

SENATE BILL 2480

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29; Title 47, Chapter 18; Title 49 and Title 71, Chapter 4, relative to the Tennessee Licensure for Interpreters and Transliterators Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 4, Part 20, is amended by adding the following language as a new section:

71-4-2001.

This part shall be known and may be cited as the “Tennessee Licensure for Interpreters and Transliterators Act”.

71-4-2002.

The general assembly finds and declares that it is in the best interest of the public health, safety, and welfare to regulate the practice of interpreting and transliterating on behalf of consumers who are hard of hearing, deaf, or speech disabled by licensing and permitting the providers of interpreting and transliterating services, and establishing and monitoring interpreting and transliterating standards in this state.

71-4-2003. As used in this section:

(1) “Board” means the Tennessee licensure board for interpreters and transliterators created pursuant to § 71-4-2004;

(2) “Code of professional conduct” means the guidelines, established by the registry of the interpreters for the deaf, that govern professional conduct for interpreters and transliterators, and any other code of ethics approved by the board;

(3) “Consumer” means a hard of hearing, deaf, or speech disabled person or any other person or agency that requires the services of an interpreter or transliterator to effectively communicate and comprehend signed or spoken discourse;

(4) “Continuing education program” or “CEP” means a program approved by the board to improve the skill level of licensees and permit holders, such as the certification maintenance program established the by registry of interpreters for the deaf;

(5) “Fund” means the Tennessee licensure board for interpreters and transliterators fund, created pursuant to § 71-4-2009;

(6) “Intermediary interpreter” means an individual who is deaf or hard of hearing and has been certified by the registry of interpreters for the deaf as an interpreter;

(7) “Interpreter” means a person who is credentialed as a professional interpreter and who engages in the practice of interpreting among consumers;

(8) “Interpreting” or “transliterating” means the process of providing accessible communication between and among consumers who do not share a common means of communication and includes communication modalities, including, but not limited to, visual, gestural, and tactile channels;

(9) “Nationally recognized certification”:

(A) Means a certification awarded to individuals who successfully complete an evaluation of interpreting skills at a professional level; and

(B) Includes a registry of interpreters for the deaf certification, or an equivalent such as the national association for the deaf or Tennessee association for the deaf interpreter assessment program level 4 or level 5;

(10) “Organizations” include the Tennessee association of the deaf (TAD), a state chapter of the national association of the deaf (NAD); the Tennessee registry of interpreters for the deaf (TRID), an affiliate state chapter of the registry of interpreters for the deaf, (RID); and the American association of deaf-blind (AADB);

(11) “Sign language” includes all of the following communication systems:

(A) American sign language (ASL) based, the language of the deaf community that is linguistically independent from English and the visual gestural language used in the United States and parts of Canada including all regional variations;

(B) English based sign systems including, but not limited to, all visual representations of English such as manually coded English, Pidgin Sign English, and oral interpreting; and

(C) Sign language, a generic term used to describe a continuum of visual-manual language and communication systems; and

(12) "Transliterater" means a person who is credentialed as a professional transliterater and who engages in the practice of transliteration between consumers utilizing two (2) different modes of the same language.

71-4-2004.

(a) There is hereby created the Tennessee licensure board for interpreters and transliterators.

(b) The board shall consist of nine (9) members appointed by the governor as follows:

(1) Four (4) members, one (1) of whom shall work in an educational setting, that are certified as interpreters or transliterators at a professional level by a nationally recognized certification; provided, the Tennessee registry of interpreters for the deaf (TRID) shall submit a list of three (3) nominations for each of these positions to the governor;

(2) Three (3) members who are deaf or hard of hearing, with knowledge in the field of professional interpreting; provided, the Tennessee association of the deaf (TAD) shall submit a list of three (3) nominations to the governor; and

(3) Two (2) members-at-large who have an interest in and are experienced in dealing with issues that affect the deaf, hard of hearing, and interpreting communities.

(c) All members of the board shall be citizens of the United States and this state.

(d) A list of three (3) nominees for each membership position, except for the at-large positions, shall be submitted to the governor by October 1, 2014. The initial terms shall begin January 1, 2015.

(e) The initial members of the board shall serve the following terms as designated by the governor:

(1) Four (4) of the initial members shall serve for two (2) years;

(2) Three (3) of the initial members shall serve for three (3) years; and

(3) Two (2) of the initial members shall serve for four (4) years.

(f) Subsequent terms of office shall be four (4) years. No board member may serve more than three (3) consecutive terms. In the event of a vacancy, the governor shall serve until the governor's successor is duly appointed and qualified.

(g) At the first meeting each year, the board shall elect a chair, a vice chair, and a secretary. No member shall be elected to serve more than two (2) consecutive years in the same position.

(h) After the initial appointments to the board are made, the board shall meet by March 31 of the following year for the purpose of organizing and transacting business as may properly come before it. Subsequently, the board shall not meet less than biannually and as frequently as it deems necessary, at such time and place as the board

designates. A quorum necessary to transact business shall consist of six (6) members of the board.

