

CHAPTER.....

AN ACT relating to professions; requiring interpreters for persons who are deaf or whose hearing is impaired to be certified; prescribing the requirements for certification; requiring the commission on professional standards in education to adopt regulations that require certain teachers and other educational personnel to satisfy the requirements for certification as an interpreter; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Interpreter” means a person who is qualified to engage in the practice of interpreting in this state pursuant to section 9 of this act.*

Sec. 4. *“Person who is deaf” means a person who is not able to process information aurally and whose primary means of communication is visual.*

Sec. 5. *“Person whose hearing is impaired” means a person:*

- 1. Who has a hearing deficit;*
- 2. Who is able to process information aurally with or without the use of a hearing aid or any other device that enhances the ability of a person to hear; and*
- 3. Whose primary means of communication may be visual.*

Sec. 6. *“Practice of interpreting” means the facilitation of communication between persons who are deaf or whose hearing is impaired and other persons. The term includes, without limitation:*

- 1. Translating spoken language into American Sign Language or any other visual-gestural system of communication or vice versa;*
- 2. Translating spoken language into a tactile method of sign language or vice versa;*
- 3. Translating spoken language into an oral interpretation of the speaker’s words by enunciating, repeating or rephrasing those words without using the voice to assist a person who is deaf or whose hearing is impaired in lipreading the information conveyed by the speaker;*
- 4. Translating spoken language into a visual representation of spoken language that:*
 - (a) Uses eight hand shapes to represent groups of consonants and the placement of those hand shapes in four positions around the face to indicate groups of vowel sounds; and*
 - (b) Is used in conjunction with lipreading;*
- 5. Translating spoken English into a system of sign language that is based on the syntax of the English language or vice versa; and*
- 6. The use of any of the methods of interpreting or transliterating set forth in subsections 1 to 5, inclusive, by a person who is deaf or whose hearing is impaired to facilitate communication between another person*

who is deaf or whose hearing is impaired and an interpreter, or between two or more persons who are deaf or whose hearing is impaired.

Sec. 7. The practice of interpreting is hereby declared to be a learned profession, affecting public health, safety and welfare, and is subject to regulation to protect the general public from the practice of interpreting by unqualified persons.

Sec. 8. The provisions of this chapter do not apply to a person who:

1. Is licensed in another state to engage in the practice of interpreting and who engages in the practice of interpreting in this state:

(a) For a period of not more than 30 nonconsecutive days in a calendar year; or

(b) By teleconference if the interpreting services provided by that person are necessary because an interpreter is unavailable to provide those services in person or by teleconference;

2. Engages in the practice of interpreting solely for meetings of nonprofit civic or religious organizations;

3. Engages in the practice of interpreting as necessary for the provision of an emergency medical or governmental service to a person who is deaf or whose hearing is impaired; or

4. Engages occasionally in the practice of interpreting in a social situation that does not require a qualified interpreter pursuant to the provisions of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, or the regulations adopted pursuant to those provisions.

Sec. 9. 1. Except as otherwise provided in this section, a person who wishes to engage in the practice of interpreting in this state must:

(a) Be at least 18 years of age;

(b) Have at least a high school diploma or a general equivalency diploma;

(c) Be capable of providing the type of interpreting services required for the person who is deaf or whose hearing is impaired; and

(d) Have:

(1) Been issued at least one of the following certificates by the Registry of Interpreters for the Deaf or its successor organization:

(I) Master Comprehensive Skills Certificate;

(II) Comprehensive Skills Certificate;

(III) Certificate of Interpretation;

(IV) Certificate of Transliteration;

(V) Legal Specialist Certificate; or

(VI) Oral Interpreting Certificate;

(2) Been certified by the National Association of the Deaf or its successor organization as having a level of proficiency in providing interpreting services at level 3, 4 or 5; or

(3) Passed the Cued Language Transliterator National Certification Examination administered by the Testing, Evaluation, and Certification Unit, Inc., or its successor organization and must hold a Transliteration Skills Certificate issued by the Testing, Evaluation, and Certification Unit, Inc., or its successor organization.

