

SENATE BILL No. 62

AN ACT concerning sensory impairments; relating to hearing and vision impairments and the provision of assistance related thereto; authorizing the Kansas commission for the deaf and hard of hearing to adopt rules and regulations for interpreters and interpreter services; establishing a sign language interpreter registration process; providing guidelines for communication access services; providing standards for student vision screenings; establishing the Kansas children's vision health and school readiness commission; amending K.S.A. 72-6241, 72-6242, 75-4355a, 75-4355b, 75-5391, 75-5393 and 75-5397a and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) A person seeking to interpret under K.S.A. 75-4355a through 75-4355d, and amendments thereto, and section 1 through 5, and amendments thereto, or to comply with any state or federal law or rules and regulations shall obtain registration in accordance with this section.

(b) To obtain registration as an interpreter, an applicant shall submit an application on a form and in a manner prescribed by the commission and shall pay the registration fee determined by the commission in rules and regulations. The commission may grant registration to any person who:

- (1) Has obtained a high school diploma or its equivalent;
- (2) is 18 years of age or older;
- (3) has no other record of disqualifying conduct as determined by the commission; and
- (4) has obtained a certification or other appropriate credentials as determined by the commission.

(c) (1) The commission may grant registration as an interpreter to an applicant who has been duly licensed or registered as an interpreter by examination under the laws of another state, territory or the District of Columbia if, in the opinion of the commission, the applicant substantially meets the qualifications for registration as an interpreter in this state. The applicant shall provide satisfactory evidence of verification of the applicant's licensure or registration from the original state of licensure or registration.

(2) The commission may grant temporary registration to a nonresident interpreter who holds a certificate or license in such interpreter's state of residence. An interpreter granted a temporary registration shall not interpret more than 20 separate days in a year in this state.

(d) (1) Registrations issued under this section shall expire on the date established by rules and regulations of the commission unless revoked prior to that time. The commission shall send a notice for renewal of registration to every interpreter at least 60 calendar days prior to the expiration date of such person's registration.

(2) (A) A registered interpreter shall have a grace period of 30 calendar days after a registration has expired to renew such registration without a late fee. The commission may charge a late fee for any renewal application received after such grace period. The commission shall determine the amount of the late fee in rules and regulations, but such fee shall not exceed \$200.

(B) An interpreter whose registration has expired after failing to submit a renewal application may renew registration upon payment of the late fee and submission of satisfactory evidence of completion of continuing education requirements established by the commission. For renewals of expired registrations, the commission may require additional testing, training or education to establish the interpreter's present ability to perform the functions and responsibilities of an interpreter.

(3) An interpreter, as a condition for renewal of a registration, shall attend not less than 30 hours of continuing education programming within a two-year period. Upon receipt of such application, payment of fee and

evidence of satisfactory completion of the required continuing education, the commission shall verify the accuracy of the application and grant renewal of the registration.

(e) (1) The commission may require an applicant for registration as an interpreter to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The commission is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The commission may use the information obtained from fingerprinting and the applicant's criminal history for purposes of verifying the identification of the applicant and making the official determination of the qualifications and fitness of the application to be issued or maintain registration.

(2) Local and state law enforcement officers and agencies shall assist the commission in taking the fingerprints of applicants for registration. Local and state law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section. The Kansas bureau of investigation shall release all records of an applicant's adult convictions to the commission.

(3) The commission may fix and collect a fee for fingerprinting and conducting a state and national criminal history record check of applicants or registrants as may be required by the commission in an amount equal to the cost of fingerprinting and the criminal history record check.

(f) The commission may refuse to issue, renew or reinstate a registration, may condition, limit, revoke or suspend the registration of any individual if the applicant or registrant:

(1) Has been found incompetent or negligent in the practice of interpreting;

(2) has been convicted of a felony offense or a misdemeanor against persons and has not demonstrated to the commission's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) submits an application that contains false, misleading or incomplete information;

(4) fails or refuses to provide any information requested by the commission;

(5) fails or refuses to pay the required fees;

(6) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country, and the applicant or registrant has not demonstrated to the commission's satisfaction that such person has been sufficiently rehabilitated to merit the public trust; or

(7) has had a license, registration or certificate to practice as an interpreter revoked, suspended or limited, or has been the subject of other disciplinary action, or an application for a license, registration or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(g) Administrative proceedings and disciplinary actions regarding interpreter registration under sections 1 through 3, and amendments thereto, shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of

agency actions under sections 1 through 3, and amendments thereto, shall be in accordance with the Kansas judicial review act.

