

**Washington State Supreme Court
Interpreter Commission**

February 14, 2020

Meeting Packet

**Washington State
Administrative Office of the Courts
1112 Quince Street SE
PO Box 41170
Olympia, WA 98504-1170
Phone: 360-753-3365**

COURT INTERPRETER COMMISSION

<p>Justice Steven C. González, Chair Washington Supreme Court</p> <p><i>Appointed by Chief Justice</i></p>	<p>Sharon Harvey Administrative Office of the Courts</p> <p><i>Administrative Office of the Courts Term expires 9-30-21</i></p>
<p>Naoko Inoue Shatz</p> <p><i>Ethnic Organizations Representative Term expires 9-30-22</i></p>	<p>Florence Adeyemi</p> <p><i>Public Member Term expires 9-30-22</i></p>
<p>Luisa Gracia Camon</p> <p><i>Interpreter Representative Term expires 9-30-22</i></p>	<p>Diana Noman</p> <p><i>Interpreter Representative Term expires 9-30-21</i></p>
<p>Donna Walker</p> <p><i>American Sign Language Interpreter Representative Term Expires 9-30-22</i></p>	<p>Kristi Cruz Northwest Justice Project</p> <p><i>Attorney Representative Term expires 9-30-21</i></p>
<p>Judge Andrea Beall Puyallup Municipal Court</p> <p><i>District and Municipal Court Representative Term expires 9-30-20</i></p>	<p>Judge Mafe Rajul King County Superior Court</p> <p><i>Superior Court Representative Term expires 9-30-20</i></p>
<p>Fona Sugg Chelan County Superior Court</p> <p><i>Court Administrator Representative Term expires 9-30-21</i></p>	<p>Frankie Peters Thurston County District Court District/Municipal Court Administrator Representative Term Expires 9-30-22</p>
<p>Katrin Johnson WA State Office of Public Defense</p> <p><i>Public Member Representative Term Expires 9-30-22</i></p>	<p>Francis Adewale Spokane City Ofc of the Public Defender</p> <p><i>Public Defender Representative Term Expires 9-30-22</i></p>
<p>Elisa O. Young City of Seattle, Office of Diversity</p> <p><i>Community Organization Representative Term Expires 9-30-2020</i></p>	<p>Staff</p> <p>Robert Lichtenberg, Program Coordinator/Commission Liaison robert.lichtenberg@courts.wa.gov</p> <p>James Wells, Interpreter Program Support james.wells@courts.wa.gov</p>

**Interpreter Commission
Meeting Agenda**



Interpreter Commission Quarterly Meeting

Friday, February 14, 2020

Washington State Bar Association, Room TBD

1325 Fourth Avenue, Suite 600

Seattle, Washington 98101

9:00 am- 11:30 am

Call-In Number: 1-877-820-7831; Passcode: 618272#

AGENDA

• Call to Order	Justice Steven González	
<ul style="list-style-type: none"> • Invited Guest Introductions <ul style="list-style-type: none"> ▪ Deborah O'Willow, Office of the Deaf and Hard of Hearing/DSHS ▪ Monica Romero, UW Law School ▪ Chief Justice Debra Stephens, Washington State Supreme Court ▪ Dawn Marie Rubio, State Court Administrator 	Justice González	
<p>Chair's Report</p> <ul style="list-style-type: none"> • Approval of December 6, 2019 Minutes • Service Recognition Award • Review of Committee Assignments • Fall Commission Meeting in Eastern Washington: Planning • Law Student Liaison Proposal • Current Legislation and Commission Role • Introduction and Remarks of Supreme Court Chief Justice Debra Stephens • Introduction and Remarks of State Court Administrator Dawn Marie Rubio • RID Legal Interpreting Test Task Force Report • Office of the Deaf and Hard of Hearing ASL Court Interpreter Program 	<p>Justice González</p> <p>Justice González</p> <p>Justice González</p> <p>Justice González/AOC Staff</p> <p>Monica Romero/AOC Staff</p> <p>Justice González</p> <p>Chief Justice Debra Stephens</p> <p>Dawn Marie Rubio</p> <p>Donna Walker</p> <p>Deborah O'Willow</p>	<p>P. 1</p> <p>P. 12</p> <p>P. 13</p> <p>P. 16</p>

<p>Committee and Partner Reports</p> <ul style="list-style-type: none"> • <u>Education Committee Meetings Report</u> <ul style="list-style-type: none"> • 2020 Conference Proposals • Judicial College Update • <u>Issues Committee Meetings Report</u> <ul style="list-style-type: none"> • Team Interpreting Rule • Recommendation for VRI Rule • Non-Credentialed Interpreter Ad Hoc Committee Update • <u>Disciplinary Committee Report</u> <ul style="list-style-type: none"> • Disciplinary Appeal Update 	<p style="text-align: center;">Katrin Johnson</p> <p style="text-align: center;">Judge Andrea Beall</p> <p style="text-align: center;">Judge Andrea Beall</p>	<p>P. 44</p> <p>P. 53</p>
<p>Commission Staff Reports</p> <ul style="list-style-type: none"> • Commission Manager's Report • Reimbursement Program Report • Commission Staff Update • Interpreter Program Report 	<p style="text-align: center;">AOC Staff</p>	<p>P. 58</p>
<ul style="list-style-type: none"> • Announcements for the Good of the Order 	<p style="text-align: center;">Justice González</p>	
<p>Next Commission Meeting</p>	<p style="text-align: center;">June 5, 2020 at AOC-SeaTac</p>	

Meeting Minutes



WASHINGTON
COURTS

Interpreter Commission Meeting

Friday, December 6, 2019

8:45 AM – 2:00 PM

AOC SeaTac Office Building

18000 International Blvd, Seattle, WA 98188

MEETING MINUTES

Members Present:

Justice Steven González
Francis Adewale
Florence Adeyemi
Judge Andrea Beall
Kristi Cruz
Maria Luisa Gracia Camón
Sharon Harvey
Diana Noman
Naoko Inoue Shatz
Frankie Peters
Donna Walker

Members Excused:

Katrin Johnson
Elisa Young

Members By Phone:

Judge Teresa Doyle
Fona Sugg

AOC Staff:

Cynthia Delostrinos
Robert Lichtenberg
James Wells
Moriah Freed
Michelle Bellmer
Sierra Rotakhina

Guests:

Eileen Farley
Judge Mafé Rajul
Judge Laura Bradley
Thea Jennings
Phil Neff
Chris Kunej
Irene Anulácion
LaTricia Kinlow
Czar Peralta
Nicole Walker
Ashley Lipford
Joseph Todd
Joel Bush
Marcus Chinn
Dr. Dana Raigrodski (by phone)
Emma Garkavi (by phone)
Justice Sheryl Gordon McCloud (by phone)

CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order by Justice Steven González at 8:45 am.

APPROVAL OF JUNE 7, 2019 MEETING MINUTES

Minutes were approved.

CHAIR'S REPORT

Announcements

- There will be an event on April 4th, 2020 at Bellevue College. Luisa Gracia Camón is seeking volunteers from the Interpreter Commission to be on a panel for the event.

Service Recognition Awards

- Justice González presented plaques to recognize outgoing members for their service.
 - Thea Jennings
 - Eileen Farley
 - Judge Laura Bradley
- Justice González recognized other members and staff of the Commission for their recent recognitions and achievements.
 - Fona Sugg – Superior Court Manager of the year award from the BJA
 - Cynthia Delostrinos – new city council member of Tukwila

New Members and Committee Assignments

- New Commission members Florence Adeyemi and Naoko Inoue Shatz gave brief introductions and were asked if they wished to serve on a particular committee.
 - Ms. Adeyemi was appointed to the Disciplinary Committee.
 - Ms. Shatz choose to join the Issues and Court Education Committees.
- Judge Mafé Rajul's nomination was confirmed by the Commission and she gave a brief introduction.
- Judge Doyle has announced her resignation from the Commission. Judge Rajul will now chair the Disciplinary Committee after January 31, 2020. Judge Beall will chair the Interpreter Commission specifically for the purpose of hearing a Disciplinary Committee appeal that may be filed by an interpreter currently in disciplinary proceedings before the Commission. Justice González announced he is recusing himself from hearing the merits of any appeal filed in that case.

New Supreme Court Justice Appointment

- Judge Raquel Montoya Lewis was appointed to the Washington Supreme Court following the retirement of Chief Justice Fairhurst. She will be the first Native American Supreme Court Justice in Washington.

2020 Commission Meetings Update

- The February 14, 2020 Commission meeting will be held at the Washington State Bar Association's conference center in Seattle to accommodate members attending the Goldmark Luncheon nearby at noon.
- The June 6, 2020 Commission meeting may be changed to a meeting and roundtable discussion with educational institution representatives about

interpreter recruitment and needs of the interpreter industry. Does the Commission support this change, and where should the meeting take place?

- There will be a meeting on December 12, 2019 from 2:00 pm – 4:00 pm at the AOC office in Olympia to confer with state agency representatives responsible for language access in their programs regarding preparatory interpreter training program needs and goals. It is open to members of the Commission.

Commission Budget

- Robert Lichtenberg informed the Commission that about \$14,000 remains in the Commission's budget for 2019, which can support the cost of an out-of-town Commission meeting and stakeholder forum should the Commission wish to do it in June.

Bench Card Revision

- Katrin Johnson's workgroup prepared a version that was approved by the Commission members by online vote but errors were subsequently noted and revisions were made. The correct version is in the meeting packet. **Motion to adopt the revised bench card was unanimously approved.**

Reimbursement Program Expansion

- Cynthia Delostrinos gave the Commission background information about the plans for the distribution of funding for the Interpreter Reimbursement Program expansion. Currently about 33 courts participate in the program. The goal is to eventually expand the program to include all courts in the state, with a focus in onboarding rural courts this fiscal biennium.
- A project manager, Michelle Bellmer, was hired to assist with integrating new courts into the program. An applications developer is still in the process of being retained by the AOC on a contract basis to update the reimbursement reporting software application.

REPORT: ICE ACTIONS IN WASHINGTON COURTS

Presentation – Phil Neff

- Phil Neff, from the University of Washington Center for Human Rights, presented on the Center's findings and research of ICE and CBP activity at Washington Courthouses. He acknowledged that the statistics included are likely underreported, and that ICE and CBP activity could actually be higher. Most of their research a result of federal Freedom of Information Act and state public records requests, although not all counties were cooperative with public records requests. Their research focused on Grant and Adams counties. The findings indicated that information about individual defendants was being shared with CBP and ICE freely and voluntarily between county prosecutor and police agencies to assist in arrests.

- Phil Neff's team is seeking assistance and data sharing from the Commissions as they proceed with additional research.

Discussion – Commission and Guests

- Immigration enforcement has created a deep chill in Eastern Washington. Francis Adewale presented at a CLE event on immigration, and emphasized that immigration is not a criminal offense. He found the UW report very helpful.
- Discussion was had regarding data sharing, and what information can be easily accessed by the public or other organizations. It was made clear that dockets are commonly published with DOB, name, and if an interpreter is needed. This could assist in targeting people with a presumed immigration status.
 - Could this assist in targeting individuals who are not defendants, but going to court for other reasons, such as to testify?
 - It is important to look at arrests outside of the criminal context as well, such as family and dependency cases.
- Currently there is a proposed GR 38 related to immigration issues in our state courts out for comment and is supported by the Gender and Justice Commission, Minority and Justice Commission, and Access to Justice Board. There is also an ethical conduct amendment to RPC 4.4 being proposed for attorneys. The Interpreter Commission needs to decide if they want to support the proposed GR and RPC changes, and if so, will they write their own letter of support or sign on to the other Commissions' letter.
 - The Supreme Court Rules Committee voted unanimously to publish the proposed GR 38 for comment on an expedited basis. The deadline for comments is mid-March.
- Next steps include monitoring implementation of the Keep Washington Working Act
- What can AOC / Commission do to help?
 - Ongoing work to gather narratives and testimony from interpreters
 - Supporting rule changes and policy changes
 - Provide guidance to UW center for human rights on data collection, court practices, etc.
- Interpreter information on court calendars is being used to make arrests. Could a letter be sent to courts to ask how to interpreter calendars are used? A letter was sent in the past to warn of misuse.

PRESENTATION: VIDEO REMOTE INTERPRETING (VRI) PILOT

Presentation – LaTricia Kinlow, Joseph Todd, Joel Bush, and Marcus Chinn

- LaTricia Kinlow, Court Administrator from Tukwila Municipal Court, and Joseph Todd, Joel Bush, and Marcus Chinn from City of Tukwila Technology and Innovation Services presented to the Commission about "Sheldon", a VRI pilot project being explored by Tukwila Municipal Court.
- The team from Tukwila Municipal Court gave a live demonstration of how Sheldon works, and allowed Commission members to test it out themselves.

