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COMMITTEE REPORT

March 18, 2021

**H. 3795**

Introduced by Rep. Allison

S. Printed 3/18/21--H.

Read the first time February 2, 2021.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3795) to amend the Code of Laws of South Carolina, 1976, to enact the “Sign Language Interpreters Act” by adding Chapter 84 to Title 40, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 2, Section 40‑84‑110, by striking item (1) and inserting:

/ (1) ‘Agency’ means:

(a) the departments of state government enumerated in Section 1‑30‑10;

(b) the offices of all statewide constitutional officers;

(c) the Judicial Department;

(d) all public institutions of higher education;

(e) the Commission on Higher Education;

(f) police stations;

(g) county and state detention centers and correctional facilities; and

(h) any other board, commission, or council created by a statute of this State; but

(i) excludes school districts, school boards, charter schools, and special schools. /

Amend the bill further by striking SECTION 3 and inserting:

/ SECTION 3. Article 1, Chapter 33, Title 59 of the 1976 Code is amended by adding:

“Section 59‑33‑120. In consultation with relevant stakeholders, including, but not limited to, the South Carolina Association of the Deaf and the South Carolina Registry of Interpreters for the Deaf, the State Board of Education shall develop and promulgate regulations for the appropriate credentialing of sign language interpreters in the public and special schools of this State. These regulations must include provisions for initial credentialing and continuing education requirements as appropriately aligned to the certification. Interpreters for the deaf working in schools and school districts in this State must be required to submit the same background checks as educators pursuant to Section 59‑25‑115.” /

Amend the bill further by striking SECTION 5 and inserting:

/ SECTION 5. This act takes effect on January 1, 2023. /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill enacts the Sign Language Interpreters Act, which imposes certain requirements for sign language interpreters used by all departments of state government listed in Section 1-30-10, the offices of all statewide constitutional officers, the Judicial Department, all public institutions of higher education, the Commission on Higher Education, police stations, county and state detention centers and correctional facilities, and any other board, commission, or council created by statute of this state. Additionally, the bill requires LLR to develop and maintain a website and database of all sign language interpreters who are required to register with the department. LLR may charge a registration fee for individuals seeking to register as a sign language interpreter or provisional interpreter under supervision of a registered interpreter. The revenue must be used by LLR to defray the expenses associated with the requirements of this bill. Furthermore, this bill requires SDE to develop and promulgate regulations for the appropriate credentialing of sign language interpreters in the public and special schools of this state in consultation with the South Carolina Association of the Deaf and the South Carolina Registry of Interpreters for the Deaf. Interpreters for the deaf working in schools and school districts are required to submit to the same background checks as educators. Lastly, the bill makes conforming changes to the appointment process of sign language interpreters by the Judicial Department.

**Department of Labor, Licensing and Regulation.** The expenditure impact of this bill on LLR due to the provisions listed above is expected to be minimal. The agency does not expect the need for additional staff to administer the requirements of this bill. Additionally, the proceeds from the registration fees received under this bill must be used by LLR to defray the expenditures associated with the implementing this bill.

**Judicial Department.** This bill makes conforming changes to the process which requires the Judicial Department to appoint as many qualified sign language or deaf interpreters as needed to assist deaf persons who are witnesses or parties to any legal proceeding. While any expenditure impact the bill may have on the department’s operations cannot be determined, the department intends to manage any increase in costs for general sessions, common pleas, family, master-in-equity, magistrate, municipal, or probate courts using existing general fund resources.

**State Department of Education.** SDE anticipates using the existing educator certification system for the credentialing and continuing education requirements for sign language interpreters working in the public and special schools. SDE indicates that any expenses associated with modifying the existing system can be managed within current appropriations. Therefore, this bill will have no expenditure impact on the agency.

