

LEGISLATIVE BILL 87

Approved by the Governor March 16, 2006

Introduced by Byars, 30; Price, 26

AN ACT relating to deaf and hard of hearing persons; to amend sections 71-4728 and 71-4728.05, Reissue Revised Statutes of Nebraska, and sections 20-150, 20-151, and 20-156, Revised Statutes Cumulative Supplement, 2004; to change provisions relating to licensure of interpreters; to redefine terms; to change and provide powers and duties for the Commission for the Deaf and Hard of Hearing; to change membership provisions relating to the Interpreter Review Board; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 20-150, Revised Statutes Cumulative Supplement, 2004, is amended to read:

20-150 (1) The Legislature hereby finds and declares that it is the policy of the State of Nebraska to secure the rights of deaf and hard of hearing persons who cannot readily understand or communicate in spoken language and who consequently cannot equally participate in or benefit from proceedings, programs, and activities of state agencies and law enforcement personnel unless interpreters are available to assist them. State agencies and law enforcement personnel shall appoint licensed interpreters as provided in sections 20-150 to 20-159, except that courts and probation officials shall appoint interpreters as provided in sections 20-150 to 20-159 and 25-2401 to 25-2407 and public school districts and educational units shall appoint qualified educational interpreters.

(2) It is the intent of the Legislature that by ~~September 1, 2002~~ June 30, 2007, the Commission for the Deaf and Hard of Hearing shall license and evaluate licensed interpreters. Prior to ~~September 1, 2002~~ June 30, 2007, the commission shall (a) develop licensed interpreter guidelines for distribution, (b) develop training to implement the guidelines, (c) adopt and promulgate rules and regulations to implement the guidelines and requirements for licensed interpreters, and (d) develop a roster of interpreters as required in section 71-4728.

(3) It is the intent of the Legislature to assure that qualified educational interpreters are provided to deaf and hard of hearing children in kindergarten-through-grade-twelve public school districts and educational service units. Prior to September 1, 1998, the State Department of Education, in cooperation with the Commission for the Deaf and Hard of Hearing, shall develop qualified educational interpreter guidelines for distribution as well as a training program to implement the guidelines. By September 1, 2000, the State Department of Education shall adopt and promulgate rules and regulations to implement the guidelines and requirements for qualified educational interpreters, and such rules and regulations shall apply to all qualified educational interpreters employed for the 2001-02 school year and all school years thereafter.

Sec. 2. Section 20-151, Revised Statutes Cumulative Supplement, 2004, is amended to read:

20-151 ~~As used in~~ For purposes of sections 20-150 to 20-159, unless the context otherwise requires:

(1) Appointing authority means the state agency or law enforcement personnel required to provide a licensed interpreter pursuant to sections 20-150 to 20-159;

(2) Auxiliary aid includes, but is not limited to, sign language interpreters, oral interpreters, tactile interpreters, other interpreters, notetakers, transcription services, written materials, assistive listening devices, assisted listening systems, videotext displays, and other visual delivery systems;

(3) Deaf or hard of hearing person means a person whose hearing impairment, with or without amplification, is so severe that he or she may have difficulty in auditorily processing spoken language without the use of an interpreter or a person with a fluctuating or permanent hearing loss which may adversely affect the ability to understand spoken language without the use of an interpreter or other auxiliary aid;

(4) Intermediary interpreter means any person, including any deaf or hard of hearing person, who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language in order to facilitate communication between a deaf or hard of hearing person and an interpreter;

(5) Licensed interpreter means a person who demonstrates proficiencies in interpretation or transliteration as required by the guidelines established rules and regulations adopted and promulgated by the Commission for the Deaf and Hard of Hearing pursuant to subsection (2) of section 20-150 and who holds a license issued by the commission pursuant to section 20-156;

(6) Oral interpreter means a person who interprets language through facial expression, body language, and mouthing;

(7) State agency means any state entity which receives appropriations from the Legislature and includes the Legislature, legislative committees, executive agencies, courts, and probation officials but does not include political subdivisions; and

(8) Tactile interpreter means a person who interprets for a deaf-blind person. The degree of deafness and blindness will determine the mode of communication to be used for each person.