- “Sheldon,” has been developed to provide a mobile VRI option for courthouse use. The device can follow those needing interpreter services throughout the courthouse, providing more privacy and mobility than traditional VRI interpreting and in more locations. It is not limited to use with a desktop-type screen and can be controlled from a smart phone. The device is still in its pilot stage, and is not ready for all situations or for ASL interpreting.
- Sheldon will be getting a larger screen or “head” and other modifications from the robot seen at the Commission Meeting, such as the ability to set waypoints.
- Sheldon will cost roughly \$1500 and can be used anywhere in the state to reduce court-paid travel costs associated with hiring interpreters from other cities or states to attend non-evidentiary hearings in person.

Discussion – Commission and Guests

- The Commission voiced concerns about use of Sheldon during a trial. The team from Tukwila Municipal Court assured the Commission that the technology was not ready and it is not intended to replace interpreters during a trial.
- Technical questions were raised about Sheldon:
 - Screen was tested in the meeting and is too small for ASL
 - How will the device work with simultaneous interpreting?
 - There were audio quality issues, which could impact how the interpreter hears in the courtroom. Is there a way to ensure clearer audio?
 - Is the device secure to use in confidential interpreting situations? Are there issues involving data sharing, unauthorized recording, etc.?
 - Would training be developed to accompany the use of this device?
- Sheldon might be useful in other non-court settings, such as interpreting in jails or during attorney consultations. At the courthouse, it might be most helpful in non-scheduled proceedings, ex-parte settings, and in the clerk’s offices.
- The Commission agreed that extensive testing should be conducted before Sheldon is put into practice, and an in-person interpreter should still be used whenever possible. Special consideration also must be taken when testing with ASL and the deaf community.
 - ASL is a 3D language, and is difficult to transfer to a flat screen
 - There are national lawsuits over use of VRI in medical settings with the deaf community
- The Commission discussed the differentiation and similarities between telephonic and video interpreting – should a new court rule be created?
 - Good cause requirement – do not want video interpreting to become the default
 - 9th Circuit Court in Florida – has provided courts nationally with information about its regional VRI program, which has been in place for several years.
 - Alaska has been using VRI for full trials as the lack of proximity to courthouses is a big issue for Alaska residents
- The Commission is excited to see how the team from Tukwila Municipal Court uses their feedback as they continue to work on Sheldon and to see how the new technology is put into practice.

COMMITTEE AND PARTNER REPORTS

Education Committee

- **2020 Conference Proposals**
 - Judge Jeffrey Smith, on behalf of the District and Municipal Court Judge's Association (DMCJA) has requested that a session similar to the Fall Judicial Conference presentation be given at their Spring Conference in June. AOC staff will contact the same faculty members for their availability.
- **Webinar Development**
 - The Education Committee is working on creating short 5 minute educational webinars about court interpreting for judges. Because of the new bench cards, they decided to begin with a webinar that orients judges to the bench card information.
 - On behalf of Education Committee chair Katrin Johnson, James Wells gave a video presentation of the bench card webinar currently in development. He shared that California is developing similar short informational videos about language access and interpreting.
 - NCSC gave the Interpreter Commission two software user licenses for Storyline 3, a webinar development software. In addition to using it within the AOC to create webinars for judicial and court staff education, the AOC has agreed to share any webinars regarding video remote interpreting it develops with the NCSC for sharing with other states.

Issues Committee

- **Team Interpreting Court Rule**
 - The Issues Committee discussed whether or not a court rule should be created about team interpreting. The Committee reviewed court rules ranging in specificity from other states. Concerns were raised regarding creating an obligation for courts that vary widely in resources. A court rule could be considered an unfunded mandate and possibly lead to delays in proceedings.
 - Alternatives to a court rule were proposed:
 - Educate courts that team interpreting is a best practice
 - Re-evaluate the use of team interpreting in Washington at a later date and see if the practice has increased
 - Justice González proposed a court rule requiring that proceedings longer than 2 hours will have more than one interpreter. If two interpreters are not available, then the court will take breaks at certain intervals.
 - Other discussion included:
 - In actual proceedings, courts may plan to take breaks but then forget to take them. Interpreters are often not comfortable about speaking up for themselves.

- Only having one interpreter may be cheaper on paper, but in the long run it is less effective given the possibility of bad interpretation affecting the outcome of a case and/or creating appealable issues.
 - There are some courts outside Washington that pay an interpreter double if the interpreter is interpreting by themselves, which defeats the argument that it is cheaper to only hire one interpreter.
- **Non-Credentialed Interpreter Ad Hoc Committee Recommendation**
 - The ad hoc committee recommends that there be a database at the AOC with the names of interpreters who have met certain criteria.
 - The exact criteria has not been decided. It may include watching videos of best practices and court interpreter ethics.
 - A new category of interpreter would not be created.

Motion to approve the ad hoc committee's recommendation and have AOC create a database of non-credentialed interpreters approved unanimously.

Disciplinary Committee

- **Disciplinary Hearing Update**
 - The full Commission was given an update of the hearing.
 - Justice González has recused himself due to approving revocation of credentials for the interpreter and denying a stay for the revocation.
 - Luisa Gracia Camón has recused herself because she was a witness in the hearing.
 - Judge Beall will chair the Commission hearing of the appeal if one is filed. She will coordinate with Bob Lichtenberg on next steps.
 - Commission members should read the disciplinary rules in preparation of the hearing.

Office of the Deaf and Hard of Hearing (ODHH): Discussion

- ODHH was on the agenda today to discuss the work they are doing around ASL interpreter services, particularly as it relates to the list of ASL interpreters qualified to interpret in Washington Courts. The ODHH director was not able to attend the meeting today. Commission members held a brief discussion on the topic of certification for ASL court interpreters. The Registry of Interpreters for the Deaf (RID) court interpreter test that WA courts have relied upon as a court interpreter credential will no longer be offered. Washington has a limited number of interpreters holding the Specialist Certificate: Legal (SC:L) to meet current needs. ODHH is looking that kinds of standards and tests that interpreters need to pass in order to be considered certified to work in the courts. Commission members discussed the need for the AOC and for the Interpreter Commission to be involved together in this review process. Donna Walker requested that the Commission be more formally involved with the standards that ODHH is looking at and to engage more fully in that process with ODHH.

COMMISSION STAFF UPDATE

Commission Manager's Report – Cynthia Delostrinos

- **New Project Manager**
 - Cynthia Delostrinos introduced Michelle Bellmer to the Commission. Michelle will be the project manager for the Interpreter Reimbursement Expansion Project and is excited to work closely with the Commission.
- **Proposed Court Rule and Rule for Professional Conduct**
 - The other Commissions have not yet decided whether to provide comment on the proposed Court Rule and Rule for Professional Conduct. A call will be scheduled during the next two weeks to discuss a potential comment.

Commission Staff Update – Bob Lichtenberg

- **Law Student Liaison**
 - The other Commissions have Law Student Liaisons from the 3 Washington law schools. Would the Interpreter Commission be interested in having law student liaisons?
 - Justice González welcomes any law students interested in the Interpreter Commission's work to attend the meetings. Bob Lichtenberg will reach out to the interested law student.
- **Embedded Law Librarian**
 - The other Commissions receive article lists from the Washington State law librarians on selected topics of interest. Would the Interpreter Commission be interested in working with the law library to create a similar project?

Interpreter Program Report – James Wells

- **Oral Exams – Registered**
 - The Oral Exams took place over July and August. 3 interpreters passed the summer exam: 1 Amharic, 1 German, and 1 Turkish.
 - The registered languages currently require 2 exams: one exam assesses the candidate's English, and one exam assesses their target language. The English exam is supposed to begin offering remote testing sometime next year. This will allow the test to be scheduled more easily since test candidates will no longer need to come to Olympia.
- **Oral Exams – Certified**

The oral exams took place in Shoreline, Spokane, and Olympia. 53 tests were proctored. Results will be ready in early 2020.
- **Ethics and Protocol Classes**

This class is the final step for court interpreters who are getting their certification. Typically it is held twice per year. The last session was held on November 15th at Seattle Municipal Court. 6 new interpreters received their court interpreter credentials.
- **Spokane Interpreter Workshop**

A 5 hour workshop was held at Gonzaga University School of Law on November 2, 2019. Two main topics were covered: The Code of

Professional Responsibility for Judiciary Interpreters and Team Interpreting. Over 35 interpreters from around Eastern Washington attended, with about 65% being court certified interpreters.

- **Written Exam**
AOC is working with a testing company that is currently being used in Florida, Ohio, and other states to further streamline the testing process and make it more accessible. There are 15 testing centers throughout Washington. The test could be offered over a several month period, and possibly be able to be taken more than once per year. This hopefully will begin in early 2020.
- **Compliance**
The current compliance cycle ends on December 31, 2019. Currently, 32% of interpreters are in compliance.
- **CLAC**
 - James Wells presented on the Filipino/Tagalog online class from last year. Other topics that were discussed included: Pro-se litigant assistance, hub for video interpreting, data collection from courts, and the recruitment of interpreters.

ANNOUNCEMENTS

Reception for Chief Justice Fairhurst

- There will be a reception for Chief Justice Fairhurst on December 18th from 3:00 pm – 8:00 pm at the Temple of Justice in Olympia, WA. All are welcome to attend.

Next Commission Meeting

- The next Commission meeting will be on February 14th, 2020 at the Washington State Bar Association office in Seattle, WA.

GOOD FOR THE ORDER

OAH Use of Telephonic Interpreters

- The Office of Administrative Hearings has been using telephonic interpreters and hiring one interpreter for full day hearings. While concerns of the Commission, involvement in the matters could potentially create an issue due to the different branches of government and separation of powers issues.
- A line of communication could be opened with the chief judge or administrator at OAH to relay concerns and offer advice.

VRI and Telephonic Interpreting Distinction

- A meeting guest suggested review of the bench card due to a lack of distinction in VRI and telephonic interpreting. This may limit the use of VRI in ways that are unnecessary.

- A change could be made to GR 11.3 to add language clarifying the differences between VRI and telephonic interpreting. The Issues Committee will consider the suggestion. Concern was expressed that courts could take advantage of a rule change to not hire in-person interpreters.

ACTION ITEMS

Issues Committee: Recommend if the Commission should comment on proposed court rule GR 38; Review and recommend on need for a general rule concerning video remote interpreting use in courts

Commission: Research whether having an interpreter publicly noted on the court calendar or docket information impedes access to justice.

Commission: Send topics of interest for the embedded law librarian to provide information about to Bob Lichtenberg.

Staff: Bob Lichtenberg will reach out to the law student interested in the Interpreter Commission's work.

The meeting was adjourned at 1:30 pm

Chair's Report

The Supreme Court
State of Washington

MARY E. FAIRHURST
CHIEF JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON
98504-0929



(360) 357-2053
E-MAIL MARY.FAIRHURST@COURTS.WA.GOV

January 1, 2020

The Honorable Maria Fernanda Rajul
King County Courthouse
401 4th Ave N, RJC-SC-0203
Kent, WA 98032

Re: Appointment to Supreme Court Interpreter Commission

Dear Judge Rajul:

Justice Steven González, chair of the Interpreter Commission, advised that based on the recommendation of the Superior Court Judges Association (SCJA) the Commission nominated you to fill the SCJA representative vacancy for the remainder of Judge Theresa Doyle's term. The Supreme Court's Administrative Committee has confirmed your appointment. Your interim term starts January 31, 2020 and expires September 30, 2020. Justice González advises that you will be eligible to serve a full first three-year term ending on September 30, 2023 if you are reappointed at the end of your interim term.

On behalf of the justices of the Supreme Court, I wish to thank you for your continued willingness to serve on the Interpreter Commission. I am confident that this important Commission will continue to benefit from the expertise and experience you have to offer.

Very truly yours,

MARY E. FAIRHURST
Chief Justice

cc: Hon. Justice Steven González, Chair
Dawn Marie Rubio, Director, AOC
Sean O'Donnell, President SCJA
Cynthia Delostrinos, AOC Supreme Court Commissions Coordinator
Robert Lichtenberg, AOC

2020 COURT INTERPRETER COMMISSION FUNCTIONS *and* COMMITTEE MEMBERS

Issues Committee

The Issues Committee is assigned issues, complaints, and/or requests from interpreters for review and response. If the situation cannot be resolved at the Issues Committee level, the matter will be submitted by written referral to the Disciplinary Committee. The Issues Committee will also address issues, complaints, and/or requests regarding access to interpreter services in the courts and may communicate with individual courts in an effort to assist in complying with language access directives required by law.

Judge Andrea Beall (Chair)
Francis Adewale
Fona Sugg
Frankie Peters
Diana Noman
Kristi Cruz
Naoko Shatz

Disciplinary Committee

The Disciplinary Committee may sanction any interpreter serving in a legal proceeding for a violation of GR 11.2, the Code of Professional Responsibility for Judiciary Interpreters, and has the authority to decertify or deny credentials to interpreters based on the disciplinary procedures for: (a) violations of continuing education/court hour requirements, (b) failure to comply with Code of Professional Responsibility for Judiciary Interpreters (GR 11.2) or professional standards, or (c) violations of law that may interfere with their duties as an interpreter in a legal proceeding. The Disciplinary Committee will decide on appeal any issues submitted by the Issues Committee

Judge Mafé Rajul (Chair)
Donna Walker
Luisa Gracia Camón
Diana Noman
Katrin Johnson
Sharon Harvey
Florence Adeyemi

Judicial and Court Administration Education Committee

The Judicial and Court Administration Education Committee shall provide ongoing opportunities for training and resources to judicial officers, court administrators, and court staff related to court interpretation improvement.