**State Agency Schools.** This bill is not expected to have an expenditure impact on the state agency schools. The Wil Lou Gray Opportunity School indicates that one of its teachers is a certified interpreter. The School for the Deaf and Blind indicates that the school only uses certified interpreters. The Governor’s School for Agriculture at John de la Howe indicates that any expenses associated with hiring a certified interpreter can be managed within current appropriations. Also, the Governor’s School for the Arts and Humanities and the Governor’s School for Science and Mathematics indicate that any expenses associated with the provisions of the bill can be managed within current appropriations. Therefore, the bill will have no expenditure impact on the state agency schools.

RFA previously surveyed multiple state government agencies regarding a similar bill. Of the surveyed agencies, only the Department of Transportation (DOT), the Department of Motor Vehicles DMV, and the Department of Alcohol and Other Drug Abuse Services indicated that this bill may increase expenditures due to potential increased costs for interpreters once individuals gain the certifications required by this bill or due to an addition of a full-time sign language interpreter on staff. DOT was the only agency to quantify a potential expenditure impact, estimating that other funds expenditures would increase by $79,000 annually if the agency determined it was necessary to employ a sign language interpreter on staff.

At the time, the following agencies indicated that they either did not use sign language interpreters or expected no or a minimal expenditure impact:

•Comptroller General’s Office •Department of Natural

Resources

•Department of Commerce •Department of Parks,

Recreation, and Tourism

•Department of Juvenile Justice •Department of Probation, Parole, and Pardon Services

•Legislative Council •Department of Public Safety

•Office of the Adjutant General •Department of Revenue and Fiscal Affairs

•South Carolina Senate •Lieutenant Governor’s Office

•State Treasurer’s Office •Secretary of State

•Commission on Higher Education •Clemson University

•Department of Administration •Coastal Carolina University

•Department of Agriculture •College of Charleston

•Department of Disabilities and Special •Francis Marion University

Needs

•Department of Employment and •Lander University

Workforce

•Department of Health and •South Carolina State Environmental Control University

•Department of Health and •South Carolina Technical

Human Services College System

•Department of Insurance The Citadel

•Department of Labor, Licensing •University of South and Regulation Carolina

•Department of Mental Health •Winthrop University

The following agencies were surveyed at the time but did not respond to the request:

•Area Health Education Consortium •Medical University of South Carolina

•Attorney General’s Office •Ports Authority

•Department of Corrections •Public Service Authority

•Department of Social Services

•House of Representatives

If any additional data becomes available from previously surveyed agencies, RFA will update this fiscal impact as necessary.

**State Revenue**

This bill authorizes LLR to charge a registration fee for individuals seeking to register as a sign language interpreter with the agency. The proceeds from the registration fees must be used by LLR to defray the expenditures associated with the mplementing this bill. Additionally, LLR can impose and collect civil penalties of $500 due to violations. The revenue impact of this bill on LLR is undetermined because the registration fee and the number of individuals who may register as interpreters are unknown.

**Local Expenditure**

This bill requires sign language interpreters working in schools and school districts to complete the same background checks as educators. SDE indicates that any expenses for local school districts for sign language interpreters can be managed within the existing budgets of the districts. Therefore, this bill will have no expenditure impact on local school districts.

Additionally, RFA surveyed twenty-three county governments regarding a similar bill in the past and received no responses. Therefore, the expenditure impact of this bill on local governments is undetermined.

If any additional data becomes available from previously surveyed local governments, RFA will update this fiscal impact as necessary.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SIGN LANGUAGE INTERPRETERS ACT” BY ADDING CHAPTER 84 TO TITLE 40 SO AS TO REQUIRE A SPECIFIED LEVEL OF COMPETENCE FOR SIGN LANGUAGE INTERPRETERS USED BY CERTAIN ENTITIES OF STATE GOVERNMENT, PUBLIC SCHOOLS, AND HOSPITAL SYSTEMS, TO PROVIDE SIGN LANGUAGE INTERPRETATION SERVICES TO MEMBERS OF THE PUBLIC WHO ARE DEAF OR HARD OF HEARING AND HAVE CERTAIN SPEECH IMPAIRMENTS, AND TO PROVIDE NECESSARY DEFINITIONS; BY ADDING SECTION 59‑33‑120 SO AS TO PROVIDE FOR THE PROMULGATION OF REGULATIONS FOR THE APPROPRIATE CREDENTIALING OF SIGN LANGUAGE INTERPRETERS IN PUBLIC AND SPECIAL SCHOOLS, AND TO REQUIRE INTERPRETERS FOR THE DEAF WORKING IN SCHOOLS AND SCHOOL DISTRICTS IN THIS STATE TO SUBMIT THE SAME BACKGROUND CHECKS AS EDUCATORS; TO AMEND SECTION 15‑27‑15, RELATING TO THE APPOINTMENT OF SIGN LANGUAGE INTERPRETERS BY THE JUDICIAL DEPARTMENT FOR PARTIES OR WITNESSES WHO ARE DEAF OR HARD OF HEARING, SO AS TO MAKE CONFORMING CHANGES AND TO PROVIDE NECESSARY DEFINITIONS; AND TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE JANUARY 1, 2022.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “Sign Language Interpreters Act”.

