

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 230

As Amended by House Committee on Education

Brief*

SB 230, as amended, would establish a sign language interpreter registration process within the Kansas Commission for the Deaf and Hard of Hearing (KCDHH) and would also prohibit individuals not registered with the KCDHH from practicing as a sign language interpreter. The bill would also amend the powers and duties of the KCDHH.

Registration Process (New Section 1)

The bill would require sign language interpreters to register with the KCDHH to interpret under KSA 75-4355a 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 as designated by the commission; and
- Has obtained certification or other appropriate credentials as designated by the commission.

*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>

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 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 (New Section 2)

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 (New Section 3)

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 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 (New Section 4)

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 (New Section 5)

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 (Sections 6, 7, and 8)

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 (Section 9)

The bill would 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 (Section 10)

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.

Background

The bill 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 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 hearing, representatives from the Kansas Association of the Deaf, Inc., and the KCDHH provided proponent testimony. No neutral or opponent testimony was provided.

The House Committee on Education amended the bill to remove language that would require the executive director's salary be comparable to salaries of other executive directors of other commissions.

According to the fiscal note prepared by the Division of the Budget on the bill 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*.