Katrin Johnson (Chair)
Donna Walker
Elisa Young
Francis Adewale
Fona Sugg
Frankie Peters
Luisa Gracia Camón
Kristi Cruz
Sharon Harvey
Naoko Shatz

PROPOSAL MEMORANDUM

To: Interpreter Commission

Date: February 6, 2020

Re: Proposed Student Liaison Positions

Introduction

In Washington State, 19.6% of the population lives in a household where language other than English is spoken.¹

The mission of the Washington State Courts Interpreter Commission is to ensure this population has access to justice through court services and programs regardless of language barriers. In support of this mission, and in suit of other commissions such as the Minority Justice Commission and Gender Justice Commission, this memorandum proposes the creation of student liaison positions on the Washington State Courts Interpreter Commission.

The Proposed Role of Law Students on the Commission

I. *Why Law Students?*

There are significant reasons to support the inclusion of law student liaisons on the Interpreter Commission.

Firstly, we know that explicit and implicit bias exists when lawyers and judges work with individuals who require interpretation given language barriers.² This creates challenges in terms of accessing justice to the full extent. Hence, it is important for practitioners to have an early awareness of communication resources

¹ OFFICE OF FIN. MGMT., PERSONS LIVING IN HOUSEHOLDS WHERE LANGUAGE OTHER THAN ENGLISH IS SPOKEN (2019), <https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/social-economic-conditions/language-spoken-home>.

² See, e.g., Destinee Easley, *Can You Hear Me Now: Due Process and Language Barriers to Justice*, 5 J. GLOB. JUST. & PUB. POL'Y 137 (2019); Haviland, John B., *Ideologies of Language: Some Reflections on Language and U.S. Law*, 105 AM. ANTHROPOLOGIST 764 (1964); Richard W. Cole & Laura Maslow-Armand, *The Role of Counsel and the Courts in Addressing Foreign Language and Cultural Barriers at Different Stages of a Criminal Proceeding*, 19 W. NEW ENG. L. REV. 193 (1997).

with diverse populations and why effective interpretation provided by qualified or credentialed interpreters is important in securing effective assistance of counsel. Such an early awareness can and should start in the legal education setting. Law students can help promote the inclusion of language communities in legal education outcomes. They are already advocates regarding their own curriculum, and are engaged in outreach as it relates to multilingual communities through their affinity group associations, extracurricular activities and clinics.³

Furthermore, as law schools continue to have more diverse student bodies, law students may be better positioned to connect with communities that they themselves are coming from.

II. Membership Details.

Paralleling the Minority Justice and Gender Justice Commissions, the Interpreter Commission should seek to have at least two representatives from each law school in Washington State.⁴ One representative should be a 3L and the other a 2L. Having two representatives will allow for students to have stronger influence on their own campuses, as well as create better internal systems of institutional memory as student liaisons change over the course of many years. Student liaison members will also operate in a non-voting capacity.

III. Student Liaison Purposes and Activities.

Law school liaisons will have three primary purposes on the Commission. First, they will work with school faculty and administration to discuss ways in which language-competent education may be included in curriculum. This could be a seminar course or a class topic in Professional Responsibility and Diverse Perspectives courses. Second, law student liaisons will take steps to educate their fellow law students on how to work with clients with whom they may have language barriers. This could take the form of day-long trainings at each of the law schools to talk about language access rights and the use of interpreters. Finally, law students can work directly with community stakeholders to identify gaps in

³ For example, students who participate in the Asylum Application Assistance Program and the Immigrant Family Advocacy Project already work directly with non-English speakers, and connect with interpreters who are other students and from other University language study departments in order to provide competent services.

⁴ Minority Justice Commission has four representatives from each of the law schools. It is my understanding that Gender Justice Commission has more fluctuation, with student liaison positions being dependent on the schools' Women's Law Caucus boards.

resources and knowledge that students and the Commission can work to address. These projects will likely be more long-term in nature and carried out with the purpose of effectuating institutional, systemic, and community change.

Conclusion

Law students can help to play an important role in effectuating the mission of the Interpreter Commission. For that reason, the Commission should approve the addition of law student liaisons from each of the Washington State law schools to its membership.

SUBSTITUTE HOUSE BILL 2567

State of Washington

66th Legislature

2020 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Thai, Santos, Ryu, Valdez, Pollet, Davis, Wylie, Gregerson, Slatter, Lekanoff, Ortiz-Self, Frame, Mead, and Kloba)

1 AN ACT Relating to the courts open to all act; adding new
2 sections to chapter 2.28 RCW; adding a new section to chapter 3.02
3 RCW; adding a new section to chapter 35.20 RCW; and creating new
4 sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that civil
7 arrests in and around Washington's court facilities impede the
8 fundamental mission of Washington's courts, which is to ensure due
9 process and access to justice for everyone. The United States supreme
10 court has recognized that "the unhindered and untrammelled functioning
11 of our courts is part of the very foundation of our constitutional
12 democracy," and that a state may therefore adopt measures necessary
13 and appropriate to safeguarding the administration of justice by its
14 courts. *Cox v. Louisiana*, 379 U.S. 559, 562 (1965). People access
15 courts for many reasons, including to obtain domestic violence and
16 sexual assault protection orders, obtain child support orders, seek
17 back wages, pay traffic fines, apply for permits, answer and defend
18 against criminal charges, answer and defend against eviction actions,
19 testify in civil and criminal proceedings, and get married. The
20 administration of justice depends upon all people having free and
21 full access to the courts.

1 (2) The legislature further finds that civil arrests at
2 Washington court facilities have created a climate of fear that is
3 deterring and preventing Washington residents from safely interacting
4 with the justice system. Victims cannot seek protection, families
5 cannot enter into custody agreements, and those charged with crimes
6 cannot mount a proper defense or be held accountable. Courts and
7 lawyers cannot deliver the promise of equal access to justice and due
8 process under law to community members who are precluded from
9 accessing the courts. Therefore, it is essential that the state have
10 policies providing safeguards protecting access to justice.

11 (3) The legislature further finds that it is imperative that all
12 members of our community feel safe coming to, remaining at, and
13 returning from Washington's courts. The United States supreme court
14 has acknowledged that a state has "the power to preserve the property
15 under its control for the use to which it is lawfully dedicated," and
16 that "[t]here is little doubt that in some circumstances the
17 Government may ban the entry on to public property that is not a
18 'public forum' of all persons except those who have legitimate
19 business on the premises." *United States v. Grace*, 461 U.S. 171, 178
20 (1983). Accordingly, Washington may regulate entry and access to the
21 courts, and activity on courthouse premises and environs, that
22 threatens the fair and nondiscriminatory administration of justice or
23 the openness of courts. Additionally, the United States supreme court
24 and the Washington supreme court have long recognized privileges
25 against civil arrests for those attending court. In recognition of
26 the harmful impacts of civil arrests in and around Washington courts,
27 the legislature has a substantial and compelling interest in ensuring
28 the courts in the state of Washington remain places where the rights
29 and dignity of all residents are maintained and there is access to
30 justice for all.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.28 RCW
32 to read as follows:

33 The definitions in this section apply throughout this section and
34 sections 3 through 5 of this act unless the context clearly requires
35 otherwise.

36 (1) "Civil arrest" means the arrest of a person for an alleged
37 violation of civil law. It is not an arrest for an alleged violation
38 of criminal law, or for contempt of the court in which the court
39 proceeding is taking place or will be taking place.

1 (2) "Court facility" means any building or space occupied or used
2 by a court of this state, and adjacent property, including but not
3 limited to adjacent sidewalks, all parking areas, grassy areas,
4 plazas, court-related offices, commercial and governmental spaces
5 within court building property, and entrances and exits from said
6 building or space.

7 (3) "Court order" means a directive issued by a judge or
8 magistrate under the authority of Article III of the United States
9 Constitution or Article IV of the state Constitution. A "court order"
10 includes but is not limited to warrants and subpoenas.

11 (4) "Court security personnel" means law enforcement agencies and
12 officers assigned to protect court facilities or to transport in-
13 custody individuals to and from court proceedings and private agents
14 contracted to provide security at court facilities.

15 (5) "Court staff" means any municipal, county, or state employees
16 or contractors assigned to perform duties in court facilities,
17 including but not limited to probation officers, court security
18 personnel, court clerks, court administrators, interpreters, court
19 facilitators, and bailiffs.

20 (6) "Federal immigration authority" means any officer, employee,
21 or person otherwise paid by or acting as an agent of the United
22 States department of homeland security including but not limited to
23 its subagencies, immigration and customs enforcement, and customs and
24 border protection, and any present or future divisions thereof,
25 charged with immigration enforcement.

26 (7) "Immigration or citizenship status" means as such status has
27 been established to such individual under the immigration and
28 nationality act.

29 (8) "Judge" includes justices of the supreme court, judges of the
30 court of appeals, judges of the superior courts, judges of any court
31 organized under Title 3 or 35 RCW, judges pro tempore, court
32 commissioners, and magistrates.

33 (9) "Law enforcement action" includes but is not limited to
34 observation of court proceedings, investigation, questioning, and
35 arrests by law enforcement agents acting in their official capacity.

36 (10) "Nonpublicly available personal information" includes one or
37 more of the following, when the information is linked with or is
38 reasonably linkable, including via analytic technology, to the
39 person's first name or first initial and last name: Location, home
40 address, work address, place of birth, telephone number, social

1 security number, driver's license number or Washington identification
2 card number, electronic mail address, social media handle or other
3 identifying social media information, and any other means of
4 contacting the person.

5 (11) "Prosecutor" means a county prosecuting attorney, a city
6 attorney, or the attorney general.

7 (12)(a) "State law enforcement agency" means any agency of the
8 state of Washington that:

9 (i) Is a general authority Washington law enforcement agency as
10 defined in RCW 10.93.020;

11 (ii) Is authorized to operate prisons or to maintain custody of
12 individuals in prisons; or

13 (iii) Is authorized to operate juvenile detention facilities or
14 to maintain custody of individuals in juvenile detention facilities.

15 (b) "State law enforcement agency" does not include any agency,
16 department, or division of a municipal corporation, political
17 subdivision, or other unit of local government of this state.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 2.28 RCW
19 to read as follows:

20 (1) Judges, court staff, court security personnel, prosecutors,
21 and personnel of the prosecutor's office:

22 (a) Shall not inquire into or collect information about an
23 individual's immigration or citizenship status, or place of birth,
24 unless there is a connection between such information and an
25 investigation into a violation of state or local criminal law;
26 provided that a judge may make such inquiries as are necessary to
27 adjudicate matters within their jurisdiction. The court may enter
28 orders or conditions to maintain limited disclosure of any
29 information regarding immigration status as it deems appropriate to
30 protect the liberty interests of victims, the accused, civil
31 litigants, witnesses, and those who have accompanied victims to a
32 court facility; and

33 (b) Shall not otherwise provide nonpublicly available personal
34 information about an individual, including individuals subject to
35 community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal
36 immigration authorities for the purpose of civil immigration
37 enforcement, nor notify federal immigration authorities of the
38 presence of individuals attending proceedings or accessing court

1 services in court facilities, unless required by federal law or court
2 order.

3 (2) Sections 2 through 5 of this act do not limit or prohibit any
4 state or local agency or officer from:

5 (a) Sending to, or receiving from, federal immigration
6 authorities the citizenship or immigration status of a person, or
7 maintaining such information, or exchanging the citizenship or
8 immigration status of an individual with any other federal, state, or
9 local government agency, in accordance with 8 U.S.C. Sec. 1373; or

10 (b) Complying with any other state or federal law.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 2.28 RCW
12 to read as follows:

13 (1) The governmental entity responsible for the security of a
14 court facility, using the form described in subsection (2) of this
15 section, shall collect the name of the law enforcement officer,
16 agency, date, time, specific law enforcement purpose, and the
17 proposed law enforcement action to be taken by all on-duty state and
18 federal law enforcement officers, including plain-clothed officers,
19 entering court facilities, unless such officer's purpose is to
20 participate in a case or proceeding before the court. Completed forms
21 must be immediately transmitted to the appropriate court staff.
22 Information collected must not include personal identifying
23 information concerning the individuals who were the target of the law
24 enforcement action, and to the extent such individuals are
25 identified, they must be identified by the initials of their first
26 and last names. Completed forms must be transmitted to the
27 administrative office of the courts on a monthly basis.

28 (2) The administrative office of the court shall develop a
29 standard form to collect the information in subsection (1) of this
30 section. The form must be developed no later than July 1, 2020. The
31 administrative office of the courts shall publish a quarterly report
32 of the information collected in subsection (1) of this section
33 beginning October 1, 2020.