2. *A person who wishes to engage in the practice of interpreting in this state in a legal setting must comply with the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 and must:*

(a) Have been issued at least one of the certificates set forth in subparagraph (1) of paragraph (d) of subsection 1;

(b) Have been certified by the National Association of the Deaf or its successor organization as having a level of proficiency in providing interpreting services at level 4 or 5; or

(c) Have passed the Cued Language Transliterators National Certification Examination administered by the Testing, Evaluation, and Certification Unit, Inc., or its successor organization and must hold a Transliteration Skills Certificate issued by the Testing, Evaluation, and Certification Unit, Inc., or its successor organization.

3. *Except as otherwise provided in subsection 4, a person, including, without limitation, a teacher and a teacher's aide, who wishes to engage in the practice of interpreting in this state in a public school, including, without limitation, a charter school, or a private school must comply with the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 and must:*

(a) Comply with the requirements set forth in paragraph (d) of subsection 1; or

(b) Have completed the Educational Interpreter Performance Assessment administered by the Boys Town National Research Hospital or its successor organization and received a rating of his level of proficiency in providing interpreting services at level 4 or 5.

4. *A person who has not complied with the requirements set forth in paragraph (a) or (b) of subsection 3 may engage in the practice of interpreting in a public school, including, without limitation, a charter school, or a private school for not more than 3 years if:*

(a) There is a demonstrated shortage of personnel who have complied with those requirements in the geographic area of this state in which the public school or private school is located;

(b) The school district, charter school or private school that hires a person pursuant to this subsection has made and continues to make a good faith effort to recruit and hire persons who have complied with the requirements set forth in paragraph (a) or (b) of subsection 3;

(c) The shortage of personnel described in paragraph (a) has precluded the school district, charter school or private school from employing the number of persons who have complied with the requirements set forth in paragraph (a) or (b) of subsection 3 as is necessary to satisfy the personnel requirements of the school district, charter school or private school; and

(d) The person hired by the school district, charter school or private school pursuant to this subsection makes satisfactory progress, as determined by the school district, charter school or private school, toward complying with the requirements set forth in paragraph (a) or (b) of subsection 3 during the period of his employment.

5. *As used in this section:*

(a) "Charter school" has the meaning ascribed to it in NRS 385.007.

(b) "Legal setting" means:

(1) *A communication with a law enforcement officer, as defined in NRS 179B.070, that relates to a criminal investigation;*

(2) *A communication with an attorney who is acting in his professional capacity;*

(3) *A negotiation for a contract for which the estimated amount required to perform the contract is \$1,000 or more; or*

(4) *A judicial proceeding, including, without limitation:*

(I) *A grand jury proceeding;*

(II) *A court proceeding;*

(III) *A pretrial examination, deposition, motion and related proceedings of like character; and*

(IV) *The proceedings of an administrative agency.*

(c) *“Public school” has the meaning ascribed to it in NRS 385.007.*

(d) *“Private school” has the meaning ascribed to it in NRS 394.103.*

Sec. 10. 1. *It is unlawful for a person to:*

(a) *Engage in the practice of interpreting in this state;*

(b) *Hold himself out as certified or qualified to engage in the practice of interpreting in this state; or*

(c) *Use in connection with his name any title, words, letters or other designation intended to imply or designate that he is an interpreter, without first complying with the requirements set forth in section 9 of this act.*

2. *A person who violates the provisions of subsection 1:*

(a) *Is guilty of a misdemeanor; and*

(b) *May be assessed a civil penalty of not more than \$5,000.*

3. *An action for the enforcement of a civil penalty assessed pursuant to this section may be brought in any court of competent jurisdiction by the district attorney of the appropriate county or the attorney general.*

Sec. 11. NRS 50.050 is hereby amended to read as follows:

50.050 1. As used in NRS 50.050 to 50.053, inclusive, unless the context requires otherwise:

(a) ~~“Handicapped person” means a person who, because he is deaf, mute or has a physical speaking impairment, cannot readily understand or communicate in the English language or cannot understand the proceedings.~~

