

BILL ANALYSIS

C.S.H.B. 2072
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the lack of a state professional interpreters licensing program poses unnecessary and sometimes dangerous challenges for the hearing impaired population. Although Texas has had an interpreter certification program for the past few decades, certification is on a voluntarily basis and is not a requirement for practicing in the state. The absence of state regulation makes it difficult for providers of services to persons with hearing impairments to assess the quality of interpreters they use. The state can monitor the interpreters who choose to become certified for performance and ethics and address any issues through an established complaint process. However, the same is not true for uncertified interpreters. There are concerns that it is impossible to know how many uncertified interpreters are practicing in the state and, because they are not monitored by the state and there is no complaint process for uncertified interpreters, their level of qualification and aptitude cannot be adequately determined or ensured.

C.S.H.B. 2072 seeks to ensure that the hearing impaired population is afforded interpreters who meet established skill and performance standards and to reduce the risk of miscommunication between an interpreter and a client with a hearing impairment by implementing a professional licensing program and a licensing requirement to practice as an interpreter.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Service Commission in SECTIONS 3, 5, 10, and 14 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 2072 amends the Human Resources Code to remove provisions relating to the certification of an interpreter for persons who are deaf or hard of hearing by the Department of Assistive and Rehabilitative Services (DARS) and instead prohibits a person from practicing, offering or attempting to practice, or holding that person out to be practicing as an interpreter for persons who are deaf or hard of hearing unless the person is licensed under the bill's provisions. The bill requires DARS to establish a program for the licensing of interpreters and makes statutory provisions relating to the evaluation of interpreters, examination results, revocation or

suspension of a certificate, certificate renewal, and a provisional certificate applicable to an interpreter's license.

C.S.H.B. 2072 specifies that the guidelines DARS is required to develop for instruction in training programs for interpreters are guidelines to promote uniformity in the curriculum taught within those programs, rather than uniformity of signs taught within those programs. The bill requires DARS to develop requirements, in addition to guidelines, to clarify the circumstances under which licensed interpreters are qualified to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. The bill authorizes DARS to advise the executive commissioner of the Health and Human Services Commission on the adoption of necessary rules. The bill authorizes DARS to develop requirements, in addition to guidelines, for trilingual interpreter licensing and to provide training programs for persons licensed as trilingual interpreters. The bill specifies that the commissioner of DARS is required to develop and implement policies that clearly define the responsibilities of DARS staff under the bill's provisions.

C.S.H.B. 2072 specifies that the rules relating to establishing, charging, and waiving certain publication fees and the rules specifying the grounds for denying, suspending, and revoking an interpreter's license required to be adopted by the executive commissioner are to be adopted in consultation with DARS. The bill makes provisions relating to services for persons who are deaf or hard of hearing applicable to a court interpreter to the same extent that those provisions apply to any other interpreter and specifies that those provisions are in addition to the requirements of Government Code provisions relating to court interpreters. The bill removes a requirement that the removal or suspension of a license be based on the recommendation of the Board for Evaluation of Interpreters.

C.S.H.B. 2072 removes provisions relating to the licensing of a person who was certified in this state, moved to another state, and is currently certified and has been in practice in the other state for the two years preceding the date of application for a new license in this state and instead authorizes a person who holds an interpreter's license or certificate issued by another jurisdiction, including a foreign country, or an entity recognized by DARS to have licensing or certification requirements substantially equivalent to the requirements of provisions relating to services for persons who are deaf or hard of hearing to obtain a comparable license, as determined by DARS, without examination and requires such a person to pay a fee in an amount determined by DARS for the license. The bill authorizes DARS to issue a provisional license to an applicant currently licensed or certified in a foreign country, in addition to another jurisdiction, if the applicant meets certain conditions.

C.S.H.B. 2072 authorizes the executive commissioner, in consultation with DARS, to adopt rules related to the investigation and enforcement of activity prohibited by the bill, exempts certain specified persons from the bill's licensing requirements, and authorizes DARS to suspend the license of a person who violates the bill's provisions or an applicable rule. The bill authorizes DARS to impose an administrative penalty on a person who violates the bill's licensing requirements or an applicable rule and caps the amount of a penalty at \$5,000 for each violation. The bill establishes the factors DARS is required to consider in imposing an administrative penalty and requires the executive commissioner, in consultation with DARS, to adopt rules necessary to administer the bill's provisions regarding such penalties.

C.S.H.B. 2072 authorizes DARS to reinstate the license of a license holder whose practice was suspended if the license holder demonstrates that the license holder has remedied the reason for which the license was suspended and is capable of resuming practice in compliance with the bill's provisions, all administrative orders entered against the license holder, and all applicable rules. The bill establishes that a person is not required to hold an interpreter's license under the bill's provisions until September 1, 2014. The bill authorizes DARS to issue a license without an examination to any person who, on the bill's effective date, held a current and valid certification granted by the Board for Evaluation of Interpreters and who met all other requirements for

holding that certification. The bill requires a person who was on probation or whose certification was suspended to comply with all terms, conditions, and requirements relating to the suspension or probation prior to eligibility for such an issuance of a license.