(h) The executive director of the commission shall adopt rules and regulations to effectuate the provisions of this section. Such rules and regulations may include, but not be limited to:

- (1) Fees, including, but not limited to, registration fees and late fees, that are necessary to fund the expenses and operating costs incurred in the administration and enforcement of this section;
- (2) categories of interpreter certification and interpreter endorsements, including necessary credentials or qualifications;
- (3) continuing education requirements and programs for registered interpreters;
- (4) a code of professional conduct;
- (5) a supervision and mentorship requirements and programs for interpreters with provisional registration;
- (6) suspension or revocation of interpreter registration; and
- (7) any other matter deemed necessary by the executive director to implement and administer this section.

New Sec. 2. (a) Except as provided in subsection (c), it shall be unlawful for any person who is not registered with the commission, or whose registration has been suspended or revoked, to:

- (1) Practice as an interpreter;
- (2) hold out to the public the intention, authority or skill to interpret;
- (3) provide video remote interpreting services; or
- (4) use any title or abbreviation to indicate the person is an interpreter registered with the commission.

(b) Except as provided in subsection (c), it shall be unlawful to:

- (1) Cause or permit a person to interpret in Kansas, either in-person or remotely, with knowledge that such person is not a registered interpreter;
- (2) represent that a person is a registered interpreter, when the entity knows or reasonably should know that such person is not a registered interpreter;
- (3) hold out to the public, on behalf of a person, the intention, skill or authority to interpret, when the entity knows or reasonably should know that such person is not a registered interpreter; or
- (4) accept payment for securing an interpreter under the provisions of K.S.A. 75-4355a through 75-4355d, and amendments thereto, when the person provided by the entity to interpret is not a registered interpreter.

(c) This section shall not apply to a person:

- (1) Interpreting during a religious event;
- (2) interpreting as a volunteer without compensation after receiving approval from the commission or the executive director;
- (3) interpreting during an emergency, until the services of a registered interpreter can be obtained; or
- (4) a student who is enrolled in and pursuing a degree or credential in interpreting or an interpreter training program or a provisional interpreter with a supervision plan overseen by the commission, while such student or provisional interpreter is under the supervision of a registered interpreter.

(d) When it appears to the commission that any person or entity is violating this section, the commission may bring an action in the name of the state of Kansas in a court of competent jurisdiction for an injunction against such violation without regard to whether proceedings have been or may be instituted before the commission or whether criminal proceedings have been or may be instituted.

New Sec. 3. (a) The commission shall develop and administer a

program to provide guidelines for the utilization of communication access services, communication access service providers and interpreter service agencies. The executive director of the commission may adopt rules and regulations to effectuate the provisions of this section. Such rules and regulations may include, but not be limited to:

- (1) Fees necessary to fund the expenses and operating costs incurred in the administration and enforcement of this section;
- (2) determination of the qualifications of communication access service providers;
- (3) minimum standards of training of communication access service providers;
- (4) registration of communication access service providers and interpreter service agencies;
- (5) a code of professional conduct governing communication access service providers;
- (6) standards for equipment or technology supporting communication access services;
- (7) a system of statewide coordination of communication access services; and
- (8) any other matter that the executive director deems necessary to effectuate the provisions of this section.

(b) (1) The commission may require communication access service providers to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The commission is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The commission may use the information obtained from fingerprinting and the applicant's criminal history for purposes of verifying the identification of any individual and in the official determination of the qualifications and fitness of the individual to provide communication access services.

(2) Local and state law enforcement officers and agencies shall assist the commission in taking the fingerprints of individuals. Local and state law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section. The Kansas bureau of investigation shall release all records of an individual's adult convictions to the commission.

(3) The commission may fix and collect a fee for fingerprinting and conducting a state and national criminal history record check of individuals pursuant to this section as may be required by the commission in an amount equal to the cost of fingerprinting and the criminal history record check.

New Sec. 4. (a) The commission shall remit all moneys received from fees, charges or penalties under sections 1 through 3, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the Kansas commission for the deaf and hard of hearing registration fee fund.

(b) There is hereby created in the state treasury the commission for deaf and hard of hearing registration fee fund. All moneys credited to the fund shall be used to carry out the powers, duties and functions of the commission. The fund shall be administered by the Kansas commission for the deaf and hard of hearing. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers

approved by the executive director of the commission or the executive director's designee.

New Sec. 5. As used in K.S.A 75-4355a through 75-4355d, and amendments thereto, and sections 1 through 5, and amendments thereto:

(a) "Commission" means the Kansas commission for the deaf and hard of hearing.

