

SENATE BILL No. 230

By Committee on Federal and State Affairs

3-14

1 AN ACT concerning the Kansas department for children and families;
2 relating to the Kansas commission for the deaf and hard of hearing;
3 executive director duties; registration of interpreters; rules and
4 regulation authority; amending K.S.A. 75-4355a and 75-4355b and
5 K.S.A. 2018 Supp. 75-5391, 75-5393 and 75-5397a and repealing the
6 existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) Registration in accordance with this section shall
10 be required to interpret under K.S.A. 75-4355a through 75-4355d, and
11 amendments thereto.

12 (b) To obtain registration as an interpreter, an applicant shall submit
13 an application on a form and in a manner prescribed by the commission.
14 The commission may grant registration to any person who:

15 (1) Has obtained a high school diploma or its equivalent;

16 (2) is 18 years of age or older;

17 (3) has no other record of disqualifying conduct as designated by the
18 commission; and

19 (4) has obtained a certification or other appropriate credentials as
20 designated by the commission.

21 (c) (1) The commission may grant registration as an interpreter to an
22 applicant who has been duly licensed or registered as an interpreter by
23 examination under the laws of another state, territory or the District of
24 Columbia if, in the opinion of the commission, the applicant substantially
25 meets the qualifications for registration as an interpreter in this state. The
26 applicant shall provide satisfactory evidence of verification of the
27 applicant's licensure or registration from the original state of licensure or
28 registration.

29 (2) The commission may grant temporary registration to a
30 nonresident interpreter who holds a certificate or license in such person or
31 entity's state of residence. An interpreter granted a temporary registration
32 shall not interpret more than 20 separate days in a year in this state.

33 (d) (1) The commission shall charge and collect in advance fees
34 provided for in this section as fixed by the commission by rules and
35 regulations. Registrations issued under the provisions of this section shall
36 expire on the date established by rules and regulations of the commission

1 unless revoked prior to that time. The commission shall send a notice for
2 renewal of registration to every interpreter at least 60 days prior to the
3 expiration date of such person's registration.

4 (2) (A) If an interpreter fails to submit a renewal application prior to
5 the expiration date of such person's registration, such interpreter's
6 registration shall be deemed expired. A registered interpreter has a 30-day
7 grace period after a registration has expired to renew such registration
8 without a late fee. The late fee shall be set by the commission, but shall not
9 exceed \$200.

10 (B) An interpreter whose registration has expired after failing to
11 submit a renewal application may register upon payment of the late fee
12 and submitting satisfactory evidence of completion of continuing
13 education requirements established by the commission. Renewals of
14 expired registrations may include additional testing, training or education
15 as the commission deems necessary to establish the person's present ability
16 to perform the functions and responsibilities of an interpreter.

17 (3) An interpreter, as a condition for renewal of a registration, shall
18 be required to attend not less than 30 hours, biennially, of continuing
19 education units. The commission shall adopt rules and regulations
20 establishing requirements for such programs. Upon receipt of such
21 application, payment of fee and evidence of satisfactory completion of the
22 required continuing education, the commission shall verify the accuracy of
23 the application and grant renewal of the registration.

24 (4) The commission may sponsor continuing education programs and
25 establish and charge reasonable fees for such activities.

26 (e) (1) The commission may require an applicant for certification as
27 an interpreter to be fingerprinted and to submit to a state and national
28 criminal history record check. The fingerprints shall be used to identify the
29 applicant and to determine whether the applicant has a record of criminal
30 history in this state or another jurisdiction. The commission is authorized
31 to submit the fingerprints to the Kansas bureau of investigation and the
32 federal bureau of investigation for a state and national criminal history
33 record check. The commission may use the information obtained from
34 fingerprinting and the applicant's criminal history for purposes of verifying
35 the identification of the applicant and making the official determination of
36 the qualifications and fitness of the application to be issued or maintain
37 registration.

38 (2) Local and state law enforcement officers and agencies shall assist
39 the commission in taking the fingerprints of applicants for registration.
40 Local and state law enforcement officers and agencies may charge a fee as
41 reimbursement for expenses incurred in taking and processing fingerprints
42 under this section. The Kansas bureau of investigation shall release all
43 records of an applicant's adult convictions to the commission.

1 (3) The commission may fix and collect a fee for fingerprinting and
2 conducting a state and national criminal history record check of applicants
3 or registrants as may be required by the commission in an amount equal to
4 the cost of fingerprinting and the criminal history record check.