C.S.H.B. 2072 makes its provisions relating to conduct that is grounds for imposition of a disciplinary sanction applicable only to conduct that occurs on or after September 1, 2014. The bill requires the executive commissioner, in consultation with DARS and not later than September 1, 2014, to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2072 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 81, Human Resources Code, is amended.

SECTION 2. Section 81.001, Human Resources Code, is amended by adding Subdivision (5) to read as follows:

(5) "Department" means the Department of Assistive and Rehabilitative Services.

SECTION 3. Section 81.006, Human Resources Code, is amended to read as follows:

Sec. 81.006. DUTIES AND POWERS. (a) The department [~~commission~~] shall:

(1) develop and implement a statewide program of advocacy and education to ensure continuity of services to persons who are deaf, deaf-blind, or hard of hearing;

(2) provide direct services to persons who are deaf or hard of hearing, including communication access, information and referral services, advocacy services, services to elderly persons who are deaf or hard of hearing, and training in accessing basic life skills;

(3) work to ensure more effective coordination and cooperation among public and nonprofit organizations providing social and educational services to individuals who are deaf or hard of hearing;

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 81.001, Human Resources Code, is amended by adding Subdivisions (5) and (6) to read as follows:

(5) "Department" means the Department of Assistive and Rehabilitative Services.

(6) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

SECTION 3. Section 81.006, Human Resources Code, is amended to read as follows:

Sec. 81.006. DUTIES AND POWERS. (a) The department [~~commission~~] shall:

(1) develop and implement a statewide program of advocacy and education to ensure continuity of services to persons who are deaf, deaf-blind, or hard of hearing;

(2) provide direct services to persons who are deaf or hard of hearing, including communication access, information and referral services, advocacy services, services to elderly persons who are deaf or hard of hearing, and training in accessing basic life skills;

(3) work to ensure more effective coordination and cooperation among public and nonprofit organizations providing social and educational services to individuals who are deaf or hard of hearing;

(4) maintain a registry of available licensed ~~[qualified]~~ interpreters for persons who are deaf or hard of hearing by updating the registry at least quarterly and making the registry available to interested persons at cost;

(5) establish a system to approve and provide courses and workshops for the instruction and continuing education of interpreters for persons who are deaf or hard of hearing;

(6) assist institutions of higher education in initiating training programs for interpreters and develop guidelines for instruction to promote uniformity of signs taught within those programs;

(7) with the assistance of the Texas Higher Education Coordinating Board, develop standards for evaluation of the programs described by Subdivision (6); and

(8) develop guidelines and requirements to clarify the circumstances under which interpreters licensed ~~[certified]~~ by the department ~~[commission]~~ are qualified to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(b) The department ~~[commission]~~ may:

(1) appoint one or more advisory committees to consult with and advise the department ~~[commission]~~;

(2) establish and collect training fees and accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving services to persons of this state who are deaf or hard of hearing;

(3) adopt rules necessary to implement this chapter;

(4) contract with or provide grants to agencies, organizations, or individuals as necessary to implement this chapter;

(5) establish a reasonable fee and charge interpreters for training to defray the cost of conducting the training;

(6) develop guidelines and requirements for trilingual interpreter licensing ~~[services]~~; and

(7) provide training programs for persons licensed as ~~[who provide]~~ trilingual interpreters ~~[interpreter services]~~.

(e) The department ~~[commission]~~ shall develop and implement policies that clearly

(4) maintain a registry of available licensed ~~[qualified]~~ interpreters for persons who are deaf or hard of hearing by updating the registry at least quarterly and making the registry available to interested persons at cost;

(5) establish a system to approve and provide courses and workshops for the instruction and continuing education of interpreters for persons who are deaf or hard of hearing;

(6) assist institutions of higher education in initiating training programs for interpreters and develop guidelines for instruction to promote uniformity in the curriculum ~~[of signs]~~ taught within those programs;

(7) with the assistance of the Texas Higher Education Coordinating Board, develop standards for evaluation of the programs described by Subdivision (6); and

(8) develop guidelines and requirements to clarify the circumstances under which interpreters licensed ~~[certified]~~ by the department ~~[commission]~~ are qualified to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(b) The department ~~[commission]~~ may:

(1) appoint one or more advisory committees to consult with and advise the department ~~[commission]~~;

(2) establish and collect training fees and accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving services to persons of this state who are deaf or hard of hearing;

(3) advise the executive commissioner on the adoption of ~~[adopt]~~ rules necessary to implement this chapter;

(4) contract with or provide grants to agencies, organizations, or individuals as necessary to implement this chapter;

(5) establish a reasonable fee and charge interpreters for training to defray the cost of conducting the training;

(6) develop guidelines and requirements for trilingual interpreter licensing ~~[services]~~; and

(7) provide training programs for persons licensed as ~~[who provide]~~ trilingual interpreters ~~[interpreter services]~~.