34 (3) Designated court staff must be notified without delay if a
35 law enforcement agent covered by this section is present in the court
36 facility with the intent of conducting a civil arrest.

37 NEW SECTION. **Sec. 5.** A new section is added to chapter 2.28 RCW
38 to read as follows:

1 (1) No person is subject to civil arrest while going to,
2 remaining at, or returning from, a court facility, except:

3 (a) Where such arrest is pursuant to a court order authorizing
4 the arrest;

5 (b) When necessary to secure the immediate safety of judges,
6 court staff, or the public; or

7 (c) Where circumstances otherwise permit warrantless arrest
8 pursuant to RCW 10.31.100.

9 (2) For purposes of this section, "going to" and "returning from"
10 includes the area within one mile of the court facility.

11 (3) Prior to any civil arrest in or on a court facility
12 authorized by subsection (1)(a) of this section, a designated
13 judicial officer shall review a court order authorizing any civil
14 arrest to confirm compliance with subsection (1)(a) of this section.

15 (4) Nothing in this section narrows, or in any way lessens, any
16 common law or other right or privilege of a person privileged from
17 arrest pursuant to sections 2 through 4 of this act or otherwise.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 2.28 RCW
19 to read as follows:

20 Sections 2 through 5 of this act apply to the following courts:
21 The supreme court, the courts of appeal, the superior courts, and to
22 the courts of limited jurisdiction of this state, including district
23 and municipal courts.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 3.02 RCW
25 to read as follows:

26 The provisions of sections 2 through 5 of this act apply to
27 courts of limited jurisdiction.

28 NEW SECTION. **Sec. 8.** A new section is added to chapter 35.20
29 RCW to read as follows:

30 The provisions of sections 2 through 5 of this act apply to
31 municipal courts.

32 NEW SECTION. **Sec. 9.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 10.** This act may be known and cited as the
2 courts open to all act.

--- END ---

HOUSE BILL REPORT

HB 2567

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to the courts open to all act.

Brief Description: Concerning open courts.

Sponsors: Representatives Thai, Santos, Ryu, Valdez, Pollet, Davis, Wylie, Gregerson, Slatter, Lekanoff, Ortiz-Self, Frame, Mead and Kloba.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/22/20, 2/5/20 [DPS].

Brief Summary of Substitute Bill

- Prohibits civil arrests inside or near state court facilities, unless certain conditions apply.
- Except in certain circumstances, prohibits judges, court staff, court security personnel, and prosecutor's office staff from inquiring into or collecting immigration or citizenship status information.
- Except as provided by law, prohibits judges, court staff, court security personnel, and prosecutor's office staff from disclosing nonpublic personal information about an individual to immigration authorities.
- Establishes court processes in the event of state or federal law enforcement action at court facilities, including reporting requirements, and requires the Administrative Office of the Courts to publish collected information on a quarterly basis.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kilduff, Chair; Thai, Vice Chair; Goodman, Hansen, Kirby, Orwall, Peterson, Valdez and Walen.

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 Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Graham, Klippert, Rude and Ybarra.

Staff: Ingrid Lewis (786-7289).

Background:

Common Law Civil Arrests.

A civil arrest is the arrest and detention of a defendant in a civil lawsuit. Rooted in English common law, litigants would commence a civil lawsuit by having a civil defendant arrested, usually in the context of debt collection. A writ of *capias ad respondendum*, according to *Black's Law Dictionary* (7th edition), is a court order that commanded a sheriff to imprison a defendant until bail was posted or the judgement was satisfied.

Washington State Civil Arrests.

The term civil arrest is not defined in statute. Presently, civil lawsuits are generally commenced by the filing of a complaint and issuance of a summons, and the common law practice of civil arrest is rarely used, although there are statutes that allow for a civil arrest warrant to be issued. For example, the court, in a family law proceeding to restrain a person from leaving the jurisdiction of the court, may order the arrest and detention of the obligor and/or require the posting of sufficient security to assure performance of any legal, equitable, or statutory obligation. In addition to ordering a debtor to appear in a supplemental proceeding after a monetary judgment is entered, a court may issue a bench warrant for the debtor's arrest if it appears from the affidavit of the creditor, agent, or attorney that there is a danger of the debtor absconding.

Immigration and Customs Enforcement.

Federal law prohibits any state or local law from restricting any government entity or official from sending or receiving information to Immigration and Customs Enforcement (ICE) regarding an individual's lawful or unlawful citizenship or immigration status. No person or agency may prohibit or restrict a federal, state, or local government entity from sending or requesting information from ICE about an individual's immigration status, or maintaining information exchanged with ICE, or exchanging information about an individual's immigration status with any other federal, state, or local entity.

Disclosure of Citizenship and Immigration Status in Washington.

State and local law enforcement agencies and school resource officers may not provide information to federal immigration authorities for civil immigration enforcement or provide nonpublic personal information about an individual to federal immigration authorities in noncriminal matters unless required by law. In addition, law enforcement agencies may not inquire into or collect information about an individual's immigration or citizenship status or place of birth, unless there is a connection between the information and a criminal investigation.

The restrictions placed on the disclosure of information by a state agency or department are not applicable if the disclosure of the information is: required to comply with state and federal law; in response to a court order; necessary to perform nonimmigration enforcement-

related agency or department duties or functions; or required to comply with any requirement necessary to maintain funding.

Summary of Substitute Bill:

The Legislature makes findings on the following: the importance of keeping Washington courts open, accessible, and free from interruption; that civil arrests at court facilities create a climate of fear that deters residents from interacting with the justice system; and that it is imperative that all members of the community feel safe coming to, remaining at, and returning from court.

No person shall be subject to civil arrest while going to, remaining at, or returning from, a court facility. "Civil arrest" is defined as the arrest of a person for an alleged violation of civil law. A civil arrest is not an arrest for an alleged violation of criminal law, nor is it an arrest for contempt of the court in which a court proceeding is taking place or will be taking place. "Going to" and "returning from" a facility includes the area within one mile of the facility. Provisions do not apply to arrests made pursuant to a valid court order, or in the interests of imminent risk to public safety, or pursuant to a warrantless arrest permitted by state law. Prior to any civil arrest, a designated judicial officer shall review the court order authorizing the civil arrest to confirm compliance with the act.

Court processes are established in the event of state or federal law enforcement action at court facilities. "Law enforcement action" includes but is not limited to observation of court proceedings, investigation, questioning, and arrests by law enforcement agents acting in their official capacity.

The governmental entity responsible for the security of the court facility is required to collect information from all on-duty state and federal law enforcement officers, including plainclothes officers, entering court facilities. Law enforcement officers participating in a case or proceeding before the court are excluded from the information collection requirement. Information to be collected must include the name of the law enforcement officer, agency, date, time, the specific law enforcement purpose, and the proposed law enforcement action to be taken. The Administrative Office of the Courts (AOC) is required to develop a standard form to collect the information no later than July 1, 2020. Information collected must not include personally identifying information concerning the individual who was the target of the action. Completed forms must be transmitted to the AOC monthly, and the AOC is required to publish the information in a quarterly report beginning October 1, 2020. Designated court staff must immediately be notified if a law enforcement agent is present in the court for the purpose of conducting a civil arrest.

Disclosure of Citizenship and Immigration Status.

Judges, court staff, court security personnel, prosecutors, and prosecutor's office personnel are prohibited from inquiring into or collecting immigration or citizenship status information, or place of birth, unless there is a connection between the information and a criminal investigation. A judge may make inquiries if necessary to adjudicate matters within his or her jurisdiction. The court may obtain limited disclosure of any information regarding

immigration status as it deems appropriate to protect the liberty interests of participants in a proceeding.

Except as provided by law, judges, court staff, court security personnel, prosecutors, and prosecutor's office personnel are also prohibited from providing nonpublicly available personal information about an individual to Immigration and Customs Enforcement (ICE) for the purposes of civil immigration enforcement and are prohibited from notifying ICE of the presence of individuals attending proceedings or accessing court services in court facilities.

The act does not limit or prohibit any state or local agency or officer from sending to and receiving information from ICE; exchanging information with other federal, state, or local government agencies about the immigration or citizenship status of an individual; or complying with any other state or federal law.

Substitute Bill Compared to Original Bill:

The substitute bill removes immigration or citizenship status from the definition of "nonpublicly available personal information" to comply with federal law. It further clarifies that any agency, department or division of a municipal corporation, political subdivision, or other unit of local government is not included in the definition of "state law enforcement agency." As it relates to the collection of information from law enforcement officers when law enforcement action is to be taken in or on a court facility, the substitute bill removes references to court security personnel in those provisions, as well as provisions related to the delivery of a court order authorizing a civil arrest to a judicial officer. State and federal law enforcement agents participating in a proceeding from law enforcement action are exempted from information collection requirements. The Administrative Office of the Courts (AOC) is required to develop a standard form for information collection no later than July 1, 2020, and quarterly reporting of the collected information by the AOC must begin October 1, 2020.

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) This bill will improve access to justice in communities, ensure the smooth functioning of the judicial system, and help protect the rights and dignity of Washington residents.

There have been over 200 documented civil arrests at courthouses in at least 18 counties in the last two years. A nonprofit's statewide hotline has received over 100 calls reporting arrests in and around the courthouses in urban and rural communities, particularly in the areas of Othello, Moses Lake, and Ephrata. Plainclothes immigration enforcement agents are

making civil arrests in and around courthouse grounds, creating an environment of fear and deterring people from coming to court.

Law enforcement has a vested interest in ensuring that all communities in our state feel safe and that people feel comfortable and safe accessing government services. When law enforcement is effectuating a criminal courthouse arrest it is done professionally. Arrests by federal agents have been unsafe and create a ripple effect, because agents use excessive force. An individual who went to a courthouse to renew a license plate was arrested by a plainclothes immigration officer and was detained for 48 hours. The individual was afraid to return to the courthouse to pay a traffic infraction fine after the incident. A defendant was arrested by immigration officials after a court appearance. It was a volatile event that caused significant disruption. Arrests are described as kidnappings because agents in plain clothes identify themselves after the fact, do not present a judicial warrant, and forcefully take people away in unmarked cars.

Warrantless civil arrests being conducted in and around courthouses have a direct and immediate chilling impact on the willingness of individuals to seek justice and safety through the courts. These include vulnerable and underserved members of society, including victims of domestic violence, sexual assault, human trafficking, and other crimes. Victims rely on access to the courts in order to obtain protection orders, divorces, and restrictive parenting plans to ensure their family's safety. The growing influence and enforcement activities in courts has resulted in significant numbers of people in immigrant communities being unwilling to use the court system for fear of getting separated. Domestic violence victims declined to file cases; abusers weaponize the fear of immigration enforcement in courts to prevent victims and witnesses from testifying; and people limit the remedies that they are seeking.

Also impacted are people who face civil legal problems such as eviction, debt collection, probate, and child welfare. It is no longer safe for people to resolve civil matters. People called to testify in criminal cases fail to appear due to the threat of civil arrest, which can result in the dismissal of criminal charges.

Warrantless civil arrests run contrary to public policy ensuring access to justice, protecting the rights of litigants and witnesses, and preserving the dignity and decorum in the courts. The state should promote and protect meaningful and unfettered access to justice, regardless of status. The concepts in the bill are a priority for the judicial branch. The former Chief Justice recently wrote to federal immigration enforcement agencies to express the paramount importance of everyone having access to courts.

This bill codifies the ancient writ of protection and writ of proposition which have been recognized by both the United States (US) Supreme Court and Washington Supreme Court. The writs protect the rights of people to access the courts, prevent people from being arrested, and allows for the effective administration of justice in order for the courts to properly carry out their mission.

The US Supreme Court has also recognized that the unhindered functioning of our courts is part of the foundation of our constitutional democracy. States may adopt measures necessary and appropriate to safeguard the administration of justice by the courts. The Legislature and

the judiciary have a joint responsibility to ensure the proper functioning of our state's justice system. While court administration and access to justice are inherent powers of the court, they are not exclusive to the courts. The Washington Supreme Court has permitted legislative oversight of administrative functions of the judiciary. This bill relates to the administrative, rather than the adjudicative, functions of courts and judges. Protecting access to justice and a functional judicial system are police powers of the state protected by the Tenth Amendment. This bill does not violate separation of powers, nor does it interfere with local law enforcement.

(Opposed) This is a separation of powers concern to the extent that it constrains judicial officers, personnel staff, and operations. These are matters most appropriately regulated in court rule. There are already court rules about when immigration status may or may not be inquired after, as well as rules pertaining to how information is disseminated consistent with the Constitution.

The bill misunderstands the staffing and resources available at most local courthouses. Many local courthouses do not have courthouse security staff or anyone to delegate the responsibilities contemplated for record collection and publication.

This bill affects both state and local law enforcement agencies. The definition of civil arrest in the one-mile range surrounding a courthouse may prevent a simple traffic stop.