SECTION 2. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 84

Sign Language Interpreters

Section 40‑84‑110. For the purposes of this chapter:

(1) ‘Agency’ means:

(a) the departments of state government enumerated in Section 1‑30‑10;

(b) the offices of all statewide constitutional officers;

(c) the Judicial Department;

(d) all public institutions of higher education;

(e) the Commission on Higher Education;

(f) police stations;

(g) county and state detention centers and correctional facilities; and

(h) any other board, commission, or council created by a statute of this State.

(2) ‘Deaf person’ means a person who cannot use his hearing for communication purposes.

(3) ‘Interpreting’ is the act of conveying meaning between people who use signed and spoken languages, conveying all essential elements of meaning and intent and where such process is offered in exchange for remuneration.

(4) ‘Recognized certification’ means a certification awarded to individuals who successfully complete an evaluation of interpreting skills for a deaf person at a professional level. The term includes, but is not limited to, a certification issued, recognized, or both, by the Registry of Interpreters for the Deaf.

(5) ‘Sign Language’ or ‘American Sign Language’ or ‘ASL’ means a visual‑gestural language that incorporates facial grammatical markers, physical affect markers, spatial linguistic information, and fingerspelling, as well as signs made with the hands. ASL is a distinct language with its own grammar and syntax that is neither based on nor derived from a spoken language.

(6) ‘South Carolina Association of the Deaf’ or ‘association’ or ‘SCAD’ means the state chapter of the National Association of the Deaf acting as a consumer advocacy organization serving the deaf and hard‑of‑hearing population of South Carolina, as incorporated at the time of enactment, or any successor organization of it.

(7) ‘South Carolina Registry of Interpreters for the Deaf’ or ‘SCRID’ means the state affiliate chapter of the Registry of Interpreters for the Deaf, serving as an interpreter‑advocacy and professional organization, as incorporated at the time of enactment, or its successor organization.

Section 40‑84‑120. The requirements of this chapter apply to all:

(1) agencies as defined by Section 40‑84‑110(1); and

(2) hospital systems regulated by the Department of Health and Environmental Control under Title 44.

Section 40‑84‑130. (A) A person only may provide interpreting services for an agency or hospital if he has:

(1) achieved recognized certification;

(2) registered annually with the Department of Labor, Licensing and Regulation and being listed in the online registry maintained by the department pursuant to Section 40‑84‑140; and

(3) paid a fee established by the department.

(B) A person not meeting the requirements of this section may provide sign language interpreting services, for a period not to exceed two years, if he meets the requirements of subsection (A) (2) and (3) and registers under the supervision of an interpreter that meets all the requirements of this section. A person registering with the Department of Labor, Licensing and Regulation under this subsection will be registered as a provisional interpreter.

Section 40‑84‑140. (A) For the convenience of state and local agencies, boards, commissions, or other governmental entities to which the provisions of this chapter apply, the Department of Labor, Licensing and Regulation shall develop and maintain on its website a page known as the South Carolina Sign Language Interpreters Registry and a database of all sign language interpreters required to register with the department pursuant to Section 40‑84‑130. The page also must include links to the South Carolina Association of the Deaf, the South Carolina Registry of Interpreters of the Deaf, and the National Registry of Interpreters of the Deaf.