(b) "Communication access services" includes, but is not limited to:

- (1) Communication access realtime translation services;
- (2) notetakers;
- (3) open and closed captioning services;
- (4) support service providers for the deaf-blind; and
- (5) any other effective method of making aurally delivered information available to individuals who are deaf or hard of hearing.

(c) "Communication access service provider" means an individual who is trained to offer a communication access service to communicate aurally delivered information to individuals who are deaf, hard of hearing or have speech and language impairments.

(d) "Executive director" means the executive director for the Kansas commission for the deaf and hard of hearing.

(e) "Interpreter" means an individual who engages in the practice of interpreting.

(f) "Interpreter service agency" means an entity that contracts with or employs registered interpreters to provide interpreter services, whether in person or remotely, for a fee.

(g) "Interpreting" means the translating or transliterating of English concepts to any communication modes of individuals who are deaf, hard of hearing or have speech and language impairments or the translating or transliterating of the communication modes of individuals who are deaf, hard of hearing or have speech and language impairments to English language concepts. Communication modes include, but are not limited to, American sign language, English-based sign language, cued speech, oral transliterating and information received tactually.

(h) "Video remote interpreter" means an interpreter who engages in the practice of video remote interpreting.

(i) "Video remote interpreting" means the process that allows an individual who is deaf or hard of hearing to communicate with a hearing individual at the same location through an interpreter displayed through videoconferencing or similar technology.

Sec. 6. K.S.A. 72-6241 is hereby amended to read as follows: 72-6241. As used in this act:

~~(a) "School board" means the governing body of any school;~~

~~(b) "school" means all elementary and high schools;~~

~~(e) "Accredited nonpublic school" means all nonpublic elementary and secondary schools accredited by the state board of education;~~

~~(b) "basic vision screening" means an age-appropriate eye testing program for each child based on a test chart which is graduated as to size of symbols, or the so-called Snellen test, or any other system or method of testing equal thereto or better in the judgment of the school board that is implemented according to the most recent edition of the Kansas vision screening requirements and guidelines and includes referrals for eye examinations and necessary follow-ups;~~

~~(c) "board of education" means the board of education of any school district;~~

~~(d) "IDEA part B" means all statewide programs providing special education and related services to children with disabilities aged 3 through 5 in accordance with 20 U.S.C. § 1411, and amendments thereto;~~

(e) "school district" means any school district organized under the laws of this state; and

(f) "vision screener" means any school nurse, or the nurse's designee, or other person who is trained to administer a vision screening test to students in the state of Kansas.

Sec. 7. K.S.A. 72-6242 is hereby amended to read as follows: 72-6242. (a) Basic vision screening shall be provided without charge in accordance with the following:

(1) ~~Each school board shall provide basic vision screening without charge to every pupil. Annually, for every child participating in IDEA part B programs;~~

(2) ~~at least once each school year for students enrolled in each kindergarten and each of the grades one through three, five, seven and 10 in a school under the governance of such school board not less than once every two (2) years. All such tests district or an accredited nonpublic school; and~~

(3) ~~within the first year of admission for any student who enrolls in a school district or an accredited nonpublic school.~~

(b) (1) Every student enrolled in a school district shall be provided basic vision screening by the board of education of the school district in which the student is enrolled.

(2) Every student enrolled in an accredited nonpublic school shall be provided basic vision screening by either:

(A) The accredited nonpublic school in which the student is enrolled; or

(B) upon request by the student's parent or guardian, by the board of education of the school district in which the student resides.

(c) ~~Basic vision screenings shall be performed by a teacher or some other person vision screener designated by the school board of education or by an accredited nonpublic school. Vision screeners shall be required to follow the most recent state vision screening guidelines for performing vision screening. The results of the test screening and, if necessary, the desirability of referral for an examination by a qualified physician, an ophthalmologist or optometrist shall be reported to the parents or guardians of such pupils. Information relating to the desirability of the student. The referral for an examination by a qualified physician, an ophthalmologist or optometrist shall not show preference in favor of any such professional person ophthalmologist or optometrist.~~

(2) ~~The requirements of this subsection shall not apply to a pupil who has had a basic vision screening examination within six months prior to the provision of basic vision screening in the school in which the pupil is enrolled.~~

(b)(d) Each ~~pupil~~ student needing assistance in achieving mastery of basic reading, writing and mathematics skills shall be encouraged to obtain an eye examination by an optometrist or ophthalmologist to determine if the ~~pupil~~ student suffers from conditions ~~which~~ that impair the ability to read. Expense for such examination, if not reimbursed through medicaid, ~~Healthwave~~, private insurance or any other governmental or private program, shall be the responsibility of the ~~pupil's~~ student's parent or guardian.