(e) The commissioner of the department ~~[commission]~~ shall develop and implement

define the respective responsibilities of the governing body of the department ~~[commission]~~ and the staff of the department ~~[commission]~~.

(f) The department ~~[commission]~~ shall establish and charge reasonable fees for some or all department ~~[commission]~~ publications to cover the department's ~~[commission's]~~ publication costs. However, the department ~~[commission]~~ shall waive the fee if a person who is deaf or hard of hearing is financially unable to pay for the publication, and may waive the fees for publications provided to certain entities. The department ~~[commission]~~ shall adopt rules to implement this subsection. The rules must specify the standards used for determining ability to pay for a publication and must specify the types of entities for which the fees will be waived.

SECTION 4. Chapter 81, Human Resources Code, is amended by adding Subchapter B, and a heading is added to that subchapter to read as follows:

SUBCHAPTER B. SERVICES FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

SECTION 5. Section 81.007, Human Resources Code, is transferred to Subchapter B, Chapter 81, Human Resources Code, as added by this Act, redesignated as Section 81.052, Human Resources Code, and amended to read as follows:

Sec. 81.052 ~~[81.007]~~. INTERPRETER LICENSING PROGRAM ~~[BOARD FOR EVALUATION OF INTERPRETERS]~~. (a) The department shall ~~[commission may]~~ establish a program in accordance with this subchapter ~~[section]~~ for the licensing ~~[certification]~~ of interpreters who have reached varying levels of proficiency in

policies that clearly define the [respective] responsibilities of the [governing body of the commission and the] staff of the department under this chapter ~~[commission]~~.

(f) The department ~~[commission]~~ shall establish and charge reasonable fees for some or all department ~~[commission]~~ publications to cover the department's ~~[commission's]~~ publication costs. However, the department ~~[commission]~~ shall waive the fee if a person who is deaf or hard of hearing is financially unable to pay for the publication, and may waive the fees for publications provided to certain entities. The executive commissioner, in consultation with the department, ~~[commission]~~ shall adopt rules to implement this subsection. The rules must specify the standards used for determining ability to pay for a publication and must specify the types of entities for which the fees will be waived.

SECTION 4. Chapter 81, Human Resources Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. SERVICES FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

Sec. 81.051. APPLICABILITY OF SUBCHAPTER TO COURT INTERPRETERS. The provisions of this subchapter apply to a court interpreter to the same extent that the provisions apply to any other interpreter and are in addition to the requirements of Chapter 57, Government Code.

SECTION 5. Section 81.007, Human Resources Code, is transferred to Subchapter B, Chapter 81, Human Resources Code, as added by this Act, redesignated as Section 81.052, Human Resources Code, and amended to read as follows:

Sec. 81.052 ~~[81.007]~~. INTERPRETER LICENSING PROGRAM ~~[BOARD FOR EVALUATION OF INTERPRETERS]~~. (a) The department shall ~~[commission may]~~ establish a program in accordance with this subchapter ~~[section]~~ for the licensing ~~[certification]~~ of interpreters who have reached varying levels of proficiency in

communication skills necessary to facilitate communication between persons who are deaf or hard of hearing and persons who are not deaf or hard of hearing.

(b) The department [~~commission~~] shall appoint an advisory board of seven persons to assist in administering the interpreter licensing [~~certification~~] program. A board member may not receive compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the board, as provided in the General Appropriations Act.

(c) Subject to approval of the department [~~commission~~], the board shall prescribe qualifications for each of several levels of licensing [~~certification~~] based on proficiency and shall evaluate and provide licenses to [~~certify~~] interpreters using these qualifications.

(d) A qualified board member may serve as an evaluator under Subsection (c), and the department [~~commission~~] shall compensate the board member for services performed as an evaluator.

(e) The department [~~commission~~] shall charge fees for written and performance examinations, for annual license [~~certificate~~] renewal, and for relicensing [~~recertification~~]. The fees must be in an amount sufficient to recover the costs of the licensing [~~certification~~] program.

(f) The department [~~commission~~] may waive any prerequisite to obtaining a license [~~certificate~~] for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license or certificate issued by another jurisdiction that has licensing [~~certification~~] requirements substantially equivalent to those of this state.

(g) The department [~~commission~~] by rule may adopt a system under which licenses [~~certificates~~] are valid for a five-year period, subject to the license [~~certificate~~] holder's payment of an annual license [~~certificate~~] renewal fee. After expiration of the five-year period, an interpreter must apply to [~~be recertified by~~] the department for license renewal [~~commission~~]. The department [~~commission~~] may renew the license of [~~recertify~~] an interpreter who:

(1) receives specified continuing education credits; or

communication skills necessary to facilitate communication between persons who are deaf or hard of hearing and persons who are not deaf or hard of hearing.