~~—(b)—~~ “Interpreter” means a person who is ~~readily~~ :

(1) *Qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act; and*

(2) *Readily able to communicate with ~~the handicapped person~~ a person with a disability, translate the proceedings for him, and accurately repeat and translate the statements of the ~~handicapped~~ person with a disability to the court or magistrate or other person presiding over the proceedings.*

(b) *“Person with a disability” means a person who, because he is deaf, mute or has a physical speaking impairment, cannot readily understand or communicate in the English language or cannot understand the proceedings.*

2. In all judicial proceedings in which a ~~handicapped~~ person *with a disability* appears as a witness, the court, magistrate or other person

presiding over the proceedings shall appoint an interpreter to interpret the proceedings to ~~the handicapped~~ *that* person and to interpret the testimony of ~~the handicapped~~ *that* person to the court, magistrate or other person presiding.

3. The court, magistrate or other person presiding over the proceedings shall fix a reasonable compensation for the services and expenses of the interpreter appointed pursuant to this section. If the judicial proceeding is civil in nature, the compensation of the interpreter may be taxed as costs and must not be charged as a public expense.

4. Claims against a county, municipality, ~~the~~ *this* state or any agency thereof for the compensation of an interpreter in a criminal proceeding or other proceeding for which an interpreter must be provided at public expense must be paid in the same manner as other claims against the respective entities are paid. Payment may be made only upon the certificate of the judge, magistrate or other person presiding over the proceedings that the qualified interpreter has performed the services required and incurred the expenses claimed.

Sec. 12. NRS 50.051 is hereby amended to read as follows:

50.051 An interpreter must be appointed at public expense for a ~~handicapped~~ person *with a disability* who is a party to or a witness in a criminal proceeding.

Sec. 13. NRS 50.052 is hereby amended to read as follows:

50.052 1. If an interpreter appointed for a ~~handicapped~~ person *with a disability* is not effectively or accurately communicating with or on behalf of the ~~handicapped person,~~ *person with a disability*, and that fact becomes known to the person who appointed him, another interpreter must be appointed.

2. Unless otherwise agreed upon by the parties, a person may not be appointed as an interpreter of a ~~handicapped~~ person *with a disability* in a proceeding if he is:

(a) The spouse of the ~~handicapped~~ person *with a disability* or related to him; or

(b) Otherwise interested in the outcome of the proceeding or biased for or against one of the parties.

3. Whenever possible, a ~~handicapped~~ person *with a disability* must be given an interpreter of his ~~own~~ choice or one of whom he approves.

Sec. 14. NRS 50.053 is hereby amended to read as follows:

50.053 1. Before undertaking his duties, the interpreter shall swear or affirm that he will make a true interpretation in an understandable manner to the person for whom he has been appointed, and that he will repeat the statements of the ~~handicapped~~ person *with a disability* in the English language to the best of his ability.

2. While in the proper performance of his duties, an interpreter acts in the place of the ~~handicapped~~ person *with a disability* and to that extent has all of the rights and privileges of ~~the handicapped~~ *that* person for purposes of the proceeding, including access to all relevant material.

Sec. 15. NRS 50.054 is hereby amended to read as follows:

50.054 1. Except as otherwise provided by a regulation of the court administrator adopted pursuant to NRS 1.510 and 1.520, a person shall not act as an interpreter in a proceeding if he is:

- (a) The spouse of a witness;
- (b) Otherwise related to a witness;
- (c) Biased for or against one of the parties; or
- (d) Otherwise interested in the outcome of the proceeding.

2. Before undertaking his duties, the interpreter shall swear or affirm that he will:

- (a) To the best of his ability, translate accurately to the witness, in the language of the witness, questions and statements addressed to the witness;
- (b) Make a true interpretation of the statements of the witness in an understandable manner; and
- (c) Repeat the statements of the witness in the English language to the best of his ability.

3. While in the proper performance of his duties, an interpreter has the same rights and privileges as the witness, including the right to examine all relevant material, but is not entitled to waive or exercise any of those rights or privileges on behalf of the witness.