Sec. 3. Section 20-156, Revised Statutes Cumulative Supplement, 2004, is amended to read:

20-156 (1) The Commission for the Deaf and Hard of Hearing shall license and evaluate licensed interpreters. The commission shall create the Interpreter Review Board pursuant to section 71-4728.05 to set policies, standards, and procedures for evaluation and licensing of interpreters. The commission may recognize evaluation and certification programs as a means to carry out the duty of evaluating interpreters' skills. The commission may define and establish different levels or types of licensure to reflect different levels of proficiency and different specialty areas.

(2) The commission shall establish and charge reasonable fees for licensure of interpreters, including applications, renewals, modifications, and record keeping, approval, conduct, and sponsorship of continuing education, and assessment of continuing competency pursuant to sections 20-150 to 20-159. All fees collected pursuant to this section by the commission shall be remitted to the State Treasurer for credit to the Commission for the Deaf and Hard of Hearing Fund. Such fees shall be disbursed for payment of expenses related to this section.

(3) The commission shall prepare and maintain a roster of licensed interpreters as provided by section 71-4728. Nothing in sections 20-150 to 20-159 shall be construed to prevent any appointing authority from contracting with a licensed interpreter on a full-time employment basis.

(4) The commission may revoke an interpreter's license if the interpreter has violated rules and regulations of the commission. The commission may deny, refuse to renew, limit, revoke, suspend, or take other disciplinary actions against a license when the applicant or licensee is found to have violated any provision of sections 20-150 to 20-159 or 71-4728 to 71-4732, or any rule or regulation of the commission adopted and promulgated pursuant to such sections, including rules and regulations governing unprofessional conduct. The Interpreter Review Board shall serve as a board of inquiry in matters of license revocation. The commission through the Interpreter Review Board shall investigate claims of complaints regarding the use of interpreters by any appointing authority, or the providing of interpreting services by any interpreter, alleged to be in violation of sections 20-150 to 20-159 by any appointing authority or rules and regulations of the commission. The commission shall notify in writing an appointing authority determined to be employing interpreters in violation of sections 20-150 to 20-159 or rules and regulations of the commission and shall monitor such appointing authority to prevent future violations.

(5) Any decision of the commission pursuant to this section shall be subject to review according to the Administrative Procedure Act.

(6) After June 30, 2007, any person providing interpreting services pursuant to sections 20-150 to 20-159 without a license issued pursuant to this section may be restrained by temporary and permanent injunctions.

Sec. 4. Section 71-4728, Reissue Revised Statutes of Nebraska, is amended to read:

71-4728 The commission shall serve as the principal state agency responsible for monitoring public policies and implementing programs which shall improve the quality and coordination of existing services for deaf or hard of hearing persons and promote the development of new services when necessary. To perform this function the commission shall:

(1) Inventory services available for meeting the problems of persons with a hearing loss and assist such persons in locating and securing such services;

(2) License interpreters under sections 20-150 to 20-159 and prepare and maintain a roster of licensed interpreters. The roster shall include the type of employment the interpreter generally engages in, the type of

license the interpreter holds, and the expiration date of the license. Each interpreter included on the roster shall provide the commission with his or her social security number which shall be kept confidential by the commission. The roster shall be made available to local, state, and federal agencies and shall be used for referrals to private organizations and individuals seeking interpreters;

(3) Promote the training of interpreters for deaf or hard of hearing persons;

(4) Provide counseling to deaf or hard of hearing persons or refer such persons to private or governmental agencies which provide counseling services;

(5) Conduct a voluntary census of deaf or hard of hearing persons in Nebraska and compile a current registry;

(6) Promote expanded adult educational opportunities for deaf or hard of hearing persons;

(7) Serve as an agency for the collection of information concerning deaf or hard of hearing persons and for the dispensing of such information to interested persons by collecting studies, compiling bibliographies, gathering information, and conducting research with respect to the education, training, counseling, placement, and social and economic adjustment of deaf or hard of hearing persons and with respect to the causes, diagnosis, treatment, and methods of prevention of impaired hearing;

(8) Appoint advisory or special committees when appropriate for indepth investigations and study of particular problems and receive reports of findings and recommendations;

(9) Assess and monitor programs for services to deaf or hard of hearing persons and make recommendations to those state agencies providing such services regarding changes necessary to improve the quality and coordination of the services;

(10) Make recommendations to the Governor and the Legislature with respect to modification in existing services or establishment of additional services for deaf or hard of hearing persons;

(11) Promote awareness and understanding of the rights of deaf or hard of hearing persons;

