

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 675

BY SENATORS TRUMP AND LINDSAY

[Introduced February 18, 2022; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §57-5-7 of the Code of West Virginia, 1931, as amended, relating
2 to requiring the Director of the Administrative Office of the Supreme Court of Appeals to
3 establish a program to certify interpreters.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§57-5-7. Interpreters required.

1 (a) In any court proceeding wherein a party or witness or juror cannot readily understand
2 or verbally communicate the English language because the witness or juror is deaf or because of
3 any other hearing difficulties, ~~such that~~ that person ~~shall have the right to~~ may have a qualified
4 interpreter to assist the witness or juror at every stage of the proceeding. ~~Such~~ This right shall
5 also pertain in any proceeding before administrative boards, commissions or agencies of this
6 state or any political subdivision or municipality thereof, and in coroners' inquests and grand jury
7 proceedings.

8 (b) The director of the administrative office of the Supreme Court of Appeals shall establish
9 a program to facilitate the use of interpreters in courts of this state and in extra-judicial criminal
10 proceedings as provided for in this section.

11 (1) The director shall prescribe, determine, and certify the qualifications of persons who
12 may serve as certified interpreters in courts of this state in proceedings involving the deaf and
13 hard of hearing. Persons certified by the director shall be interpreters certified by the national
14 registry of interpreters for the deaf, or the West Virginia registry of interpreters for the deaf or
15 approved by the chief of services for the deaf and hard of hearing of West Virginia of the West
16 Virginia Division of Vocational Rehabilitation, or shall be such other persons deemed by the
17 director to be qualified by education, training, and experience. The director shall maintain a
18 current master list of all interpreters certified by the director and shall report annually on the
19 frequency of requests for, and the use and effectiveness of, interpreters.

20 (2) Each circuit court shall maintain on file in the office of the clerk of the court a list of all

21 persons who have been certified as oral or manual interpreters for the deaf and hard of hearing
22 by the director of the administrative office of the Supreme Court of Appeals in accordance with
23 the certification program established pursuant to this section.

24 (3) In any criminal or juvenile proceeding, or other proceeding described in §51-11-5 of
25 this code, the judge of the circuit court in which ~~such~~ the proceeding is pending, or, if ~~such~~ the
26 proceeding is in a magistrate court, then the judge of the circuit court to which ~~such~~ the proceeding
27 may be appealed or presented for judicial review, shall, with the assistance of the director of the
28 administrative office of the Supreme Court of Appeals, utilize the services of the most available
29 certified interpreter, or when no certified interpreter is reasonably available, as determined by the
30 judge, the services of an otherwise competent interpreter, if the judge determines on his or her
31 own motion or on the motion of a party that such party or a witness who may present testimony
32 in the proceeding suffers from hearing difficulties so as to inhibit ~~such~~ the party's comprehension
33 of the proceedings or communication with counsel or the presiding judicial officer, or so as to
34 inhibit ~~such~~ the witness' comprehension of questions and the presentation of ~~such~~ testimony. The
35 utilization of an interpreter shall be appropriate at any stage of the proceeding, judicial or extra-
36 judicial, at which a person would be entitled to representation by an attorney and a waiver of the
37 right to counsel ~~shall~~ may not constitute a waiver of the right to an interpreter as provided for by
38 this section.

39 (c) Whenever a qualified interpreter is appointed pursuant to the provisions of subsection
40 (b) of this section, or to accommodate a juror, the court shall, at the conclusion of the proceedings
41 or interrogation, by order, fix the compensation of ~~such~~ the interpreter. The compensation shall
42 include reimbursement for all reasonable and necessary expenses actually incurred in the
43 performance of ~~such~~ those duties, but expenses ~~shall~~ may not be incurred in excess of the
44 prevailing rate for state employees. In all ~~such~~ the appointments arising from subdivision (3),
45 subsection (b) of this section, the compensation shall be paid by the State Auditor from the fund
46 administered by the Supreme Court of Appeals for other court costs. In other proceedings before

47 any circuit or magistrate court, Supreme Court of Appeals or before any administrative boards,
48 commissions and agencies, the compensation shall be fixed by such court, board, commission,
49 or agency and paid, within the limit of available funds, by ~~such~~ the court, board, commission, or
50 agency.

51 (d) In any proceeding described in subdivision (3), subsection (b) of this section, if the
52 circuit judge does not appoint an interpreter, an individual requiring the services of an interpreter
53 may seek the assistance of the clerk of the circuit court or the director of the administrative office
54 of the Supreme Court of Appeals in obtaining the assistance of a certified interpreter.

55 (e) Whenever an interpreter is necessary in any court proceeding because a witness or
56 party speaks only a foreign language or for any other reason, ~~an~~ a certified interpreter shall be
57 sworn truly to interpret.

58 (f) The director shall establish a program to certify interpreters. Certified interpreters shall
59 at a minimum:

60 (1) Be at least 18 years of age;

61 (2) Be eligible to work in the United States;

62 (3) Have taken the written and oral examinations of the National Center for State Courts
63 and received an adequate score to demonstrate competency.

64 (4) Have demonstrated through experience, or through an orientation training session an
65 understanding of interpreting, ethics, legal procedure and terminology, and modes of
66 interpretation.

67 (g) If a certified interpreter for the foreign language is not available, the court may swear
68 in an interpreter who has been certified by any other state which has substantially the same
69 minimum requirements. The court may also waive requirements in order to swear in an interpreter
70 agreed upon by all parties, with the consent of all parties.

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NOTE: The purpose of this bill is to require the director of the administrative office of the

Supreme Court of Appeals to establish a program to certify interpreters.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.⁵⁷