

WASHINGTON STATE JUDICIAL BRANCH
2013-2015 BIENNIAL BUDGET REQUEST

Detailed Decision Package

Agency: Administrative Office of the Courts
Decision Package Title: Expand Interpreter Program
Budget Period: 2013-2015 Biennial Budget Request
Budget Level: Policy Level

Recommendation Summary Text

The administration of justice requires clear communication in the courtroom, and using properly credentialed interpreters is imperative in cases involving people who are hearing impaired or have limited English proficiency. Using state funds allocated by the 2007 Legislature, the Administrative Office of the Courts developed an effective program to improve the quality of interpreting, reduce costs at the local level, and improve state and federal compliance for 52 superior, district and municipal courts. This request is to expand upon the success of that limited program and expand it to all trial courts, in order to carry out the vision intended by the 2007 Legislature.

Fiscal Detail

Operating Expenditures	<u>FY 2014</u>	<u>FY 2015</u>	<u>Total</u>
001-1 General Fund-State	\$ 1,932,000	\$ 1,932,000	\$ 3,864,000
Staffing			
	<u>FY 2014</u>	<u>FY 2015</u>	<u>Total</u>
FTEs	.5	.5	.5

Package Description

Introduction

State and federal laws require Washington courts to provide meaningful access to court proceedings and court services for persons who are hearing impaired or have limited English proficiency. Failure to provide clear, concise interpretation denies these individuals that opportunity, leading to mistrust, confusion, administrative inefficiencies and potentially incorrect judicial orders and verdicts.

According to the U.S. Census the number of foreign-born, limited English proficient (LEP) persons age 5 and older in Washington increased by 50.1% between 2000 and

2010 from 279,497 to 419,576. This shift in Washington's population has directly impacted local courts resources, and their ability to fund state and federal requirements to provide interpretation services.

Legal Obligations

RCW Chapters 2.42 and 2.43 prescribe the requirements for providing court interpreter services in Washington. RCW 2.42.120 requires courts to pay sign language interpreter costs for all court proceedings for parties, witnesses and parents of juveniles, court-ordered programs or activities, and communication with court-appointed counsel. RCW 2.43.030 compels courts to "... use the services of only those language interpreters who have been certified by the administrative office of the courts..." when appointing interpreters to assist LEP litigants and witnesses during legal proceedings. RCW 2.43.040 instructs courts to pay all interpreting costs in criminal cases, mental health commitment proceedings, and all other legal proceedings initiated by government agencies. It further requires courts to pay all interpreting costs in civil matters for LEP persons who are indigent.

Additionally, courts that are direct or indirect recipients of federal funding are obligated to meet higher standards of ensuring language access to the LEP public. These courts are required to take reasonable steps to meet standards established by Title VI of the 1964 Civil Rights Act by ensuring language access, including providing and paying for interpreters, in all case types regardless of the party's indigency status. Failure to do so may result in the withdrawal of federal funds by the U.S. Department of Justice.

History of State Funding

The 2007 Legislature recognized the increased financial demand faced by local courts to ensure language access for hearing impaired and LEP communities, and allocated \$1.9 million to the Administrative Office of the Courts (AOC) for purposes of passing that funding to local courts to support language access costs. The AOC in turn developed an effective program to improve the quality of interpreting, reduce costs at the local level, and improve compliance with state and federal requirements. However, the funding was only sufficient for fifty-two superior, district and municipal courts representing ten counties.

After nearly five years of implementation, these funds transformed court interpreter services for those counties. Because reimbursement eligibility requires hiring credentialed court interpreters and paying them fair market rates, the Washington courts and communities have received higher quality interpreting services. Participating courts submit data on their interpreter usage to the AOC, which helps identify language needs, actual costs, and geographic trends. The 50% cost-sharing requirement, rather than a "blank check" approach, encourages participating courts to implement cost-saving and quality-ensuring practices such as web-based scheduling, multi-court payment policies, grouping of interpreter cases, and sharing of staff interpreters.

