

HB0102S01 compared with HB0102

~~{deleted text}~~ shows text that was in HB0102 but was deleted in HB0102S01.

inserted text shows text that was not in HB0102 but was inserted into HB0102S01.

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~~{INTERPRETER}~~ 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 ~~{interpreter}~~ cued language transliterator services ~~{for the deaf or hard of hearing}~~.

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 ~~{or transliterators}~~ for the deaf or ~~{hard of}~~ hearing impaired; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

HB0102S01 compared with HB0102

None

Utah Code Sections Affected:

AMENDS:

- ~~{ 53A-26a-101, as enacted by Laws of Utah 1994, Chapter 306~~
- + 53A-26a-102, as last amended by Laws of Utah 2013, Chapter 385
- ~~{ 53A-26a-201, as enacted by Laws of Utah 1994, Chapter 306~~
- ~~— 53A-26a-202, as enacted by Laws of Utah 1994, Chapter 306~~
- ~~— 53A-26a-301, 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-304, as enacted by Laws of Utah 1994, Chapter 306~~
- + 53A-26a-305, as last amended by Laws of Utah 2013, Chapter 385
- 53A-26a-401, as enacted by Laws of Utah 1994, Chapter 306
- 53A-26a-501, as enacted by Laws of Utah 1994, Chapter 306
- 53A-26a-502, as enacted by Laws of Utah 1994, Chapter 306

ENACTS:

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

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

Section 1. Section ~~{53A-26a-101}~~ 53A-26a-102 is amended to read:

~~{CHAPTER 26a. INTERPRETER SERVICES FOR THE DEAF OR
HARD OF HEARING ACT~~

~~— 53A-26a-101. Title:~~

~~— This chapter is known as the "Interpreter Services for the [Hearing Impaired] Deaf or
Hard of Hearing Act."~~

~~— Section 2. Section 53A-26a-102 is amended to read:~~

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

As used in this chapter:

~~{(1) "Advisory board" or "board" means the Interpreters Certification Board created
in Section 53A-26a-201.}}~~

~~{ (1) "Board" means the State Board of Education.~~

HB0102S01 compared with HB0102

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

(3) "Certified cued language transliterator" means an individual ~~{whose national certification is recognized by the ICB}~~ who is certified as meeting the certification requirements described in Section 53A-26a-601.

~~[(3)] (4) (a) { }~~ "Hearing impaired" ~~{ }~~ "Deaf or hard of hearing" means a hearing loss ~~{ }~~ which ~~{ that }~~:

~~{(a) (i) }~~ necessitates the visual acquisition of language; or

~~{(b) (ii) }~~ adversely affects ~~{, but does not preclude, communication and }~~ the ~~{auditory }~~ acquisition of language ~~{ }~~ but which does not preclude the auditory acquisition of language ~~{ }~~.

~~———— (b) "Deaf or hard of hearing" includes hearing impaired.~~

~~———— (5) "ICB" means the Interpreter Certification Board, created in Section 53A-26a-201.~~

~~———— [(4)] (6) :~~

~~[(4)] (5) "Interpreter {or transliterator} services" means services that facilitate effective communication { } :~~

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

~~———— (a) between a hearing individual and an individual who is deaf or hard of hearing; and~~

~~(b) through~~ †

~~(i) } American Sign Language or a language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language {, } ; or~~

~~———— (ii) cued language.~~

~~———— Section 3. Section 53A-26a-201 is amended to read:~~

~~———— 53A-26a-201. Interpreter Certification Board.~~

~~(1) There is created to assist the [State Board of Education] board the [Interpreters] Interpreter Certification Board consisting of the following 11 members:~~

~~(a) a designee of the director of the Division of Services to the Deaf and Hard of Hearing [(DSDHH)] in the Utah State Office of Rehabilitation;~~

~~(b) a designee of the State Board of Regents;~~

HB0102S01 compared with HB0102

~~—— (c) a designee of the [State Board of Education] board;~~

~~—— (d) four professional interpreters or transliterators, recommended by the director of [DSDHH] the Division of Services to the Deaf and Hard of Hearing; and~~

~~—— (e) four [persons] individuals who are deaf or hard of hearing [impaired], recommended by the director of [DSDHH] the Division of Services to the Deaf and Hard of Hearing.~~

~~—— (2) (a) The [State Board of Education] board shall make all appointments to the [board] ICB.~~

~~—— (b) In making [its] appointments under Subsections (1)(d) and (e), the [State Board of Education] board shall give consideration to recommendations by interpreters and transliterators for the deaf or hard of hearing [impaired] and members of the deaf or hard of hearing [impaired] community.~~

