

SENATE BILL REPORT

SSB 5304

As Passed Senate, March 8, 2023

Title: An act relating to testing individuals who provide language access to state services.

Brief Description: Testing individuals who provide language access to state services.

Sponsors: Senate Committee on Human Services (originally sponsored by Senators Saldaña, Nguyen, Nobles, Valdez and Wilson, C.).

Brief History:

Committee Activity: Human Services: 1/24/23, 2/14/23 [DPS-WM, w/oRec].

Ways & Means: 2/21/23, 2/23/23 [DPS (HS), DNP, w/oRec].

Floor Activity: Passed Senate: 3/8/23, 48-0.

Brief Summary of First Substitute Bill

- Requires the Department of Social and Health Services (DSHS) to ensure that language access providers have completed oral and written tests and are fluent in English and a primary non-English language.
- Specifies that DSHS is not prohibited from developing and administering a program to meet the requirements and standards established under this act.
- Prohibits testing or certification authority from being awarded to a private entity with a financial interest in the direct provision of interpreter services.
- Creates a workgroup to make recommendations regarding interpretive service certification policies and programs for limited and non-English speakers and to develop an implementation plan for an online testing system.

SENATE COMMITTEE ON HUMAN SERVICES

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: That Substitute Senate Bill No. 5304 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Frame and Nguyen.

Minority Report: That it be referred without recommendation.

Signed by Senators Boehnke, Ranking Member; Warnick and Wilson, J..

Staff: Delika Steele (786-7486)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5304 as recommended by Committee on Human Services be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Nguyen, Pedersen, Saldaña and Wellman.

Minority Report: Do not pass.

Signed by Senators Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Boehnke, Muzzall and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Wilson, L., Ranking Member, Operating; Rivers, Assistant Ranking Member, Capital; Braun, Torres and Van De Wege.

Staff: Monica Fontaine (786-7341)

Background: The Department of Social and Health Services (DSHS) and the Health Care Authority (HCA) provide equal access to social service and medical programs for all persons, including persons who have limited English proficiency. State law requires DSHS to ensure that bilingual services are provided to non-English speaking applicants for, or recipients of, public assistance. In community service offices, depending on the circumstances, DSHS may be required to employ bilingual personnel or contract with interpreters. DSHS must also provide interpreters at dependency hearings.

DSHS certifies, authorizes, and qualifies language access providers as needed to maintain an adequate pool of providers. DSHS will only offer spoken language interpreter testing under certain circumstances. One of these circumstances is when 10 percent or more of the requests for interpreter services in the prior year for DSHS employees and the health care authority on behalf of limited English-speaking applicants and public assistance recipients went unfilled.

Summary of First Substitute Bill: DSHS must require language access providers to

successfully complete oral and written tests and ensure that all providers are fluent in English and a primary non-English language. Testing must include evaluation of language competence, interpreting performance skills, understanding of the interpreter's role, and knowledge of DSHS policies regarding confidentiality, accuracy, impartiality, and neutrality.

DSHS is not prohibited from developing and administering a program to meet the requirements and standards established under this act, but may not award testing or certification authority to private entities with financial interests in the direct provision of interpreter services.

DSHS must convene a work group to study and make recommendations to the Legislature regarding interpretive service certification policies and programs for limited and non-English speaking Washingtonians. The work group is required to hold its first meeting by August 1, 2023, and submit a final report by December 1, 2023.

The work group must make recommendations that support language access and interpretive services. These recommendations must include, at a minimum:

- criteria necessary to demonstrate that certified language access providers have the skills necessary to ensure quality and accurate services;
- strategies for increasing access to language access providers in rural communities and for languages of lesser demand;
- strategies for workforce resiliency including adequate workload and compensation;
- standards of ethics and professional responsibility; and
- investments needed to implement the plan for online testing described in this act.

The work group must include one member from each of the two largest caucuses of the Senate appointed by the President of the Senate, and one member from each of the two largest caucuses of the House of Representatives appointed by the Speaker of the House of Representatives. The remaining members of the work group must be selected by DSHS and must include individuals who are geographically diverse and represent people with a variety of language barriers, and represent at least the following groups:

- interpreters working in medical settings;
- interpreter unions;
- families with language access barriers;
- community-based organizations supporting families with language access barriers;
- leadership of the department of social and health services;
- professionals with experience delivering interpreter certification services online; and
- other parties DSHS deems relevant.

The work group must also develop an implementation plan for an online testing system for language access providers. The plan must require candidates to demonstrate written and oral proficiency in both English and another language in accordance with nationally recognized standards and ethics.

Staff support for the work group must be provided by DSHS.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

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

Staff Summary of Public Testimony on Original Bill (Human Services): *The committee recommended a different version of the bill than what was heard.* PRO: The outsourcing of testing has led to a lack of consistent standards and a lack of qualified language access which has put both patients and doctors at risk, and has caused expenditures to increase. DSHS is attempting to get rid of a program that has existed for almost 30 years and this has led to interpreters who are not up to standard. DSHS has not listened to the expert advice of their advisory board and has instead decided to move forward with dangerous changes.

Washingtonians should have access to high quality, competent, and professional interpreters. This is a public value and good, and it is important for there to be oversight in order to maintain integrity. Proper testing is important for quality language services. DSHS should modernize its program instead of outsourcing and the bill also saves money. DSHS testing is affordable and getting rid of the department's original testing would be a great detriment.

CON: Some individuals of Limited English Proficiency (LEPs) would prefer to work with family members because of past experiences where interpreters omitted crucial information. LEP patients' safety and well-being is being put at risk by watered down professional standards. DSHS should be held to the same standards as Washington courts. Every LEP should have a qualified and competent language access provider.

OTHER: Individuals coming to the U.S. from other countries need language services and it is important for them to access the services the state provides. This bill could have unintended consequences and ultimately create more barriers. The bill could be expensive for language interpreters and would make DSHS solely responsible for medical language services and recording data. DSHS does not currently have the capacity to perform these duties and has been unable to update the test used for the past 30 years because of a lack of funding. Third party tests are developed by language experts who are able to keep tests up to date. The testing suggested in this bill would need to be updated every three years and would be expensive for DSHS.

Prior to the pandemic it could take up to a year for an individual to take the interpreter test and up to another year for them to become certified. It was also expensive. The current

testing options are available online and are more accessible. The language should be left as is and collaboration within impacted communities should continue to identify the most effective language equity solutions for all Washingtonians.

Persons Testifying (Human Services): PRO: Yvonne Simpson, Northwest Translator and Interpreter Society; Helen Eby; Gillian Dutton; Emma Garkavi; Helen Eby, WFSE, Interpreters United; Quan Tran, Interpreters United (WFSE).

CON: Magda Enriques, On behalf of WFSE.

OTHER: Nichole Ossa, DSHS Office of Equity, Diversity, Access, and Inclusion; Dr. Ruiqin Miao, DSHS Office of Equity, Diversity, Access, and Inclusion.

Persons Signed In To Testify But Not Testifying (Human Services): PRO: Danna Summers.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: DSHS has tried to save money by outsourcing the language testing required to certify interpreters. This is dangerous and has created a conflict of interest. High quality interpretation is necessary for limited English proficiency clients, especially in health care settings to prevent bad outcomes. Interpreters need strong testing requirements to certify that they can deliver quality services. This bill will fix the current issue by creating a work group to design a testing system that can be 100% self-funded.

Persons Testifying (Ways & Means): PRO: Dennis Eagle, WA Federation of State Employees; Aida Sanchez-Vela, Interpreters United WFSE Local 1671.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.