5 (f) The commission may refuse to issue, renew or reinstate a
6 registration, may condition, limit, revoke or suspend the registration of any
7 individual if the applicant or registrant:

8 (1) Has been found incompetent or negligent in the practice of
9 interpreting;

10 (2) has been convicted of a felony offense or a misdemeanor against
11 persons and has not demonstrated to the commission's satisfaction that
12 such person has been sufficiently rehabilitated to merit the public trust;

13 (3) submits an application that contains false, misleading or
14 incomplete information;

15 (4) fails or refuses to provide any information requested by the
16 commission;

17 (5) fails or refuses to pay the required fees;

18 (6) is currently listed on a child abuse registry or an adult protective
19 services registry as the result of a substantiated finding of abuse or neglect
20 by any state agency, agency of another state or the United States, territory
21 of the United States or another country, and the applicant or registrant has
22 not demonstrated to the commission's satisfaction that such person has
23 been sufficiently rehabilitated to merit the public trust; or

24 (7) has had a license, registration or certificate to practice as an
25 interpreter revoked, suspended or limited, or has been the subject of other
26 disciplinary action, or an application for a license, registration or
27 certificate denied, by the proper regulatory authority of another state,
28 territory, District of Columbia, or other country, a certified copy of the
29 record of the action of the other jurisdiction being conclusive evidence
30 thereof.

31 (g) Administrative proceedings and disciplinary actions regarding
32 interpreter registration under sections 1 through 3, and amendments
33 thereto, shall be conducted in accordance with the Kansas administrative
34 procedure act. Judicial review and civil enforcement of agency actions
35 under sections 1 through 3, and amendments thereto, shall be in
36 accordance with the Kansas judicial review act.

37 (h) In accordance with the rules and regulations filing act, the
38 executive director of the commission may adopt rules and regulations to
39 effectuate the provisions of this section. Such rules and regulations may
40 include, but not be limited to, provisions concerning:

41 (1) Fees necessary to fund the expenses and operating costs incurred
42 in the administration and enforcement of the provisions of this section;

43 (2) categories of interpreter certification and interpreter

1 endorsements, including necessary credentials or qualifications;

2 (3) a continuing education program for registered interpreters;

3 (4) a code of professional conduct;

4 (5) a supervision and mentorship program for interpreters with
5 provisional registration;

6 (6) suspension or revocation of interpreter registration; and

7 (7) any other matter deemed necessary by the executive director to
8 implement and administer the provisions of this section.

9 New Sec. 2. (a) It shall be unlawful for any person who is not
10 registered with the commission, or whose registration has been suspended
11 or revoked, to:

12 (1) Practice as an interpreter;

13 (2) hold out to the public the intention, authority or skill to interpret;

14 (3) provide video remote interpreting services; or

15 (4) use any title or abbreviation to indicate the person is a registered
16 interpreter with the commission.

17 (b) It shall be unlawful for any entity to:

18 (1) Cause or permit a person to interpret in Kansas, either in-person
19 or remotely, with knowledge that such person is not a registered
20 interpreter;

21 (2) represent that a person is a registered interpreter, when the entity
22 knows or reasonably should know that such person is not a registered
23 interpreter;

24 (3) hold out to the public, on behalf of a person, the intention, skill or
25 authority to interpret, when the entity knows or reasonably should know
26 that such person is not a registered interpreter; or

27 (4) accept payment for securing an interpreter under the provisions of
28 K.S.A. 75-4355a through 75-4355d, and amendments thereto, when the
29 person provided by the entity to interpret is not a registered interpreter.

30 (c) This section shall not apply to a person or entity if such person or
31 entity is:

32 (1) Interpreting during a religious event;

33 (2) interpreting as a volunteer without compensation after receiving
34 approval from the commission or the executive director;

35 (3) interpreting during an emergency, until the services of a registered
36 interpreter can be obtained; or

37 (4) a student who is enrolled in and pursuing a degree or credential in
38 interpreting or an interpreter training program or a provisional interpreter
39 with a supervision plan overseen by the commission, while such student or
40 provisional interpreter is under the supervision of a registered interpreter.

41 (d) When it appears to the commission that any person or entity is
42 violating the provisions of this section, the commission may bring an
43 action in the name of the state of Kansas in a court of competent

1 jurisdiction for an injunction against such violation without regard to
2 whether proceedings have been or may be instituted before the
3 commission or whether criminal proceedings have been or may be
4 instituted.