(b) The department [~~commission~~] shall appoint an advisory board of seven persons to assist in administering the interpreter licensing [~~certification~~] program. A board member may not receive compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the board, as provided in the General Appropriations Act.

(c) Subject to approval of the department [~~commission~~], the board shall prescribe qualifications for each of several levels of licensing [~~certification~~] based on proficiency and shall evaluate and provide licenses to [~~certify~~] interpreters using these qualifications.

(d) A qualified board member may serve as an evaluator under Subsection (c), and the department [~~commission~~] shall compensate the board member for services performed as an evaluator.

(e) The department [~~commission~~] shall charge fees for written and performance examinations, for annual license [~~certificate~~] renewal, and for relicensing [~~recertification~~]. The fees must be in an amount sufficient to defray [~~recover~~] the costs of the licensing [~~certification~~] program.

(f) The department [~~commission~~] may waive any prerequisite to obtaining a license [~~certificate~~] for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license or certificate issued by another jurisdiction that has licensing [~~certification~~] requirements substantially equivalent to those of this state.

(g) The department [~~commission~~] by executive commissioner rule may adopt a system under which licenses [~~certificates~~] are valid for a five-year period, subject to the license [~~certificate~~] holder's payment of an annual license [~~certificate~~] renewal fee. After expiration of the five-year period, an interpreter must apply to [~~be recertified by~~] the department for license renewal [~~commission~~]. The department [~~commission~~] may renew the license of [~~recertify~~] an interpreter who:

(1) receives specified continuing education credits; or

(2) achieves an adequate score on a specified examination.

(h) The department [~~commission~~] shall adopt rules specifying the grounds for denying, suspending, or revoking an interpreter's license [~~certificate~~].

(i) The department [~~commission~~] shall determine the frequency for conducting the interpreter examinations. The department [~~commission~~] shall conduct the interpreter examinations:

(1) in a space that can be obtained free of charge; or

(2) at a facility selected in compliance with Section 2113.106, Government Code.

(k) The department [~~commission~~] shall compensate an evaluator based on a fee schedule as determined by department [~~commission~~] rule.

(l) The department [~~commission~~] shall recognize, prepare, or administer continuing education programs for its license [~~certificate~~] holders. A license [~~certificate~~] holder must participate in the programs to the extent required by the department [~~commission~~] to keep the person's license [~~certificate~~].

(2) achieves an adequate score on a specified examination.

(h) The executive commissioner, in consultation with the department, [~~commission~~] shall adopt rules specifying the grounds for denying, suspending, or revoking an interpreter's license [~~certificate~~].

(i) The department [~~commission~~] shall determine the frequency for conducting the interpreter examinations. The department [~~commission~~] shall conduct the interpreter examinations:

(1) in a space that can be obtained free of charge; or

(2) at a facility selected in compliance with Section 2113.106, Government Code.

(k) The department [~~commission~~] shall compensate an evaluator based on a fee schedule as determined by [~~commission~~] rule.

(l) The department [~~commission~~] shall recognize, prepare, or administer continuing education programs for its license [~~certificate~~] holders. A license [~~certificate~~] holder must participate in the programs to the extent required by the department [~~commission~~] to keep the person's license [~~certificate~~].

(m) A person who holds an interpreter's license or certificate issued by another jurisdiction, including a foreign country, or an entity recognized by the department to have licensing or certification requirements substantially equivalent to the requirements of this subchapter may obtain a comparable license, as determined by the department, without an examination. The person shall pay to the department a fee in an amount determined by the department for the license.

SECTION 6. Section 81.0071, Human Resources Code, is transferred to Subchapter B, Chapter 81, Human Resources Code, as added by this Act, redesignated as Section 81.053, Human Resources Code, and amended to read as follows:

Sec. 81.053 [~~81.0071~~]. EXAMINATION RESULTS. (a) Not later than the 60th day after the date on which a license [~~certification~~] examination is administered under this chapter, the department

SECTION 6. Substantially the same as introduced version.

~~[commission]~~ shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the department ~~[commission]~~ shall notify examinees of the results of the examination not later than the 14th day after the date on which the department ~~[commission]~~ receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the department ~~[commission]~~ shall notify each examinee of the reason for the delay before the 90th day. (c) The department ~~[commission]~~ may require a testing service to notify a person of the results of the person's examination.

SECTION 7. Section 81.0072, Human Resources Code, is transferred to Subchapter B, Chapter 81, Human Resources Code, as added by this Act, redesignated as Section 81.054, Human Resources Code, and amended.

