

No. 2004-57

AN ACT

HB 445

Providing for State registration of individuals providing sign language interpreting and transliterating services to individuals who are deaf or hard of hearing; and imposing duties on the Office for the Deaf and Hard of Hearing in the Department of Labor and Industry.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Sign Language Interpreter and Transliterator State Registration Act.

Section 2. 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:

“Applicant.” An individual who applies for State registration in accordance with section 5.

“Department.” The Department of Labor and Industry of the Commonwealth.

“EIPA.” The Educational Interpreter Performance Assessment Examination administered by the Department of Education or its agent.

“Interpreting.” The process of conveying English in grammatically correct American Sign Language and the process of conveying American Sign Language in English.

“Office.” The Office for the Deaf and Hard of Hearing within the Department of Labor and Industry.

“Qualified sign language interpreter.” An individual registered under this act who engages in sign language interpretation.

“Qualified transliterator.” An individual registered under this act who engages in transliteration.

“Registrant.” An individual registered under this act as either a qualified sign language interpreter or a qualified transliterator.

“Sign language interpreter.” An individual who provides individuals who are deaf and hard of hearing with interpreting or transliterating services.

“Transliterating.” The process of conveying a spoken message from a person who hears to a person who is deaf or hard of hearing and the ability to repeat the message and intent of the speech, mouth movements or English-based signed system of the person who is deaf or hard of hearing.

Section 3. Office responsibilities.

The office shall do all of the following:

- (1) Administer this act.

- (2) Register applicants in accordance with section 5.
- (3) Maintain a list of all registrants and make the list available upon request to the public and to Federal, State and local agencies.
- (4) Promulgate regulations necessary to carry out the provisions of this act.

Section 4. State registration required.

(a) General rule.—Except as provided in subsection (b), no individual may provide or offer to provide sign language interpreting or transliterating services, or hold himself as a qualified sign language interpreter or qualified transliterator 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 interpreting or transliterating at a worship service conducted by a religious entity and services for educational purposes for a religious entity or religiously affiliated school.

(2) An individual engaged in sign language interpreting or transliterating during an emergency, when a delay in obtaining a State-registered interpreter or State-registered transliterator might lead to injury or loss to the individual requiring the services.

(3) An individual engaged in interpreting or transliterating as part of a supervised internship or practicum at an accredited college or university or the registry of interpreters for the deaf or the National Association of the Deaf, provided it is not in a legal, medical or mental health setting.

(4) An individual who is certified by the National Association of the Deaf or the Registry of Interpreters for the Deaf from outside the Commonwealth who provides interpreting or transliterating services in the Commonwealth for a period not exceeding 14 days each calendar year.

(5) An individual engaged in interpreting or transliterating at the request of an individual who is deaf or hard of hearing if the individual informs the client that the individual is not registered under this act.

(6) An individual who engages in interpreting or transliterating strictly as a volunteer.

(7) An individual who engages in interpreting or transliterating for a school-related activity in accordance with all of the following:

(i) The individual is employed in a public or private elementary or secondary school or institution chartered by the Commonwealth.

(ii) The individual received a rating equal to or exceeding 70% on the EIPA. A school district shall determine the EIPA by grade level of the child or class to which the interpreter is assigned and the sign system being used by the class or school.

(8) An individual engaged in interpreting or transliterating in a physician's office, provided that a patient is informed that the individual is not registered under this act and that the patient has the right to request or provide a State-registered interpreter.

(c) **Unlawful practice.**—An individual who violates this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine not to exceed \$300 or to imprisonment for not more than 90 days, or both, for a first violation. An individual who is convicted of a subsequent violation of this section commits a misdemeanor of the third degree and shall be sentenced to pay a fine of not less than \$300 nor more than \$1,000 or to serve a term of imprisonment for not more than 90 days, or both.

Section 5. State registration.

(a) **Application.**—An individual may apply to the office to be a State-registered sign language interpreter or transliterator.

(1) The applicant shall submit to the office all of the following:

(i) A completed application.

(ii) Payment of any required fees.

(iii) Proof that the applicant has passed an examination approved by the office which tests knowledge and proficiency in interpreting and transliterating.

(2) The office shall review each completed application and shall issue a sign language interpreter registration to the applicant when the office is satisfied that all of the following criteria have been met:

(i) The applicant is 18 years of age or older.