4. As used in this section, “interpreter” means a person who is readily able to communicate with a person who speaks a language other than English and does not know the English language, translate the proceedings for him and accurately repeat and translate the statements of the person in a language other than English to the court, magistrate or other person presiding. The term does not include an interpreter for ~~handicapped persons~~ *a person with a disability* as that term is defined in NRS 50.050.

Sec. 16. NRS 171.1536 is hereby amended to read as follows:

171.1536 Upon the arrest of a ~~handicapped~~ person *with a disability* as defined in NRS 50.050, and before his interrogation or the taking of his statement, the peace officer in actual charge of the station, headquarters or other facility to which the ~~handicapped~~ person *with a disability* has been brought shall make an interpreter *who is qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act* available at public expense to ~~the handicapped~~ *that* person, subject to the provisions of NRS 50.052 and 50.053.

Sec. 17. NRS 171.1537 is hereby amended to read as follows:

171.1537 When a ~~handicapped~~ person *with a disability* is detained in custody, the detaining authority shall make available to him reasonable means of communication, at least pencil and paper , and at least two envelopes and first-class postage stamps. If the ~~handicapped~~ person *with a disability* so requests, the proper officer of the detaining authority shall make on his behalf the same number and kind of telephone calls which a person arrested is ~~permitted~~ *authorized* by law or custom to make for himself, and shall mail any letters written by ~~the handicapped~~ *that* person.

Sec. 18. NRS 171.1538 is hereby amended to read as follows:

171.1538 1. The rights to interpretation and communication provided in NRS 171.1536 and 171.1537 may not be waived except knowingly and voluntarily by the ~~handicapped~~ person *with a disability* by a written statement indicating his desire not to be so assisted. At any time ~~from arrest to~~ *after arrest but before* the termination of any custody, the ~~handicapped~~ person may retract his waiver by indicating his desire to be so assisted.

2. Unless there is a waiver under this section, there ~~shall~~ *must* be no interrogation or taking of the statement of a ~~handicapped~~ person *with a disability* without the assistance of an interpreter *who is qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act.*

Sec. 19. NRS 213.055 is hereby amended to read as follows:

213.055 An applicant or a witness at a hearing upon an application for clemency who is a ~~handicapped~~ person *with a disability* as defined in NRS 50.050 is entitled to the services of an interpreter at public expense, subject to the provisions of NRS 50.052 and 50.053. The interpreter must be ~~appointed~~ :

1. Qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act; and

2. Appointed by the governor or a member of the board designated by him.

Sec. 20. NRS 213.128 is hereby amended to read as follows:

213.128 A prisoner, parolee or a witness at the hearing of a case who is a ~~handicapped~~ person *with a disability* as defined in NRS 50.050 is entitled to the services of an interpreter at public expense, subject to the provisions of NRS 50.052 and 50.053. The interpreter must be ~~appointed~~ :

1. Qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act; and

2. Appointed by the chairman of the board or other person who presides at the hearing.

Sec. 21. NRS 233B.1235 is hereby amended to read as follows:

233B.1235 A witness during his testimony at a hearing of a contested case, who is a ~~handicapped~~ person *with a disability* as defined in NRS 50.050, is entitled to the services of an interpreter at public expense, subject to the provisions of NRS 50.052 and 50.053. The interpreter must be ~~appointed~~ :

1. Qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act; and

2. Appointed by the person who presides at the hearing.

Sec. 22. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel and the procedures for the issuance and renewal of such licenses.

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Requiring teachers to obtain from the department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language ~~HS~~ *, including,*

without limitation, being qualified to engage in the practice of interpreting pursuant to subsection 3 of section 9 of this act.