SECTION 8. Section 81.0073, Human Resources Code, is transferred to Subchapter B, Chapter 81, Human Resources Code, as added by this Act, redesignated as Section 81.055, Human Resources Code, and amended to read as follows:

Sec. 81.055 ~~[81.0073]~~. LICENSE ~~[CERTIFICATE]~~ RENEWAL. (a) A person who is otherwise eligible to renew a license ~~[certificate]~~ may renew an unexpired license ~~[certificate]~~ by paying the required renewal fee to the department ~~[commission]~~ before the expiration date of the license ~~[certificate]~~. A person whose license ~~[certificate]~~ has expired may not engage in activities that require a license ~~[certificate]~~ until the license ~~[certificate]~~ has been renewed. (b) A person whose license ~~[certificate]~~ has been expired for 90 days or less may renew the license ~~[certificate]~~ by paying to the department ~~[commission]~~ a renewal fee that is equal to 1-1/2 times the normally required renewal fee. (c) A person whose license ~~[certificate]~~ has been expired for more than 90 days but less than one year may renew the license

SECTION 7. Same as introduced version.

SECTION 8. Section 81.0073, Human Resources Code, is transferred to Subchapter B, Chapter 81, Human Resources Code, as added by this Act, redesignated as Section 81.055, Human Resources Code, and amended to read as follows:

Sec. 81.055 ~~[81.0073]~~. LICENSE ~~[CERTIFICATE]~~ RENEWAL. (a) A person who is otherwise eligible to renew a license ~~[certificate]~~ may renew an unexpired license ~~[certificate]~~ by paying the required renewal fee to the department ~~[commission]~~ before the expiration date of the license ~~[certificate]~~. A person whose license ~~[certificate]~~ has expired may not engage in activities that require a license ~~[certificate]~~ until the license ~~[certificate]~~ has been renewed. (b) A person whose license ~~[certificate]~~ has been expired for 90 days or less may renew the license ~~[certificate]~~ by paying to the department ~~[commission]~~ a renewal fee that is equal to 1-1/2 times the normally required renewal fee. (c) A person whose license ~~[certificate]~~ has been expired for more than 90 days but less than one year may renew the license

[certificate] by paying to the department [commission] a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose license [certificate] has been expired for one year or more may not renew the license [certificate]. The person may obtain a new license [certificate] by complying with the requirements and procedures, including the examination requirements, for obtaining an original license [certificate].

(e) A person who holds a current license or certificate issued by another [was certified in this] state[, moved to another state, and is currently certified and has been in practice in the other state for the two years preceding the date of application] may obtain a license [new certificate] without examination [reexamination]. The person must pay to the department [commission] a fee determined by the department [that is equal to two times the normally required renewal fee] for the license [certificate].

(f) Not later than the 30th day before the date a person's license [certificate] is scheduled to expire, the department [commission] shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department [commission].

SECTION 9. Section 81.0074, Human Resources Code, is transferred to Subchapter B, Chapter 81, Human Resources Code, as added by this Act, redesignated as Section 81.056, Human Resources Code, and amended to read as follows:

Sec. 81.056 [81.0074]. PROVISIONAL LICENSE [CERTIFICATE]. (a) The department [commission] may issue a provisional license [certificate] to an applicant currently licensed or certified in another jurisdiction who seeks a license [certificate] in this state and who:

(1) has been licensed or certified in good standing as an interpreter for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this

[certificate] by paying to the department [commission] a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose license [certificate] has been expired for one year or more may not renew the license [certificate]. The person may obtain a new license [certificate] by complying with the requirements and procedures, including the examination requirements, for obtaining an original license [certificate].

(e) [A person who was certified in this state, moved to another state, and is currently certified and has been in practice in the other state for the two years preceding the date of application may obtain a new certificate without reexamination. The person must pay to the commission a fee that is equal to two times the normally required renewal fee for the certificate.]

[(f)] Not later than the 30th day before the date a person's license [certificate] is scheduled to expire, the department [commission] shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department [commission].

SECTION 9. Section 81.0074, Human Resources Code, is transferred to Subchapter B, Chapter 81, Human Resources Code, as added by this Act, redesignated as Section 81.056, Human Resources Code, and amended to read as follows:

Sec. 81.056 [81.0074]. PROVISIONAL LICENSE [CERTIFICATE]. (a) The department [commission] may issue a provisional license [certificate] to an applicant currently licensed or certified in another jurisdiction, including a foreign country, who seeks a license [certificate] in this state and who:

(1) has been licensed or certified in good standing as an interpreter for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this

subchapter [~~chapter~~];

(2) has passed another [~~a national or other~~] examination recognized by the department [~~commission~~] relating to the practice of interpretation for people who are deaf or hard of hearing; and

(3) is sponsored by a person licensed [~~certified~~] by the department [~~commission~~] under this subchapter [~~chapter~~] with whom the provisional license [~~certificate~~] holder will practice during the time the person holds a provisional license [~~certificate~~].

(b) The department [~~commission~~] may waive the requirement of Subsection (a)(3) for an applicant if the department [~~commission~~] determines that compliance with that subdivision [~~subsection~~] would be a hardship to the applicant.

