

take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the House April 20, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 2 and 5, Substitute House Bill No. 1711 entitled:

"AN ACT Relating to establishing a crime prevention employee training program in businesses operating during late night hours."

This bill will enhance security for employees of businesses that are open late at night, through physical safety specifications and educational programs. I applaud the intent of the bill and most of its provisions.

Section 2, however, would require that crime prevention programs be developed or certified by the Department of Labor and Industries. This would impose a significant cost on the Department, which is not funded. It would also involve the Department in the establishment of specific crime prevention procedures for individual establishments, a function that is more appropriately performed by the employer.

Crime prevention training can be a meaningful factor in reducing risks to employees who work late at night and in the early hours of the morning. I believe this is an essential protection for workers. While I am vetoing section 2, I am also asking the Department of Labor and Industries to adopt rules to require employers to develop appropriate instruction programs.

Section 5 references section 2, which I have vetoed. This section is also objectionable. It runs contrary to the fundamental intent of the Washington Industrial Safety and Health Act by shifting responsibility for training from the employer to the employee. For these reasons, I have also vetoed section 5.

With the exception of sections 2 and 5, Substitute House Bill No. 1711 is approved."

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## CHAPTER 358

[Substitute Senate Bill No. 5474]

### INTERPRETERS IN LEGAL PROCEEDINGS—QUALIFICATION AND APPOINTMENT

AN ACT Relating to interpreters in legal proceedings; amending RCW 2.42.010, 2.42.020, and 2.42.050; and adding new sections to chapter 2.42 RCW.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the 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 use and procedure for the appointment of such interpreters. Nothing in this act abridges the parties' rights or obligations under other statutes or court rules or other law.

**NEW SECTION.** Sec. 2. As used in this chapter:

(1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.

(2) "Qualified interpreter" means 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.

(3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.

(4) "Certified interpreter" means an interpreter who is certified by the office of the administrator for the courts.

(5) "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 thereof.

**NEW SECTION.** Sec. 3. (1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or a qualified interpreter to assist the person throughout the proceedings.

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

(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the office of the administrator for the courts, unless good cause is found and noted on the record by the appointing authority. For purposes of this act, "good cause" includes but is not limited to a determination that:

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

(ii) The current list of certified interpreters maintained by the office of the administrator for the courts does not include an interpreter certified in the language spoken by the non-English-speaking person.

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

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

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

**NEW SECTION.** Sec. 4. (1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) 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 shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall 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 shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

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

**NEW SECTION.** Sec. 5. Before beginning to interpret, every interpreter appointed under this chapter shall take an oath affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

**NEW SECTION.** Sec. 6. (1) The right to a qualified interpreter may not be waived except when:

(a) A non-English-speaking person requests a waiver; and

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

(2) Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceedings.

**NEW SECTION.** Sec. 7. (1) Subject to the availability of funds, the office of the administrator for the courts shall establish and administer a comprehensive testing and certification program for language interpreters.

(2) The office of the administrator for the courts shall work cooperatively with community colleges and other private or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters. Training programs shall be made readily available in both eastern and western Washington locations.

(3) The office of the administrator for the courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The office of the administrator for the courts shall conduct periodic examinations to ensure the availability of certified interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations.

(5) The office of the administrator for the courts shall compile, maintain, and disseminate a current list of interpreters certified by the office of the administrator for the courts.

(6) The office of the administrator for the courts may charge reasonable fees for testing, training, and certification.

**NEW SECTION.** Sec. 8. All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a code of ethics established by supreme court rule.

**\*NEW SECTION.** Sec. 9. *The office of the administrator for the courts shall create and consult with an advisory committee on certification of interpreters. The committee shall consist of representatives of county prosecutors, public defenders, the bar association, judges, and groups representing non-English-speaking persons. The committee shall advise the office of the administrator for the courts on procedures and standards for the certification of interpreters, and shall determine in what order of priority various groups of non-English-speaking persons are in need of certified interpreters. The committee shall also consider and recommend to the legislature its findings regarding whether the function of certifying interpreters ought to be carried out by an agency other than the administrator for the courts.*

\*Sec. 9 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 11. Sections 1 through 9 of this act are each added to chapter 2.42 RCW.

