

SENATE BILL NO. 165—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE NEVADA SUPREME COURT)

FEBRUARY 28, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the use of interpreters in judicial proceedings for persons with certain disabilities. (BDR 54-650)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to interpreters; allowing courts to use noncertified interpreters under certain circumstances in a legal setting for persons who are deaf or whose hearing is impaired; allowing the use of interpreters in judicial proceedings who are not qualified as interpreters for persons with certain disabilities under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The qualifications of interpreters for persons who are deaf or whose hearing is impaired are set forth in chapter 656A of NRS. The interpreters may be qualified under several categories, including qualification to interpret in a legal setting or in a public school, charter school or private school in this State. (NRS 656A.100) In a judicial proceeding, a court is required to appoint a person who is qualified to interpret in a legal setting for a witness who is a "person with a disability," meaning a person who is deaf, mute or has a physical speaking impairment. (NRS 50.050)

**Section 1** of this bill eliminates the requirements for qualification to interpret in a legal setting. **Sections 2 and 3** of this bill eliminate the requirement that a court must, in all judicial proceedings in which a person with such a disability appears as a witness, appoint an interpreter who is qualified to interpret in a legal setting. **Sections 2 and 3** require a court in such proceedings generally to appoint an interpreter who is qualified pursuant to subsection 1 of NRS 656A.100, but allow a court to use an interpreter who is not qualified pursuant to subsection 1 of NRS 656A.100 if: (1) a qualified interpreter cannot be found; (2) a qualified interpreter



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is not otherwise available; or (3) the appointment of a qualified interpreter will cause a substantial delay in the proceeding. The court must determine that such an interpreter is able to provide the appropriate services as an interpreter in the proceeding.

**Sections 4-14** of this bill: (1) eliminate the requirement that an interpreter who is qualified to interpret in a legal setting must be provided to a person with such a disability under certain circumstances, including police interrogations and certain administrative hearings; and (2) require that an interpreter appointed pursuant to those sections must be qualified pursuant to subsection 1 of NRS 656A.100.

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

**Section 1.** NRS 656A.100 is hereby amended to read as follows:

656A.100 1. Except as otherwise provided in this section, *and NRS 50.050 and 50.051*, 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~~



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~~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 Transliterater 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.]~~ 3, 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.]~~ 3. A person who has not complied with the requirements set forth in paragraph (a) or (b) of subsection ~~[3.]~~ 2 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.]~~ 2;

(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.]~~ 2 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]~~ 2 during the period of his employment.

~~[5-]~~ 4. 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.~~

~~— (e)]~~ "Public school" has the meaning ascribed to it in NRS 385.007.

~~[(d)]~~ (c) "Private school" has the meaning ascribed to it in NRS 394.103.

**Sec. 2.** 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) "Interpreter" means a person who is ~~[:~~

~~— (1) Qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100; and~~

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

(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] proceeding.~~

(c) *"Qualified interpreter" means an interpreter who is qualified to engage in the practice of interpreting in this State pursuant to subsection 1 of NRS 656A.100.*



2. *Except as otherwise provided in subsection 3, in all judicial proceedings in which a person with a disability appears as a witness, the court, magistrate or other person presiding over the ~~{proceedings}~~ proceeding shall appoint ~~{an}~~ a qualified interpreter to interpret the ~~{proceedings}~~ proceeding to that person and to interpret the testimony of that person to the court, magistrate or other person presiding.*

3. *If a qualified interpreter cannot be found or is not otherwise available, or if the appointment of a qualified interpreter will cause a substantial delay in the proceeding, the court, magistrate or other person presiding over the proceeding may, after making a finding to that effect, appoint any interpreter who is able to provide the appropriate services as an interpreter in the proceeding as determined by the court, magistrate or other person presiding over the proceeding.*

4. The court, magistrate or other person presiding over the ~~{proceedings}~~ proceeding 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.}~~ 5. Claims against a county, municipality, 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}~~ proceeding that the ~~{qualified}~~ interpreter has performed the services required and incurred the expenses claimed.

Sec. 3. NRS 50.051 is hereby amended to read as follows:  
50.051 ~~{An}~~

1. *Except as otherwise provided in subsection 2, a qualified interpreter must be appointed at public expense for a person with a disability who is a party to or a witness in a criminal proceeding.*

2. *If a qualified interpreter cannot be found or is not otherwise available, or if the appointment of a qualified interpreter will cause a substantial delay in the proceeding, the court, magistrate or other person presiding over the proceeding may, after making a finding to that effect, appoint any interpreter who is able to provide the appropriate services as an interpreter in the proceeding as determined by the court, magistrate or other person presiding over the proceeding.*



**Sec. 4.** NRS 171.1536 is hereby amended to read as follows:

171.1536 Upon the arrest of a 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 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~~ **1** of NRS 656A.100 available at public expense to that person, subject to the provisions of NRS 50.052 and 50.053.