(c) A provisional license [~~certificate~~] is valid until the date the department [~~commission~~] approves or denies the provisional license [~~certificate~~] holder's application for a license [~~certificate~~]. The department [~~commission~~] shall issue a license [~~certificate~~] under this chapter to the provisional license [~~certificate~~] holder if:

(1) the provisional license [~~certificate~~] holder is eligible to be licensed [~~certified~~] under Section 81.052(f) [~~81.007(f)~~]; or

(2) the provisional license [~~certificate~~] holder passes the part of the examination under this subchapter [~~chapter~~] that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of interpretation for people who are deaf or hard of hearing in this state, and:

(A) the department [~~commission~~] verifies that the provisional license [~~certificate~~] holder meets the academic and experience requirements for a license [~~certificate~~] under this subchapter [~~chapter~~]; and

(B) the provisional license [~~certificate~~] holder satisfies any other licensing [~~certification~~] requirements under this subchapter [~~chapter~~].

(d) The department [~~commission~~] must approve or deny a provisional license [~~certificate~~] holder's application for a license [~~certificate~~] not later than the 180th day after the date the provisional license [~~certificate~~] is issued. The department [~~commission~~] may extend the 180-day period if the results of an examination have

subchapter [~~chapter~~];

(2) has passed another [~~a national or other~~] examination recognized by the department [~~commission~~] relating to the practice of interpretation for people who are deaf or hard of hearing; and

(3) is sponsored by a person licensed [~~certified~~] by the department [~~commission~~] under this subchapter [~~chapter~~] with whom the provisional license [~~certificate~~] holder will practice during the time the person holds a provisional license [~~certificate~~].

(b) The department [~~commission~~] may waive the requirement of Subsection (a)(3) for an applicant if the department [~~commission~~] determines that compliance with that subdivision [~~subsection~~] would be a hardship to the applicant.

(c) A provisional license [~~certificate~~] is valid until the date the department [~~commission~~] approves or denies the provisional license [~~certificate~~] holder's application for a license [~~certificate~~]. The department [~~commission~~] shall issue a license [~~certificate~~] under this subchapter [~~chapter~~] to the provisional license [~~certificate~~] holder if:

(1) the provisional license [~~certificate~~] holder is eligible to be licensed [~~certified~~] under Section 81.052(f) [~~81.007(f)~~]; or

(2) the provisional license [~~certificate~~] holder passes the part of the examination under this subchapter [~~chapter~~] that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of interpretation for people who are deaf or hard of hearing in this state, and:

(A) the department [~~commission~~] verifies that the provisional license [~~certificate~~] holder meets the academic and experience requirements for a license [~~certificate~~] under this subchapter [~~chapter~~]; and

(B) the provisional license [~~certificate~~] holder satisfies any other licensing [~~certification~~] requirements under this subchapter [~~chapter~~].

(d) The department [~~commission~~] must approve or deny a provisional license [~~certificate~~] holder's application for a license [~~certificate~~] not later than the 180th day after the date the provisional license [~~certificate~~] is issued. The department [~~commission~~] may extend the 180-day period if the results of an examination have not been received by

not been received by the department [~~commission~~] before the end of that period.
(e) The department [~~commission~~] may establish a fee for provisional licenses [~~certificates~~] in an amount reasonable and necessary to cover the cost of issuing the license [~~certificate~~].

SECTION 10. Subchapter B, Chapter 81, Human Resources Code, as added by this Act, is amended by adding Sections 81.057 through 81.062 to read as follows:

Sec. 81.057. LICENSE REQUIREMENT.

(a) A person may not practice, offer or attempt to practice, or hold that person out to be practicing as an interpreter for persons who are deaf or hard of hearing unless the person is licensed under this subchapter.

(b) The department shall adopt rules related to the investigation and enforcement of activity prohibited under Subsection (a).

Sec. 81.058. PENALTIES AND OTHER ENFORCEMENT PROVISIONS. (a) A violation of Section 81.057(a) is a deceptive trade practice.

(b) The department may apply to a district court in any county for an injunction or another order to restrain the violation of this subchapter by a person other than a license holder under this subchapter.

(c) If it appears to the department that a person who is not licensed under this subchapter is violating this subchapter or a rule adopted under this subchapter, the department, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

(d) A person commits an offense if the person violates this subchapter.

(e) An offense under Subsection (d) is a misdemeanor punishable by:

(1) confinement in the county jail for a period not to exceed six months;

(2) a fine not to exceed \$2,500; or

(3) both the confinement and the fine.

(f) If the person does not pay the fine and the enforcement of the fine is not stayed, the fine may be collected and the attorney general may sue to collect the penalty.

the department [~~commission~~] before the end of that period.

(e) The department [~~commission~~] may establish a fee for provisional licenses [~~certificates~~] in an amount reasonable and necessary to cover the cost of issuing the license [~~certificate~~].

SECTION 10. Subchapter B, Chapter 81, Human Resources Code, as added by this Act, is amended by adding Sections 81.057, 81.058, and 81.059 to read as follows:

Sec. 81.057. LICENSE REQUIREMENT.

(a) A person may not practice, offer or attempt to practice, or hold that person out to be practicing as an interpreter for persons who are deaf or hard of hearing unless the person is licensed under this subchapter.

(b) The executive commissioner, in consultation with the department, may adopt rules related to the investigation and enforcement of activity prohibited under Subsection (a).

No equivalent provision.

(g) This section does not apply to:

(1) a person interpreting in religious, family-oriented, or other social activities as authorized by the department;

(2) a person interpreting in an emergency situation involving health care services in which an ordinarily prudent physician in the same or similar circumstances might reasonably believe that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the patient, until such time as the services of a licensed interpreter can be obtained;

(3) a person enrolled in a course of study leading to a certificate or degree in interpreting, provided that the person is clearly designated as a student, trainee, or intern, and that the person engages only in activities and services that constitute a part of a supervised course of study;

(4) a person working as an educational interpreter in compliance with rules established by the Texas Education Agency;

(5) a person interpreting at the request of an individual who is deaf or hard of hearing, as long as the person informs the individual who is deaf or hard of hearing that the person is not licensed, and the person does not force, coerce, or misguide the individual who is deaf or hard of hearing in seeking the individual's consent;

(6) a person who is not a resident of this state and who is currently licensed or certified in another jurisdiction, if the person provides interpretation services in this state on fewer than 30 days in a calendar year, except that days on which the person provides services relating to a state of disaster declared by the governor do not count toward the 30-day limit; and

(7) a person who engages in video relay interpreting.

No equivalent provision.

(c) This section does not apply to:

(1) a person interpreting in religious, family-oriented, or other social activities as authorized by the department;

(2) a person interpreting in an emergency situation involving health care services in which an ordinarily prudent physician in the same or similar circumstances might reasonably believe that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the patient, until such time as the services of a licensed interpreter can be obtained;

(3) a person enrolled in a course of study leading to a certificate or degree in interpreting, provided that the person is clearly designated as a student, trainee, or intern and that the person engages only in activities and services that constitute a part of a supervised course of study;

(4) a person who is not a resident of this state and who is licensed or certified in another jurisdiction or by an entity recognized by the department, if the person provides interpretation services in this state on fewer than 30 days in a calendar year, except that days on which the person provides services relating to a state of disaster declared by the governor do not count toward the 30-day limit;

(5) a person who engages in video relay interpreting; or

(6) a person providing interpreting services in another setting as determined by the department.

(d) The department may suspend the license of a person who violates a provision of this subchapter or a rule adopted under this subchapter.

Sec. 81.058. ADMINISTRATIVE PENALTIES. (a) The department may impose an administrative penalty on a person who violates Section 81.057 or a rule

adopted under that section.

(b) A penalty imposed under this section may not exceed \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(c) When imposing a penalty under this section, the department must consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other consideration that justice may require.

(d) The executive commissioner, in consultation with the department, shall adopt rules necessary to implement this section.

Sec. 81.059. GROUND FOR DISCIPLINARY ACTION.

The department may refuse to issue or renew a license, revoke or suspend a license, place on probation a person whose license has been suspended, reprimand a license holder, or take other disciplinary action deemed appropriate by the department, including the imposition of a fine not to exceed \$2,500, against a license holder who:

(1) makes a material misstatement in furnishing information to the department;

(2) violates this subchapter or a rule adopted under this subchapter;

(3) is convicted of a felony or misdemeanor that includes dishonesty as an essential element or of a crime directly related to the practice of interpreting;

(4) demonstrates a pattern or practice of incapacity or incompetence to practice or otherwise comply under this subchapter;

(5) aids or assists another person in violating this subchapter or a rule adopted under this subchapter;

(6) does not provide information in response to a written request made by the department by certified mail within 30 days;

(7) engages in malpractice or dishonorable, unethical, or unprofessional conduct that is likely to deceive, defraud, or harm the public;

(8) is habitually intoxicated or addicted to a

No equivalent provision.

controlled substance or a drug that is likely to result in a license holder's inability to practice interpretation with reasonable judgment, skill, or safety;

(9) is disciplined by another jurisdiction if at least one of the grounds for the discipline is the same or substantially equivalent to one of those set forth in this section;

(10) violates a term of probation;

(11) by clear and convincing evidence, is shown to have abused or neglected a child;

(12) has been grossly negligent in the practice of interpreting;

(13) with fraudulent intent interprets for an individual under any name, including a false name or alias;

(14) knowingly allows another person or organization to use the license holder's license to deceive an individual or the public;

(15) cheats or attempts to cheat on an examination or evaluation related to obtaining an interpreter license, or intentionally divulges or inappropriately uses any aspect of confidential information relating to the license examination;

(16) commits immoral conduct such as sexual abuse, sexual misconduct, or sexual exploitation in the commission of an act related to the license holder's practice;

(17) wilfully violates the confidentiality between an interpreter and client, except as required by law;

(18) practices or attempts to practice interpreting under a name other than the license holder's actual name;

(19) uses any false, fraudulent, or deceptive statement in any document connected with the license holder's practice;