(ii) The applicant has passed the examination required by subsection (a).

(iii) The applicant has paid all applicable fees established pursuant to this act.

(iv) The applicant possesses the general fitness, competence and reliability sufficient to satisfy the office that the applicant is worthy of the State registration.

(v) Other criteria as the office may establish by regulation.

(b) **Registration.**—A sign language interpreter State registration issued by the office shall be:

(1) Issued only in the name of the applicant.

(2) Issued in paper or electronic form.

(3) Nontransferable.

(4) Issued for a period not to exceed two years.

(c) **Renewal.**—A registrant may renew a State registration by submitting to the office the information required by subsection (a) and any applicable fees.

(d) **Fees.**—The fee for State registration or renewal of an existing State registration shall, until modified by regulation, be \$100.

Section 6. Change of personal information.

A registrant shall notify the office of any change of name or mailing address within ten days of the change.

Section 7. Confidential communications.

Except as provided by law, a sign language interpreter who acquires confidential information while interpreting or transliterating 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 or transliterating services. The sign language interpreter shall hold any legal privilege that the individual receiving the services holds.

Section 8. Registration violations.

(a) Violations.—The department shall have the authority to impose disciplinary or corrective measures or levy civil penalties on a registrant for doing any or all of the following:

(1) obtain a State registration or renewal of a registration through fraud, deceit or misrepresentation;

(2) be convicted of a felony or a crime, in this Commonwealth or other jurisdiction, relating to the provision of interpreting or transliterating services;

(3) be the subject of disciplinary or other administrative action taken against this registration, certification or license to provide interpreting or transliterating services in another state by a government agency;

(4) commit fraud, gross negligence or misconduct relating to provision of interpreting or transliterating services as determined by the office;

(5) engage in any other misconduct relating to the provision of interpreting or transliterating services as determined by the office; or

(6) violate the provisions of this act or the regulations pertaining to this act as established by the office.

(b) Procedure.—If the department finds a violation of subsection (a), it shall give written notice to the registrant specifying the violation or violations found. The department may assess an administrative fine not to exceed \$500 for each violation. In setting the fine, the department shall consider the severity of the violation and whether there is a pattern of violations.

Section 9. Suspension, denial, nonrenewal or revocation of State registration.

(a) Action.—Actions relating to violations of this act under this section shall be subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure). When the department is empowered to take action for registration violations pursuant to this act, the department may:

(1) Indefinitely suspend, suspend for a term certain, refuse to issue, refuse to renew or revoke a State registration.

(2) Issue a public reprimand.

(3) Require the registrant to take a refresher educational course or training.

(b) Surrender of State registration.—If a registrant's State registration has been suspended or revoked, the registrant shall return the State registration to the office in the manner the office directs. An individual who fails to return a State registration in accordance with this subsection commits a summary offense.

(c) Reapplication.—

(1) An individual whose State registration has been suspended may reapply to the office to have it reactivated, pursuant to regulations adopted by the office. At a minimum, the individual must show compliance with all the terms and conditions of the suspension order and shall pay a reactivation fee to be established by the office by regulation.

(2) An individual whose State registration has been revoked may apply for a State registration in accordance with section 5 not earlier than five years after the date the previous State registration was revoked.

Section 10. Appeals.

An individual aggrieved by a decision of the office may appeal the decision of the office to the department. The appeal shall be conducted in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

Section 11. Effect of an order.

A decision of the office from which no timely appeal is taken to the department or an order of the department from which no timely appeal is taken to a court of competent jurisdiction shall be a final order and shall be enforceable by a court of competent jurisdiction.

Section 12. Injunctive relief.

If an individual violates this act, the department or an individual receiving interpreting or transliterating services may bring an action in a court of competent jurisdiction for an injunction or other process restraining or prohibiting the person from engaging in the activity. In any proceeding under this section, it shall not be necessary to show that an individual was individually injured. If the court finds that an individual has violated this act, it shall enjoin the individual from engaging in the activity until the individual complies with this act.

Section 13. Applicability.

The provisions of this act shall apply to interpreting or transliterating services provided on or after July 1, 2005.

Section 14. Effective date.

This act shall take effect in 60 days.

APPROVED—The 2nd day of July, A.D. 2004.

EDWARD G. RENDELL