**Sec. 5.** 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 person with a disability by a written statement indicating his desire not to be so assisted. At any time after arrest but before the termination of any custody, the person may retract his waiver by indicating his desire to be so assisted.

2. Unless there is a waiver under this section, there must be no interrogation or taking of the statement of a 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~~ **1** of NRS 656A.100.

**Sec. 6.** 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 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:

1. Qualified to engage in the practice of interpreting in this State pursuant to subsection ~~2~~ **1** of NRS 656A.100; and

2. Appointed by the Governor or a member of the Board designated by him.

**Sec. 7.** 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 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:

1. Qualified to engage in the practice of interpreting in this State pursuant to subsection ~~2~~ **1** of NRS 656A.100; and

2. Appointed by the Chairman of the Board or other person who presides at the hearing.

**Sec. 8.** 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 person with a disability as defined in NRS 50.050, is entitled to the services of an interpreter at public expense,



1 subject to the provisions of NRS 50.052 and 50.053. The interpreter  
2 must be:

3 1. Qualified to engage in the practice of interpreting in this  
4 State pursuant to subsection ~~{2}~~ 1 of NRS 656A.100; and

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

6 **Sec. 9.** NRS 391.019 is hereby amended to read as follows:

7 391.019 1. Except as otherwise provided in NRS 391.027,  
8 the Commission:

9 (a) Shall adopt regulations:

10 (1) Prescribing the qualifications for licensing teachers and  
11 other educational personnel, including, without limitation, the  
12 qualifications for a license to teach middle school or junior high  
13 school education, and the procedures for the issuance and renewal of  
14 ~~{such}~~ those licenses.

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

17 (3) Except as otherwise provided in NRS 391.125, requiring  
18 teachers to obtain from the Department an endorsement in a field of  
19 specialization to be eligible to teach in that field of specialization.

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

22 (5) Setting forth the qualifications and requirements for  
23 obtaining a license or endorsement to teach American Sign  
24 Language, including, without limitation, being qualified to engage  
25 in the practice of interpreting pursuant to subsection ~~{3}~~ 2 of  
26 NRS 656A.100.

27 (6) Except as otherwise authorized by subsection ~~{4}~~ 3 of  
28 NRS 656A.100, requiring teachers and other educational personnel  
29 to satisfy the qualifications set forth in subsection ~~{3}~~ 2 of NRS  
30 656A.100 if they:

31 (I) Provide instruction or other educational services; and

32 (II) Concurrently engage in the practice of interpreting, as  
33 defined in NRS 656A.060.

34 (7) Providing for the issuance and renewal of a special  
35 qualifications license to an applicant who holds a master's degree or  
36 a doctoral degree from an accredited degree-granting postsecondary  
37 educational institution in a field for which the applicant will provide  
38 instruction in a classroom and who has:

39 (I) At least 2 years of experience teaching at an accredited  
40 degree-granting postsecondary educational institution in a field for  
41 which the applicant will provide instruction in a classroom and at  
42 least 3 years of experience working in that field; or

43 (II) At least 5 years of experience working in a field for  
44 which the applicant will provide instruction in a classroom.



(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance of a license to teach to a person who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➤ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(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.

3. A person who is licensed pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.



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(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

**Sec. 10.** 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 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:

1. Qualified to engage in the practice of interpreting in this State pursuant to subsection ~~2~~ 1 of NRS 656A.100; and
2. Appointed by the hearing officer.

**Sec. 11.** 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 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:

1. Qualified to engage in the practice of interpreting in this State pursuant to subsection ~~2~~ 1 of NRS 656A.100; and
2. Appointed by the person who presides at the hearing.

**Sec. 12.** 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 Division; or
2. A witness at that hearing,

➔ and who is a 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~~ 1 of NRS 656A.100 and must be appointed by the person who presides at the hearing.

**Sec. 13.** NRS 422A.290 is hereby amended to read as follows:

422A.290 Any person who is:

1. The subject of a hearing conducted under the authority of the Division; or
2. A witness at that hearing,



1    ➤ and who is a person with a disability as defined in NRS 50.050, is  
2    entitled to the services of an interpreter at public expense, subject to  
3    the provisions of NRS 50.052 and 50.053. The interpreter must be  
4    qualified to engage in the practice of interpreting in this State  
5    pursuant to subsection ~~1~~ 1 of NRS 656A.100 and must be  
6    appointed by the person who presides at the hearing.

7    **Sec. 14.** NRS 463.342 is hereby amended to read as follows:

8    463.342 Any person who is the subject of a hearing conducted  
9    under the provisions of this chapter, or who is a witness at that  
10   hearing, and who is a person with a disability as defined in NRS  
11   50.050, is entitled to the services of an interpreter at public expense,  
12   subject to the provisions of NRS 50.052 and 50.053. The interpreter  
13   must be:

14   1. Qualified to engage in the practice of interpreting in this  
15   State pursuant to subsection ~~1~~ 1 of NRS 656A.100; and

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

17   **Sec. 15.** This act becomes effective upon passage and  
18   approval.

