

Representative Rebecca P. Edwards proposes the following substitute bill:

TRANSLITERATOR SERVICES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses provisions relating to cued language transliterator services.

Highlighted Provisions:

This bill:

- ▶ enacts provisions relating to the certification of cued language transliterators;
- ▶ amends provisions relating to the certification of and requirements for interpreters for the deaf or hearing impaired; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-26a-102, as last amended by Laws of Utah 2013, Chapter 385

53A-26a-302, as last amended by Laws of Utah 2009, Chapter 183

53A-26a-303, as enacted by Laws of Utah 1994, Chapter 306

53A-26a-305, as last amended by Laws of Utah 2013, Chapter 385



26 **53A-26a-401**, as enacted by Laws of Utah 1994, Chapter 306

27 **53A-26a-501**, as enacted by Laws of Utah 1994, Chapter 306

28 **53A-26a-502**, as enacted by Laws of Utah 1994, Chapter 306

29 ENACTS:

30 **53A-26a-601**, Utah Code Annotated 1953



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **53A-26a-102** is amended to read:

33 **53A-26a-102. Definitions.**

34 As used in this chapter:

35 (1) "Advisory board" or "board" means the Interpreters Certification Board created in
36 Section **53A-26a-201**.

37 (2) "Certified interpreter" means ~~[a person]~~ an individual who is certified as meeting
38 the certification requirements ~~[of this chapter]~~ described in Part 3, Certification.

39 (3) "Certified cued language transliterator" means an individual who is certified as
40 meeting the certification requirements described in Section **53A-26a-601**.

41 ~~[(3)]~~ (4) "Hearing impaired" means a hearing loss which:

42 (a) necessitates the visual acquisition of language; or

43 (b) adversely affects the acquisition of language but which does not preclude the
44 auditory acquisition of language.

45 ~~[(4)]~~ (5) "Interpreter services" means services that facilitate effective communication:

46 (a) between a hearing ~~[person and a person]~~ individual and an individual who is
47 hearing impaired ~~[as defined by Subsection (3)]~~; and

48 (b) through American Sign Language or a language system or code that is modeled
49 after American Sign Language, in whole or in part, or is in any way derived from American
50 Sign Language.

51 Section 2. Section **53A-26a-302** is amended to read:

52 **53A-26a-302. Qualifications for certification.**

53 ~~[Each]~~ An applicant for certification under this ~~[chapter]~~ part shall:

54 (1) submit an application in a form ~~[prescribed]~~ designated by the State Board of
55 Education;

57 (2) pay a fee determined by the State Board of Education under Section 63J-1-504 [~~to~~
 58 ~~help~~] in an amount to offset the costs of implementing this [~~chapter~~] part for the administration
 59 of examinations for certification and for the issuance of certificates;

60 (3) be of good moral character; and

61 (4) comply with any other qualifications for certification established by the State Board
 62 of Education pursuant to Subsection 53A-26a-202(2).

63 Section 3. Section **53A-26a-303** is amended to read:

64 **53A-26a-303. Certification term -- Expiration -- Renewal.**

65 (1) (a) The State Board of Education shall issue each certificate under this [~~chapter~~]
 66 part in accordance with a three-year renewal cycle [~~established by rule~~].

67 (b) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 68 Act, the State Board of Education may by rule extend or shorten a renewal cycle by as much as
 69 one year to stagger the renewal cycles [~~it~~] the State Board of Education administers.

70 (2) At the time of renewal, the certified interpreter [~~must~~] shall show satisfactory
 71 evidence of compliance with renewal conditions established by the State Board of Education
 72 pursuant to Subsection 53A-26a-202(2).

73 (3) Each certificate automatically expires on the expiration date shown on the
 74 certificate unless the certified interpreter renews [~~it~~] the certificate in accordance with the
 75 conditions [~~prescribed~~] established by the State Board of Education for renewal.