Many city municipal courts are colocated within the same building as the police department, and every county sheriff's office is headquartered in a courthouse. This bill requires information collection every time a law enforcement officer comes in or out, which is inefficient and potentially dangerous. The notification would disrupt ongoing criminal investigations where an agency has undercover officers in plain clothes or whose operation includes the courthouse.

Most of this bill is aimed at the federal government. The supremacy clause makes the bill unenforceable, and communities will be given a false sense of security.

Persons Testifying: (In support) Representative Thai, prime sponsor; Eric Gonzalez; Carlos; Enoka Herat, American Civil Liberties Union of Washington; Patrick O'Connor, Thurston County Public Defender's Office; Vanessa Hernandez, Northwest Justice Project; Brenda Rodriguez-Lopez, Washington Immigrant Solidarity Network; Jim Bamberger, Office of Civil Legal Aid; and Annie Benson, Washington Defender Association.

(Opposed) Dory Nicpon, Board for Judicial Administration; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.

Civil Rights & Judiciary Committee

HB 2567

Brief Description: Concerning open courts.

Sponsors: Representatives Thai, Santos, Ryu, Valdez, Pollet, Davis, Wylie, Gregerson, Slatter, Lekanoff, Ortiz-Self, Frame, Mead and Kloba.

Brief Summary of Bill

- Prohibits civil arrests inside or near state court facilities, unless certain conditions apply.
- Except in certain circumstances, prohibits judges, court staff, court security personnel, and prosecutor's office staff from inquiring or collecting immigration or citizenship status information.
- Except as provided by law, prohibits judges, court staff, court security personnel, and prosecutor's office staff from disclosing nonpublic personal information about an individual to immigration authorities.
- Establishes court processes in the event of state or federal law enforcement action at court facilities, including reporting requirements, and requires the Administrative Office of the Courts to publish collected information on a quarterly basis.

Hearing Date: 1/22/20

Staff: Ingrid Lewis (786-7289).

Background:

Common Law Civil Arrests.

A civil arrest is the arrest and detention of a defendant in a civil lawsuit. Rooted in English common law, litigants would commence a civil lawsuit by having a civil defendant arrested, usually in the context of debt collection. A writ of *habeas corpus*, according to *Black's Law Dictionary* (7th edition), is a court order that commanded a sheriff to imprison a defendant until bail was posted or the judgement was satisfied.

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.

Washington State Civil Arrests.

The term civil arrest is not defined in statute. Presently, civil lawsuits are generally commenced by the filing of a complaint and issuance of a summons, and the common law practice of civil arrest is rarely used, although there are statutes that allow for a civil arrest warrant to be issued. For example, the court, in a family law proceeding to restrain a person from leaving the jurisdiction of the court, may order the arrest and detention of the obligor and/or require the posting of sufficient security to assure performance of any legal, equitable, or statutory obligation. In addition to ordering a debtor to appear in a supplemental proceeding after a monetary judgment is entered, a court may issue a bench warrant for the debtor's arrest if it appears from the affidavit of the creditor, agent, or attorney that there is a danger of the debtor absconding.

Immigration and Customs Enforcement.

Federal law prohibits any state or local law from restricting any government entity or official from sending or receiving information to Immigration and Customs Enforcement (ICE) regarding an individual's lawful or unlawful citizenship or immigration status. No person or agency may prohibit or restrict a federal, state, or local government entity from sending or requesting information from ICE about an individual's immigration status, or maintaining information exchanged with ICE, or exchanging information about an individual's immigration status with any other federal, state, or local entity.

Disclosure of Citizenship and Immigration Status in Washington.

State and local law enforcement agencies and school resource officers may not provide information to federal immigration authorities for civil immigration enforcement or provide nonpublic personal information about an individual to federal immigration authorities in noncriminal matters unless required by law. In addition, law enforcement agencies may not inquire into or collect information about an individual's immigration or citizenship status or place of birth, unless there is a connection between the information and a criminal investigation.

The restrictions placed on the disclosure of information by a state agency or department are not applicable if the disclosure of the information is: required to comply with state and federal law; in response to a court order; necessary to perform nonimmigration enforcement-related agency or department duties or functions; or required to comply with any requirement necessary to maintain funding.

Summary of Bill:

The Legislature makes findings on the following: the importance of keeping Washington courts open, accessible, and free from interruption; that civil arrests at court facilities create a climate of fear that deters residents from interacting with the justice system; and that it is imperative to ensure that all members of the community feel safe coming to, remaining at, and returning from court.

No person shall be subject to civil arrest while going to, remaining at, or returning from, a court facility. "Civil arrest" is defined as the arrest of a person for an alleged violation of civil law. A civil arrest is not an arrest for an alleged violation of criminal law, nor is it an arrest for contempt of the court in which a court proceeding is taking place or will be taking place. "Going to" and

"returning from" a facility includes the area within one mile of the facility. Provisions do not apply to arrests made pursuant to a valid court order, or in the interests of imminent risk to public safety, or pursuant to a warrantless arrest permitted by state law.

Court processes are established in the event of state or federal law enforcement action at court facilities. "Law enforcement action" includes but is not limited to observation of court proceedings, investigation, questioning, and arrests by law enforcement agents acting in their official capacity.

Court security personnel or designated staff must inform the presiding judge or designee if a state or federal law enforcement officer is present in the facility with the intent of arresting or taking into custody a party or participant in a proceeding. State and federal law enforcement officers must present a court order authorizing any civil arrest to court security personnel or designated staff prior to making an arrest. If provided a court order authorizing a civil arrest, court security personnel or designated staff must transmit a copy of the court order to the presiding judge or designee prior to any arrest.

Court security personnel or designated staff are required to file a report for each law enforcement action taken by an on-duty state or federal law enforcement officer in or on a courthouse facility. The report must include the name of the law enforcement officer, agency, date, time, the specific law enforcement purpose, and the proposed law enforcement action. Reports must be immediately transmitted to the appropriate supervisor, superior court clerk, or court administrator. Reports are public record and must not include personally identifying information concerning the individual who was the target of the action. Courts are required to transmit the information collected to the Administrative Office of the Courts (AOC) monthly, and the AOC is required to publish the information quarterly on a dedicated website.

Disclosure of Citizenship and Immigration Status.

Judges, court staff, court security personnel, prosecutors, and prosecutor's office personnel are prohibited from inquiring into or collecting immigration or citizenship status information, or place of birth unless there is a connection between the information and a criminal investigation. A judge may make inquiries if necessary to adjudicate matters within his or her jurisdiction. The court may obtain limited disclosure of any information regarding immigration status as it deems appropriate to protect the liberty interests of participants in a proceeding.

Except as provided by law, judges, court staff, court security personnel, prosecutors, and prosecutor's office personnel are also prohibited from providing nonpublicly available personal information about an individual to Immigration and Customs Enforcement (ICE) for the purposes of civil immigration enforcement and are prohibited from notifying ICE of the presence of individuals attending proceedings or accessing court services in court facilities.

The act does not limit or prohibit any state or local agency or officer from sending to and receiving information from ICE; exchanging information with other federal, state, or local government agencies about the immigration or citizenship status of an individual; or complying with any other state or federal law.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Washington State Supreme Court Interpreter Commission

COMMISSION MEMBERS

Honorable Steven C. González, Chair
Washington State Supreme Court

Honorable Mafé Rajul
King County Superior Court

Honorable Andrea L. Beall
Puyallup Municipal Court

Fona Sugg
Chelan County Superior Court

Frankie Peters
Thurston County District Court

Sharon Harvey
Administrative Office of the Courts

Kristi Cruz
Northwest Justice Project

Katrin Johnson
WA State Office of Public Defense

Francis Adewale
Spokane City Office of the Public
Defender

Elisa O. Young
Office of Equity and Policy, City
of Seattle

Naoko Inoue Shatz
Ethnic Organization Representative

Luisa Gracia Camón
Interpreter Representative

Diana Noman
Interpreter Representative

Donna Walker
American Sign Language Interpreter

Florence Adeyemi
Public Member

February 3, 2020

The Honorable Christine Kilduff, Chair
House Civil Rights & Judiciary Committee
334 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504

The Honorable Jamie Pedersen, Chair
235 John A. Cherberg Building
PO Box 40443
Olympia, WA 98504

Re: Support for HB 2567 and SB 6522

Dear Representative Kilduff and Senator Pedersen,

The Washington State Interpreter Commission firmly supports HB 2567 and SB 6522 concerning arrests of immigrants in and around courts in our state. Many of the litigants, witnesses, and others who need interpreters to have access to justice are concerned about recent arrests at or near courthouses in Washington. We do not want those who need interpreters to be afraid to ask for them, or worse yet, not to appear in court or seek assistance from the justice system at all, for fear that they will be targeted because of it.

We join the Minority and Justice Commission, the Gender and Justice Commission and our current and former Chief Justices in calling for courthouses to be safe places to resolve disputes under the rule of law.

Sincerely,



Steven C. González, Chair

CC: House Civil Rights & Judiciary Committee and Senate Law & Justice
Committee Members, Staff, and Bill Sponsors

SUBSTITUTE SENATE BILL 5984

State of Washington

66th Legislature

2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Wellman, Rivers, Hasegawa, Padden, Cleveland, Walsh, Hunt, Brown, Zeiger, Randall, Takko, Lovelett, Nguyen, Kuderer, Das, and Wilson, C.)

READ FIRST TIME 01/31/20.

1 AN ACT Relating to language understanding of documents used in
2 dissolution proceedings; adding a new section to chapter 26.09 RCW;
3 and making an appropriation.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.09
6 RCW to read as follows:

7 In any matter brought pursuant to domestic relations proceedings
8 under this chapter, when a limited English proficiency party requests
9 interpretation services, or when a court has reason to know that the
10 party has limited English proficiency, any orders being presented to
11 the court for signature on behalf of that party, or by agreement of
12 the parties, must include a certification from an interpreter that
13 the order has been interpreted to the party in the relevant language.
14 The interpreter appointed for this purpose must be an interpreter
15 certified by the administrative office of the courts or a qualified
16 interpreter registered by the administrative office of the courts in
17 a noncertified language, or where the necessary language is not
18 certified or registered, the interpreter must be qualified by the
19 judicial officer pursuant to chapter 2.43 RCW. When requested, and
20 upon reasonable advance notice, an interpreter must be provided for

1 limited English proficiency litigants by the court at no cost to the
2 party for this purpose.

3 NEW SECTION. **Sec. 2.** The sum of one hundred thousand dollars,
4 or as much thereof as may be necessary, is appropriated for the
5 fiscal year ending June 30, 2021, from the general fund to the
6 administrative office of the courts interpreter reimbursement program
7 for the purposes of this act.

--- END ---

SENATE BILL 5984

State of Washington 66th Legislature 2019 Regular Session

By Senators Wellman, Rivers, Hasegawa, Padden, Cleveland, Walsh, Hunt, Brown, Zeiger, Randall, Takko, Lovelett, Nguyen, Kuderer, Das, and Wilson, C.

Read first time 03/12/19. Referred to Committee on Law & Justice.

1 AN ACT Relating to language understanding of documents used in
2 dissolution proceedings; and adding a new section to chapter 26.09
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.09
6 RCW to read as follows:

7 In a dissolution proceeding a court must independently verify and
8 enter a finding in the decree of the primary language of all parties
9 making an appearance. The court shall ensure that the parties are
10 familiar with the language of any petition, court form, signed
11 agreement, or other document used in a dissolution proceeding, or
12 that the parties have reviewed translations of such documents in a
13 language that they are familiar with.

--- END ---

SENATE BILL REPORT

SB 5984

As Reported by Senate Committee On:
Law & Justice, January 30, 2020

Title: An act relating to language understanding of documents used in dissolution proceedings.

Brief Description: Concerning language understanding of documents used in dissolution proceedings.

Sponsors: Senators Wellman, Rivers, Hasegawa, Padden, Cleveland, Walsh, Hunt, Brown, Zeiger, Randall, Takko, Lovelett, Nguyen, Kuderer, Das and Wilson, C.

Brief History:

Committee Activity: Law & Justice: 1/23/20, 1/30/20 [DPS].

Brief Summary of First Substitute Bill

- Requires a qualified interpreter to certify that a court order has been interpreted in the party's language when the party requested an interpreter or the court knows, or has reason to know, the party has limited English proficiency.
- Requires courts to provide an interpreter to a party to an action under RCW 26.09 who has limited English proficiency when requested with reasonable advance notice.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5984 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

Staff: Melissa Burke-Cain (786-7755)

Background: According to the National Association of Judiciary Interpreters and Translators, translators work with the written word, converting text from a source language into a target language while conveying the text's style, tone, intent, and accounting for culture and dialect. A translated document should read as if it was written in the target language for

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.

the target audience. Interpreting is the process of fully understanding, analyzing, and processing a spoken message and then faithfully rendering it into another language.

Federal and Washington state law require persons with limited English language proficiency (LEP) be provided with competent interpreters in all court cases and proceedings. Courts receiving federal financial assistance, directly or indirectly, must provide interpreter services to all LEP persons at no cost. Each Washington trial court, municipal court, and courts of limited jurisdiction must develop a written language assistance plan for interpreter services for non-English-speaking persons accessing the court system in civil and criminal matters.

