

**As Amended by House Committee**

*{As Amended by Senate Committee of the Whole}*

**As Amended by Senate Committee**

*Session of 2019*

**SENATE BILL No. 230**

By Committee on Federal and State Affairs

3-14

1 AN ACT concerning the Kansas department for children and families;  
2 relating to the Kansas commission for the deaf and hard of hearing;  
3 executive director duties; registration of interpreters; rules and  
4 regulation authority; amending K.S.A. 75-4355a ~~and, 75-4355b and~~  
5 ~~K.S.A. 2018 Supp., 75-5391, 75-5393 and 75-5397a~~ and repealing the  
6 existing sections.  
7

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

9 New Section 1. (a) Registration in accordance with this section shall  
10 be required to interpret under K.S.A. 75-4355a through 75-4355d, and  
11 amendments thereto, ***or to comply with any state or federal law or rules***  
12 ***and regulations***}.  
13

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

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

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

31 (2) The commission may grant temporary registration to a  
32 nonresident interpreter who holds a certificate or license in such person or  
entity's state of residence. An interpreter granted a temporary registration

1 shall not interpret more than 20 separate days in a year in this state.

2 (d) (1) The commission shall charge and collect in advance fees  
3 provided for in this section as fixed by the commission by rules and  
4 regulations. Registrations issued under the provisions of this section shall  
5 expire on the date established by rules and regulations of the commission  
6 unless revoked prior to that time. The commission shall send a notice for  
7 renewal of registration to every interpreter at least 60 days prior to the  
8 expiration date of such person's registration.

9 (2) (A) If an interpreter fails to submit a renewal application prior to  
10 the expiration date of such person's registration, such interpreter's  
11 registration shall be deemed expired. A registered interpreter has a 30-day  
12 grace period after a registration has expired to renew such registration  
13 without a late fee. The late fee shall be set by the commission, but shall not  
14 exceed \$200.

15 (B) An interpreter whose registration has expired after failing to  
16 submit a renewal application may register upon payment of the late fee  
17 and submitting satisfactory evidence of completion of continuing  
18 education requirements established by the commission. Renewals of  
19 expired registrations may include additional testing, training or education  
20 as the commission deems necessary to establish the person's present ability  
21 to perform the functions and responsibilities of an interpreter.

22 (3) An interpreter, as a condition for renewal of a registration, shall  
23 be required to attend not less than 30 hours, biennially, of continuing  
24 education units. The commission shall adopt rules and regulations  
25 establishing requirements for such programs. Upon receipt of such  
26 application, payment of fee and evidence of satisfactory completion of the  
27 required continuing education, the commission shall verify the accuracy of  
28 the application and grant renewal of the registration.

29 (4) The commission may sponsor continuing education programs and  
30 establish and charge reasonable fees for such activities.

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

43 (2) Local and state law enforcement officers and agencies shall assist

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

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

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

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

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

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

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

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

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

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

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

42 (h) In accordance with the rules and regulations filing act, the  
43 executive director of the commission may adopt rules and regulations to

1 effectuate the provisions of this section. Such rules and regulations may  
2 include, but not be limited to, provisions concerning:

3 (1) Fees necessary to fund the expenses and operating costs incurred  
4 in the administration and enforcement of the provisions of this section;

5 (2) categories of interpreter certification and interpreter  
6 endorsements, including necessary credentials or qualifications;

7 (3) a continuing education program for registered interpreters;

8 (4) a code of professional conduct;

9 (5) a supervision and mentorship program for interpreters with  
10 provisional registration;

11 (6) suspension or revocation of interpreter registration; and

12 (7) any other matter deemed necessary by the executive director to  
13 implement and administer the provisions of this section.

14 New Sec. 2. (a) It shall be unlawful for any person who is not  
15 registered with the commission, or whose registration has been suspended  
16 or revoked, to:

17 (1) Practice as an interpreter;

18 (2) hold out to the public the intention, authority or skill to interpret;

19 (3) provide video remote interpreting services; or

20 (4) use any title or abbreviation to indicate the person is a registered  
21 interpreter with the commission.

22 (b) It shall be unlawful for any entity to:

23 (1) Cause or permit a person to interpret in Kansas, either in-person  
24 or remotely, with knowledge that such person is not a registered  
25 interpreter;

26 (2) represent that a person is a registered interpreter, when the entity  
27 knows or reasonably should know that such person is not a registered  
28 interpreter;

29 (3) hold out to the public, on behalf of a person, the intention, skill or  
30 authority to interpret, when the entity knows or reasonably should know  
31 that such person is not a registered interpreter; or

32 (4) accept payment for securing an interpreter under the provisions of  
33 K.S.A. 75-4355a through 75-4355d, and amendments thereto, when the  
34 person provided by the entity to interpret is not a registered interpreter.