(12) Promote statewide communication services for deaf or hard of hearing persons;

(13) Assist deaf or hard of hearing persons in accessing comprehensive mental health, alcoholism, and drug abuse services;

(14) Provide licensed interpreters in public and private settings for the benefit of deaf or hard of hearing persons, if private-practice licensed interpreters are not available, and establish and collect reasonable fees for such interpreter services; and

(15) Make recommendations to the State Department of Education, public school districts, and educational service units regarding policies and procedures for qualified educational interpreter guidelines and a training program as required in subsection (3) of section 20-150, including, but not limited to, testing, training, and grievances; and

(16) Approve, conduct, and sponsor continuing education programs and other activities to assess continuing competence of licensees. The commission shall establish and charge reasonable fees for such activities. All fees collected pursuant to this section by the commission shall be remitted to the State Treasurer for credit to the Commission for the Deaf and Hard of Hearing Fund. Such fees shall be disbursed for payment of expenses related to this section.

Sec. 5. Section 71-4728.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-4728.05 (1) The commission shall appoint the Interpreter Review Board as required in section 20-156. ~~The~~

(2) Until the effective date of this act, the board shall consist of the following members, of whom the majority shall ~~who~~ have knowledge of sign language:

~~(1)~~ (a) The Director of Health and Human Services or his or her designee;

~~(2)~~ (b) The executive director of the commission or his or her designee;

~~(3)~~ (c) Two deaf or hard of hearing persons;

~~(4) For the initial appointments, two qualified interpreters who must become licensed interpreters within one year of their appointment or they will be disqualified. For subsequent appointments, two~~ (d) Two licensed interpreters; and

~~(5)~~ (e) Two members representing local government.

(3) Members of the Interpreter Review Board serving on the effective

date of this act shall have their terms extended to June 30, 2007. After that date, membership on the board shall be as follows:

(a) The Director of Health and Human Services or his or her designee and the executive director of the commission or his or her designee, both of whom shall serve continuously and without limitation;

(b) One qualified interpreter, appointed for a term to expire on June 30, 2008;

(c) One representative of local government, appointed for a term to expire on June 30, 2008;

(d) One deaf or hard of hearing person, appointed for a term to expire on June 30, 2009;

(e) One qualified interpreter, appointed for a term to expire on June 30, 2009;

(f) One deaf or hard of hearing person, appointed for a term to expire on June 30, 2010; and

(g) One representative of local government, appointed for a term to expire on June 30, 2010.

(4) Upon the expiration of the terms described in subsection (3) of this section, members other than those identified in subdivision (3)(a) of this section shall be appointed for terms of three years. No such member may serve more than two consecutive three-year terms beginning June 30, 2007, except that members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

(5) The commission may remove a member of the board for inefficiency, neglect of duty, or misconduct in office after delivering to such member a copy of the charges and a public hearing in accordance with the Administrative Procedure Act. If a vacancy occurs on the board, the commission shall appoint another member with the same qualifications as the vacating member to serve the remainder of the term. The members of the board shall receive no compensation but shall be reimbursed for their actual and necessary expenses, as provided in sections 81-1174 to 81-1177, in attending meetings of the commission and in carrying out their official duties as provided in this section and section 20-156.

(6) The board shall establish policies, standards, and procedures for evaluating and licensing interpreters, including, but not limited to, testing, training, grievances, and license revocation issuance, renewal, and denial of licenses, continuing education and continuing competency assessment, investigation of complaints, and disciplinary actions against a license pursuant to section 20-156. Except for members listed in subdivisions (1) and (2) of this section, a member shall not serve on the board for more than three consecutive years. Members of the board may be removed by the commission for inefficiency, neglect of duty, or misconduct in office but only after delivering to such member a copy of the charges and affording such member an opportunity to be publicly heard in person, or by counsel, in his or her own defense, upon not less than ten days' notice. If a vacancy occurs on the board, the commission shall appoint another member with the same qualifications as the vacating member to serve the remainder of the term. The members of the board shall receive no compensation but shall be reimbursed for their actual and necessary expenses in attending meetings of the commission and in carrying out their official duties as provided in this section and section 20-156.

Sec. 6. Original sections 71-4728 and 71-4728.05, Reissue Revised Statutes of Nebraska, and sections 20-150, 20-151, and 20-156, Revised Statutes Cumulative Supplement, 2004, are repealed.