

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 2487**

As Recommended by Senate Committee on  
Education

**Brief\***

Senate Sub. for HB 2487 would amend law related to special education, the Kansas Commission for the Deaf and Hard of Hearing (KCDHH), and the issuance of handicapped placards for motor vehicles. The bill would also enact the Audiology and Speech-Language Pathology Interstate Compact.

***Special Education Law (Section 8)***

The bill would replace the term “emotional disturbance” in special education law with the term “emotional disability.”

***Kansas Commission for the Deaf and Hard of Hearing  
(New Sections 1-5; Sections 9-14)***

The bill would establish a sign language interpreter registration process within the KCDHH and would also prohibit individuals not registered with the KCDHH from practicing as a sign language interpreter. The bill also would amend the powers and duties of the KCDHH.

***Registration Process***

The bill would require sign language interpreters to register with the KCDHH to interpret under KSA 75-4355a

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

through 75-4355d (these provisions govern interpreters providing services to the courts and other entities, interpreter certification fees, disclosure of communications, and enforcement in district court) or to comply with any state or federal law or rules and regulations. The bill would allow the KCDHH to grant registration as an interpreter to an applicant who meets the following requirements:

- Has obtained a high school diploma or its equivalent;
- Is 18 years of age or older;
- Has no record of disqualifying conduct; and
- Has obtained certification or other appropriate credentials.

The bill would allow the KCDHH to grant reciprocal registration to interpreters who have been duly licensed by another state, territory, or the District of Columbia, provided the applicant meets the qualifications for registration in Kansas and provides satisfactory evidence of verification of the applicant's licensure or registration from the original state of licensure or registration. In addition, the KCDHH could grant temporary registration to a non-resident interpreter who holds a certificate or license in the person's state of residence, with a cap of interpreting no more than 20 separate days per year in Kansas.

The bill would allow the KCDHH to charge and collect registration fees as set through rules and regulations. The bill would provide requirements relating to registration renewals and renewals of expired registrations, including a requirement the KCDHH provide notice of an expiring registration at least 60 days prior to the expiration of a registration. The bill would also provide reregistration requirements for interpreters whose registration has expired.

The bill would require interpreters, as a condition for renewal of a registration, to attend at least 30 hours of continuing education every two years. The KCDHH could sponsor continuing education programs and establish and charge reasonable fees for the programs.

The bill would allow the KCDHH to require fingerprinting and criminal history record checks for applicants for certification as an interpreter. The bill would require the local and state law enforcement officers and agencies to assist the KCDHH in performing this task. The bill would allow the KCDHH to charge a fee for fingerprinting and conducting the criminal history check.

The bill would allow the KCDHH to refuse to issue, renew, or reinstate a registration and could condition, limit, revoke, or suspend a registration of any individual if the applicant:

- Has been found incompetent or negligent in interpreting;
- Has been convicted of a crime and does not merit the public trust;
- Submits a false, misleading, or incomplete application;
- Fails or refuses to provide information requested by the KCDHH;
- Fails to pay the required fees;
- Is currently listed on a child abuse registry or an adult protective services registry in any state, territory, or another country as a result of abuse or neglect and has not demonstrated to the KCDHH's satisfaction the person has been sufficiently rehabilitated to merit the public trust; or

- Has previously had another state, territory, or country or the District of Columbia revoke, suspend or limit, or deny a license, registration, or certificate as an interpreter, or had been the subject of disciplinary action, with a certified copy of the record of action being conclusive evidence.

The bill would authorize the executive director of the KCDHH (Executive Director) to adopt rules and regulations to implement the registration process, including, but not limited to, fees, categories of interpreter certification and endorsements, continuing education programs, code of professional conduct, supervision and mentorship program, suspension or revocation of interpreter registration, and any other matter deemed necessary by the Executive Director.

*Prohibition on Unlicensed Individuals Providing Interpreting Services*

The bill would make it unlawful for any person who is not registered with the KCDHH to:

- Practice as an interpreter;
- Hold out to the public the intention, authority, or skill to interpret;
- Provide video remote interpreting services; or
- Use any title or abbreviation to indicate the person is a registered interpreter.

The bill would also make it unlawful for any entity, when the entity knows or reasonably should know the person is not a registered interpreter, to:

- Cause or permit an unregistered person to interpret in Kansas, either in-person or remotely;

- Represent that an unregistered person is a registered interpreter;
- Hold out to the public that an unregistered person has the intention, skill, or authority to interpret; or
- Accept payment for securing an interpreter when the person is not a registered interpreter.