5 New Sec. 3. (a) The commission shall develop and administer a
6 program to provide guidelines for the utilization of communication
7 access services, communication access service providers, and interpreter
8 service agencies. In accordance with the rules and regulations filing act,
9 the executive director of the commission may adopt rules and regulations
10 to effectuate the provisions of this section, which may include, but not be
11 limited to, provisions concerning:

12 (1) Fees necessary to fund the expenses and operating costs incurred
13 in the administration and enforcement of the provisions of this section;

14 (2) determination of the qualifications of communication access
15 service providers;

16 (3) minimum standards of training of communication access service
17 providers;

18 (4) registration of communication access service providers and
19 interpreter service agencies;

20 (5) a code of professional conduct governing communication access
21 service providers;

22 (7) standards for equipment or technology supporting communication
23 access services;

24 (8) a system of statewide coordination of communication access
25 services; and

26 (9) any other matter that the executive director deems necessary to
27 implement and administer the provisions of this section.

28 (b) (1) The commission may require communication access service
29 providers to be fingerprinted and to submit to a state and national criminal
30 history record check. The fingerprints shall be used to identify the
31 applicant and to determine whether the applicant has a record of criminal
32 history in this state or another jurisdiction. The commission is authorized
33 to submit the fingerprints to the Kansas bureau of investigation and the
34 federal bureau of investigation for a state and national criminal history
35 record check. The commission may use the information obtained from
36 fingerprinting and the applicant's criminal history for purposes of verifying
37 the identification of any individual and in the official determination of the
38 qualifications and fitness of the individual to provide communication
39 access services.

40 (2) Local and state law enforcement officers and agencies shall assist
41 the commission in taking the fingerprints of individuals. Local and state
42 law enforcement officers and agencies may charge a fee as reimbursement
43 for expenses incurred in taking and processing fingerprints under this

1 section. The Kansas bureau of investigation shall release all records of an
2 individual's adult convictions to the commission.

3 (3) The commission may fix and collect a fee for fingerprinting and
4 conducting a state and national criminal history record check of
5 individuals pursuant to this section as may be required by the commission
6 in an amount equal to the cost of fingerprinting and the criminal history
7 record check.

8 New Sec. 4. (a) The commission shall remit all moneys received from
9 fees, charges or penalties under sections 1 through 3, and amendments
10 thereto, to the state treasurer in accordance with the provisions of K.S.A.
11 75-4215, and amendments thereto. Upon receipt of each such remittance,
12 the state treasurer shall deposit the entire amount into the state treasury to
13 the credit of the Kansas commission for the deaf and hard of hearing
14 registration fee fund.

15 (b) There is hereby created in the state treasury the commission for
16 deaf and hard of hearing registration fee fund. All moneys credited to the
17 fund shall be used to carry out the powers, duties and functions of the
18 commission. The fund shall be administered by the Kansas commission for
19 the deaf and hard of hearing. All expenditures from the fund shall be made
20 in accordance with appropriation acts upon warrants of the director of
21 accounts and reports issued pursuant to vouchers approved by the
22 executive director of the commission or the executive director's designee.

23 New Sec. 5. (a) As used in K.S.A 75-4355a through 75-4355d, and
24 amendments thereto, and sections 1 through 5, and amendments thereto:

25 (1) "Commission" means the Kansas commission for the deaf and
26 hard of hearing;

27 (2) "communication access services" includes, but is not limited to:
28 Communication access realtime translation services, notetakers, open and
29 closed captioning services, support service providers for the deaf-blind,
30 and any other effective method of making aurally delivered information
31 available to individuals who are deaf or hard of hearing;

32 (3) "communication access service provider" means an individual
33 who is trained to offer a communication access service to communicate
34 aurally delivered information to individuals who are deaf, hard of hearing
35 or speech impaired;

36 (4) "executive director" means the executive director for the Kansas
37 commission for the deaf and hard of hearing;

38 (5) "interpreter" means an individual who engages in the practice of
39 interpreting;

40 (6) "interpreter service agency" means an entity that contracts with or
41 employs registered interpreters to provide interpreter services, whether in
42 person or remotely, for a fee;

43 (7) "interpreting" means the translating or transliterating of English

1 concepts to any communication modes of individuals who are deaf, hard
2 of hearing or speech-impaired or the translating or transliterating of the
3 communication modes of individuals who are deaf, hard of hearing or
4 speech-impaired to English language concepts. Communication modes
5 include, but are not limited to, American sign language, English-based sign
6 language, cued speech, oral transliterating and information received
7 tactually;

8 (8) "video remote interpreter" means an interpreter who engages in
9 the practice of video remote interpreting; and

10 (9) "video remote interpreting" means the process that allows an
11 individual who is deaf or hard of hearing to communicate with a hearing
12 individual at the same location through an interpreter displayed through
13 videoconferencing or similar technology.