~~—— (3) (a) [Board] ICB members shall serve three-year terms[, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms].~~

~~—— (b) [A person] An individual may not serve more than two three-year consecutive terms.~~

~~—— (c) If a vacancy occurs on the [board] ICB for any other reason than the expiration of a term, the [State Board of Education] board shall appoint a replacement for the remainder of the term pursuant to Subsections (1) and (2).~~

~~—— (4) The [State Board of Education] board may remove any [board] ICB member for cause, which shall include misconduct, incompetence, or neglect of duty.~~

~~—— (5) The [board] ICB shall elect annually a chair and vice chair from among its members.~~

~~—— (6) The [board] ICB shall meet as often as necessary to accomplish the purposes of this chapter, but not less than quarterly.~~

~~—— (7) [Board] ICB members shall receive compensation for actual and necessary expenses in connection with their service on the [board] ICB, but [shall] may not receive a per diem.~~

~~—— Section 4. Section 53A-26a-202 is amended to read:~~

~~—— 53A-26a-202. Powers and duties of the ICB.~~

HB0102S01 compared with HB0102

- ~~—— (1) (a) The [board] ICB shall function as an advisory board to the [State Board of Education and under] board.~~
- ~~—— (b) Under the direction of the [State Board of Education] board, the ICB shall perform the following duties concerning the certification of interpreters:~~
- ~~—— [(a)] (i) recommend to the [state] board appropriate rules;~~
- ~~—— [(b)] (ii) recommend to the [state] board policy and budgetary matters;~~
- ~~—— [(c)] (iii) recommend to the [state] board [a] passing [score] requirements for applicant examinations;~~
- ~~—— [(d)] (iv) screen applicants for certification [and];~~
- ~~—— (v) recommend certification, renewal, reinstatement, and recertification actions to the [state] board in writing;~~
- ~~—— [(e)] (vi) recommend standards of supervision for [persons] individuals in training to become certified interpreters; and~~
- ~~—— [(f) act as presiding officer in conducting]~~
- ~~—— (vii) when designated by the board, conduct hearings associated with adjudicative proceedings and [in issuing] issue recommended orders [when so designated by the State Board of Education].~~
- ~~—— (2) The [State Board of Education] board, with the collaboration and assistance of the [advisory board] ICB, shall:~~
- ~~—— (a) [prescribe] establish certification qualifications for an individual to provide interpreter or transliterator services;~~
- ~~—— (b) [prescribe] establish rules governing applications for certification;~~
- ~~—— (c) provide for a fair and impartial method of examination of applicants;~~
- ~~—— (d) define unprofessional conduct, by rule, to supplement the definition under this chapter; and~~
- ~~—— (e) establish conditions for reinstatement and renewal of certification.~~
- ~~—— (3) (a) The [advisory board] ICB shall designate one of its members on a permanent or rotating basis to:~~
- ~~—— (i) assist the [state] board in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter or certified transliterator; and~~
- ~~—— (ii) advise the [state] board in [its] the board's investigation of [these complaints] a~~

HB0102S01 compared with HB0102

~~complaint described in Subsection (3)(a)(i):~~

~~— (b) An [advisory board] ICB member who has, under Subsection (3)(a), reviewed a complaint or advised in [its] the investigation of a complaint is disqualified from participating with the [advisory board when it serves as a presiding officer of] ICB when the ICB conducts an administrative proceeding concerning the complaint.~~

~~— Section 5. Section 53A-26a-301 is amended to read:~~

~~— **53A-26a-301. Certification required -- Classes of certification.**~~

~~— (1) Except as [specifically] provided in Section 53A-26a-305, an individual is required to be certified as a certified interpreter or certified transliterator if:~~

~~— (a) that individual provides interpreter or transliterator services; and~~

~~— (b) a state or federal law requires the interpreter or transliterator to be certified or qualified.~~

~~— (2) The [State Board of Education] board shall issue a certification to any [person] individual who qualifies under this chapter, in classifications determined by the [board] ICB, based upon recommendations from the [advisory board] ICB.~~

~~— Section 6}.~~

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

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

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

(1) submit an application in a form [prescribed] designated by the { } State Board of Education { } board;

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

(3) be of good moral character; and

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

Section { } 3. Section 53A-26a-303 is amended to read:

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

(1) (a) The { } State Board of Education { } board shall issue each certificate under this [chapter] { } part in accordance with a three-year { } on a four-year renewal cycle [established

HB0102S01 compared with HB0102

by rule].