These prohibitions would not apply to a person or entity in the following circumstances:

- Interpreting during a religious event;
- Interpreting as a volunteer without compensation after receiving approval from the KCDHH or the Executive Director;
- Interpreting during an emergency until the services of a registered interpreter can be obtained; or
- Students who are training to be an interpreter while under the supervision of a registered interpreter.

The bill would allow the KCDHH to file suit in a court of competent jurisdiction for an injunction against any person or entity violating these prohibitions, without regard to whether proceedings have been or may be instituted before the KCDHH or if criminal proceedings have been or may be instituted.

#### *Communication Access Services*

The bill would require the KCDHH to establish guidelines for communication access services, communication access service providers, and interpreter service agencies. The bill would allow the Executive Director to promulgate rules and regulations, on topics including, but not limited to, fees, qualifications, minimum standards of training, registration, code of professional conduct, standards

for equipment or technology, system of statewide coordination, and any other matter deemed necessary by the Executive Director.

The bill would allow the KCDHH to require fingerprinting and criminal history record checks for communication access service providers. The bill would require the local and state law enforcement officers and agencies to assist the KCDHH in performing this task. The bill would allow the KCDHH to charge a fee for fingerprinting and conducting the criminal history check.

#### *Commission for the Deaf and Hard of Hearing Fee Fund*

The bill would create the Commission for the Deaf and Hard of Hearing Registration Fee Fund (Fund). Any moneys collected pursuant to registration fees, charges, or penalties would be remitted to the Fund. The bill would authorize the KCDHH to use such moneys to carry out the powers, duties, and functions of the KCDHH.

#### *Definitions*

The bill would define certain terms used in the bill, including “commission,” “communication access services,” “communication access service provider,” “executive director,” “interpreter,” “interpreter service agency,” “interpreting,” “video remote interpreter,” and “video remote interpreting.”

#### *Powers and Duties of KCDHH*

The bill would amend the powers and duties of the KCDHH. The bill would update certain terms: from “qualified interpreters” to “an interpreter registered with the KCDHH,” from “speech impaired” to “individuals that have speech and language impairments,” and from “other modes of communication, such as notetakers, open-captioning equipment, assistive listening devices” to “other communication access services.”

The bill would require the KCDHH to provide public education regarding best practices in language acquisition development in deaf and hard of hearing children and aural rehabilitation options and to promote the eradication of ignorance and discrimination toward deaf and hard of hearing people in schools and employment. The bill would require the KCDHH to serve as an advisory board to the Legislature.

The bill would also allow KCDHH to:

- Develop and oversee programs concerning interpreters, interpreter service agencies, and communication access services;
- Affiliate with any professional organization related to the functions of the KCDHH; and
- Undertake any other actions necessary to administer the KCDHH's statutory functions.

The bill would require the KCDHH to report directly to the Secretary for Children and Families or the Deputy Secretary for Children and Families.

#### *Executive Director of KCDHH*

The bill would require the salary of the Executive Director to be comparable to the salaries of executive directors of other commissions. The bill would also require the Executive Director provide for a statewide coordination program for communication access services and service providers. The bill would require the KCDHH to supervise the duties of the Executive Director.

#### *Deposit of Fees*

The bill would clarify that fees collected by the KCDHH for providing interpreter services, communication access services, and sign language instruction would be deposited in

the Kansas Department for Children and Families Enterprise Fund.

#### *Technical Amendments*

The bill would make technical amendments regarding the KCDHH.

#### ***Disability Placards (Section 7)***

The bill would amend law related to the issuance of handicapped placards for motor vehicles. The bill would require the Director of Vehicles, Kansas Department of Revenue (KDOR), to issue a permanent vehicle placard to any school district, interlocal cooperative, postsecondary educational institution, or any institution under the direction of the Secretary for Aging and Disability Services who applies for such a placard. The placard could only be used for transporting students or patients who would qualify for a handicapped placard or a license plate.

For the purpose of issuing disability placards, the bill would define “postsecondary educational institution” to include any public university, municipal university, community college, technical college, or private postsecondary educational institution located primarily in Kansas and accredited by the Higher Learning Commission.

#### ***Audiology and Speech-Language Pathology Interstate Compact (New Section 6)***

The bill would enact the Audiology and Speech-Language Pathology Interstate Compact (Compact). The Compact’s uniform provisions are outlined below.

### *Section 1: Purpose*

The purpose of the Compact would be to facilitate the interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services.

### *Section 2: Definition*

The Compact would define various terms used throughout the Compact.

### *Section 3: State Participation in the Compact*

The Compact would provide licensure requirements for states participating in the Compact. Licenses issued by a home state to an audiology or speech-language pathologist would be recognized by each member state as authorizing the practice of audiology or speech-language pathology in each member state. States would be required to implement criminal history record checks of license applicants. The privilege to practice audiology or speech-language pathology would be derived from the home state license. Member states would be authorized to charge a fee for granting a compact privilege and would be required to comply with bylaws and rules of the Audiology and Speech-Language Pathology Compact Commission (Compact Commission).