76 Section 4. Section **53A-26a-305** is amended to read:

77 **53A-26a-305. Exemptions from certification -- Temporary or restricted**
 78 **certification.**

79 (1) The following individuals may engage in the practice of a certified interpreter[
 80 ~~subject to the stated circumstances and limitations,~~] without being certified under this [~~chapter~~]
 81 part:

82 (a) an individual serving in the Armed Forces of the United States, the United States
 83 Public Health Service, the United States Department of Veterans Affairs, or other federal
 84 [~~agencies while~~] agency and who is engaged in activities regulated under this [~~chapter~~] part as a
 85 part of employment with that federal agency if the [~~person~~] individual holds a valid certificate
 86 or license to provide interpreter services issued by [~~any other~~] another state or jurisdiction
 87 recognized by the State Board of Education;

88 (b) a student engaged in providing interpreter services while ~~[in training]~~ enrolled in a
89 ~~[recognized school]~~ training program approved by the State Board of Education to the extent
90 ~~[the student's activities]~~ that the services provided by the student are:

91 (i) supervised by ~~[qualified faculty, staff, or designee,]~~ an individual designated under
92 the training program; and ~~[the services are a defined]~~

93 (ii) provided as part of the training program;

94 (c) an individual engaged in providing interpreter services while enrolled in an
95 internship, residency, apprenticeship, or on-the-job training program approved by the ~~[State~~
96 ~~Board of Education while under the supervision of qualified persons]~~ board, to the extent that
97 the services provided by the individual are:

98 (i) supervised by an individual designated under the internship, residency,
99 apprenticeship, or on-the-job training program; and

100 (ii) provided as part of the internship, residency, apprenticeship, or on-the-job training
101 program;

102 (d) an individual residing in another state and certified or licensed to provide
103 interpreter services in that state, who is called in for a consultation by an individual certified to
104 provide interpreter services in this state, and the services provided are limited to that
105 consultation;

106 (e) an individual who is invited by a recognized school, program, association, or other
107 body approved by the State Board of Education to conduct a lecture, clinic, or demonstration
108 on interpreter services if the individual does not establish a place of business or regularly
109 engage in the practice of providing interpreter services in this state;

110 (f) an individual licensed in another state or country who is in this state temporarily to
111 attend to the needs of an athletic team or group, except that the individual may only attend to
112 the needs of the team or group ~~[, including all]~~ and individuals who travel with the team or
113 group, ~~[except as a spectator]~~ not including spectators; or

114 (g) an individual who is providing interpreter services for a religious entity, to the
115 extent that the religious entity is specifically exempted from liability under federal law.

116 (2) (a) An individual temporarily in this state who is exempted from certification under
117 Subsection (1) shall comply with each requirement of the jurisdiction from which the
118 individual derives authority to ~~[practice]~~ provide interpreter services.

119 (b) Violation of any limitation imposed by this section is grounds for removal of
120 exempt status, denial of certification, or another disciplinary proceeding.

121 (3) (a) Upon the declaration of a national, state, or local emergency, the State Board of
122 Education, in collaboration with the advisory board, may suspend the requirements for
123 permanent or temporary certification of ~~[persons]~~ an individual who ~~[are]~~ is certified or
124 licensed in another state.

125 (b) Individuals exempt under Subsection (3)(a) ~~[shall be]~~ are exempt from certification
126 for the duration of the emergency while engaged in providing interpreter services for which
127 they are certified or licensed in the other state.

128 (4) The State Board of Education, after consulting with the advisory board, may adopt
129 rules for the issuance of temporary or restricted certifications if their issuance is necessary to or
130 justified by:

131 (a) a lack of necessary available interpretive services in any area or community of the
132 state, if the lack of services might be reasonably considered to materially jeopardize
133 compliance with state or federal law; or

134 (b) a need to first observe an applicant for certification in a monitored or supervised
135 practice of providing interpretive services before a decision is made by the board either to
136 grant or deny the applicant a regular certification.

137 Section 5. Section **53A-26a-401** is amended to read:

138 **53A-26a-401. Grounds for denial of certification -- Disciplinary proceedings.**

139 (1) The State Board of Education shall refuse to issue a certificate to an applicant and
140 shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act
141 upon the certificate of a certified interpreter who does not meet the qualifications for
142 certification under ~~[this chapter]~~ Part 3, Certification.

143 (2) The State Board of Education may refuse to issue a certificate to an applicant,
144 refuse to renew a certificate, revoke, suspend, restrict, or place on probation the certificate of a
145 certified interpreter, issue a public or private reprimand to a certified interpreter, and issue a
146 cease and desist order in any of the following ~~[cases]~~ circumstances:

147 (a) the applicant or certified interpreter has engaged in unprofessional conduct as
148 defined in this chapter or by rule under this chapter;

149 (b) the applicant or certified interpreter has engaged in unlawful conduct as defined in

150 this chapter;

151 (c) the applicant or certified interpreter has been determined to be mentally
152 incompetent for any reason by a court of competent jurisdiction; or

153 (d) the applicant or certified interpreter is unable to provide interpretive services with
154 reasonable skill and safety;

155 (i) because of illness, drunkenness, or excessive use of drugs, narcotics, chemicals, or
156 any other type of material~~];~~; or

157 (ii) as a result of any other mental or physical condition, when the individual's
158 condition demonstrates a threat or potential threat to ~~[the]~~ public health, safety, or welfare.