(e) A Kansas children's vision health and school readiness commission shall be established to ensure the implementation of this section. Members of the commission shall be appointed by the state board of education. The commission shall be comprised of:

(1) One optometrist;

(2) one ophthalmologist;

(3) one representative of a health organization dedicated to preventing blindness;

- (4) *one representative of the department of education;*
- (5) *one representative of the department of health and environment;*
- (6) *one school nurse;*
- (7) *one public health nurse; and*
- (8) *one school administrator.*
- (f) *Members of the commission shall not be reimbursed for meeting expenses.*
- (g) *The duties of the commission are as follows:*
 - (1) *Overseeing revision of state vision screening requirements and guidelines no fewer than once every seven years;*
 - (2) *providing standardized vision screening referral letters and eye professional examination reports as referenced in the Kansas vision screening requirements and guidelines;*
 - (3) *identifying state resources that assist in providing opportunities to offer free or low-cost eye exams for students who fail vision screenings and are unable to afford an examination on their own; and*
 - (4) *establishing a system to collect data from school health personnel concerning the results of the original screenings and referral outcomes, as well as issuing an annual report to the secretary of health and environment and the commissioner of education.*

Sec. 8. K.S.A. 75-4355a is hereby amended to read as follows: 75-4355a. ~~A qualified~~ *An interpreter registered with the Kansas commission for the deaf and hard of hearing shall be secured for any person who is deaf, hard of hearing or speech impaired in any grand jury, court or jury proceeding whether such person is a plaintiff, defendant, juror or witness in such action, and the interpreter shall interpret throughout the actual trial and during the time that the jury is sequestered or engaged in its deliberations.*

Sec. 9. K.S.A. 75-4355b is hereby amended to read as follows: 75-4355b. (a) ~~All interpreters for the deaf, hard of hearing and speech impaired individuals that have speech and language impairments,~~ *secured under the provisions of K.S.A. 75-4355a through 75-4355d, and amendments thereto, or in compliance with any state or federal law or rules and regulations, shall be certified by or registered with the Kansas commission for the deaf and hard of hearing or an agency designated by the commission. The chairperson of the governmental committee or commission, or the head of the governmental agency or other entity, or the court is responsible for assuring the procurement of the interpreter.*

(b) *The commission shall recommend reasonable fees for the services of the interpreter. At no time shall the fees for interpreter services be assessed against the person who is deaf, hard of hearing or speech impaired has speech and language impairments.*

(c) *No person shall serve as an interpreter if such interpreter is married to that person, related to that person or is otherwise interested in the outcome of the proceeding. Exceptions can be made in extreme conditions, subject to the approval of the commission.*

(d) *No person shall serve as an interpreter pursuant to K.S.A. 75-4355a through 75-4355d, and amendments thereto, unless the commission makes the determination that the person is qualified to interpret. The commission may designate the executive director of the commission or a local agency to make such determination and approval under the provisions of K.S.A. 75-4355a through 75-4355d, and amendments thereto. A person is qualified to interpret if such person is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary.*

(e) *If preferred by the deaf, hard of hearing or speech impaired*

person and if feasible, other ~~modes of communication, such as notetakers, open-captioning equipment, assistive listening devices access services~~ or other technology may be used in place of an interpreter.

Sec. 10. K.S.A. 75-5391 is hereby amended to read as follows: 75-5391. (a) There is hereby established within the Kansas department for children and families the Kansas commission for the deaf and hard of hearing. The commission shall:

(1) Advocate services affecting the deaf and hard of hearing in the areas of public services, health care, educational, vocational and employment opportunity;

(2) act as a bureau of information for the deaf and hard of hearing to state agencies and public institutions providing general health and mental health care, employment, vocational, and educational services, and to local agencies and programs;

(3) collect facts and statistics and other special studies of conditions affecting the health and welfare of the deaf and hard of hearing in this state;

(4) provide for a mutual exchange of ideas and information on the national, state and local levels;

(5) provide public education ~~of prenatal and postnatal warning signs of conditions which may lead to deafness or hearing impairment in the fetus or newborn child:~~

(A) Regarding best practices in language acquisition development in deaf and hard of hearing children and aural rehabilitation options; and

(B) to promote the eradication of ignorance and discrimination toward deaf and hard of hearing people in schools and employment;

(6) encourage and assist local governments in the development of programs for the deaf and hard of hearing;

(7) cooperate with public and private agencies and units of local, state and federal governments in promoting coordination in programs for the deaf and hard of hearing;

(8) provide for the social, emotional, educational and vocational needs of the deaf and hard of hearing and their families;

(9) serve as an advisory board to the governor *and legislature* on the needs of the deaf and hard of hearing by preparing an annual report ~~which~~ *that* reviews the status of all state services to the deaf and hard of hearing within Kansas, and to recommend priorities ~~to the governor~~ for the development and coordination of services to the deaf and hard of hearing; *and*

(10) make recommendations for needed improvements, and serve as an advisory board in regard to new legislation affecting the deaf and hard of hearing.