(i) The board shall:

(1) Act on matters concerning licensure and permitting, and the process of granting, suspending, reinstating, and revoking a license or permit;

(2) Set a fee schedule for granting licenses and permits and the renewals of licenses and permits; provided, the fees shall be sufficient to cover the cost of the continued operation and administration of the board;

(3) Develop a mechanism for processing applications for licenses, permits, and renewals;

(4) Establish a procedure to enable the investigation of complaints concerning the violation of ethical practices for licensed or permitted interpreters;

(5) Maintain a current register of licensed interpreters and a current register of permitted interpreters; provided, these registers shall be matters of public record;

(6) Maintain a complete record of all board proceedings;

(7) Submit an annual report detailing proceedings of the board to the governor and file a copy with the secretary of state; and

(8) Adopt continuing education requirements no later than October 1 of the year in which the initial board is appointed; provided, these requirements shall be implemented by January 1 of each year following for renewal of a license or permit.

(j) All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter. All members of the

board shall serve without compensation, but shall be allotted necessary traveling and other appropriate expenses while engaged in the work of or for the board. The compensation and expenses shall be paid out of the funds of the board.

71-4-2005.

(a) After March 15, 2015, any person who provides interpreting or transliterating services for remuneration shall be required annually to be licensed or permitted by the board unless that person is exempt from licensure or permitting pursuant to § 71-4-2007.

(b) The initial license shall be issued upon the submission to the board of:

(1) An application;

(2) An affidavit documenting current validation of a nationally recognized certification as approved by the board; and

(3) The payment of the required nonrefundable annual fee, the amount to be determined by the board, no later than March 15.

(c) Licenses shall be renewed annually, no later than March 15, upon submission of an application and an affidavit documenting current nationally certification at a professional level as approved by the board, payment of the required nonrefundable annual fee, and participation in a continuing education program approved by the board.

(d) All applicants for licensure who are initially certified after January 1, 2015, shall submit an affidavit documenting that the applicant has passed an interpreter code of ethics exam approved by the board.

(e) The annual fee may be increased or decreased by the board; provided, the board shall not set an annual fee at an amount which would not provide sufficient revenues to pay all the costs and expenses incurred by the board in enforcing this part.

(f) The annual fee shall cover a license or permit for the twelve (12) month period beginning March 15 of each year.

71-4-2006.

(a) Any person who practices as an interpreter and transliterator for remuneration on January 1, 2015, but who does not otherwise meet the requirements for licensure, may obtain a renewable permit to practice interpretation or transliteration. An initial permit shall be issued upon submission of the application, documentation of a high school diploma or GED, current employment as an interpreter, and payment of the nonrefundable annual fee. Any person who does not obtain an initial permit by March 15, 2015, may obtain a nonrenewable provisional permit to practice interpretation or transliteration upon the submission of the application, documentation of a high school diploma or GED, payment of the nonrefundable fee, and submission of three (3) letters of recommendation from licensed interpreters that verify the skill level of the applicant.

(b) Permit holders and nonrenewable permit holders may apply for a renewable annual permit that shall require the submission of an affidavit and supporting materials documenting that the applicant has passed an interpreter code of ethics exam as approved by the board and an interpreting performance assessment approved by the board, the payment of the required nonrefundable annual fee, and the participation in a continuing education program approved by the board. The affidavit shall be submitted no later than March 15 annually.

(c) The renewal of a permit by a cued speech transliterator shall require the submission of an affidavit and supporting materials documenting that the applicant has passed an interpreter code of ethics exam as approved by the board and payment of the required nonrefundable annual fee and participation in a continuing education program approved by the board. The affidavit shall be submitted no later than March 15 annually.

71-4-2007. The following persons are exempt from licensure or permitting pursuant to this part:

(1) Any student who is enrolled in a formal American sign language program, a formal interpreter training program, or a formal interpreter or transliterator internship program; provided, the student shall only interpret or transliterate as part of the student's training for a maximum of sixteen (16) weeks in an educational setting or one hundred twenty (120) hours in an agency or business;

(2) Any person who interprets or transliterates solely in a church, synagogue, temple, or other religious setting;

(3) Any person residing outside of this state may provide interpreting and transliterating services for up to fourteen (14) working days per calendar year without a license or permit;

(4) Any person desiring to interpret for remuneration where circumstances do not allow for fulfillment of the stated requirements for licensure or permitting may petition the board for exemption status;

(5) Any public education personnel and state department of rehabilitation personnel, who are not hired as interpreters and transliterators and who are not, as a part of their job description, responsible for providing interpreting or transliteration services, in circumstances that may necessitate their function as interpreters and transliterators in emergency or incidental situations; and

(6) All other public education personnel hired prior to January 1, 2015, who provide interpreting and transliterating services to students. These personnel shall apply for and receive a permit specifying that their permits are restricted to interpreting and transliteration services provided in the public education setting only. The application for this permit shall be submitted to the board prior to January 1, 2015. It shall be the responsibility of the permit holder to annually renew the permit by earning continuing education hours in compliance with this part.

