

By: Rodriguez of Travis

H.B. No. 1069

Substitute the following for H.B. No. 1069:

By: Raymond

C.S.H.B. No. 1069

A BILL TO BE ENTITLED

AN ACT

relating to services for persons who are deaf or hard of hearing and certification 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; requiring an occupational certification.

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, 81.0055, 81.006, 81.013, 81.015, 81.016, 81.017, 81.019, 81.020, and 81.021, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as Subchapter A and adding a heading to that subchapter to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS; POWERS AND DUTIES

SECTION 2. Sections 81.006(a) and (b), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) The department 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

1 who are deaf or hard of hearing, and training in accessing basic
2 life skills;

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

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

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

14 (6) assist institutions of higher education that have
15 or are initiating training programs for interpreters for persons
16 who are deaf or hard of hearing;

17 (6-a) develop guidelines for the curricula for the
18 programs described by Subdivision (6) to promote uniformity of the
19 skills taught within those programs;

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

23 (8) develop guidelines and requirements to clarify the
24 circumstances under which interpreters certified by the department
25 are qualified to interpret effectively, accurately, and
26 impartially, both receptively and expressively, using any
27 necessary specialized vocabulary.

(b) The department may:

(1) appoint one or more advisory committees to consult with and advise the department under this chapter;

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

(4) collect a reasonable fee from interpreters for training to defray the cost of conducting the training;

(5) develop guidelines and requirements for trilingual interpreter certification ~~[services]~~; and

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

SECTION 3. 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 4. Section [81.007](#), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, 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 CERTIFICATION PROGRAM
~~[BOARD FOR EVALUATION OF INTERPRETERS]~~. (a) The department shall
~~may~~ establish a program in accordance with this subchapter
~~section~~ for the 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 shall appoint an advisory board of seven
persons to assist in administering the interpreter 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) The board shall develop, subject to the department's
approval, and the executive commissioner shall adopt
qualifications for each of several levels of certification based on
proficiency. The board shall evaluate and certify interpreters
using these qualifications.

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

(e) The executive commissioner by rule shall set and the
department shall collect fees for written and performance
examinations, for annual certificate renewal, and for
recertification. The fees must be in an amount sufficient to defray

1 ~~[recover]~~ the costs of the certification program.

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

8 (g) The executive commissioner by rule may adopt a system
9 under which certificates are valid for a five-year period, subject
10 to the certificate holder's payment of an annual certificate
11 renewal fee. After expiration of the five-year period, an
12 interpreter must be recertified by the department. The department
13 may recertify an interpreter who:

- 14 (1) receives specified continuing education credits;
15 or
16 (2) achieves an adequate score on a specified
17 examination.

18 (h) The executive commissioner shall adopt rules specifying
19 the grounds for denying, suspending, or revoking an interpreter's
20 certificate.

21 (i) The department shall determine the frequency for
22 conducting the interpreter examinations. The department shall
23 conduct the interpreter examinations:

- 24 (1) in a space that can be obtained free of charge; or
25 (2) at a facility selected in compliance with Section
26 [2113.106](#), Government Code.

27 (k) The department shall compensate an evaluator based on a

1 fee schedule as determined by department rule.

2 (1) The department shall recognize, prepare, or administer
3 continuing education programs for its certificate holders. A
4 certificate holder must participate in the programs to the extent
5 required by the department to keep the person's 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 certification requirements of this subchapter may obtain a
11 comparable certificate, as determined by the department, without an
12 examination. The person shall pay to the department a fee for the
13 certificate in an amount determined by the executive commissioner
14 by rule.

15 SECTION 5. Section 81.0071, Human Resources Code, as
16 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
17 Session, 2015, is transferred to Subchapter B, Chapter 81, Human
18 Resources Code, as added by this Act, redesignated as Section
19 81.053, Human Resources Code, and amended to read as follows:

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

1 service. If the notice of the examination results will be delayed
2 for longer than 90 days after the examination date, the department
3 shall notify each examinee of the reason for the delay before the
4 90th day.

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

7 SECTION 6. Section 81.0072, Human Resources Code, as
8 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
9 Session, 2015, is transferred to Subchapter B, Chapter 81, Human
10 Resources Code, as added by this Act, redesignated as Section
11 81.054, Human Resources Code, and amended to read as follows:

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

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

21 (2) to limit practice to those areas prescribed by the
22 department; 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 proposes to suspend or revoke a
27 certificate or place a certificate holder on probation, the

1 certificate holder is entitled to a hearing before the department
2 or a hearings officer appointed by the department. All final
3 decisions to suspend or revoke a certificate or place a certificate
4 holder on probation shall be made by the department.

