appointing authority may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

In any judicial proceeding involving a capital offense, the appointing authority shall order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding. [1985 c 389 § 18.]