(B) The department shall provide an online registration form for persons seeking to register as either an interpreter or a provisional interpreter. For provisional interpreters, the registry shall identify the name and certification of the supervising interpreter. The department may charge a registration fee to defray expenses associated with administering the requirements of this section.

(C) The department must verify that a person has achieved recognized certification and, for a provisional interpreter, must verify that the supervising interpreter has achieved recognized certification and will supervise the provisional interpreter in accordance with this chapter. The department shall investigate complaints of a person interpreting without a registration.

(D) Violations of this chapter may result in a civil penalty of no more than five hundred dollars for each violation, the revocation of the interpreter’s registration, or both. A fine charged pursuant to this chapter does not preempt or preclude additional appropriate civil or criminal penalties to include disgorgement and restitution.

Section 40‑84‑160. The provisions of this chapter do not apply to:

(1) nonresident persons who possess a recognized certification and provide interpreting services in this State no more than twenty days per calendar year; and

(2) emergencies involving potential loss of life that require interpreting services and an interpreter with a recognized certification is not readily available.

Section 40‑84‑170. To the extent that the provisions of this chapter conflict with other minimum competency standards for a sign language interpreter required for use by an entity identified in Section 40‑84‑120, the more rigorous standards must prevail.”

SECTION 3. Article 1, Chapter 33, Title 59 of the 1976 Code is amended by adding:

“Section 59‑33‑120. In consultation with the South Carolina Association of the Deaf and the South Carolina Registry of Interpreters for the Deaf, the State Department of Education shall develop and promulgate regulations for the appropriate credentialing of sign language interpreters in the public and special schools of this State. These regulations must include provisions for initial credentialing and continuing education requirements as appropriately aligned to the certification. The regulations must be approved by the State Board of Education before promulgation. Interpreters for the deaf working in schools and school districts in this State must be required to submit the same background checks as educators pursuant to Section 59‑25‑115.”

SECTION 4. Section 15‑27‑15 (A) and (B) of the 1976 Code is amended to read:

“Section 15‑27‑15. (A)~~Whenever~~ If a deaf person is a party or witness in ~~any~~ a legal proceeding including, but not limited to, a civil or criminal proceeding, a family court proceeding, an action involving a traffic violation, or other criminal matter heard in magistrates court, or is confined to an institution, then the court must appoint as many qualified sign language interpreters or deaf ~~relay~~ interpreters as needed ~~and are approved by the South Carolina Association of the Deaf~~. The interpreter must be approved by the deaf person and ~~either the South Carolina Association of the Deaf and the South Carolina Registry of Interpreters for the Deaf or the National Registry of Interpreters for the Deaf to~~ must be qualified in compliance with competency standards provided in Chapter 84, Title 40 before the person may interpret the proceedings to and the testimony of the deaf person, unless the deaf person waives having a qualified interpreter, elects to use another individual of his own selection as his interpreter, or the judge finds that it is not necessary for the fulfillment of justice. If a person elects to use an interpreter other than a qualified interpreter provided for in this section, then the court must first make a determination that this action is in the best interest of the individual and is in the best interests of justice. The selection, use, and reimbursement of interpreters must be determined under such guidelines ~~as may be~~ established by the Chief Justice ~~of the Supreme Court~~. All fees for interpreting services must be paid out of the general fund of the State from funds appropriated to the Judicial Department for this purpose by the General Assembly.

(B) For purposes of this section~~:~~

~~(1)~~ ~~‘Qualified interpreter’ means a person eighteen years of age or older who has been certified by the South Carolina Association of the Deaf Interpreter Assessment Program (SCAD‑IAP Level IV or V) or the National Registry of Interpreters for the Deaf and who has received approval from the South Carolina Association of the Deaf and who is not a family member of the deaf person.~~

~~(2)~~ ‘Deaf person’ means a person who cannot use his hearing for communication purposes.”

SECTION 5. This act takes effect January 1, 2022.

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