Sec. 12. Section 1, chapter 22, Laws of 1973 as amended by section 1, chapter 222, Laws of 1983 and RCW 2.42.010 are each amended to read as follows:

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, (~~(or non-English-speaking cultural background)~~) 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.

Sec. 13. Section 2, chapter 22, Laws of 1973 as amended by section 2, chapter 222, Laws of 1983 and RCW 2.42.020 are each amended to read as follows:

As used in this chapter (1) an "impaired person" is any person involved in a legal proceeding who is deaf or who, because of other hearing or speech defects, (~~(or because of non-English-speaking cultural background)~~) cannot readily understand or communicate in spoken language (~~(or readily speak or understand the English language)~~) and who, when involved as a party to a legal proceeding, is unable by reason of such defects to obtain due process of law; (2) a "qualified interpreter" is one who is able readily to translate spoken (~~(and written English)~~) language to (~~(and for)~~) impaired persons and to translate statements of impaired persons into spoken (~~(English)~~) language; (3) "legal proceeding" is a proceeding in any court in this state, at grand jury hearings or hearings before an inquiry judge, or before administrative boards, commissions, agencies, or licensing bodies of the state or any political subdivision thereof.

Sec. 14. Section 5, chapter 22, Laws of 1973 as amended by section 20, chapter 389, Laws of 1985 and RCW 2.42.050 are each amended to read as follows:

Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings (~~(in a language or)~~) 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, (~~(in the English language;)~~) to the best of the interpreter's skill and judgment.

Passed the Senate April 17, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1 and 3, Substitute Senate Bill No. 5474 entitled:

"AN ACT Relating to interpreters in legal proceedings."

Section 9 requires the Office of the Administrator for the Courts to create a new statutory advisory committee for certification of interpreters. The committee would advise the office regarding procedures and standards for certification of foreign language interpreters in legal proceedings. The recommendations of this committee would affect the use and availability of interpreters for state agencies, boards and commissions, courts, counties, cities, towns, and other political subdivisions covered by the act.

Section 9 limits the membership of the committee to representatives of county prosecutors, public defenders, the Bar Association, judges, and groups representing non-English-speaking persons. By precluding state agency and city and town participation on the advisory committee, the procedures and standards adopted for this new program may not adequately address the special needs of these entities.

I have asked the Administrator for the Courts to administratively create an advisory group to perform these tasks and to have representatives of all affected groups included. I believe it to be in the best interests of the program to veto section 9 and thereby allow creation of such a group under the authority of the Administrator for the Courts.

With the exception of section 9, Substitute Senate Bill No. 5474 is approved."

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## CHAPTER 359

[Substitute Senate Bill No. 5827]

### PETS—THEFT FOR SALE FOR BIOMEDICAL RESEARCH

AN ACT Relating to pet theft prevention, pet protection, and certification to minimize theft or unintentional sale for biomedical research purposes and nonimpairment of biomedical research; amending RCW 9.08.070; adding a new section to chapter 9.08 RCW; adding new sections to chapter 16.52 RCW; adding a new section to chapter 19.86 RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 9.08 RCW to read as follows:

As used in RCW 9.08.070:

(1) "Pet animal" means a tamed or domesticated animal legally retained by a person and kept as a companion. "Pet animal" does not include livestock raised for commercial purposes.

(2) "Research institution" means a facility licensed by the United States department of agriculture to use animals in biomedical or product research.

(3) "U.S.D.A. licensed dealer" means a person who is licensed or required to be licensed by the United States department of agriculture to commercially buy, receive, sell, negotiate for sale, or transport animals.

Sec. 2. Section 1, chapter 114, Laws of 1982 and RCW 9.08.070 are each amended to read as follows:

(1) Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor