

By: Rodriguez of Travis, J. Davis of Harris,  
Naishtat

H.B. No. 2072

Substitute the following for H.B. No. 2072:

By: N. Gonzalez of El Paso

C.S.H.B. No. 2072

A BILL TO BE ENTITLED

AN ACT

relating to services for persons who are deaf or hard of hearing and  
licensing requirements for interpreters for persons who are deaf or  
hard of hearing; providing an administrative penalty; requiring a  
fee and changing the rate of a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 81, Human Resources Code, is amended by  
designating Sections 81.001, 81.002, 81.0021, 81.0022, 81.003,  
81.004, 81.005, 81.0051, 81.0055, 81.006, 81.008, 81.009, 81.013,  
81.014, 81.015, 81.016, 81.017, 81.019, 81.020, and 81.021 as  
Subchapter A and adding a heading to that subchapter to read as  
follows:

SUBCHAPTER A. GENERAL PROVISIONS; POWERS AND DUTIES

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

1 advocacy and education to ensure continuity of services to persons  
2 who are deaf, deaf-blind, or hard of hearing;

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

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

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

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

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

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

26 (8) develop guidelines and requirements to clarify the  
27 circumstances under which interpreters licensed ~~[certified]~~ by the

1 department [~~commission~~] are qualified to interpret effectively,  
2 accurately, and impartially, both receptively and expressively,  
3 using any necessary specialized vocabulary.

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

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

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

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

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

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

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

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

22 (e) The commissioner of the department [~~commission~~] shall  
23 develop and implement policies that clearly define the [~~respective~~]  
24 responsibilities of the [~~governing body of the commission and the~~]  
25 staff of the department under this chapter [~~commission~~].

26 (f) The department [~~commission~~] shall establish and charge  
27 reasonable fees for some or all department [~~commission~~]

1 publications to cover the department's [~~commission's~~] publication  
2 costs. However, the department [~~commission~~] shall waive the fee if  
3 a person who is deaf or hard of hearing is financially unable to pay  
4 for the publication, and may waive the fees for publications  
5 provided to certain entities. The executive commissioner, in  
6 consultation with the department, [~~commission~~] shall adopt rules to  
7 implement this subsection. The rules must specify the standards  
8 used for determining ability to pay for a publication and must  
9 specify the types of entities for which the fees will be waived.

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

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

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

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

22 Sec. 81.052 [~~81.007~~]. INTERPRETER LICENSING PROGRAM [~~BOARD~~  
23 ~~FOR EVALUATION OF INTERPRETERS~~]. (a) The department shall  
24 [~~commission may~~] establish a program in accordance with this  
25 subchapter [~~section~~] for the licensing [~~certification~~] of  
26 interpreters who have reached varying levels of proficiency in  
27 communication skills necessary to facilitate communication between

1 persons who are deaf or hard of hearing and persons who are not deaf  
2 or hard of hearing.

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

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

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

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

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

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

- 9           (1) receives specified continuing education credits;  
10 or  
11           (2) achieves an adequate score on a specified  
12 examination.

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

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

- 21           (1) in a space that can be obtained free of charge; or  
22           (2) at a facility selected in compliance with Section  
23 2113.106, Government Code.

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

27           (1) The department [~~commission~~] shall recognize, prepare,

1 or administer continuing education programs for its license  
2 [~~certificate~~] holders. A license [~~certificate~~] holder must  
3 participate in the programs to the extent required by the  
4 department [~~commission~~] to keep the person's license  
5 [~~certificate~~].

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

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

18 Sec. 81.053 [~~81.0071~~]. EXAMINATION RESULTS. (a) Not  
19 later than the 60th day after the date on which a license  
20 [~~certification~~] examination is administered under this subchapter  
21 [~~chapter~~], the department [~~commission~~] shall notify each examinee  
22 of the results of the examination. However, if an examination is  
23 graded or reviewed by a national testing service, the department  
24 [~~commission~~] shall notify examinees of the results of the  
25 examination not later than the 14th day after the date on which the  
26 department [~~commission~~] receives the results from the testing  
27 service. If the notice of the examination results will be delayed

1 for longer than 90 days after the examination date, the department  
2 [~~commission~~] shall notify each examinee of the reason for the delay  
3 before the 90th day.

4 (c) The department [~~commission~~] may require a testing  
5 service to notify a person of the results of the person's  
6 examination.

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

11 Sec. 81.054 [~~81.0072~~]. REVOCATION OR SUSPENSION OF  
12 LICENSE [~~CERTIFICATE~~]. (a) The department [~~commission, based on~~  
13 ~~the recommendation of the Board for Evaluation of Interpreters,~~]  
14 may revoke or suspend a license [~~certificate~~] or place a license  
15 [~~certificate~~] holder on probation for a violation of a statute,  
16 rule, or policy of the department [~~commission~~]. If a license  
17 [~~certificate~~] holder is placed on probation, the department  
18 [~~commission~~] may require the practitioner:

19 (1) to report regularly to the department [~~commission~~]  
20 on matters that are the basis of the probation;

21 (2) to limit practice to those areas prescribed by the  
22 department [~~commission~~]; or

23 (3) to continue or renew professional education until  
24 a satisfactory degree of skill has been attained in those areas that  
25 are the basis of the probation.

26 (b) If the department [~~commission~~] proposes to suspend or  
27 revoke a license [~~certificate~~] or place a license [~~certificate~~]

1 holder on probation, the license [~~certificate~~] holder is entitled  
2 to a hearing before the department [~~commission~~] or a hearings  
3 officer appointed by the department [~~commission~~]. All final  
4 decisions to suspend or revoke a license [~~certificate~~] or place a  
5 license [~~certificate~~] holder on probation shall be made by the  
6 department [~~commission~~].

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

11 Sec. 81.055 [~~81.0073~~]. LICENSE [~~CERTIFICATE~~] RENEWAL. (a)  
12 A person who is otherwise eligible to renew a license [~~certificate~~]  
13 may renew an unexpired license [~~certificate~~] by paying the required  
14 renewal fee to the department [~~commission~~] before the expiration  
15 date of the license [~~certificate~~]. A person whose license  
16 [~~certificate~~] has expired may not engage in activities that require  
17 a license [~~certificate~~] until the license [~~certificate~~] has been  
18 renewed.

19 (b) A person whose license [~~certificate~~] has been expired  
20 for 90 days or less may renew the license [~~certificate~~] by paying to  
21 the department [~~commission~~] a renewal fee that is equal to 1-1/2  
22 times the normally required renewal fee.

23 (c) A person whose license [~~certificate~~] has been expired  
24 for more than 90 days but less than one year may renew the license  
25 [~~certificate~~] by paying to the department [~~commission~~] a renewal  
26 fee that is equal to two times the normally required renewal fee.

27 (d) A person whose license [~~certificate~~] has been expired

1 for one year or more may not renew the license [~~certificate~~]. The  
2 person may obtain a new license [~~certificate~~] by complying with the  
3 requirements and procedures, including the examination  
4 requirements, for obtaining an original license [~~certificate~~].

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

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

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

20 Sec. 81.056 [~~81.0074~~]. PROVISIONAL LICENSE [~~CERTIFICATE~~].

21 (a) The department [~~commission~~] may issue a provisional license  
22 [~~certificate~~] to an applicant currently licensed or certified in  
23 another jurisdiction, including a foreign country, who seeks a  
24 license [~~certificate~~] in this state and who:

25 (1) has been licensed or certified in good standing as  
26 an interpreter for at least two years in another jurisdiction,  
27 including a foreign country, that has licensing or certification

1 requirements substantially equivalent to the requirements of this  
2 subchapter [~~chapter~~];

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

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

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

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

22 (1) the provisional license [~~certificate~~] holder is  
23 eligible to be licensed [~~certified~~] under Section 81.052(f)  
24 [~~81.007(f)~~]; or

25 (2) the provisional license [~~certificate~~] holder  
26 passes the part of the examination under this subchapter [~~chapter~~]  
27 that relates to the applicant's knowledge and understanding of the

1 laws and rules relating to the practice of interpretation for  
2 people who are deaf or hard of hearing in this state, and:

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

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

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

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

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

23 Sec. 81.057. LICENSE REQUIREMENT. (a) A person may not  
24 practice, offer or attempt to practice, or hold that person out to  
25 be practicing as an interpreter for persons who are deaf or hard of  
26 hearing unless the person is licensed under this subchapter.

27 (b) The executive commissioner, in consultation with the

1 department, may adopt rules related to the investigation and  
2 enforcement of activity prohibited under Subsection (a).

3 (c) This section does not apply to:

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

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

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

18 (4) a person who is not a resident of this state and  
19 who is licensed or certified in another jurisdiction or by an entity  
20 recognized by the department, if the person provides interpretation  
21 services in this state on fewer than 30 days in a calendar year,  
22 except that days on which the person provides services relating to a  
23 state of disaster declared by the governor do not count toward the  
24 30-day limit;

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

27 (6) a person providing interpreting services in

1 another setting as determined by the department.

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

5 Sec. 81.058. ADMINISTRATIVE PENALTIES. (a) The department  
6 may impose an administrative penalty on a person who violates  
7 Section 81.057 or a rule adopted under that section.

8 (b) A penalty imposed under this section may not exceed  
9 \$5,000 for each violation. Each day a violation continues or occurs  
10 is a separate violation for the purpose of imposing a penalty.

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

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

15 (2) the economic harm caused by the violation;

16 (3) the history of previous violations;

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

18 (5) efforts to correct the violation; and

19 (6) any other consideration that justice may require.

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

22 Sec. 81.059. REINSTATEMENT OF LICENSE AFTER SUSPENSION. The  
23 department may reinstate the license of a license holder whose  
24 practice was suspended according to any provision in this  
25 subchapter if the license holder demonstrates to the department  
26 that the license holder has remedied the reason for which the  
27 license was suspended and is capable of resuming practice in

1 compliance with the requirements of this subchapter, all  
2 administrative orders entered against the license holder, and all  
3 rules adopted under this subchapter.

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

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

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

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

1           SECTION 15. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2013.