

WASHINGTON STATE JUDICIAL BRANCH  
2013-2015 BIENNIAL BUDGET REQUEST

**Detailed Decision Package**

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**Agency:** Administrative Office of the Courts  
**Decision Package Title:** Restore Interpreter Program Funding  
**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 restore funding to its original level, in order to carry out the vision intended by the 2007 Legislature.

**Fiscal Detail**

<b>Operating Expenditures</b>		<b><u>FY 2014</u></b>		<b><u>FY 2015</u></b>		<b><u>Total</u></b>
<b>001-1 General Fund-State</b>		\$ 340,000		\$ 340,000		\$ 680,000
<b>Staffing</b>		<b><u>FY 2014</u></b>		<b><u>FY 2015</u></b>		<b><u>Total</u></b>
<b>FTEs</b>		0		0		0

**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 along to local courts. 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.

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. While the program has continued in light of these cuts, the funding only lasts approximately seven months each year. In FY2010 and FY2011, the amount of interpreter expenditures qualifying for reimbursement totaled \$2,319,761. Restoration of original funding levels would bring us much closer to funding the participating courts as originally envisioned.

**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 limited English proficient (LEP) parties, 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 restored State funding, participant courts will be able to sustain the progress they have made in recent years. They will continue to use the most highly qualified court interpreters, and pay interpreter competitive market rates.

### **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**

The AOC has worked closely with participant courts to economize their interpreter expenses. Examples include:

- Grouping of interpreter cases to reduce the number of instances that interpreters of a given language are called back to court;
- Implementing court interpreter contracts, which pay interpreters lower hourly rates, but ensure predictable blocks of work time;
- Collaborating with neighboring courts to share interpreter work time and expenses; and
- Hiring staff interpreters.

While these efforts have helped to reduce interpreter expenditures, the rise in interpreter demands has offset the savings incurred.

### **Distinction between one-time and ongoing costs and budget impacts in future biennia.**

These are ongoing costs.

### **Effects of non-funding.**

Trial courts participating in the reimbursement program will continue to shoulder more of the costs associated with court interpreter expenses. In addition, some may opt to eliminate themselves from the program. Prior to program implementation, courts paid lower hourly rates for interpreting services. This program is designed for courts to pay higher hourly interpreter rates, receive higher quality services, and ultimately spend less local money because of the State's contribution. As the State's contribution continues to shrink, it will be more cost-effective for courts to eliminate participation, return to their lower hourly rates, and receive less qualified interpreting services.

**Expenditure calculations and 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 \$680,00.

<b><u>Object Detail</u></b>	<b><u>FY2014</u></b>	<b><u>FY2015</u></b>	<b><u>Total</u></b>
Staff Costs	\$ 0	\$ 0	\$ 0
Non-Staff Costs	\$340,000	\$340,000	\$680,000
<b>Total Objects</b>	<b>\$340,000</b>	<b>\$340,000</b>	<b>\$680,000</b>

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