Funding Levels

In 2007 the Washington Judiciary asked the Legislature for \$7.8 million for 2007 – 2009 biennium, to provide 50% reimbursement for the cost of court interpreters statewide. In response the Legislature appropriated \$1.9 million in pass-through money to the courts. This money was designed to be used in assisting courts develop and implement Language Access Plans, as well as offset 50% of interpreter expenses.

Due to recent extraordinary fiscal environment, the LAP funding was eliminated, and the reimbursement funds dropped to \$1,221,004. This represents a decrease of 36% in language access funding for participating local trial courts. While the program has continued in light of these cuts, the funding only lasts approximately seven months each year, and is clearly insufficient for expansion into additional trial courts.

Narrative Justification and Impact Statement:

- **This package contributes to the Judicial Branch Principal Policy Objectives as noted below.**

Fair and Effective Administration of Justice in All Civil and Criminal Cases. *Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.*

Judicial officers cannot effectively preside over proceedings involving hearing-impaired or parties with limited English proficiency (LEP), witnesses or participants without being able to accurately communicate with them. Public trust and confidence in the courts begins, at a minimum, with the public being able to effectively access and participate in the judicial process. Such participation is not possible for hearing impaired and LEP individuals without quality interpretation services.

Accessibility. *Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.*

Court proceedings are not accessible to hearing impaired persons or LEP persons who are provided sub-standard interpreting services. Further, LEP individuals who are required to pay interpreter expenses for civil matters such as child support, domestic violence protection and housing evictions, may simply not even attempt to resolve their issues in the courts due to the costs involved.

Commitment to Effective Court Management. *Washington courts will employ and maintain systems and practices that enhance effective court management.*

Efficient and effective court interpreter management requires implementation of practices and policies which save money, yet ensure high quality language access. Courts involved with the state reimbursement program have taken substantial steps to modify their interpreter scheduling and payment practices to achieve better economies of scale, sharing of resources, and collaborating with neighboring courts.

Measure detail

- **Impact on clients and services.**
With the availability of State funding, more courts will be able to provide court interpreting expenses without cost to civil litigants. Similarly, courts will more easily be able to afford the higher costs associated with credentialed court interpreters, thereby improving the accuracy of communication in the courtroom.
- **Impact on other state programs.**
None.
- **Relationship to Capital Budget.**
None.
- **Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan.**
None.
- **Alternatives explored**
With limited budgets, courts must currently prioritize which hearing types they will provide interpreters at court expense. Therefore, courts continue to charge litigants for interpreter expenses in non-indigent civil matters, jeopardizing their federal funding for other court programs.
- **Distinction between one-time and ongoing costs and budget impacts in future biennia**
Court interpreter funding will be an ongoing cost, fluctuating based on immigration trends in the Washington population.
- **Effects of non-funding.**
Prior to program implementation, courts paid lower hourly rates for interpreting services. This program is designed for participant courts to pay higher hourly interpreter rates, receive higher quality services, and ultimately spend less local money because of the State's contribution. The rates paid by participant courts have greatly impacted courts not participating in the program, because interpreters now expect all trial courts to pay the same higher rates. Courts not in receipt of state funding are forced to either pay the higher hourly rates in order to ensure interpreting services, or risk losing interpreters to the program participant courts who pay higher amounts. Most Washington trial courts have increased their interpreter fees without increased revenues, thereby reducing funds for other court services.
- **Expenditure calculations and assumptions and FTE assumptions**
In 2007 the Legislature appropriated \$1.9 million to the Administrative Office of the Courts to be designated as pass-through dollars, helping courts improve their language access services. Since then, trial court funding has decreased to \$1,221,004 for the FY2011-2013 biennium. This represents a reduction of \$678,996.

Expenditure Calculations and Assumptions

The Administrative Office of the Courts does not have data on actual court interpreter expenditures for all Superior, District and Municipal trial courts. However, statewide costs can be extrapolated using known county-wide cost data for some counties, and projecting those costs onto other similarly situated counties using population rates.