14 Sec. 6. K.S.A. 75-4355a is hereby amended to read as follows: 75-
15 4355a. ~~A qualified~~ *An interpreter registered with the Kansas commission*
16 *for the deaf and hard of hearing* shall be secured for any person who is
17 deaf, hard of hearing or speech impaired in any grand jury, court or jury
18 proceeding whether such person is a plaintiff, defendant, juror or witness
19 in such action, and the interpreter shall interpret throughout the actual trial
20 and during the time that the jury is sequestered or engaged in its
21 deliberations.

22 Sec. 7. K.S.A. 75-4355b is hereby amended to read as follows: 75-
23 4355b. (a) All interpreters for the deaf, hard of hearing and speech
24 impaired, secured under the provisions of K.S.A. 75-4355a through 75-
25 4355d, *and amendments thereto, in compliance with any state or federal*
26 *law or rules and regulations,* shall be ~~certified by or~~ registered with the
27 Kansas commission for the deaf and hard of hearing or an agency
28 designated by the commission. The chairperson of the governmental
29 committee or commission, ~~or~~ the head of the *governmental* agency or
30 other entity, or the court is responsible for assuring the procurement of the
31 interpreter.

32 (b) The commission shall recommend reasonable fees for the services
33 of the interpreter. At no time shall the fees for interpreter services be
34 assessed against the person who is deaf, hard of hearing or speech
35 impaired.

36 (c) No person shall serve as an interpreter if such interpreter is
37 married to that person, related to that person or is otherwise interested in
38 the outcome of the proceeding. Exceptions can be made in extreme
39 conditions, subject to the approval of the commission.

40 (d) No person shall serve as an interpreter pursuant to K.S.A. 75-
41 4355a through 75-4355d, *and amendments thereto,* unless the commission
42 makes the determination that the person is qualified to interpret. The
43 commission may designate the executive director of the commission or a

1 local agency to make such determination and approval under the
2 provisions of K.S.A. 75-4355a through 75-4355d, *and amendments*
3 *thereto*. A person is qualified to interpret if such person is able to interpret
4 effectively, accurately and impartially, both receptively and expressively,
5 using any necessary specialized vocabulary.

6 (e) If preferred by the deaf, hard of hearing or speech impaired person
7 and if feasible, other ~~modes of communication, such as notetakers, open-~~
8 ~~captioning equipment, assistive listening devices~~ *access services* or other
9 technology may be used in place of an interpreter.

10 Sec. 8. K.S.A. 2018 Supp. 75-5391 is hereby amended to read as
11 follows: 75-5391. (a) There is hereby established within the Kansas
12 department for children and families the Kansas commission for the deaf
13 and hard of hearing. The commission shall:

14 (1) Advocate services affecting the deaf and hard of hearing in the
15 areas of public services, health care, educational, vocational and
16 employment opportunity;

17 (2) act as a bureau of information for the deaf and hard of hearing to
18 state agencies and public institutions providing general health and mental
19 health care, employment, vocational, and educational services, and to local
20 agencies and programs;

21 (3) collect facts and statistics and other special studies of conditions
22 affecting the health and welfare of the deaf and hard of hearing in this
23 state;

24 (4) provide for a mutual exchange of ideas and information on the
25 national, state and local levels;

26 (5) provide public education of prenatal and postnatal warning signs
27 of conditions which may lead to deafness or hearing impairment in the
28 fetus or newborn child;

29 (6) encourage and assist local governments in the development of
30 programs for the deaf and hard of hearing;

31 (7) cooperate with public and private agencies and units of local, state
32 and federal governments in promoting coordination in programs for the
33 deaf and hard of hearing;

34 (8) provide for the social, emotional, educational and vocational
35 needs of the deaf and hard of hearing and their families;

36 (9) serve as an advisory board to the governor on the needs of the
37 deaf and hard of hearing by preparing an annual report which reviews the
38 status of all state services to the deaf and hard of hearing within Kansas,
39 and to recommend priorities to the governor for the development and
40 coordination of services to the deaf and hard of hearing;

41 (10) make recommendations for needed improvements, and serve as
42 an advisory board in regard to new legislation affecting the deaf and hard
43 of hearing.

