

Testimony of:

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Testimony on:

Senate Bill 230 – Clarifying the Authority of the KCDHH
March 11, 2020

Chair Huebert and Members of House Education Committee:

My name is Robert Cooper and I am the Executive Director of the Kansas Commission for the Deaf and Hard of Hearing (KCDHH). KCDHH is a state agency housed administratively within the Kansas Department for Children and Families (DCF) in its Rehabilitation Services Division. KCDHH is governed by a 17-member Commission, of which five ex-officio members represent key state agencies and twelve at-large members are appointed by the Governor. Based in Topeka, KCDHH works with agencies and organizations throughout Kansas to assure availability and coordination of services for people who are deaf and hard of hearing, including communication access.

The positions taken and expressed by the Commission do not necessarily represent the views or positions of DCF.

Since 1982, KCDHH has maintained a registry of qualified sign language interpreters, tracking interpreters' credentials, areas of expertise and geographic areas of practice within the State of Kansas.

KCDHH led a six-state effort during the mid-1980s to develop and create the Quality Assurance Screening to administer testing and provide a certification for interpreters. The system grew to include about 13 states by 2000 before the system was reverted to individual member states, with ours becoming the Kansas Quality Assurance Screening or KQAS Certification. As the number of states increased in adopting or recognizing national certifications, KCDHH switched from administering a certification system to a registration system in 2014, after a four-year transition process.

In 1992, the State Legislature adopted an amendment of K.S.A. 75-5393(b)(11) to grant the Executive Director, with advice and consent of the Commission, to provide for a program of regulation and certification of interpreters. Unfortunately, it was deemed inapplicable to the courts, so the State Legislature came back with HB 2257 in 1993 to adopt K.S.A. 75-4355a through 75-4355d to require all interpreters to be certified by or registered with the Commission or an agency to be designated by the Commission. The 75-4355b also granted the necessary authority for the Commission to determine qualifications and approval of interpreters, to designate a local agency to do so, and to extend the availability of other communication options if requested and feasible.

Reasoning behind the 1993 legislation was to provide a proactive precedent to improve policies and legislation concerning interpreters and other communication accessibility needs. Such action at that time was considered an effort by the State to provide greater and equal protection for the rights of deaf and hard of hearing people or anyone associated with these individuals or any other individual with a disability, thus surpassing that of the Americans with Disabilities Act of 1990.

Due to the specialized knowledge needed to make qualification decisions, it was also recognized as a fact, which still applies to this day, that it is usually very difficult to expect any employee of a covered entity or state agency outside of KCDHH, to be capable of making the decision of who is qualified to interpret. KCDHH was the most logical agency to make those decisions, since it already had statewide jurisdiction, was providing coordination of interpreter services and was working very closely with other local and regional referral agencies to ensure efficient coordination of services.

Fast-forwarding to SB 230

Twenty-seven years have passed, and the needs have evolved up to point where KCDHH has come to see a need for legislative action to update and address the needs of the deaf and hard of hearing people, especially where communication access is concerned. Not only this, KCDHH hasn't been able to carry out its purpose under the current parameters. Thus, SB 230 seeks clarity and reaffirmation of KCDHH's authority pertaining to interpreters and its role involving communication accessibility for all deaf and hard of hearing people in Kansas.

Although there are some existing provisions in the current state statutes affirming elements associated to KCDHH, they have been found not to be sufficient. Having the authority to create regulations and rules is necessary to effectuate KCDHH's ability to carry out its purpose. This bill uses the same approach typically reserved for licensures, which elevates KCDHH's interpreter registration to the same level as any professional license. This bill will also allow KCDHH to conduct fingerprinting and background checks of interpreters and serve as a centralized point for individual agencies, making it easier to access interpreters in most instances.

As explained earlier, KCDHH has been for years providing certifications and registration for all interpreters in Kansas. The KCDHH Commission is intent on continuing with its current Registration Policy but to provide some additional improvements, including its ability to set registration fees and/or develop necessary support to strengthen the interpreting field such as endorsements for specialized interpreting skills. This bill will also remove some doubts such as whether video remote interpreting (VRI) services should be included in KCDHH's oversight, as an example.

In addition, this bill will also include a development of other communication access services.

Fingerprinting and Background Checks

Currently, most state agencies and other entities, except most hospitals, have been utilizing interpreters without conducting necessary due diligence as required by various State and Federal regulations. Such due diligence would usually include fingerprinting and background checks. If these agencies and entities are suddenly compelled to conduct checks, the backlog would stymie and paralyze the system and thus cause communication accommodations to be sacrificed at the expense of deaf and hard of hearing individuals, even with accessibility laws being clear about such obstacles cannot excuse any covered entities from its obligation in providing accessibility. Not to mention, individual interpreters would be subject to multiple fingerprinting and background checks over and over, making the cost prohibitive for these interpreters to continue in their profession.

This bill will provide KCDHH the ability to alleviate the situation by having the means to conduct fingerprinting and background checks of interpreters. KCDHH's checks will serve as a centralized point making it easier for agencies or entities to access interpreters anytime without having to conduct their own checks, unless such agency or entity requires a greater scrutiny or when an agency's intent is to retain the interpreter for more than several occasions, such as permanent employment.

Communication Access Services

As mentioned, this bill will also broaden the oversight and development of other communication access services to ensure that there are other communication options available should an interpreter not be available or would not achieve effective communication for some deaf or hard of hearing individuals who don't use interpreters. The other communication access services would include, but not limited to, communication access real-time translation services, support services for the deaf-blind, or any other effective method to make aurally delivered information available to deaf and hard of hearing individuals, and vice versa.

Conclusion

SB 230 is a cumulative product of a 5-year effort and extensive dialogue with many partners in the community on how KCDHH can best meet the diverse communication needs of deaf and hard of hearing individuals. The time is now. This bill does not seek new funding but means of self-supporting and measurable ability to develop, expand and create additional communication access services to meet those needs. KCDHH is asking for your full support of this important legislation. Thank you.