

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, ***or to comply with any state or federal law or rules***
12 ***and regulations***}.
13

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

- 17 (1) Has obtained a high school diploma or its equivalent;
18 (2) is 18 years of age or older;
19 (3) has no other record of disqualifying conduct as designated by the
20 commission; and
21 (4) has obtained a certification or other appropriate credentials as
22 designated by the commission.

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

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

(d) (1) The commission shall charge and collect in advance fees

1 provided for in this section as fixed by the commission by rules and
2 regulations. Registrations issued under the provisions of this section shall
3 expire on the date established by rules and regulations of the commission
4 unless revoked prior to that time. The commission shall send a notice for
5 renewal of registration to every interpreter at least 60 days prior to the
6 expiration date of such person's registration.

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

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

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

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

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

41 (2) Local and state law enforcement officers and agencies shall assist
42 the commission in taking the fingerprints of applicants for registration.
43 Local and state law enforcement officers and agencies may charge a fee as

1 reimbursement for expenses incurred in taking and processing fingerprints
2 under this section. The Kansas bureau of investigation shall release all
3 records of an applicant's adult convictions to the commission.

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

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

11 (1) Has been found incompetent or negligent in the practice of
12 interpreting;

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

16 (3) submits an application that contains false, misleading or
17 incomplete information;

18 (4) fails or refuses to provide any information requested by the
19 commission;

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

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

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

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

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

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

3 (2) categories of interpreter certification and interpreter
4 endorsements, including necessary credentials or qualifications;

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

6 (4) a code of professional conduct;

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

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

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

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

15 (1) Practice as an interpreter;

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

17 (3) provide video remote interpreting services; or

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

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

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

24 (2) represent that a person is a registered interpreter, when the entity
25 knows or reasonably should know that such person is not a registered
26 interpreter;

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

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

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

35 (1) Interpreting during a religious event;

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

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

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

1 (d) When it appears to the commission that any person or entity is
2 violating the provisions of this section, the commission may bring an
3 action in the name of the state of Kansas in a court of competent
4 jurisdiction for an injunction against such violation without regard to
5 whether proceedings have been or may be instituted before the
6 commission or whether criminal proceedings have been or may be
7 instituted.

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

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

17 (2) determination of the qualifications of communication access
18 service providers;

19 (3) minimum standards of training of communication access service
20 providers;

21 (4) registration of communication access service providers and
22 interpreter service agencies;

23 (5) a code of professional conduct governing communication access
24 service providers;

25 (7) standards for equipment or technology supporting communication
26 access services;

27 (8) a system of statewide coordination of communication access
28 services; and

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

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

43 (2) Local and state law enforcement officers and agencies shall assist

1 the commission in taking the fingerprints of individuals. Local and state
2 law enforcement officers and agencies may charge a fee as reimbursement
3 for expenses incurred in taking and processing fingerprints under this
4 section. The Kansas bureau of investigation shall release all records of an
5 individual's adult convictions to the commission.

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

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

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

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

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

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

35 (3) "communication access service provider" means an individual
36 who is trained to offer a communication access service to communicate
37 aurally delivered information to individuals who are deaf, hard of hearing
38 or ~~speech-impaired~~ **have speech and language impairments**;

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

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

43 (6) "interpreter service agency" means an entity that contracts with or

1 employs registered interpreters to provide interpreter services, whether in
2 person or remotely, for a fee;

3 (7) "interpreting" means the translating or transliterating of English
4 concepts to any communication modes of individuals who are deaf, hard
5 of hearing or ~~speech-impaired~~ **have speech and language impairments** or
6 the translating or transliterating of the communication modes of
7 individuals who are deaf, hard of hearing or ~~speech-impaired~~ **have speech**
8 **and language impairments** to English language concepts. Communication
9 modes include, but are not limited to, American sign language, English-
10 based sign language, cued speech, oral transliterating and information
11 received tactually;

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

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

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

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

36 (b) The commission shall recommend reasonable fees for the services
37 of the interpreter. At no time shall the fees for interpreter services be
38 assessed against the person who is deaf, hard of hearing or ~~speech-~~
39 ~~impaired~~ **has speech and language impairments**.