### *Section 4: Compact Privilege*

The Compact would require audiologists and speech-language pathologists to comply with certain requirements to exercise compact privilege and could only hold one home state license at a time. The Compact would also establish the requirements to restore an encumbered license.

### *Section 5: Compact Privilege to Practice Telehealth*

The Compact would require member states to recognize the right of an audiologist or speech-language pathologist licensed in a member state to practice in another member state *via* telehealth.

### *Section 6: Active Duty Military Personnel or Their Spouses*

The Compact would allow active duty military personnel or their spouses to designate a home state where the individual has a license in good standing and may retain that home state designation during the period of time the military personnel is on active duty.

### *Section 7: Adverse Actions*

The Compact would allow a member state to take adverse action against an audiologist's or speech-language pathologist's privilege to practice in such member state and to issue subpoenas. Only the licensee's home state would have the power to take adverse action against the audiologist's or speech-language pathologist's license. The Compact would allow joint investigations by member states of licensees.

### *Section 8: Establishment of the Audiology and Speech-Language Pathology Compact Commission*

The Compact would include provisions relating to the membership, voting, powers and duties, and financing of the Compact Commission.

### *Section 9: Data System*

The Compact would require the Compact Commission to develop, maintain, and utilize a coordinated database and reporting system on all licensed individuals in member states. Additionally, the Compact Commission would be required to

promptly notify all member states of an adverse action taken against a licensee or applicant. Any information contributed could be designated by a member state as not for the public.

*Section 10: Rulemaking*

The Compact would authorize the Compact Commission to exercise rulemaking powers. Notice of proposed rules would have to be filed at least 30 days prior to the meeting where the Compact Commission will consider the rule. Additionally, the Compact Commission would be required to grant the opportunity for a public hearing. However, the Compact would also provide for emergency rulemaking procedures.

*Section 11: Oversight, Dispute Resolution, and Enforcement*

The Compact would allow member states to request dispute resolution to resolve disputes arising among members states and between member states and non-member states. In addition, the Compact Commission would be allowed to enforce the provisions of the Compact and, by majority vote, could initiate legal action in federal court against a member state.

*Section 12: Date of Implementation of the Interstate Commission for Audiology and Speech-Language Pathology Practice and Associated Rules, Withdrawal, and Amendment*

The Compact would come into effect on the date on which the Compact statute is enacted into law in the tenth member state. Any member state would be allowed to withdraw by enacting a statute that would repeal the Compact, but this would not take effect until six months after the enactment of the repealing statute. Member states could amend the Compact, but any amendments would not be effective until it is enacted by all member states.

### *Section 13: Construction and Severability*

The Compact would be required to be liberally construed and the provisions of the Compact would be severable.

### *Section 14: Binding Effect of Compact and Other Laws*

The Compact would not prevent the enforcement of any other law of a member state that is not inconsistent with the Compact. Laws in conflict with the Compact would be superseded to the extent of the conflict and all lawful actions of the Compact Commission would be binding upon member states.

### **Background**

Senate Sub. for HB 2487, as recommended by the Senate Committee on Education, contains the provisions of the following:

- HB 2487, as recommended by the House Committee on Education;
- SB 230, as amended by the Senate Committee of the Whole;
- SB 284, as amended by the Senate Committee on Education; and
- SB 490, as introduced.

On March 17, 2020, the Senate Committee on Education inserted the contents of SB 230, SB 284, and SB 490 into HB 2487, and recommended a substitute bill.

***HB 2487 (Special Education Law)***

HB 2487 was introduced by the House Committee on Education (House Committee) at the request of Representative Blake Carpenter.

In the House Committee hearing, Representative Blake Carpenter, a representative of the Kansas Special Education Advisory Council of the Kansas State Board of Education (KSBE), and a school social worker provided proponent testimony. The proponents stated that the change was appropriate because of the negative stigma associated with the term "emotional disturbance." The proponents indicated the change would have no effect on special education services provided. No other testimony was provided.

According to the fiscal note prepared by the Division of the Budget on HB 2487, enactment of the bill would have no fiscal effect.

***SB 230 (Kansas Commission for the Deaf and Hard of Hearing)***

SB 230 was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Estes on behalf of Senator Tyson.