159 (3) An individual whose certificate has been suspended, revoked, or restricted under
160 Subsection (1) may apply for reinstatement at reasonable intervals and upon compliance with
161 conditions imposed by the State Board of Education .

162 (4) The State Board of Education may issue cease and desist orders:

163 (a) to a certified interpreter or applicant who ~~[may be disciplined]~~ is subject to
164 discipline under Subsection (1);

165 (b) to ~~[any person]~~ an individual who engages in or represents ~~[himself to be]~~ that the
166 individual is engaged in the profession of a certified interpreter; and

167 (c) to ~~[any person]~~ an individual who otherwise violates this chapter or any rules
168 adopted under this chapter.

169 Section 6. Section **53A-26a-501** is amended to read:

170 **53A-26a-501. Unlawful conduct.**

171 (1) As used in this section, "regulated conduct" means practicing or engaging in,
172 representing oneself to be practicing or engaging in, or attempting to practice or engage in the
173 profession of a certified interpreter or certified cued language transliterator.

174 (2) "Unlawful conduct" means any of the following conduct by ~~[any]~~ a person:

175 ~~[(1) practicing or engaging in, representing oneself to be practicing or engaging in, or~~
176 ~~attempting to practice or engage in the profession of a certified interpreter if the person is:]~~

177 (a) engaging in regulated conduct, unless exempt from certification under this chapter,
178 when:

179 (i) the person is not certified ~~[to do so or exempted from certification under this~~
180 ~~chapter];~~ or

181 (ii) the person's certification is inactive;
 182 ~~[(b) restricted from doing so by a restricted, suspended, revoked, temporary,~~
 183 ~~probationary, or inactive certification;]~~

184 (b) engaging in regulated conduct in violation of a restriction, suspension, revocation,
 185 probation, or temporary certification;

186 ~~[(2)]~~ (c) impersonating [another] a certified interpreter or certified cued language
 187 transliterator or practicing as a certified interpreter or certified cued language transliterator
 188 under a false or assumed name, except as permitted by law;

189 ~~[(3)]~~ (d) knowingly employing [any other person] an individual to practice or engage in
 190 or attempt to practice or engage in the profession of a certified interpreter or certified cued
 191 language transliterator, if the employee is not certified [to do so] under this chapter;

192 ~~[(4)]~~ (e) knowingly permitting the person's authority to engage in the profession of a
 193 certified interpreter or certified cued language transliterator to be used by another, except as
 194 permitted by law; or

195 ~~[(5)]~~ (f) applying for or obtaining certification or otherwise dealing with the State
 196 Board of Education through the use of fraud, forgery, or intentional deception,
 197 misrepresentation, misstatement, or omission.

198 Section 7. Section **53A-26a-502** is amended to read:

199 **53A-26a-502. Unprofessional conduct.**

200 "Unprofessional conduct" means conduct by a certified interpreter or certified cued
 201 language transliterator that is defined as unprofessional conduct under this chapter or under any
 202 rules adopted under this chapter and includes:

203 (1) violating, or aiding or abetting any other person to violate, any provision of this
 204 chapter or rule or order regulating certified interpreters or certified cued language
 205 transl iterators;

206 (2) violating, or aiding or abetting any other person to violate, any generally accepted
 207 professional or ethical standard applicable to the profession of a certified interpreter or certified
 208 cued language transliterator; or

209 (3) physically, mentally, or sexually abusing or exploiting any person through conduct
 210 connected with a certified ~~[interpreter's]~~ interpreter or certified cued language transliterator's
 211 practice under this chapter.

212 Section 8. Section **53A-26a-601** is enacted to read:

213 **53A-26a-601. Cued language transliterator certification.**

214 (1) As used in this section, "division" means the Division of Services to the Deaf and
215 Hard of Hearing.

216 (2) Subject to Subsection (3), the division shall issue a cued language transliterator
217 certification to an individual who:

218 (a) applies to the division for certification; and

219 (b) passes the Cued Language Transliterator National Certification Examination.

220 (3) The division shall, before issuing a cued language transliterator certification under
221 Subsection (2), verify the applicant's compliance with Subsection (2)(b).