



SPONSOR: \_\_\_\_\_

DELAWARE STATE [HOUSE OF  
REPRESENTATIVES/SENATE]

150<sup>th</sup> GENERAL ASSEMBLY

[SENATE/HOUSE] BILL NO. \_\_\_\_\_

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE  
REGISTRATION OF INTERPRETERS FOR THE DEAF AND HARD OF HEARING  
AND DEAF-BLIND.

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

Amend Title 19 of the Delaware Code by making insertions as shown by underlining and  
deletions as shown by strike through as follows:

**§ 3701 Short Title.**

This act shall be known and may be cited as the Registration of Interpreters for the Deaf and  
Hard of Hearing and Deaf-Blind Act.

**§ 3702 Definitions.**

The following words and phrases when used in this act shall have the meanings given to them in  
this section unless the context clearly indicates otherwise:

- (a) Applicant - An individual who applies for State or provisional registration in accordance  
with § 3705.

- (b) Certified Interpreter - An individual who satisfies the certification requirements of a Nationally Recognized Interpreter Certification Board.
- (c) Consumer - Any individual with or without a hearing loss who is a recipient of interpreting services.
- (d) Emergency – a circumstance that demands immediate action in order for a consumer to avoid imminent injury or loss.
- (e) Interpreting - The process of conveying spoken English in American Sign Language and the process of conveying American Sign Language in spoken English.
- (f) Legal Setting – including but not limited to, any criminal or civil action involving a court of competent jurisdiction, any investigation conducted by a duly authorized law enforcement agency, employment related hearings and appointments requiring the presence of an attorney or legal staff, attorney-client communications, any administrative proceedings, due process hearings, dispute resolutions (arbitration, mediation), tax consultations, real estate closings, depositions or estate matters.
- (g) Medical setting - medical related situations including gatherings or gathering places where health and wellness issues are addressed, including but not limited to, hospitals, clinics, assisted living, nursing homes, rehabilitation facilities, mental health treatment sessions, psychological evaluations, substance abuse treatment sessions, crisis intervention and appointments or other treatment requiring the presence of a doctor, nurse, medical staff or other health care professional.
- (h) Office - The Delaware Office for the Deaf and Hard of Hearing within the Department of Labor/Division of Vocational Rehabilitation.
- (i) Registrant - An individual who is State-registered under this act as a certified sign language interpreter.
- (j) “RID”- The Registry for the Interpreters of the Deaf, including any successor organization or any subsidiaries.
- (k) Sign language interpreter - An individual offering or providing interpreting services in the State of Delaware or to a consumer in the State of Delaware.
- (l) Volunteer – An individual providing non-compensated interpreting services in settings not required to provide communication access by law.

### **§ 3703 Office Responsibilities.**

The office shall do all of the following:

1. Administer this act.
2. Register applicants in accordance with the Act.
3. Maintain a list of all registrants and individuals who have obtained a provisional registration which is accessible to the public.
4. Promulgate regulations necessary to carry out the provisions of this Act, including the establishment of an Advisory Board under the Office and procedures through which the general public may be protected from unsafe or incompetent practices committed by registrants. Those procedures shall include disciplinary measures imposed by a process conforming with the requirements of the Administrative Procedures Act (29 Del. C. §§ 10101 *et seq.*)

**§ 3704 State Registration Required.**

(a) General rule. No individual may provide or offer to provide sign language interpreting services or hold himself or herself as a certified sign language interpreter or, use a similar title or designation, without being State-registered by the office in accordance with this act.

(b) Exceptions.--The following individuals are exempt from the State registration requirements of subsection (a):

1. An individual engaged in sign language interpreting during an emergency, when a delay in obtaining a State-registered interpreter might lead to imminent injury or loss to the consumer while awaiting the arrival of a registered interpreter.

2. An individual engaged in interpreting as part of a supervised internship or practicum at an accredited college or university if it is not in any of the following:

i. A legal setting.

ii. A medical or mental health setting, unless accompanied by a certified sign language interpreter.

3. An individual who is certified by the National Association of the Deaf or the Registry of Interpreters for the Deaf from outside the State of Delaware who provides interpreting services in Delaware for a period not exceeding 14 total days each calendar year.

4. An individual who engages in interpreting strictly as a volunteer without compensation.

5. An individual who obtains a provisional registration under regulations promulgated by the office.

6. An individual interpreting for a family member.

7. An individual interpreting on behalf of a religious organization in the context of religious services.

(c) Unlawful practice. An individual who violates this section shall be liable for a civil penalty of \$1,000 to \$10,000 per violation. As used in this section, "violation" shall include every incident in which the individual provided or offered to provide sign language interpreting services. The office shall enforce this provision in any court of competent jurisdiction. In addition to the civil penalties listed for individuals who violate this section, organizations which do so shall lose any contracts they possess with the State of Delaware or its political subdivisions.

**§ 3705 State Registration.**

(a) Application and Renewal.--An individual may apply for, or renew, state registration by submitting the following:

- i. A completed application.
- ii. Payment of any required fees.
- iii. Active certified membership card from RID or successor organization.
- iv. State or Federal photo identification which includes proof that the applicant is 18 years of age or older.

(b) The office shall issue proof of sign language interpreter registration to the applicant when the office is satisfied that all of the criteria in this section have been met and the applicant has not been involved in the commission of any of any prior registration violations:

(c) Registration - A sign language interpreter State registration issued by the office shall be:

- i. Issued only in the name of the applicant.
- ii. Issued in paper or electronic form.
- iii. Nontransferable.
- iv. Issued for a period of two years.