71-4-2008.

(a) The board may enter into a reciprocal agreement with any state, agency, or other organization that licenses, certifies, or registers professional interpreters or transliterators if the board finds that the state, agency, or organization has substantially the same requirements or more stringent requirements.

(b) The reciprocity agreement shall provide that the board shall license anyone who is currently licensed, certified, or registered in that state or by that agency or other organization if that state, agency, or other organization agrees to license, certify, or register any practitioners who are currently licensed pursuant to this part.

(c) The board shall set by rule the fees appropriate in processing reciprocity.

71-4-2009.

(a) There is created in the state treasury the Tennessee licensure board for interpreters and transliterators fund. All fees collected by the board shall be paid into the state treasury to the credit of the fund. Monies in the fund shall be subject to withdrawal only upon warrant of the state comptroller to be issued upon certification of the secretary or treasurer of the board.

(b) Any funds remaining in the state treasury to the credit of the board at the end of each year in excess of two hundred fifty thousand dollars (\$250,000) shall provide for the education and training of interpreters and transliterators in postsecondary educational programs. At all times the board may retain a sum not in excess of two hundred fifty thousand dollars (\$250,000) to meet any emergency which may affect the efficient operation of the board. No funds shall be withdrawn or expended except as stipulated by the general appropriations act.

71-4-2010.

(a) Any person may apply for a license or a permit pursuant to this part by filing a written application on a form prescribed by the board not less than thirty (30) days prior to the next meeting of the board. The application shall be accompanied by the payment of the annual nonrefundable license or permit fee. The credentials of the applicant shall be reviewed according to the rules of the board.

(b) If the board finds the credentials in order, a license or permit shall be issued to the applicant.

(c) If the board rejects the credentials, the board shall notify the applicant in writing of the board's reasons for rejections.

71-4-2011.

(a) Any person may bring charges of fraud, deceit, negligence, incompetence, or misconduct against a licensee or permit holder. All charges shall be made in writing or by video tape and sworn to under penalty of perjury by the person making the charges. All charges shall be submitted to the chair of the board within ninety (90) days of the alleged occurrence. After a review of the charges, the board shall conduct a hearing at which it may:

- (1) Dismiss the charges;
- (2) Impose a fine not to exceed one thousand dollars (\$1,000);
- (3) Suspend or revoke the license or permit of the person charged; or
- (4) Any combination of these or other decisions to be made by the board.

(b) The licensee or permit holder may appeal a decision of the board imposing an administrative fine or revoking or suspending a license or permit by submitting a request to the board for reconsideration within ninety (90) days following the decision of the board. If no resolution is achieved, further appeal shall be submitted to the circuit court in the jurisdiction of the residence of the licensee or permit holder. Any licensee or

permit holder whose application for renewal of licensure or permitting was denied or whose license or permit was revoked may reapply after twelve (12) months. The board may then reissue a license or permit or rescind any disciplinary action if a majority of the members, which shall be no less than four (4) members, vote in favor of the action.

71-4-2012.

After January 1, 2015, any person who undertakes or attempts to undertake the practice of interpreting or transliterating for remuneration among consumers without a valid license or permit, or who knowingly presents or files false information with the board for the purpose of obtaining a license or permit, or who violates this part commits a Class C misdemeanor. A person who is not licensed or permitted may not bring or maintain an action to enforce any contract for interpreting or transliterating services entered into in violation of this part. Whenever it appears to the board that any interpreter or transliterator person has violated or is about to violate this part, the board may petition the circuit court of the county where the violation occurred or is about to occur to issue a temporary restraining order enjoining the violation.

71-4-2013.

(a) The board may sue and be sued to recover actual or compensatory damages, including interest and court costs, sustained within this state as the result of conduct of any licensee or permit holder who violates this part or the rules of the board.

(b) All members of the board shall be immune from civil liability while acting within the scope of their duties as board members.

71-4-2014.

(a) A licensee or permit holder shall notify the board within ten (10) days of any felony conviction, and within ten (10) days of a civil action being brought against the licensee or permit holder, if the civil action arose from an interpreting or transliterating

transaction or involves the goodwill of a licensee or permit holder or an existing interpreting or transliterating business or agency. The notification shall be in writing, sent by certified mail, and include a copy of the judgment.

(b) Allegations of breach of professional ethics or conduct incompatible with the standards of professional practice as determined by the board may be brought against a licensee or permit holder by any individual, business, or agency.

SECTION 2. The board is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 4. The provisions of this act shall expire and be of no force and effect after June 30, 2018, and on July 1, 2018, the existing provisions of Tennessee Code Annotated, Sections 62-18-101, 62-18-109 and 62-18-116 shall be revived and reenacted as they were codified on June 30, 2014.

SECTION 5. For purposes of creating the board and promulgating rules, this act shall take effect immediately, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.