Federal anti-discrimination provisions of the 1964 Civil Rights Act —Title VI—require federal funding recipients to translate vital information to ensure LEP persons have meaningful access to federally-funded programs and activities. A document is considered vital depending on the importance of the program or service. In 2017, Washington Administrative Office of the Courts (AOC) issued a newly revised model language access plan (LAP). This model plan provides direction for translation services based on a translation protocol adopted by the AOC's Interpreter Commission. According to the Model LAP, court forms, notices, and applications should be translated when a local jurisdiction has a significant number of LEP persons who speak a language. If the number of LEP persons who speak a particular language in a local jurisdiction is small, providing an interpreter to orally translate documents is sufficient. This process is called sight interpretation and involves reading a source-language text out loud in the target language. For document translations, the state's language assistance plan law requires procedures for evaluating the need for translation of written materials, prioritizing those translation needs, and translating the highest priority materials. The translations procedures take into account the frequency of use of forms by the language group, and the cost of orally interpreting the forms.

Summary of Bill (First Substitute): In all domestic relations proceedings under RCW 26.09, a qualified interpreter must certify that a court order has been interpreted in the language of a party when the party asks for an interpreter, or the court knows or has reason to know, the party has limited English proficiency. The court must provide an interpreter at no cost to a party when the party requests interpreter services with reasonable advance notice.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Applies to all domestic relations matters under RCW 26.09.
- Requires a qualified interpreter to certify that a court order has been interpreted the a party's language when the party has requested an attorney or the court knows, or has reason to know, that the party has limited English proficiency.
- Requires an interpreter to be provided at no cost to a party when a request is made with reasonable advance notice.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill is not prescriptive to the courts; it allows the courts to formulate the solution to the problem. The issue was brought to my attention by the Japanese consul general in Seattle. Parties in a dissolution who have limited English proficiency may not know what they are signing or the effect untranslated documents may have on their legal rights. An unknowing party may sign away important property rights or parenting rights. A person may be proficient conversational English, but that does not mean a they understand legal documents written in English rather than their primary language. I know of one person who speaks English very well, but cannot read or write English. This person could easily be mistaken for someone who is proficient in English, but that would not be true as to an untranslated legal document, court form, or other vital notice. Those of us who help members of the immigrant community who are facing dissolution or other court matters such as domestic violence see the effect that untranslated documents have on our clients. A person who unknowingly gives up their rights in a dissolution can easily fall into poverty after dissolution. We have seen clients lose their homes and become homeless. Everyone deserves equal access to justice and the state owes a duty to provide equal access to justice. Washington is the third most linguistically diverse state in the country with over 160 languages.

CON: A party understanding their rights in court is a critical component of equal access to justice. This bill's language is new and we have concerns about the wording. We are also concerned that the bill imposes a duty on the judge in a dissolution to make an independent assessment that a party comprehends the substance of documents. The situations where this might occur vary. It might be an ex parte order presented to a commissioner where it would be very difficult to know if a party understood the documents. It might be a hearing in which the party is before the judge and further inquiry can, and does, occur. There are laws requiring interpreters, so it is an issue of immense importance to the courts. There is a significant difference between interpreting language and making an independent assessment of someone's comprehension. This bill places the burden on the judge and on the interpreter who is appointed to translate, not to analyze a party's level of understanding.

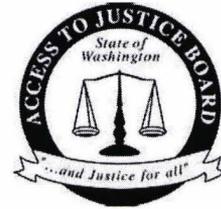
Persons Testifying: PRO: Senator Lisa Wellman, Prime Sponsor; Naoko Inoue Shatz, International Families Justice Coalition; Linda Inagawa, IFJC International Families Justice Coalition.

CON: Judge Sean O'Donnell, Superior Court Judges' Association.

Persons Signed In To Testify But Not Testifying: No one.



February 4, 2020



By Email and 1st Class U.S. Mail

Susan L. Carlson
Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929
supreme@courts.wa.gov

Dear Madam Clerk,

Please accept the following comments to the Proposed New Washington State Court Rule GR 38, published for comment in November 2019. These comments are jointly made on behalf of the Washington State Minority and Justice Commission (MJC), Washington State Interpreter Commission (together, "Commissions"), and the Washington State Access to Justice Board (Board).

The Commissions and the Board unanimously support adoption of this Court rule, with certain amendments discussed below.

The Commissions and the Board unanimously believe that the adoption of this Court rule is in line with one of the fundamental missions of their organizations: to protect all persons' access to our State Courts, where the vast majority of justice is sought and achieved in this State.

The Commissions and the Board believe that the failure to enact such a rule would weaken trust in our system of justice, close the doors to the most vulnerable, make our communities less safe, and pervert the fair and equal treatment of all, to which we all aspire.

As a long-time member of the MJC -- a jurist from eastern Washington -- stated, there may be no more important challenge to accessing the Court in our generation than the federal actions that necessitate this rule.

About the Commissions and the Board

The Washington State Supreme Court established the MJC nearly 30 years ago, based upon the "fundamental principle of the fair and equal treatment of all" and the recognition that "any system of justice ... must be examined continuously" to ensure it is "meeting the needs of all people governed, to include people of color." See Order of the Supreme Court dated October 4, 1990. The MJC is tasked with identifying "the concerns ... regarding lack of equal treatment" and "to make recommendations for judicial improvement." *Id.* The State Supreme Court overwhelmingly has renewed the order of establishment every five years since enactment.

The Washington State Supreme Court created the Interpreter Commission to ensure equal access to justice and to support the courts in providing access to court services and programs for all individuals regardless of their ability to communicate in the spoken English language. The Interpreter Commission serves as a policy making and advisory body to the Washington Courts, including the Administrative Office of the Courts (AOC), concerning court interpreters and language assistance in general. The Commission

sets policy for the courts and the Court Interpreter Program, which is responsible for interpreter certification, registration, testing, continuing education, training, and discipline. The Commission is also responsible for strategic planning and working with educational institutions and other interpreter program stakeholder groups to develop resources to support court interpreting in Washington. The Commission is actively involved in developing and supporting judicial and court administrator education on issues affecting language access in our courts.

The Access to Justice Board was established by the Washington State Supreme Court in 1994 for a two-year evaluation period, reauthorized November 1996 for an additional five years and made permanent on November 3, 2000. *See* Order of the Supreme Court. The board was specifically tasked “to promote and facilitate equal access to justice in Washington State for low and moderate income people.” *Id.* The board historically provides leadership on issues facing the delivery of civil legal services in our state and has been a model for many other states in the country.

The Commissions and the Board, thus, view these comments in line with their fundamental mission, as the issues herein implicate equality, access, and justice.

Comments

Procedural, Legal and Factual Background

Twice in the last several years, the Chief Justice of the Washington State Supreme Court wrote the leadership of the United States Department of Homeland Security (DHS) to express the Court’s concern about immigration officers and agents taking enforcement action in and around our State’s courthouses. Chief Justice Fairhurst explained that such enforcement action impeded the fundamental mission of our courts, which is to ensure due process and access to justice for everyone regardless of their immigration status, whether such persons were victims in need of protection from domestic violence, witnesses summoned to testify, or families who may be in crisis. The Chief Justice further explained that enforcement action in and around our local courts deterred individuals from accessing our courthouses, spread fear in our immigrant communities, both those lawfully present and those undocumented, and thus made our communities less safe. The MJC and the Board wholly support the Chief Justice’s analysis of our local justice system’s interests and concerns she raised about this enforcement action.

The Chief Justice respectfully asked DHS to mitigate enforcement actions in and around our local courthouses and asked DHS to designate the courthouses and their immediate vicinities as “sensitive locations.” The Chief Justice and the Chief Justice of Oregon’s Supreme Court met earlier this year to discuss the same. On November 21, 2019, U.S. Attorney General Bill Barr and the Acting Secretary of DHS wrote the Chief Justices, advising that, under the Supremacy Clause of the United States Constitution, court rules “cannot and will not govern the conduct of federal officers” and urged the Chief Justices to “reconsider these misguided rules.”

Two federal district courts this year, however, have held that the common law privilege to be free from civil arrests while at court or while travelling to and from courthouses, upon which the instant rule is based, is “still operative” and “applies” to immigration civil arrests. *See State of New York et al. v. U.S. ICE et al.*, No. 19-cv-8876, (S.D.N.Y., Order of December 19, 2019). One of these federal district courts has granted a preliminary injunction, enjoining DHS from “civilly arresting parties, witnesses, and others attending Massachusetts courthouses on official business while they are going to, attending, or leaving the courthouse.” *See Ryan et al. v. U.S. ICE et al.*, No. 19-cv-11003 (D.MA., Order of June 20, 2019).

Finally, there is no factual dispute that immigration-related civil arrests have been occurring at or near our state courthouses regularly and that the effect on our immigrant communities has been profound. To take but one example of the type of litigants who are being excluded from our courts: victims are unwilling to seek the protection or services of the courts; victims are unwilling to report crimes; and victims and others unwilling to serve as witnesses. This type of enforcement is making our communities less safe.

In short, productive conversations with DHS have been attempted in good faith and been unsuccessful, and the proposed GR 38 is on sound legal-footing and factually ripe.

Amendments

A coalition of advocacy organizations has proposed the attached amendments to the proposed new GR 38. These proposed amendments are largely technical or for purposes of clarification. The Commissions and the Board support all of these changes. The Commissions and the Board also believe that “participants” in a proceeding should include parents or guardians in a juvenile court or dependency proceeding.

With these amendments, every member of each Commission and the Board are supportive of the GR 38 and respectfully urge the Supreme Court to adopt it.

Thank you for your consideration.

Minority and Justice Commission

Judge G. Helen Whitener
Lorraine Bannai
Jeffrey Beaver
Lisa Castilleja
Judge Faye Chess
Judge Linda Coburn
Theresa Cronin
Asst. Chief Adrian Diaz
Judge Mike Diaz
Judge Theresa Doyle
Jason Gillmer
Judge Bonnie Glenn
Kitara Johnson
Anne Lee
Judge LeRoy McCullough
Karen Murray
Christopher Sanders
P. Diane Schneider
Judge Lori K. Smith
Travis Stearns

Interpreters Commission

Judge Mafé Rajul
Judge Andrea L. Beall
Fona Sugg
Frankie Peters
Sharon Harvey
Kristi Cruz
Katrin Johnson
Francis Adewale
Elisa O. Young
Naoko Inoue Shatz
Luisa Gracia Camón
Diana Noman
Donna Walker
Florence Adeyemi

Access to Justice Board

Salvador Mungia (Chair)
Judge Laura Bradley (Chair-Elect)
Hon. David Keenan
Francis Adewale
Esperanza Borboa
Mirya Muñoz-Roach
Lindy Laurence
Terry J. Price
Michelle Lucas
Hon. Frederick Corbit

PROPOSED AMENDMENT LANGUAGE TO COURT RULE PROHIBITING CIVIL ARRESTS

1. No person shall be subject to civil arrest without a judicial arrest warrant or judicial order for arrest while the person is inside a court of law of this state in connection with a judicial proceeding or other business with the court.
2. No person shall be subject to civil arrest without a judicial arrest warrant or judicial order for arrest while the traveling to a court of law of this state for the purpose of participating in any judicial proceeding, accessing services or conducting other business with the court, or while traveling to return home or to employment after participating in any judicial proceeding, accessing services or conducting business with the court. Participating in a judicial proceeding includes, but is not limited to, participating as a party, witness, interpreter, attorney or lay advocate. Business with the court and accessing court services includes, but is not limited to, doing business with, responding to, or seeking information, licensing, certification, notarization, or other services, from the office of the court clerk, financial/collections clerk, judicial administrator, courthouse facilitator, family law facilitator, court interpreter, and other court and clerk employees.
3. Washington courts may issue writs or other court orders necessary to enforce this court rule. Unless otherwise ordered, the civil arrest prohibition extends to within one mile of a court of law. In an individual case, the court may issue a writ or other order setting forth conditions to address circumstances specific to an individual or other relevant entity.

For purposes of this rule:

- A. "Court of law" means any building or space occupied or used by a court of this state and adjacent property, including but not limited to adjacent sidewalks, all parking areas, grassy areas, plazas, court-related offices, commercial spaces within buildings or spaces occupied or used by a court of this state, and entrances to and exits from said buildings or spaces.
- B. "Court Order" and "Judicial Warrant" include only those warrants and orders signed by a judge or magistrate authorized under Article III of the United States Constitution or Article IV of the Washington Constitution or otherwise authorized under the Revised Code of Washington. Such warrants and orders do not include civil immigration warrants or other administrative orders, warrants or subpoenas that are not signed by a judge or magistrate as defined in this section. Civil immigration warrant means any warrant for a violation of federal civil immigration law issued by a federal immigration authority and includes, but is not limited to, administrative warrants issued on forms I-200 or I-203, or their successors, and civil immigration warrants entered in the national crime information center database.
- C. "Subject To Civil Arrest" includes, but is not limited to, stopping, detaining, holding, questioning, interrogating, arresting or delaying individuals by state or federal law enforcement officials or agents acting in their official capacity.