(d) Provisional Registration - A Deaf or Hearing individual may apply for, or renew, a provisional registration by submitting the following:

- i. A completed application.
- ii. Payment of any required fees.

iii. Proof that the applicant has passed an examination which tests knowledge in interpreting and ethical practices recognized by RID or successor organization.

iv. Active associate membership card from RID or successor organization.

v. State or Federal photo identification which includes proof that the applicant is 18 years of age or older.

vi. A provisional registration shall be issued for a period of two years and may be renewed one time.

(e) The office shall issue a sign language interpreter provisional registration to the applicant when the office is satisfied that all of the criteria in this section have been met and the applicant has not been involved in the commission of any of the acts in § 3708 of this chapter.

(f) Fees - The fee for State registration or renewal of an existing State registration shall, until modified by regulation, be \$100. The fee for provisional registration or renewal of an existing provisional registration shall, unless modified by regulation, be \$50. These funds shall be used to administer the registration program, including disciplinary actions. Civil penalties collected pursuant to this statute shall be used for the administration of the registration program.

#### **§ 3706 Change of Personal Information.**

A registrant or individual who has obtained a provisional registration shall notify the office of any change of name or mailing address within 30 days of the change.

#### **§ 3707 Privileged Communications.**

Except as provided by law, a sign language interpreter who acquires confidential information while interpreting may not be required to disclose the information in any legal proceeding, trial or investigation before a governmental unit without the consent of the individual receiving interpreting services. The sign language interpreter shall hold any legal privilege that the individual receiving the services holds.

#### **§ 3708 Registration Violations.**

(a) A registrant under this chapter shall be subject to disciplinary actions set forth in § 3709 of this title, if, after a hearing held in compliance with Chapter 101 of Title 29, the office finds that the registrant has:

(1) Employed, or knowingly cooperated in, fraud or material deception in order to acquire registration; has impersonated another person holding registration, or allowed another person to use the registration, or aided or abetted a person not registered to represent himself or herself as a registrant;

- (2) Illegally, incompetently or negligently provided interpreting services;
- (3) Been convicted of any offense, the circumstances of which substantially relate to the performance of interpreting services. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor;
- (4) Engaged in an act of consumer fraud or deception of the public;
- (5) Violated a lawful provision of this chapter, or any lawful rule or regulation established thereunder;
- (6) Had their registration suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the office by certified record; and the office has determined that the facts found by the appropriate authority in the other jurisdiction constitute 1 or more of the acts defined in this chapter. Every person registered in this State shall be deemed to have given consent to the release of this information by the office, or other comparable agencies in another jurisdiction, and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses; or
- (7) Failed to notify the office that the registrant's registration in another state has been subject to discipline, or has been surrendered, suspended or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.
- (b) Subject to the provisions of Chapter 101 of Title 29, no registration shall be restricted, suspended or revoked by the office, and no registrant's right to provide interpretive services shall be limited by the office until such registrant has been given notice, and an opportunity to be heard, in accordance with the Administrative Procedures Act [Chapter 101 of Title 29].

**§ 3709 Suspension, Denial, Nonrenewal or Revocation of State Registration or Provisional Registration.**

The office may establish criteria for the suspension, denial, nonrenewal or revocation of registration under this chapter.

(a) The office may impose any of the following sanctions, singly or in combination, when it finds that 1 of the conditions or violations set forth in § 3708 of this title applies to a registrant regulated by this chapter:

- (1) Issue a letter of reprimand;
- (2) Censure a registrant;
- (3) Place a registrant on probationary status, and require the registrant to:
  - a. Report regularly to the office upon the matters, which are the basis of the probation;

b. Limit all practice and professional activities to those areas prescribed by the office;

(4) Suspend any individual's registration;

(5) Revoke any individual's registration;

(6) Impose a monetary penalty not to exceed \$5000 for each violation. An administrative order that has become final imposing any civil penalties under this chapter shall be enforceable as a judgment and the Office may collect on such order as a judgment when such order is filed in the Office of the Prothonotary or other appropriate court. Any finding of fact or conclusion of law made by the Office in an administrative order that has become final shall be conclusive on all parties to an action under this chapter and not subject to judicial review. For purposes of this section, a finding or conclusion is final if it has been fully determined on appeal to the appropriate court or if the time for filing such appeal with respect to the finding or conclusion has expired.

(b) The office may withdraw or reduce conditions of probation when it finds that the deficiencies, which required such action have been remedied.

#### **§ 3710 Delegation.**

At his or her sole discretion, the Director of the Division of Vocational Rehabilitation has the authority to assign duties allotted to the office to other individuals or units within the Division of Vocational Rehabilitation.

#### **§ 3711 Appeals.**

All appeals from decisions of the office will be governed by the provisions of the Administrative Procedures Act (29 Del. C. §§ 10101 et seq.).

#### **§ 3712 Injunctive Relief.**

In addition to the remedies afforded by § 3704 of this chapter, the office is authorized to direct the Department of Justice to file litigation in the Court of Chancery to enjoin any unlawful practices or activities occurring in violation of this chapter.

#### **§ 3713 Effective Date.**

This Act shall be effective upon signature by the Governor.

### SYNOPSIS

This bill provides a registration system for American Sign Language (ASL) interpreters. At the present time, individuals who are not certified to provide interpreting services are

presenting themselves as acceptable/qualified interpreters without consequence. This is extremely problematic for all consumers utilizing interpreter services. It harms the interests of people who are Deaf, Hard of Hearing and Deaf-Blind by depriving them of the right to meaningful access and involvement in legal or medical settings, as well as other activities in the community. It also harms the interests of people who are not Deaf, Hard of Hearing, or Deaf-Blind by denying them access to effective communication with people who use ASL by providing a lesser quality service than what they believe they are purchasing. A registration system will help ensure that only qualified individuals provide this vital and necessary service.

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