5 SECTION 7. Section [81.0073](#), Human Resources Code, as
6 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
7 Session, 2015, is transferred to Subchapter B, Chapter 81, Human
8 Resources Code, as added by this Act, redesignated as Section
9 81.055, Human Resources Code, and amended to read as follows:

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

16 (b) A person whose certificate has been expired for 90 days
17 or less may renew the certificate by paying to the department a
18 renewal fee that is equal to 1-1/2 times the normally required
19 renewal fee.

20 (c) A person whose certificate has been expired for more
21 than 90 days but less than one year may renew the certificate by
22 paying to the department a renewal fee that is equal to two times
23 the normally required renewal fee.

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

1 certificate.

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

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

13 SECTION 8. Section 81.0074, Human Resources Code, as
14 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
15 Session, 2015, is transferred to Subchapter B, Chapter 81, Human
16 Resources Code, as added by this Act, redesignated as Section
17 81.056, Human Resources Code, and amended to read as follows:

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

22 (1) has been licensed or certified in good standing as
23 an interpreter for at least two years in another jurisdiction,
24 including a foreign country, that has licensing or certification
25 requirements substantially equivalent to the certification
26 requirements of this subchapter ~~[chapter]~~;

27 (2) has passed another ~~[a national or other]~~

1 examination recognized by the department relating to the practice
2 of interpretation for people who are deaf or hard of hearing; and

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

7 (b) The department may waive the requirement of Subsection
8 (a)(3) for an applicant if the department determines that
9 compliance with that subdivision would be a hardship to the
10 applicant.

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

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

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

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

26 (B) the provisional certificate holder satisfies
27 any other certification requirements under this subchapter

1 ~~[chapter]~~.

2 (d) The department must approve or deny a provisional
3 certificate holder's application for a certificate not later than
4 the 180th day after the date the provisional certificate is issued.
5 The department may extend the 180-day period if the results of an
6 examination have not been received by the department before the end
7 of that period.

8 (e) The executive commissioner by rule may establish a fee
9 for provisional certificates in an amount reasonable and necessary
10 to cover the cost of issuing the certificate.

11 SECTION 9. Subchapter B, Chapter 81, Human Resources Code,
12 as added by this Act, is amended by adding Sections 81.057, 81.058,
13 and 81.059 to read as follows:

14 Sec. 81.057. CERTIFICATION REQUIREMENT. (a) A person may
15 not practice, offer or attempt to practice, or hold that person out
16 to be practicing as an interpreter for persons who are deaf or hard
17 of hearing unless the person is certified under this subchapter.

18 (b) The executive commissioner may adopt rules related to
19 the investigation and enforcement of activity prohibited under
20 Subsection (a).

21 (c) This section does not apply to:

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

25 (2) a person interpreting in an emergency situation
26 involving health care services in which an ordinarily prudent
27 physician in the same or similar circumstances might reasonably

1 believe that the delay necessary to obtain a certified interpreter
2 is likely to cause injury or loss to the patient, until such time as
3 the services of a certified interpreter can be obtained;

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

9 (4) a person who is not a resident of this state and
10 who is licensed or certified in another jurisdiction or by an entity
11 recognized by the department, if the person provides interpreting
12 services in this state on fewer than 30 days in a calendar year,
13 except that days on which the person provides services relating to a
14 state of disaster declared by the governor do not count toward the
15 30-day limit;

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

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

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

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

26 (b) A penalty imposed under this section may not exceed
27 \$5,000 for each violation. Each day a violation continues or occurs

1 is a separate violation for the purpose of imposing a penalty.

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

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

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

7 (3) the history of previous violations;

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

9 (5) efforts to correct the violation; and

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

11 (d) The executive commissioner shall adopt rules necessary
12 to implement this section.

13 Sec. 81.059. REINSTATEMENT OF CERTIFICATE AFTER
14 SUSPENSION. The department may reinstate the certificate of a
15 certificate holder whose practice was suspended according to any
16 provision in this subchapter if the certificate holder demonstrates
17 to the department that the certificate holder has remedied the
18 reason for which the certificate was suspended and is capable of
19 resuming practice in compliance with the requirements of this
20 subchapter, all administrative orders entered against the
21 certificate holder, and all rules adopted under this subchapter.

22 SECTION 10. A person is not required to hold a certificate
23 issued under Section 81.052, Human Resources Code, as redesignated
24 and amended by this Act, until June 1, 2017.

25 SECTION 11. The changes in law made by this Act relating to
26 conduct that is grounds for imposition of a disciplinary sanction
27 apply only to conduct that occurs on or after June 1, 2017. Conduct

1 that occurs before that date is governed by the law in effect
2 immediately before the effective date of this Act, and the former
3 law is continued in effect for that purpose.

4 SECTION 12. Not later than September 1, 2016, the executive
5 commissioner of the Health and Human Services Commission shall
6 adopt rules necessary to implement the changes in law made by this
7 Act.

8 SECTION 13. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2015.