35 (c) This section shall not apply to a person or entity if such person or  
36 entity is:

37 (1) Interpreting during a religious event;

38 (2) interpreting as a volunteer without compensation after receiving  
39 approval from the commission or the executive director;

40 (3) interpreting during an emergency, until the services of a registered  
41 interpreter can be obtained; or

42 (4) a student who is enrolled in and pursuing a degree or credential in  
43 interpreting or an interpreter training program or a provisional interpreter

1 with a supervision plan overseen by the commission, while such student or  
2 provisional interpreter is under the supervision of a registered interpreter.

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

10 New Sec. 3. (a) The commission shall develop and administer a  
11 program to provide guidelines for the utilization of communication  
12 access services, communication access service providers, and interpreter  
13 service agencies. In accordance with the rules and regulations filing act,  
14 the executive director of the commission may adopt rules and regulations  
15 to effectuate the provisions of this section, which may include, but not be  
16 limited to, provisions concerning:

17 (1) Fees necessary to fund the expenses and operating costs incurred  
18 in the administration and enforcement of the provisions of this section;

19 (2) determination of the qualifications of communication access  
20 service providers;

21 (3) minimum standards of training of communication access service  
22 providers;

23 (4) registration of communication access service providers and  
24 interpreter service agencies;

25 (5) a code of professional conduct governing communication access  
26 service providers;

27 (7) standards for equipment or technology supporting communication  
28 access services;

29 (8) a system of statewide coordination of communication access  
30 services; and

31 (9) any other matter that the executive director deems necessary to  
32 implement and administer the provisions of this section.

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

1 access services.

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

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

13 New Sec. 4. (a) The commission shall remit all moneys received from  
14 fees, charges or penalties under sections 1 through 3, and amendments  
15 thereto, to the state treasurer in accordance with the provisions of K.S.A.  
16 75-4215, and amendments thereto. Upon receipt of each such remittance,  
17 the state treasurer shall deposit the entire amount into the state treasury to  
18 the credit of the Kansas commission for the deaf and hard of hearing  
19 registration fee fund.

20 (b) There is hereby created in the state treasury the commission for  
21 deaf and hard of hearing registration fee fund. All moneys credited to the  
22 fund shall be used to carry out the powers, duties and functions of the  
23 commission. The fund shall be administered by the Kansas commission for  
24 the deaf and hard of hearing. All expenditures from the fund shall be made  
25 in accordance with appropriation acts upon warrants of the director of  
26 accounts and reports issued pursuant to vouchers approved by the  
27 executive director of the commission or the executive director's designee.

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

30 (1) "Commission" means the Kansas commission for the deaf and  
31 hard of hearing;

32 (2) "communication access services" includes, but is not limited to:  
33 Communication access realtime translation services, notetakers, open and  
34 closed captioning services, support service providers for the deaf-blind,  
35 and any other effective method of making aurally delivered information  
36 available to individuals who are deaf or hard of hearing;

37 (3) "communication access service provider" means an individual  
38 who is trained to offer a communication access service to communicate  
39 aurally delivered information to individuals who are deaf, hard of hearing  
40 or ~~speech-impaired~~ **have speech and language impairments**;

41 (4) "executive director" means the executive director for the Kansas  
42 commission for the deaf and hard of hearing;

43 (5) "interpreter" means an individual who engages in the practice of

1 interpreting;

2 (6) "interpreter service agency" means an entity that contracts with or  
3 employs registered interpreters to provide interpreter services, whether in  
4 person or remotely, for a fee;

5 (7) "interpreting" means the translating or transliterating of English  
6 concepts to any communication modes of individuals who are deaf, hard  
7 of hearing or ~~speech-impaired~~ **have speech and language impairments** or  
8 the translating or transliterating of the communication modes of  
9 individuals who are deaf, hard of hearing or ~~speech-impaired~~ **have speech**  
10 **and language impairments** to English language concepts. Communication  
11 modes include, but are not limited to, American sign language, English-  
12 based sign language, cued speech, oral transliterating and information  
13 received tactually;

14 (8) "video remote interpreter" means an interpreter who engages in  
15 the practice of video remote interpreting; and

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

20 Sec. 6. K.S.A. 75-4355a is hereby amended to read as follows: 75-  
21 4355a. ~~A qualified~~ *An interpreter registered with the Kansas commission*  
22 *for the deaf and hard of hearing* shall be secured for any person who is  
23 deaf, hard of hearing or speech impaired in any grand jury, court or jury  
24 proceeding whether such person is a plaintiff, defendant, juror or witness  
25 in such action, and the interpreter shall interpret throughout the actual trial  
26 and during the time that the jury is sequestered or engaged in its  
27 deliberations.