In the Senate Committee on Education (Senate Committee) hearing, representatives from the Kansas Association of the Deaf and the KCDHH and several private citizens provided proponent testimony. The proponents stated the bill would address issues related to sign language interpreters, improve compliance with federal law, clarify the authority of the KCDHH, and provide safer and more reliable communication access for those with hearing loss or speech impairments. Written-only proponent testimony was provided by the KCDHH, the Kansas Speech-Language-Hearing Association, the University of Kansas Edwards Campus, and several private citizens.

No neutral or opponent testimony was provided.

The Senate Committee amended the bill to:

- Require the KCDHH to provide public education regarding best practices in language acquisition development in deaf and hard of hearing children and aural rehabilitation options and to promote the eradication of ignorance and discrimination toward deaf and hard of hearing people in schools and employment;
- Require the KCDHH to serve as an advisory board to the Legislature;
- Require the KCDHH to report directly to the Secretary for Children and Families or Deputy Secretary for Children and Families;
- Require the salary of the Executive Director to be comparable to the salaries of executive directors of other commissions;
- Require the KCDHH to exercise supervision over the Executive Director;
- Change references to “speech-impaired” to “have speech and language impairments”; and
- Make technical amendments.

The Senate Committee of the Whole amended the bill to require sign language interpreters to register with KCDHH to comply with any state or federal law or rules and regulations, as well as to interpret.

In the House Committee on Education (House Committee) hearing, representatives from the Kansas Association of the Deaf and the KCDHH provided proponent testimony. No neutral or opponent testimony was provided.

The House Committee amended the bill to remove language that would require the Executive Director's salary to be comparable to salaries of other executive directors of other commissions. [Note: This amendment was not retained by the Senate Committee.]

According to the fiscal note prepared by the Division of the Budget on SB 230 as introduced, the bill would require the KCDHH to expend approximately \$25,085 in fee revenue to conduct background and abuse registry checks. The KCDHH has adopted a fee schedule, including \$100 for initial registration and renewal every two years and lesser fees for temporary or provisional registrations. The KCDHH estimates fee fund revenue from the registration fees of \$19,385 per year for 389 interpreters. Background check fees totaling \$5,700 are expected to be collected from 95 interpreters. Nearly 300 interpreters would be exempt from background check requirements or they qualify for other existing exemptions. Any fiscal effect associated with the enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

### ***SB 284 (Disability Placards)***

SB 284 was introduced by the Senate Committee on Education (Senate Committee) at the request of Senator Givens.

In the Senate Committee hearing, Senator Givens provided proponent testimony, noting short-term transportation of students with disabilities is made more difficult when some staff vehicles do not have a disability placard. A representative of the Kansas Association of Community College Trustees also provided proponent testimony and requested an amendment to include community colleges in the language of the bill. Written-only proponent testimony was provided by a representative of the KSBE.

Written-only neutral testimony was provided by a representative of the Kansas Independent College Association. No other testimony was provided.

The Senate Committee amended the bill to include postsecondary institutions and any institution under the direction of the Secretary for Aging and Disability Services.

In the House Committee on Education (House Committee) hearing, Senator Givens provided proponent testimony. Written-only proponent testimony was provided by the Deputy Secretary of Hospitals and Facilities and the KSBE. No neutral or opponent testimony was provided.

The House Committee amended the bill by changing the implementation date to upon publication in the *Kansas Register*. [Note: This amendment was not retained by the Senate Committee.]

According to the fiscal note prepared by the Division of the Budget on SB 284 as introduced, the bill would require modification to the internal vehicle software at KDOR. However, the fiscal effect cannot be estimated at this time. The fiscal impact would be based on the combined effects of implementing the bill and other enacted legislation. If the requirements to implement enacted legislation exceeds KDOR's programming resources, expenditures for contracting outside programmer services may be required. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.

***SB 490 (Audiology and Speech-Language Pathology Interstate Compact)***

SB 490 was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Baumgardner.

In the Senate Committee on Education hearing, proponent testimony was provided by a representative of the Kansas Speech-Language-Hearing Association and a clinical associate professor of speech-language pathology. Proponents stated the goal of the Compact is to increase public access to services and to address a shortage of audiologists and speech-language pathologists, especially in rural areas. Written-only proponent testimony was provided by a representatives of the American Speech-Language-Hearing Association and Associated Audiologists, Inc., as well as a cochlear implant audiologist and a speech-language pathologist.

According to the fiscal note prepared by the Division of the Budget on SB 490 as introduced, the Department of Children and Families (DCF) states the bill would have a significant fiscal effect on agency expenditures, but that fiscal effect cannot be estimated because of many unknown factors. DCF indicates that additional expenditures may be necessary if adverse actions need to be taken against out-of-state licensees and to modify the licensee database. Additionally, the agency states there may be increased travel expenditures due to membership in the Compact. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.