

By: Rodriguez of Travis

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

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

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

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

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

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

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

27 (8) develop guidelines and requirements to clarify the

1 circumstances under which interpreters certified by the department
2 [~~commission~~] are qualified to interpret effectively, accurately,
3 and impartially, both receptively and expressively, using any
4 necessary specialized vocabulary.

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

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

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

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

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

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

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

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

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

27 (f) The department [~~commission~~] shall establish and charge

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

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

13 SUBCHAPTER B. SERVICES FOR PERSONS WHO ARE DEAF OR HARD OF HEARING
14 Sec. 81.051. APPLICABILITY OF SUBCHAPTER TO COURT
15 INTERPRETERS. The provisions of this subchapter apply to a court
16 interpreter to the same extent that the provisions apply to any
17 other interpreter and are in addition to the requirements of
18 Chapter 57, Government Code.

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

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

1 necessary to facilitate communication between persons who are deaf
2 or hard of hearing and persons who are not deaf 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 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 certification based on proficiency and shall evaluate and certify
12 interpreters using these qualifications.

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

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

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

27 (g) The department [~~commission~~] by executive commissioner

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

(1) receives specified continuing education credits;
or

(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 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 certificate holders. A certificate holder must participate in the programs to the extent required by the department ~~[commission]~~ to keep the

1 person's certificate.

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

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

14 Sec. 81.053 [~~81.0071~~]. EXAMINATION RESULTS. (a) Not
15 later than the 60th day after the date on which a certification
16 examination is administered under this subchapter [~~chapter~~], the
17 department [~~commission~~] shall notify each examinee of the results
18 of the examination. However, if an examination is graded or
19 reviewed by a national testing service, the department [~~commission~~]
20 shall notify examinees of the results of the examination not later
21 than the 14th day after the date on which the department
22 [~~commission~~] receives the results from the testing service. If the
23 notice of the examination results will be delayed for longer than 90
24 days after the examination date, the department [~~commission~~] shall
25 notify each examinee of the reason for the delay before the 90th
26 day.

27 (c) The department [~~commission~~] may require a testing

1 service to notify a person of the results of the person's
2 examination.

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

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

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

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

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

22 (b) If the department [~~commission~~] proposes to suspend or
23 revoke a certificate or place a certificate holder on probation,
24 the certificate holder is entitled to a hearing before the
25 department [~~commission~~] or a hearings officer appointed by the
26 department [~~commission~~]. All final decisions to suspend or revoke
27 a certificate or place a certificate holder on probation shall be

1 made by the department [~~commission~~].

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

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

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

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

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

26 (e) [~~A person who was certified in this state, moved to~~
27 ~~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 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 CERTIFICATE. (a) The department ~~[commission]~~ may issue a provisional certificate to an applicant currently licensed or certified in another jurisdiction, including a foreign country, who seeks a 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 certification 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

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

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

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

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

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

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

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

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

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

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

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

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

20 (c) This section does not apply to:

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

24 (2) a person interpreting in an emergency situation
25 involving health care services in which an ordinarily prudent
26 physician in the same or similar circumstances might reasonably
27 believe that the delay necessary to obtain a certified interpreter

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

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

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

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

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

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

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

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

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

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

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

6 (3) the history of previous violations;

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

8 (5) efforts to correct the violation; and

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

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

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

21 SECTION 11. A person is not required to hold a certificate
22 issued under Section 81.052, Human Resources Code, as redesignated
23 and amended by this Act, until June 1, 2017.

24 SECTION 12. The changes in law made by this Act relating to
25 conduct that is grounds for imposition of a disciplinary sanction
26 apply only to conduct that occurs on or after June 1, 2017. Conduct
27 that occurs before that date is governed by the law in effect

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

3 SECTION 13. Not later than September 1, 2016, the executive
4 commissioner of the Health and Human Services Commission in
5 consultation with the Department of Assistive and Rehabilitative
6 Services shall adopt rules necessary to implement the changes in
7 law made by this Act.

8 SECTION 14. 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.