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

(d) No person shall serve as an interpreter pursuant to K.S.A. 75-4355a through 75-4355d, *and amendments thereto*, unless the commission makes the determination that the person is qualified to interpret. The commission may designate the executive director of the commission or a local agency to make such determination and approval under the provisions of K.S.A. 75-4355a through 75-4355d, *and amendments thereto*. A person is qualified to interpret if such person is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary.

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

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

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

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

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

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

(5) ~~provide public education of prenatal and postnatal warning signs of conditions which may lead to deafness or hearing impairment in the fetus or newborn child:~~ ***(A) Regarding best practices in language acquisition development in deaf and hard of hearing children and aural rehabilitation options; and (B) to promote the eradication of ignorance and discrimination toward deaf and hard of hearing people in schools and employment;***

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

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

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

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

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

(b) *The commission may:*

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

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

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

(c) Except as otherwise provided by this act, all budgeting, purchasing and related management functions of the Kansas commission for the deaf and hard of hearing shall be administered ~~under the direction and supervision of~~ *by* the secretary for children and families. Within the limitations of available appropriations, the secretary for children and families shall provide additional clerical and other assistance as may be required for the commission. ***The Kansas commission for the deaf and hard of hearing shall report directly to the deputy secretary or secretary.***

Sec. 9. ~~K.S.A. 2018-Supp. 75-5393~~ is hereby amended to read as follows: 75-5393. (a) The Kansas commission for the deaf and hard of hearing shall employ an executive director and shall fix the duties, responsibilities and qualifications thereof. The executive director shall be a full-time employee of the commission who shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the commission, ***which shall be comparable to the salaries of executive directors of other commissions.*** The executive director shall receive actual and necessary expenses incurred while in the discharge of official duties.

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

(1) Within the limitations of available appropriations, plan and oversee the establishment of service centers for the deaf and hard of hearing in areas where the commission deems they are needed and in concurrence with the secretary for children and families and in consultation with local boards of directors of community service centers

1 and local groups promoting or providing services to the deaf or hard of
2 hearing, or both;

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

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

10 (4) provide for the mutual exchange of ideas and information on
11 services for deaf and hard of hearing people between federal, state and
12 local governmental agencies and private organizations and individuals;

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

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

20 (7) promote the training of interpreters for the deaf and hard of
21 hearing;

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

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

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

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

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

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

38 (c) In selecting an executive director, the commission shall select an
39 individual who is fluent in the American sign language of the deaf and
40 shall give consideration and priority to qualified applicants who are deaf or
41 hard of hearing. ***The commission shall supervise and evaluate the***
42 ***executive director.***

43 Sec. 10. K.S.A. ~~2018 Supp.~~ 75-5397a is hereby amended to read as

1 follows: 75-5397a. (a) The Kansas commission for the deaf and hard of
2 hearing may fix, charge and collect reasonable fees for providing
3 interpreter services, ~~interpreter-certification~~ *registration, communication*
4 *access services* and sign language instruction.

5 (b) The secretary for children and families shall remit all moneys
6 received by the commission for—~~such~~ *providing interpreter services,*
7 *communication access services and sign language instruction* to the state
8 treasurer in accordance with the provisions of K.S.A. 75-4215, and
9 amendments thereto. Upon receipt of each such remittance, the state
10 treasurer shall deposit the entire amount in the state treasury to the credit
11 of the Kansas department for children and families enterprise fund.

12 Sec. 11. K.S.A. 75-4355a ~~and, 75-4355b and K.S.A. 2018 Supp., 75-~~
13 ~~5391, 75-5393 and 75-5397a~~ are hereby repealed.

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