Population Data: The 2010 U.S. Census shows the number of people who live in the U.S., but the Census administers an American Community Survey to show how people live. Among the items surveyed, they measure the number of limited English proficient (LEP) individuals in a given geographic region. It further distinguishes the general LEP population, from the LEP population age 5 and older who speak English less than “very well.” This latter group represents the individuals in need of interpreting services.

Interpreter Cost Data: The AOC has received court interpreter data from a variety of courts, and in some counties those courts make up all or the far majority of trial court services. The data reported by these counties illustrate that annual court expenditures total \$5,009,936. Those counties include the following:

- **Urban Counties:** Clark, King, Kitsap, Pierce, Snohomish and Spokane;
- **Rural Counties:** Chelan, Douglas, Grant, Jefferson, Mason and Okanogan; and
- **Rural Counties with at least one large city:** Benton-Franklin, Skagit and Yakima.

It is important to categorize these counties as urban, rural and rural with a city, because typically courts will pay greater costs for interpreter services when interpreters do not live nearby. Most credentialed court interpreters live in cities. By comparing LEP population from the American Community Survey to these county expenditures, calculations demonstrate that the cost for interpreter services in urban counties is \$11 per LEP individual in the general population, \$14 per LEP individual in rural counties, and \$12 per LEP individual in rural counties with at least one large city.

Projections: To project court interpreter costs in the remaining twenty-three counties, those counties are grouped as urban, rural, or rural with city. The \$11, \$14, and \$12 averages identified above are then multiplied by the number of LEP persons per county. For example, Kittitas County has an estimated LEP population of 1264. At an estimated rate of \$14 per LEP person in the county population, their projected annual court interpreter costs are \$17,696 ($\14×1264). The total projected cost for court interpreter expenses in these twenty-three counties is \$557,350.

Added to the actual costs, the total annual projected cost for court interpreter expenses in Washington is **\$5,567,286**.

Adjustment for Qualifying Expenses: The AOC Court Interpreter Reimbursement Program does not automatically reimburse participating courts for 50% of all interpreter expenses. Rather, as a means to help improve quality interpreting, and promote the use of experienced interpreters in the market, the BJA has established funding guidelines. When courts hire and pay interpreters per these guidelines, 50% of the expenses are reimbursed.

Not all courts comply with the funding guidelines in all instances. For example, courts may not always be able to use a court certified Arabic interpreter because only one Arabic interpreter is certified. However, between July 1, 2009 and June 30, 2011, participating courts showed that they met funding conditions in 88% of court interpreter encounters. In turn, this means that 44% of their total interpreter costs qualified for reimbursement, since the State pays only one-half of eligible expenses.

It is unrealistic to assume that all new courts joining the program would be able to ensure full compliance with program requirements in 100% of interpreter events. However, it is safe to assume that they will be similar to the participating courts and meet that requirement in an average of 88% of the encounters.

If all Washington courts participated in the reimbursement program, and if 44% of all expenses were eligible for reimbursement, the total annual cost would be \$2,499,606. For a biennium, the amount totals \$4,999,212. Given that the program is currently funded at \$1,221,004, **additional funding is needed in the amount of \$3,778,208.**

Staff Time: Managing the court interpreter reimbursement program at current levels requires a significant amount of staff time. Staff are used to develop and monitor contracts, evaluate and verify data that is reported, audit participating courts to ensure accuracy in reported numbers, and provide technical support to participating courts. Full expansion of the program will require additional staff than is currently available.

<u>Object Detail</u>	<u>FY2014</u>	<u>FY2015</u>	<u>Total</u>
Staff Costs	\$ 43,000	\$ 43,000	\$ 86,000
Non-Staff Costs	\$1,889,000	\$1,889,000	\$3,778,000
Total Objects	\$1,932,000	\$1,932,000	\$3,864,000