

Testimony of:

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Testimony on:

Senate Bill 185 – Clarifying the Authority of the KCDHH
March 24, 2021

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) and 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.

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. 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. KCDHH also recognized that state-administered certifications could become unnecessarily restrictive while national credentials would allow easy transferability and reciprocity for interpreters traveling or moving to and from Kansas.

Authority Recognized as Necessary

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 access needs.

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, and was providing coordination of interpreting services and was working very closely with other local and regional referral agencies to ensure efficient coordination of services.

Fast-forwarding to SB 185

As time has passed, the needs have evolved up to the point where KCDHH sees 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.

KCDHH was not able to provide for new regulations as a result of the 2010 transition from a certification system to a registration system, despite the statute allowing for both, whereby the statutory language was not considered to be explicit enough to reflect for the latter. KCDHH was not able to switch from testing/certification fees to registration fees, as the statute only addressed certification fees. Nor was KCDHH able to initiate fingerprinting and background checks in 2018 despite DCF having the authority.

Although there are existing provisions in the current state statutes affirming elements associated to KCDHH, they have been found not to be sufficient. There were several other questions pertaining to authority, which were asked of State Attorney General Office in 2018, and the response came in February 2020 at the heel of our original SB 230 version, which was then passed in the Senate, but COVID-19 stopped its progress.

Thus, SB 185 is a repeat effort of last year's SB 230 and it 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. 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. KCDHH 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.

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 entity 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 interpreting.

This bill will provide KCDHH the ability to alleviate the situation by having the means to conduct fingerprinting and background checks of interpreters. KCDHH 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 one occasion, such as permanent employment.

Communication Access Services

This bill will also broaden the oversight and development of other communication access services. This will ensure that other communication options are available should an interpreter not be available or would not achieve effective communication for a deaf or hard of hearing individual who does not use an interpreter. These other communication access services would include, but not be limited to, communication access real-time translation (CART) services, support services (SSP) 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 185 is a cumulative 6-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.