(20) fails to report to the department any adverse final action that is related to acts or conduct similar to acts or conduct that would constitute grounds for action under this section, taken against the license holder by another licensing jurisdiction, a peer review body, a professional interpreting association for persons who are deaf or hard of hearing, a governmental agency, or a court presiding over a liability claim in which the license holder is a party;

(21) fails to report to the department the license holder's surrender of the license holder's:

(A) license or authorization to practice interpreting in another state or jurisdiction;

or

(B) membership in any interpreting association or society for persons who are deaf or hard of hearing while under disciplinary investigation by the association or society for acts or conduct similar to acts or conduct that would constitute grounds for action under this section;

(22) becomes unable to practice interpretation with reasonable judgment, skill, or safety as a result of physical illness or injury, including deterioration through the aging process, loss of motor skills, or mental illness; or

(23) wilfully and grossly overcharges for interpreter services, including charging for services that have not been rendered.

Sec. 81.060. MENTAL OR PHYSICAL EXAMINATION. (a) The department may compel a license holder who is licensed under this subchapter, or who has applied for a license under this subchapter, to submit to a mental or physical examination if the department has a reasonable suspicion that the license holder or applicant is in violation of a provision in Section 81.059 and if an examination would be appropriate to reveal or address the violation. An examination under this section must be at the expense of the department and must be performed by a physician selected by the department. The license holder or applicant being examined may, at the expense of the license holder or applicant, select an additional physician to be present during the examination.

(b) After the examining physician completes a mental or physical examination under this section, the physician shall provide to the department a report concerning the results of the examination of the license holder or applicant. Any common law or statutory privilege relating to communications between the license holder or applicant and the examining physician does not apply to the report.

(c) If a license holder or applicant fails to submit to an examination under this section, the department, after notice and a hearing, may suspend the license holder's license or withhold decision on the applicant's application until the person submits to the examination, if the department finds that the failure to submit to the examination was

No equivalent provision.

without reasonable cause.

Sec. 81.061. ACTION FOLLOWING MENTAL OR PHYSICAL EXAMINATION.

(a) If the department determines, based on the mental or physical examination performed under Section 81.060, that a license holder or applicant is unable to practice interpretation, the department may:

(1) allow the license holder or applicant to practice interpretation:

(A) conditionally on the individual's submission to appropriate care, counseling, or treatment; or

(B) subject to any other restriction or condition that the department determines to be appropriate; or

(2) take disciplinary action, including suspension or probation, that the department determines to be appropriate.

(b) If a license holder or applicant to whom the department grants conditional permission to practice interpretation under Subsection (a)(1) fails to comply with any condition or restriction on the individual's practice, the department may immediately suspend the license holder's license.

(c) If the department immediately suspends a license holder's license according to Subsection (b), the department must afford the license holder the opportunity for a hearing to be held not later than the 15th day after the date on which the department suspended the license holder's license. At a hearing held under this subsection, the department may review any of the license holder's treatment or counseling records to the extent allowed by applicable confidentiality restrictions.

Sec. 81.062. RESUMING PRACTICE AFTER SUSPENSION.

A license holder whose practice was suspended according to any provision in this subchapter may demonstrate to the department that the license holder has remedied the reason for which the license was suspended and is capable of resuming practice in compliance with the requirements of this subchapter.

No equivalent provision.

Sec. 81.059. REINSTATEMENT OF LICENSE AFTER SUSPENSION.

The department may reinstate the license of a license holder whose practice was suspended according to any provision in this subchapter if the license holder demonstrates to the department that the license holder has remedied the reason for which the license was suspended and is capable of resuming practice in compliance with the requirements of this subchapter, all administrative orders entered against the license holder, and all rules adopted under this subchapter.

SECTION 11. A person is not required to hold a license issued under Section 81.052, Human Resources Code, redesignated and amended by this Act, until September 1, 2014.

No equivalent provision.

SECTION 12. The changes in law made by this Act relating to conduct that is grounds for imposition of a disciplinary sanction apply only to conduct that occurs on or after September 1, 2014. Conduct that occurs before that date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 13. Not later than September 1, 2014, the Department of Assistive and Rehabilitative Services shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 14. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 11. Substantially the same as introduced version.

SECTION 12. The Department of Assistive and Rehabilitative Services may issue a license under Section 81.052, Human Resources Code, as redesignated and amended by this Act, without an examination, to any person who, on the effective date of this Act, held a current and valid certification granted by the Board for Evaluation of Interpreters and who met all other requirements for holding that certification. A person who was on probation or whose certification was suspended must comply with all terms, conditions, and requirements relating to the suspension or probation prior to eligibility for issuance of a license under this section.

SECTION 13. The changes in law made by this Act relating to conduct that is grounds for imposition of a disciplinary sanction apply only to conduct that occurs on or after September 1, 2014. Conduct that occurs before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 14. Not later than September 1, 2014, the executive commissioner of the Health and Human Services Commission in consultation with the Department of Assistive and Rehabilitative Services shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 15. Same as introduced version.