1 (b) *The commission may:*

2 (1) *Develop and oversee programs concerning interpreters,*
3 *interpreter service agencies, and communication access services;*

4 (2) *become a member of or affiliate with any professional*
5 *organization related to the powers, duties and functions of the*
6 *commission; and*

7 (3) *undertake any and all other acts as may be necessary for the*
8 *performance of the commission's powers, duties and functions in the*
9 *administration of K.S.A. 75-4355a through 75-4355d, and amendments*
10 *thereto, and sections 1 through 5, and amendments thereto.*

11 (c) Except as otherwise provided by this act, all budgeting,
12 purchasing and related management functions of the Kansas commission
13 for the deaf and hard of hearing shall be administered under the direction
14 and supervision of the secretary for children and families. Within the
15 limitations of available appropriations, the secretary for children and
16 families shall provide additional clerical and other assistance as may be
17 required for the commission.

18 Sec. 9. K.S.A. 2018 Supp. 75-5393 is hereby amended to read as
19 follows: 75-5393. (a) The Kansas commission for the deaf and hard of
20 hearing shall employ an executive director and shall fix the duties,
21 responsibilities and qualifications thereof. The executive director shall be a
22 full-time employee of the commission who shall be in the unclassified
23 service under the Kansas civil service act and shall receive an annual
24 salary to be fixed by the commission. The executive director shall receive
25 actual and necessary expenses incurred while in the discharge of official
26 duties.

27 (b) The executive director, with the advice and consent of the
28 commission shall:

29 (1) Within the limitations of available appropriations, plan and
30 oversee the establishment of service centers for the deaf and hard of
31 hearing in areas where the commission deems they are needed and in
32 concurrence with the secretary for children and families and in
33 consultation with local boards of directors of community service centers
34 and local groups promoting or providing services to the deaf or hard of
35 hearing, or both;

36 (2) promote accessibility of all governmental services to deaf and
37 hard of hearing citizens in Kansas including those deaf and hard of hearing
38 persons with multiple disabilities;

39 (3) identify agencies, both public and private which provide
40 community services, evaluate the extent to which they make services
41 available to deaf and hard of hearing people and their families, and
42 cooperate with the agencies in coordinating and extending these services;

43 (4) provide for the mutual exchange of ideas and information on

1 services for deaf and hard of hearing people between federal, state and
2 local governmental agencies and private organizations and individuals;

3 (5) survey the needs of the deaf and hard of hearing population in
4 Kansas and assist the commission in the preparation of its report to the
5 governor;

6 (6) maintain a listing of persons qualified in various types of
7 interpreting and ~~aural rehabilitation~~ *communication access services* for the
8 deaf and make this information available to local, state, federal and private
9 organizations and to individuals;

10 (7) promote the training of interpreters for the deaf and hard of
11 hearing;

12 (8) serve as an advocate for the rights of deaf and hard of hearing
13 people and perform such other duties as may be required by law;

14 (9) provide interpreter services for the deaf and hard of hearing to be
15 funded from ~~user~~ *fees collected pursuant to K.S.A. 75-5397a, and*
16 *amendments thereto*;

17 (10) provide a telecommunication message relay service for the deaf
18 and hard of hearing;

19 (11) provide for a program of ~~regulation and certification~~ *registration*
20 *of interpreters; and*

21 (12) *provide for a program of statewide coordination for*
22 *communication access services and service providers; and*

23 (13) employ such persons as may be needed from time to time, in the
24 judgment of the executive director, to carry out the director's
25 responsibilities under paragraphs (9), (10) ~~and, (11) and (12) of this~~
26 ~~subsection~~. Such employees shall be in the unclassified civil service and
27 shall receive an annual salary to be fixed by the commission.

28 (c) In selecting an executive director, the commission shall select an
29 individual who is fluent in the American sign language of the deaf and
30 shall give consideration and priority to qualified applicants who are deaf or
31 hard of hearing.

32 Sec. 10. K.S.A. 2018 Supp. 75-5397a is hereby amended to read as
33 follows: 75-5397a. (a) The Kansas commission for the deaf and hard of
34 hearing may fix, charge and collect reasonable fees for providing
35 interpreter services, interpreter ~~certification~~ *registration, communication*
36 *access services* and sign language instruction.

37 (b) The secretary for children and families shall remit all moneys
38 received by the commission for ~~such~~ *providing interpreter services,*
39 *communication access services and sign language instruction* to the state
40 treasurer in accordance with the provisions of K.S.A. 75-4215, and
41 amendments thereto. Upon receipt of each such remittance, the state
42 treasurer shall deposit the entire amount in the state treasury to the credit
43 of the Kansas department for children and families enterprise fund.

1 Sec. 11. K.S.A. 75-4355a and 75-4355b and K.S.A. 2018 Supp. 75-
2 5391, 75-5393 and 75-5397a are hereby repealed.

3 Sec. 12. This act shall take effect and be in force from and after its
4 publication in the statute book.