Committee Reports



Interpreter Commission – Education Committee

Thursday, January 09, 2020

Teleconference Meeting

12:00 PM – 1:00 PM

Call-in number: **877-820-7831**

Passcode: 618272#

MEETING MINUTES

Members Present:

Katrin Johnson
Kristi Cruz
Maria Luisa Gracia Camon
Frankie Peters
Sharon Harvey
Naoko Shatz
Fona Sugg

AOC Staff:

Bob Lichtenberg
James Wells

Judicial College

- Will take place on January 31.
- Presenters will be Judges Shadid and Estudillo, and Luisa. Judge Riquelme will be observing.
- 15 minutes were added to this year's time slot and new software will allow attendee responses to interactive slide questions during the presentation.

DMCJA

- Commission was approached by the DMCJA Education Committee to make a presentation similar to the one given at the 2019 Fall Judicial Conference. A similar presentation will be made with the same presenters at the DMCJA Spring Conference in June.

Fall Judicial Conference

- Proposals due on January 17.
- Possible topics:
 - Providing accommodations for jurors with disabilities. This was proposed for the SCJA conference so the proposal could be adapted.

- Because this topic could include issues outside the scope of language access, a partnership with an outside group could be appropriate – possibly the Minority and Justice Commission.
- A panel of interpreters discussing court interpreting from their perspective.
 - The panel could include Donna Walker with the perspective from sign language interpreters and an interpreter of a language of lesser diffusion.

Action Items:

- Bob will look into partnering with an outside group.
- Luisa will work with Katrin on creating a draft proposal.

Webinar

- The DMCJA previously requested short, web-based tutorials/webinars on introductory topics related to interpreting. The Education committee shared a draft webinar focusing on the spoken language benchcard. The presentation was well received by Commission members and a few suggestions were made, one of which was to make it available to the public and not limit it to judges.
- Additional content should be added to some topics on the bench card but a short webinar can be a good introduction to the bench card and be a jump off point for other webinars.
- The next planned webinar will be the ASL bench card.

Action Items:

- Committee members will review the script from the demonstration webinar and make suggested edits before the next meeting.

Annual Conference Committee Session Proposal Form

62nd Washington Annual Judicial Conference

September 13-16, 2020

The Davenport Grand

Spokane, Washington

January 17, 2020 to Judith.Anderson@courts.wa.gov

TOPIC AREA:

Educational programs need to relate to the entire judiciary at all court levels. Be specific regarding what will be covered, why it will be covered and how it relates to the judicial officers daily roles and responsibilities

**PROPOSED SESSION TITLE: Juries and Inclusive Justice:
Empowering disAbled Jurors**

STATUS:

Received Date: _____
 Accepted
 Not Accepted
 Why: _____

PROPOSED BY: Supreme Court Interpreter Commission and Minority and Justice Commission; Judge David Keenan

CONTACT NAME: Robert Lichtenberg, Interpreter Commission Analyst

CONTACT PHONE: 360-350-5373

CONTACT EMAIL: Robert.Lichtenberg@courts.wa.gov

TARGET AUDIENCE:

Experienced Judges
 New Judges
 Experienced Commissioners
 New Commissioners

PROPOSED DURATION:

(Including break times)

90 Minutes
 3 Hours
 2 Hours
 Other:

SESSION TYPE:

Plenary
 Choice
 Colloquium

IS THERE A LIMIT TO THE NUMBER OF PARTICIPANTS?

Yes
 No

If yes, maximum number:

REQUIRED COMPONENTS

The session must address the following essential areas of information:

Substantive Knowledge	How it Relates to Their Work	Skills, Attitudes & Beliefs
<ul style="list-style-type: none"> Legal requirements concerning seating and accommodating disabled jurors. Legal requirements concerning disqualifying disabled potential jurors. 	<ul style="list-style-type: none"> Best practices when accommodating disabled jurors, including things such as note-taking, how best to present testimony, evidence handling, and conduct of jury room deliberations. 	<ul style="list-style-type: none"> Seeing past an individual's disabilities to think creatively about how they can fully participate in our system of justice as jurors.

RECOMMENDED FACULTY (Include contact information):

Judge David Keenan, King County Superior Court, (206)477-1486, david.keenan@kingcounty.gov.

Judge David Whedbee, King County Superior Court, (206) 477-1669, David.whedbee@kingcounty.gov
 (Judge Whedbee practiced disability rights law and is disabled.)

Proposals due by January 17, 2020 to Judith.Anderson@courts.wa.gov

Annual Conference Committee Session Proposal Form

62nd Washington Annual Judicial Conference

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Spokane, Washington

January 17, 2020 to Judith.Anderson@courts.wa.gov

Donna Walker, Certified Signed Language Court Interpreter Specialist, donnainterpreter@gmail.com

Donna Cole-Wilson, Licensed Speech-Language Pathologist, Provail, Inc., donnac@provail.org

One or two panelists with vision, speech, or hearing disability - (to be determined) [Judge Keenan recently presided over a tort motor vehicle trial in which he seated a completely blind juror; Judge Keenan might see if that juror can participate in the panel.]

SESSION DESCRIPTION: Describe the purpose of the session and key issues to be presented. Explain what judicial officers will learn in the course and how the information will apply to their work in the courts (*this information will be included in the program flyer as your session description*).

The session is intended to educate judges concerning (1) what the law requires in terms of seating and accommodating disabled jurors, (2) when the law allows a disabled potential juror to be disqualified, and (3) best practices when accommodating disabled jurors.

LEARNING OBJECTIVES: Describe what participants will be able to do as a result of this session.

Attendees presiding over jury selection and jury-related proceedings will understand when the law requires them to accommodate disabled jurors, e.g., jurors whose vision, speech, or hearing is impaired; when the law allows them to disqualify a disabled potential juror, e.g., where the potential juror's vision is impaired and the important issues in the case turn on visual evidence; and how to accommodate disabled jurors throughout the jury-related proceedings and jury deliberations, e.g., by allowing blind jurors to use devices for note-taking, providing descriptive information to blind jurors regarding visual information (such as crash diagrams), speech-augmentation devices to enable jurors with speech disabilities to participate as jurors or the provision of interpreters or personal assistants.

FUNDAMENTALS COVERED: Describe the case law, best practices, or "nuts and bolts" that will be addressed during the session.

The session will cover disability law as it relates to jury selection and juror accommodation, and best practices to employ when accommodating disabled jurors, such as the use of software, ensuring that lawyers and witnesses are descriptive during examination, testimony, and argument, and, e.g., allowing vision-impaired jurors extended time to feel physical evidence, when appropriate. It also will address how judges can properly enable disabled jurors to effectively participate in jury deliberations and what corresponding jury instructions and procedures should be given to jurors and parties involved in closed-room deliberations.

Proposals due by January 17, 2020 to Judith.Anderson@courts.wa.gov

Annual Conference Committee Session Proposal Form

62nd Washington Annual Judicial Conference

September 13-16, 2020

The Davenport Grand

Spokane, Washington

January 17, 2020 to Judith.Anderson@courts.wa.gov

PARTICIPANT RESOURCES: Describe the resources faculty will recommend participants reference when handling the key issues described in this session (e.g., bench books, checklists, bench cards, websites, organizations, agencies, etc.).

Participants will receive bench cards outlining the law and best practices and references to related published or online materials, organizations, and resource agencies.

PROPOSED TEACHING METHODS AND ACTIVITIES: Describe how the session will be presented to actively engage the audience in the education (e.g., small/large group discussion, hypotheticals, case study review, role play, lecturette, etc.).

Moderated panel, starting with an overview of the law, questions concerning the law, the approaches available to make effective participation possible, the perspective of disabled individuals regarding what it is like to serve on a jury as a disabled individual, and discussion of both real-life (e.g., how Judge Keenan worked with a completely blind juror) and hypothetical situations (e.g., jurors who need vision, hearing, or speech accommodations while in jury deliberation).

DIVERSITY AND INCLUSION: Describe how the session will incorporate issues of diversity and inclusion into the topic. (Consider different perspectives and experiences relating to gender, ethnicity, race, nationality, sexuality, socio-economic status, ability, language, age, etc.)

This session will address the efforts of our courts to address the need for greater jury diversity through the inclusion of persons with disabilities to serve as jurors. By and large, persons with disabilities wish to serve as jurors but often do not do so because they do not perceive courts as having the resources or knowledge on how to accommodate their needs while serving as jurors and ask for exemptions from service. For those who do seek to serve, they are often preempted from selection by attorneys who argue the person may or may not be capable of properly evaluating the evidence that may be offered.

This presentation will also remove previous pre-conceptions about persons with disabilities and their capabilities, which will reduce discriminatory bias in our courts, starting with judges.

If you need assistance with this question, please let us know and we can connect you with a representative who can help with identifying ways to incorporate diversity and inclusion into your topic.

Proposals due by January 17, 2020 to Judith.Anderson@courts.wa.gov

Annual Conference Committee Session Proposal Form

62nd Washington Annual Judicial Conference

September 13-16, 2020

The Davenport Grand

Spokane, Washington

January 17, 2020 to Judith.Anderson@courts.wa.gov

ANTICIPATED COST:
\$1700

FUNDING RESOURCES:
Interpreter Commission

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Annual Conference Committee Session Proposal Form

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TOPIC AREA:

Educational programs need to relate to the entire judiciary at all court levels. Be specific regarding what will be covered, why it will be covered and how it relates to the judicial officers daily roles and responsibilities

PROPOSED SESSION TITLE: Speaking for Themselves: Working in Courts from the Interpreters' Perspective

STATUS:

Received Date: _____

Accepted

Not Accepted

Why: _____

PROPOSED BY: Interpreter Commission

CONTACT NAME: Robert Lichtenberg

CONTACT PHONE:

CONTACT EMAIL: Robert.Lichtenberg@courts.wa.gov

TARGET AUDIENCE:

Experienced Judges

New Judges

Court Level: All

PROPOSED DURATION:

90 Minutes

3 Hours

Other: _____

SESSION TYPE:

Plenary

Choice

Colloquium

Other: _____

IS THERE A LIMIT TO THE NUMBER OF PARTICIPANTS?

Yes

No

If yes, maximum number: ---

REQUIRED COMPONENTS

The session must address the following essential areas of information:

Substantive Knowledge	How it Relates to Their Work	Skills, Attitudes & Beliefs
<ul style="list-style-type: none"> Behind-the-scenes glimpse into the work of court interpreting Professional standards for court interpreters 	<ul style="list-style-type: none"> Reduce challenges and better collaborate with court interpreters to improve language access in court 	<ul style="list-style-type: none"> Equal access to court services regardless of language Improved mutual understanding Enhanced ability for limited English proficient and Deaf/hard of hearing parties to participate in court hearings

RECOMMENDED FACULTY (Include contact information):

Justice Stephen González (tentative)

Donna Walker – Court Certified ASL Interpreter – donnainterpreter@gmail.com

Adrian Bradley – Court Certified Mandarin Interpreter – adrianbradley@hotmail.com

Luisa Gracia – Court Certified Spanish Interpreter – Luisa.Gracia@seattle.gov

Pinar Mertan – Court Registered Turkish Interpreter – pinarm@ihmail.com

Maria Farmer – Court Certified Spanish Interpreter – marsmiley@me.com

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SESSION DESCRIPTION: Describe the purpose of the session and key issues to be presented. Explain what judicial officers will learn in the course and how the information will apply to their work in the courts (*this information will be included in the program flyer as your session description*).

Judges see and work with interpreters on a regular basis, but this session will invite judges to step into the interpreters' shoes to better understand the work from their perspective – the unseen background preparation that goes into interpreting, the biggest challenges interpreters face in performing their duties, and opportunities for collaboration to improve language access for people who are hearing impaired or have limited English proficiency.

LEARNING OBJECTIVES: Describe what participants will be able to do as a result of this session.

- Compare and use the different modes of interpreting through hands-on exercises
- Identify steps to enable interpreters to better complete their duties
- Describe the behind-the-scenes work done by interpreters to prepare for complex court hearings such as contested motions and trials
- Recognize the different challenges faced by interpreters of various languages

FUNDAMENTALS COVERED: Describe the case law, best practices, or “nuts and bolts” that will be addressed during the session.

This interactive session will give judges a unique understanding of court interpretation by learning the perspective of court interpreters of different languages. The panelists will briefly discuss the work and preparation that goes into becoming interpreters, which will help judges better identify attributes to look for when qualifying non-credentialed interpreters. The panelists will describe the linguistic, ethical and practical challenges they face when working in the fast-paced courtroom environment. The panelists will discuss particular precautionary steps that judges can take in interpreted trials and other complex hearings to avoid difficulties and delays.