28 Sec. 7. K.S.A. 75-4355b is hereby amended to read as follows: 75-  
29 4355b. (a) All interpreters for the deaf, hard of hearing and ~~speech-~~  
30 ~~impaired~~ **individuals that have speech and language impairments**,  
31 secured under the provisions of K.S.A. 75-4355a through 75-4355d, *and*  
32 *amendments thereto, {or} in compliance with any state or federal law or*  
33 *rules and regulations*, shall be ~~certified by~~ or registered with the Kansas  
34 commission for the deaf and hard of hearing or an agency designated by  
35 the commission. The chairperson of the governmental committee or  
36 commission, ~~or~~ the head of the *governmental* agency or other entity, or the  
37 court is responsible for assuring the procurement of the interpreter.

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

42 (c) No person shall serve as an interpreter if such interpreter is  
43 married to that person, related to that person or is otherwise interested in

1 the outcome of the proceeding. Exceptions can be made in extreme  
2 conditions, subject to the approval of the commission.

3 (d) No person shall serve as an interpreter pursuant to K.S.A. 75-  
4 4355a through 75-4355d, *and amendments thereto*, unless the commission  
5 makes the determination that the person is qualified to interpret. The  
6 commission may designate the executive director of the commission or a  
7 local agency to make such determination and approval under the  
8 provisions of K.S.A. 75-4355a through 75-4355d, *and amendments*  
9 *thereto*. A person is qualified to interpret if such person is able to interpret  
10 effectively, accurately and impartially, both receptively and expressively,  
11 using any necessary specialized vocabulary.

12 (e) If preferred by the deaf, hard of hearing or speech impaired person  
13 and if feasible, other ~~modes of communication, such as notetakers, open-~~  
14 ~~captioning equipment, assistive listening devices~~ *access services* or other  
15 technology may be used in place of an interpreter.

16 Sec. 8. ~~K.S.A. 2018 Supp. 75-5391~~ is hereby amended to read as  
17 follows: 75-5391. (a) There is hereby established within the Kansas  
18 department for children and families the Kansas commission for the deaf  
19 and hard of hearing. The commission shall:

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

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

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

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

32 (5) provide public education ~~of prenatal and postnatal warning signs~~  
33 ~~of conditions which may lead to deafness or hearing impairment in the~~  
34 ~~fetus or newborn child:~~ *(A) Regarding best practices in language*  
35 *acquisition development in deaf and hard of hearing children and aural*  
36 *rehabilitation options; and (B) to promote the eradication of ignorance*  
37 *and discrimination toward deaf and hard of hearing people in schools*  
38 *and employment;*

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

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

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

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

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

11 (b) *The commission may:*

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

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

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

21 (c) Except as otherwise provided by this act, all budgeting,  
22 purchasing and related management functions of the Kansas commission  
23 for the deaf and hard of hearing shall be administered ~~under the direction~~  
24 ~~and supervision of~~ *by* the secretary for children and families. Within the  
25 limitations of available appropriations, the secretary for children and  
26 families shall provide additional clerical and other assistance as may be  
27 required for the commission. ***The Kansas commission for the deaf and***  
28 ***hard of hearing shall report directly to the deputy secretary or secretary.***

29 Sec. 9. K.S.A. ~~2018 Supp.~~ 75-5393 is hereby amended to read as  
30 follows: 75-5393. (a) The Kansas commission for the deaf and hard of  
31 hearing shall employ an executive director and shall fix the duties,  
32 responsibilities and qualifications thereof. The executive director shall be a  
33 full-time employee of the commission who shall be in the unclassified  
34 service under the Kansas civil service act and shall receive an annual  
35 salary to be fixed by the commission, ~~which shall be comparable to the~~  
36 ~~salaries of executive directors of other commissions.~~ The executive  
37 director shall receive actual and necessary expenses incurred while in the  
38 discharge of official duties.

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

41 (1) Within the limitations of available appropriations, plan and  
42 oversee the establishment of service centers for the deaf and hard of  
43 hearing in areas where the commission deems they are needed and in

1 concurrence with the secretary for children and families and in  
2 consultation with local boards of directors of community service centers  
3 and local groups promoting or providing services to the deaf or hard of  
4 hearing, or both;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ***executive director.***

2 Sec. 10. K.S.A. ~~2018 Supp.~~ 75-5397a is hereby amended to read as  
3 follows: 75-5397a. (a) The Kansas commission for the deaf and hard of  
4 hearing may fix, charge and collect reasonable fees for providing  
5 interpreter services, ~~interpreter certification~~ *registration, communication*  
6 *access services* and sign language instruction.

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

14 Sec. 11. K.S.A. 75-4355a ~~and, 75-4355b and K.S.A. 2018 Supp., 75-~~  
15 ~~5391, 75-5393 and 75-5397a~~ are hereby repealed.

16 Sec. 12. This act shall take effect and be in force from and after its  
17 publication in the statute book.