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

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

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

Section ~~{ 8 }~~ 4. Section ~~{ 53A-26a-304 }~~ 53A-26a-305 is amended to read:

~~{ ——— 53A-26a-304. Continuing education. ———~~

~~———— (1) (a) As a condition for renewal of certification, each certified interpreter or certified transliterator shall, during each [three-year] four-year certification cycle or other cycle defined by rule, complete a number of hours of qualified continuing professional education in accordance with standards defined by rule.~~

~~———— (b) The [State Board of Education] board shall determine the required number of qualified continuing professional education hours based upon recommendations from the [advisory board] ICB.~~

~~———— (2) If the renewal cycle is extended or shortened under Section 53A-26a-303, the board shall proportionately increase or decrease the number of qualified continuing professional education hours [determined for renewal under Subsection (1)] shall be increased or decreased proportionately] required for renewal.~~

~~———— Section 9. Section 53A-26a-305 is amended to read:~~

~~{ } 53A-26a-305. Exemptions from certification -- Temporary or restricted certification.~~

(1) The following individuals may engage in the practice of a certified interpreter[; subject to the stated circumstances and limitations;] ~~{ or certified transliterator }~~ without being certified under this [~~chapter~~] part:

HB0102S01 compared with HB0102

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

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

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

(ii) provided as part of the training program;

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

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

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

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

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

(f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to

HB0102S01 compared with HB0102

the needs of the team or group ~~[, including all]~~ and individuals who travel with the team or group, ~~[except as a spectator]~~ not including spectators; or

(g) an individual who is providing interpreter ~~{or transliterator}~~ services for a religious entity, to the extent that the religious entity is specifically exempted from liability under federal law.

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

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

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

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

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

(a) a lack of necessary available ~~{}~~ interpretive ~~{interpreter or transliterator}~~ services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or

(b) a need to first observe an applicant for certification in a monitored or supervised practice of providing ~~{}~~ interpretive ~~{interpreter or transliterator}~~ services before a decision is made by the ~~{}~~ board ~~{ICB}~~ either to grant or deny the applicant a regular certification.

Section ~~{10}5~~. Section **53A-26a-401** is amended to read:

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

(1) The ~~{}~~ State Board of Education ~~{board}~~ shall refuse to issue a certificate to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the certificate of a certified interpreter ~~{or certified transliterator}~~ who does

HB0102S01 compared with HB0102

not meet the qualifications for certification under ~~[this chapter]~~ Part 3, Certification.

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

(a) the applicant ~~{}~~or~~{}~~ ~~{}~~certified interpreter~~{, or certified transliterator }~~ has engaged in unprofessional conduct as defined in this chapter or by rule under this chapter;

(b) the applicant ~~{}~~or~~{}~~ ~~{}~~certified interpreter~~{, or certified transliterator }~~ has engaged in unlawful conduct as defined in this chapter;

(c) the applicant ~~{}~~or~~{}~~ ~~{}~~certified interpreter~~{, or certified transliterator }~~ has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or

(d) the applicant ~~{}~~or~~{}~~ ~~{}~~certified interpreter~~{, or certified transliterator }~~ is unable to provide ~~{}~~interpretive~~{}~~ ~~{ interpreter or transliterator }~~ services with reasonable skill and safety:

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

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

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

(4) The ~~{}~~State Board of Education~~{}~~ board may issue cease and desist orders:

(a) to a certified interpreter~~{, certified transliterator, }~~ or applicant who may be disciplined is subject to discipline under Subsection (1);

(b) to any ~~{}~~person an individual who ~~{}~~engages in or represents himself to be that the individual is engaged~~{}~~:

~~—— (i) unlawfully engages }~~ in the profession of a certified interpreter~~{, and}~~ or certified transliterator;

~~—— (ii) unlawfully represents himself or herself as a certified interpreter or certified transliterator; or~~

HB0102S01 compared with HB0102

~~— (iii) receives payment for interpreter or transliterator services if not certified or exempt from certification under this chapter; and~~

~~— (c) to any [person] }; and~~

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

Section ~~{H}~~6. Section **53A-26a-501** is amended to read:

53A-26a-501. Unlawful conduct.

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

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

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

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

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

(ii) the person's certification is inactive;

~~[(b) restricted from doing so by a restricted, suspended, revoked, temporary, probationary, or inactive certification;]~~

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

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

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

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

HB0102S01 compared with HB0102

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

Section †127. Section 53A-26a-502 is amended to read:

53A-26a-502. Unprofessional conduct.

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

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

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

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

†

Legislative Review Note

~~Office of Legislative Research and General Counsel~~ Section 8. Section 53A-26a-601 is enacted to read:

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

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

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

(a) applies to the division for certification; and

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

HB0102S01 compared with HB0102

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