(6) Except as otherwise authorized by subsection 4 of section 9 of this act, requiring teachers and other educational personnel to satisfy the qualifications set forth in subsection 3 of section 9 of this act if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in section 6 of this act.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

Sec. 23. NRS 391.31925 is hereby amended to read as follows:

391.31925 The licensed employee or a witness at a hearing under NRS 391.311 to 391.3196, inclusive, who is a ~~handicapped~~ person *with a disability* as defined in NRS 50.050, is entitled to the services of an interpreter at public expense, subject to the provisions of NRS 50.052 and 50.053. The interpreter must be ~~appointed~~ :

1. Qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act; and

2. Appointed by the hearing officer.

Sec. 24. NRS 396.324 is hereby amended to read as follows:

396.324 The person who is the subject of a disciplinary hearing under this chapter or who is a witness at that hearing, and who is a ~~handicapped~~ person *with a disability* as defined in NRS 50.050, is entitled to the services of an interpreter at public expense, subject to the provisions of NRS 50.052 and 50.053. The interpreter must be ~~appointed~~ :

1. Qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act; and

2. Appointed by the person who presides at the hearing.

Sec. 25. NRS 422.278 is hereby amended to read as follows:

422.278 Any person who is:

1. The subject of a hearing conducted under the authority of the welfare division or the division of health care financing and policy; or

2. A witness at that hearing,

and who is a ~~handicapped~~ person *with a disability* as defined in NRS 50.050, is entitled to the services of an interpreter at public expense, subject to the provisions of NRS 50.052 and 50.053. The interpreter must be *qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act and must be* appointed by the person who presides at the hearing.

Sec. 26. NRS 463.342 is hereby amended to read as follows:

463.342 Any person who is the subject of a hearing conducted under the provisions of this chapter, or who is a witness at that hearing, and who is a ~~handicapped~~ person *with a disability* as defined in NRS 50.050, is entitled to the services of an interpreter at public expense, subject to the provisions of NRS 50.052 and 50.053. The interpreter must be ~~appointed~~:

1. *Qualified to engage in the practice of interpreting in this state pursuant to subsection 2 of section 9 of this act; and*

2. *Appointed* by the person who presides at the hearing.

Sec. 27. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to an employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, of NRS ~~and~~ *and sections 2 to 10, inclusive, of this act.*

Sec. 28. NRS 615.200 is hereby amended to read as follows:

615.200 The bureau may:

1. Enter into reciprocal agreements with other states, ~~and~~ which, for this purpose, may include the District of Columbia, Puerto Rico, the Virgin Islands and Guam, ~~to~~ to provide for the vocational rehabilitation of individuals within the states concerned;

2. Establish or construct rehabilitation facilities and workshops and make grants to, or contracts or other arrangements with, public and other nonprofit organizations for the establishment of workshops and rehabilitation facilities;

3. Operate facilities for carrying out the purposes of this chapter;

4. In matters relating to vocational rehabilitation:

(a) Conduct research, studies, investigations and demonstrations and make reports;

(b) Provide training and instruction, ~~and~~ including, *without limitation*, the establishment and maintenance of such research fellowships and traineeships with such stipends and allowances as may be deemed necessary; ~~and~~

(c) Disseminate information; and

(d) Render technical assistance;

5. Provide for the establishment, supervision, management and control of small business enterprises to be operated by severely handicapped persons where their operation will be improved through the management and supervision of the bureau; and

6. Maintain a list of persons who *are qualified to engage in the practice of interpreting in this state pursuant to section 9 of this act* to serve as interpreters for handicapped persons and shall make any such list available without charge to persons who request it.

Sec. 28.5. On or before July 1, 2005, the Commission on Professional Standards in Education shall adopt regulations pursuant to the amendatory provisions of section 22 of this act.

Sec. 29. Notwithstanding the provisions of sections 2 to 31, inclusive, of this act, a person who engages in the practice of interpreting in this state is not required to comply with the provisions of section 9 of this act before July 1, 2005.

Sec. 30. The provisions of section 10 of this act do not apply to offenses committed before July 1, 2005.

Sec. 31. 1. This section and sections 1 to 9, inclusive, and 27 to 30, inclusive, of this act become effective on July 1, 2003.

2. Sections 10 to 26, inclusive, of this act become effective on July 1, 2005.