(b) *The commission may:*

(1) Develop and oversee programs concerning interpreters, interpreter service agencies, and communication access services;

(2) become a member of or affiliate with any professional organization related to the powers, duties and functions of the commission; and

(3) undertake any and all other acts as may be necessary for the performance of the commission's powers, duties and functions in the administration of K.S.A. 75-4355a through 75-4355d, and amendments thereto, and sections 1 through 5, and amendments thereto.

(c) Except as otherwise provided by this act, all budgeting, purchasing and related management functions of the Kansas commission for the deaf and hard of hearing shall be administered ~~under the direction and supervision of~~ *by* the secretary for children and families. Within the limitations of available appropriations, the

secretary for children and families shall provide additional clerical and other assistance as may be required for the commission. *The executive director shall report directly to the deputy secretary or secretary for administrative purposes only.*

Sec. 11. K.S.A. 75-5393 is hereby amended to read as follows: 75-5393. (a) The Kansas commission for the deaf and hard of hearing shall employ an executive director and shall fix the duties, responsibilities and qualifications thereof. The executive director shall be a full-time employee of the commission who shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the commission, *and such salary shall be comparable to the salaries of executive directors of other commissions.* The executive director shall receive actual and necessary expenses incurred while in the discharge of official duties.

(b) The executive director, with the advice and consent of the commission shall:

(1) Within the limitations of available appropriations, plan and oversee the establishment of service centers for the deaf and hard of hearing in areas where the commission deems they are needed and in concurrence with the secretary for children and families and in consultation with local boards of directors of community service centers and local groups promoting or providing services to the deaf or hard of hearing, or both;

(2) promote accessibility of all governmental services to deaf and hard of hearing citizens in Kansas including those deaf and hard of hearing persons with multiple disabilities;

(3) identify agencies, both public and private ~~which~~ *that* provide community services, evaluate the extent to which they make services available to deaf and hard of hearing people and their families, and cooperate with the agencies in coordinating and extending these services;

(4) provide for the mutual exchange of ideas and information on services for deaf and hard of hearing people between federal, state and local governmental agencies and private organizations and individuals;

(5) survey the needs of the deaf and hard of hearing population in Kansas and assist the commission in the preparation of its report to the governor;

(6) maintain a listing of persons qualified in various types of interpreting and ~~aural rehabilitation~~ *communication access services* for the deaf and make this information available to local, state, federal and private organizations and to individuals;

(7) promote the training of interpreters for the deaf and hard of hearing;

(8) serve as an advocate for the rights of deaf and hard of hearing people and perform such other duties as may be required by law;

(9) provide interpreter services for the deaf and hard of hearing to be funded from ~~user~~ *fees collected pursuant to K.S.A. 75-5397a, and amendments thereto;*

(10) provide a telecommunication message relay service for the deaf and hard of hearing;

(11) provide for a program of ~~regulation and certification~~ *registration* of interpreters; ~~and~~

(12) *provide for a program of statewide coordination for communication access services and service providers; and*

(13) employ such persons as may be needed from time to time, in the judgment of the executive director, to carry out the director's responsibilities under paragraphs (9), (10) ~~and, (11) of this subsection~~ *and (12).* Such employees shall be in the unclassified civil service and shall receive an annual salary to be fixed by the commission.

(c) In selecting an executive director, the commission shall select an individual who is fluent in the American sign language of the deaf and shall give consideration and priority to qualified applicants who are deaf or hard of hearing. *The commission shall supervise and evaluate the executive director.*

Sec. 12. K.S.A. 75-5397a is hereby amended to read as follows: 75-5397a. (a) The Kansas commission for the deaf and hard of hearing may fix, charge and collect reasonable fees for providing interpreter services, ~~interpreter-certification~~ *registration, communication access services* and sign language instruction.

(b) The secretary for children and families shall remit all moneys received by the commission for ~~such~~ *providing interpreter services, communication access services and sign language instruction* to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas department for children and families enterprise fund.

Sec. 13. K.S.A. 72-6241, 72-6242, 75-4355a, 75-4355b, 75-5391, 75-5393 and 75-5397a are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.