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PARTICIPANT RESOURCES: Describe the resources faculty will recommend participants reference when handling the key issues described in this session (*e.g., bench books, checklists, bench cards, websites, organizations, agencies, etc.*).

- Court Interpreter Bench Cards – Spoken Language and Sign Language
- AOC's Language Access Plan Desk Reference Guide
- General Rule 11.2
- National Association of Judiciary Interpreters and Translators (NAJIT) position papers
- Northwest Translators and Interpreters Society (NOTIS) – Legal Division

PROPOSED TEACHING METHODS AND ACTIVITIES: Describe how the session will be presented to actively engage the audience in the education (*e.g., small/large group discussion, hypotheticals, case study review, role play, lecturette, etc.*).

- Panel presentation
- Q&A and interactive discussion
- Demonstrative learning - Exercise the modes of interpreting and understand the challenges inherent to each mode
- In-hand review of the new bench cards for spoken language and sign language interpreting

DIVERSITY AND INCLUSION: Describe how the session will incorporate issues of diversity and inclusion into the topic. (*Consider different perspectives and experiences relating to gender, ethnicity, race, nationality, sexuality, socio-economic status, ability, language, age, etc.*)

Accurate court interpretation is essential for guaranteeing equal access to courts for people who are hearing impaired or have limited English proficiency. Their constitutional and statutory rights are contingent on clear and concise written and oral communication.

ANTICIPATED COST:
\$800.00 for presenters' travel reimbursement

FUNDING RESOURCES:
Interpreter Commission



Interpreter Commission – Issues Committee Meeting
Tuesday, January 7, 2020
Teleconference Meeting
12:00 PM – 1:00 PM
Call-in number: **877-820-7831**
Passcode: **618272#**

MEETING MINUTES

Present: Judge Beall, Kristi Cruz, Bob Lichtenberg, Diana Noman, Judge Rajul, Naoko Shatz, Fona Sugg, James Wells

Court Rule Changes

- The Minority and Justice Commission (MJCOM) intends to respond to proposed changes to rule RPC 4.4 and to the creation of General Rule 38.
- The Interpreter Commission can support the proposed comments from the MJCOM or create their own.
- MJCOM would like all comments by January 17 to review proposed comments that will be voted on by MJCOM on January 31.

Action Item: Bob will ask Mike Diaz to see if he can share draft language of their comments before Tuesday, January 14. The Issues Committee can then decide if they would like make additional comments.

Team Interpreting General Rule

- At the most recent Interpreter Commission meeting Justice Gonzalez suggested possible language for new court rule.
- A rule may need separate sections for spoken languages and sign languages.
- The rule could mirror RCW 2.43 and include language about courts providing “just cause” for instances where a court doesn’t provide a team interpreting for situations where team interpreting would be appropriate.
- In some cases, courts may mention taking a breaks at the beginning of a trial when only one interpreter is available. However, the court does not take a break unless prompted by the interpreter, which can put the interpreter in a difficult situation.
- A specific time frame may not be appropriate for a rule because the type of proceeding and needs of the interpreters may differ.
- The rule would apply to both in-person and telephonic interpreters.

Action Item: Judge Beall will work on proposed language for a rule for the February meeting.

Video Remote Interpreting General Rule:

- The Committee discussed whether or not a subcommittee should be created to propose a court rule about video remote interpreting (VRI).
 - Non-members of the Interpreter Commission could be part of the subcommittee.
 - A rule could help guide courts as they establish VRI systems.
 - Before creating a rule, more information about current best practices requirements would be needed.
 - Jurisdictions outside of Washington have already done a lot of work in this area.

The Committee will recommend at the next Interpreter Commission meeting that a rule should be created. Further details about how a sub-committee will be created discussed at the meeting.

Criteria for inclusion on AOC registry of non-credentialed interpreters

- There was not enough time to discuss this at the meeting. Committee members will think about this issue to discuss at the next meeting.

Awarding General Education Credits for Ethics Courses

- An upcoming class discussing ethics for medical interpreter was granted General credits.
- A concern was raised that any credits regardless of category would be granted for this class since it would directly conflict with GR 11.2.
- Classes that discuss ethics outside of a legal setting are typically assigned General Credits instead of Ethics credits.
 - The Committee supported this practice.

Next Meeting

- A meeting may be scheduled for January 14 if draft proposed comments from MJCOM can be obtained for the Issues Committee to review.



Interpreter Commission – Issues Committee Meeting
Tuesday, February 4, 2020
Teleconference Meeting
12:00 PM – 1:00 PM
Call-in number: **877-820-7831**
Passcode: **618272#**

MEETING MINUTES

Present: Judge Beall, Francis Adewale, Kristi Cruz, Bob Lichtenberg, Diana Noman, Frankie Peters, Naoko Shatz, Fona Sugg, James Wells

Previous Meeting Minutes

- Approved with modification.

Team Interpreting General Rule

Judge Beall suggested draft language for a court rule regarding team interpreting. Discussion of the language included:

- Proceedings with multiple limited English proficient (LEP) parties may require multiple teams of interpreters. If interpreters are able to use certain audio equipment, multiple teams may not be necessary since could interpret in different locations in the court room at the same time.
- Both spoken and sign languages may require intermediary interpreter in some circumstances. When necessary, a team of interpreters would be needed for each step in the interpretation.
- The main purposes of creating the rule is to prevent loss of accuracy due to interpreter fatigue.
 - Specific details about the different possible roles interpreters play in the court are outside of that scope.
 - A comment section could be included to address some situations that cannot be addressed in the rule itself.
- Suggestions for language:
 - Add “at a minimum” to part (A)
 - Remove “Nevertheless” from part (C)
 - Add language regarding intermediary interpreters to the rule.

Action Item: Judge Beall will incorporate some of the changes discussed at this meeting to present to the full Commission at the next meeting.

Registry of Non-Credentialed Interpreters

There was not enough time to discuss the issues related to this topic. The Ad-Hoc committee will meet again to address some outstanding issues.

Transitioning Languages

- Two languages are currently transiting from the Registered category to the Certified category: Portuguese and Tagalog.
- Interpreters registered in these languages were given a set number of years to keep their credential and attempt to pass the certified oral exam.
- This past fall was the last chance for these interpreter to pass the oral exam.
 - One registered Tagalog interpreter passed the exam and will become certified. No Portuguese interpreters passed.

DRAFT

Memorandum

To: Interpreter Commission Members

From: Interpreter Commission Issues Committee

Date: February 4, 2020

RE: Draft of proposed General Rule 11.4 regarding TEAM INTERPRETING

At the December 2019 Commission Meeting, the Issues Committee was tasked with drafting a new rule of general applicability for all legal proceedings involving court interpreters. The committee hereby submits for Commission review and approval the following language comprising a new GR 11.4, which focuses exclusively on when courts must provide teams of appropriately qualified persons for legal proceedings.

Draft language reads as follows:

- (a) **Spoken Language Interpreters.** To avoid court interpreter fatigue and to promote an accurate and complete court interpretation, when the court anticipates that a court proceeding requiring a court interpreter for a spoken language will last more than two (2) hours, the court shall appoint a team of a minimum two (2) court interpreters to provide interpretation services for limited English proficient participants. Additional interpreters may be required if more than one person requires services at the same time.
- (b) **Sign Language Interpreters.** To avoid court interpreter fatigue and to promote an accurate and complete court interpretation, courts shall appoint a team of two (2) court interpreters for each case participant who needs a sign language court interpreter when the court proceeding will last more than one (1) hour. Where an intermediary interpreter is also required, the court shall also appoint a team of two (2) intermediary interpreters when the court proceeding will last more than one (1) hour.
- (c) When a team of two (2) court interpreters is required under this rule, the court may proceed with only one (1) court interpreter when:
 - 1) two (2) qualified court interpreters were not reasonably available to the court and the court finds and notes on the record that given totality of the circumstances, there is good cause to proceed with only one (1) interpreter; and
 - 2) the court allows the court interpreter to take breaks at regular intervals. An interpreter should be given a ten (10) minute break after every twenty (20) minutes of interpretation.

Court Interpreter Program Reports

Languages Transitioning from Registered to Certified

Background

Credentialed interpreters in Washington fall into categories: Certified and Registered. Whether an interpreter is certified or registered depends on the language they interpret for and the type of oral exam that is available for that language.

When a certified exam becomes available for a registered language, the Interpreter Commission can transition that language from the Registered category to the Certified category. The Commission typically sets a multi-year transition period allowing interpreters who have a registered credential to prepare and pass the certified exam. If the interpreters do not pass the exam, their credential is revoked. The following languages have been transitioned from Registered to Certified:

Languages Transitioned from Registered to Certified			
Year	Language	Status	Interpreters
2009	French	Complete	1
2009	Bosnian/Croatian/Serbian	Complete	1
2013	Punjabi	Reversed (certified exam became unavailable)	4
2013	Tagalog (Filipino)	In Progress	3
2016	Portuguese	In Progress	3

Two languages are currently approaching the end of their transition period. The oral exam administration in the fall of 2019 was the final opportunity for registered interpreters in these languages to complete the process to become certified. The results of the oral exam have recently been received by the AOC resulting in the changes below.

Languages Currently in Transition Period		
Language	Credentialed interpreters as of December 2019	Credentialed interpreters <u>after</u> transition period
Filipino (Tagalog)	2 Certified 3 Registered	3 Certified
Portuguese	3 Registered	0

Questions before the Commission:

- If these interpreters want to take the oral exam again, should they be required to restart the credentialing process? This would require interpreter to pass the written exam and attend an Orientation.
- Should there be a delay in the revocation of their credentials to allow the interpreters and courts to prepare since they may have already been scheduled for assignments?

- An email regarding the changes will be send out on the listservs for court administrators and court interpreter coordinators. Is the following email sufficient to communicate these changes to the courts:

Greetings Superior, District, and Municipal Court Judges, Commissioners, Magistrates, Administrators and Interpreter Coordinators,

Two languages that are credentialed by the AOC Court Interpreter Program have been moved from the Registered category to the Certified category: Tagalog (Filipino) and Portuguese. Interpreters who held a registered credential in these languages were given a period of time to complete the requirements to become certified interpreters.

We are reaching the end of the transition period and interpreters who did not complete the requirements to become certified will lose their credential. The interpreters below will be removed from the court interpreter registry on XX/XX/XXX. After that date they will no longer be credentialed interpreters. Pursuant to RCW 2.43, these interpreters may not, with limited exception, be used as an interpreter in court proceedings in Washington State.

AOC ID	First Name	Last Name	Language

Please note that their removal from the registry is not due to any Disciplinary action.

Additional Information:

[Statute regarding appointment of interpreters \(Link to RCW 2.43.030\)](#)

[Description of differences between certified and registered languages \(Link to Interpreter Program webpage\)](#)

[List of Credentialed Court Interpreters \(Link to Search for Interpreter webpage\)](#)

[Court Interpreter Resources \(Link to resources on Inside Courts\)](#)

Court Interpreter Written Exam Update

Computer-Based Administration

The Court Interpreter Program plans to move the written exam from a paper-based administration to a computer-based format in 2020. This change in format gives test candidates more opportunities to take the written exam while significantly reducing the staff time involved in administering and proctoring the exam.

What is the Written Exam?

This written exam is the first step in the credentialing process for court interpreters. It is a multiple choice exam covering the English language, court-related terms and usage, and ethics and professional conduct. Passing the exam is a pre-requisite to continuing in the credentialing process.

Why is the format changing?

- To recruit potential interpreters by providing more testing opportunities, especially in rural areas.
- To allow the Interpreter Program to devote more time to training and outreach.
- To streamline the process of holding the exam and eliminate the need for involvement on multiple AOC departments.

What will change?

Until now the written exam has been administered by pencil and paper-forms. AOC staff handles outreach, administration, proctoring, and payment processing of the exam and the AOC must contract with multiple outside entities. The AOC now plans to contract with one vendor who will host the online testing platform and manage exam proctoring.

Summary of changes:		
	Future Administration	Previous Administration
Format	Computer-based	Paper-based
Locations	13	2
Frequency	Year round	Once per year
Registration	PSI	Interpreter Program staff
Proctoring	PSI	Interpreter Program staff with contracted proctor
Rating	PSI	Third-party rating company
Fee Processing	PSI	AOC staff (Interpreter Program, Fiscal and Web Services)

What is the Cost?

- The Legislature approved funding to move the written exam to an online format as part of a funding package in 2019. This funding will pay for the annual fee for the software platform and cover the revenue that was generated from the test fees under paper-based administration.
- The test fee for the test candidate will change from \$75 to \$105, but will allow more flexibility and decrease the travel costs for many candidates.

Who is the Vendor?

AOC will contract with PSI Services. PSI hosts the testing platform and contracts with testing centers. This vendor was chosen after consulting other states who have moved to a computer-based administration.

What is the Timeline?

Jan-Feb	Feb	March-April	June	June – Sep	Oct	Nov 2019 & April 2020
Statement of Work completed	Pilot	Begin Offering Written Exam	Orientation	Registered Oral Exams	Certified Oral Exams	Ethics and Protocol

