

Sixty-second
Legislative Assembly
of North Dakota

SENATE BILL NO. 2185

Introduced by

Senators Oehlke, Burckhard, Robinson

Representatives Mock, Hofstad

A BILL ~~for an Act to create and enact seven new sections to chapter 43-52 of the North Dakota Century Code, relating to regulation of sign language interpreters; to amend and reenact sections 43-52-01, 43-52-02, and 43-52-03 of the North Dakota Century Code, relating to regulation of sign language interpreters; and to provide a penalty.~~ for an Act to create a new section to chapter 43-52 of the North Dakota Century Code, relating to the regulation of sign language interpreters; to amend and reenact sections 43-52-01, 43-52-02, and 43-52-03 of the North Dakota Century Code, relating to regulation of sign language interpreters; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. ~~Section 43-52-01 of the North Dakota Century Code is amended and reenacted as follows:~~

~~—~~ **43-52-01. Definitions.**

~~—~~ As used in this chapter, unless the context otherwise requires:

~~—~~ 1. "Board" means the interpreter licensure board.

~~—~~ 2. "Consumer" means an individual who is deaf, deaf-blind, speech-impaired, hard-of-hearing, or who requires special communication techniques in order to communicate.

~~—~~ 2.3. "Interpreter" means an individual who engages in the practice of interpreting.

~~—~~ 3.4. "Interpreting" means the translating or transliterating of English concepts to any necessary specialized vocabulary used by a consumer or translating of a consumer's specialized vocabulary to English concepts. Necessary specialized vocabularies include American sign language, English-based sign language, and oral interpreting.

~~—~~ 4.5. "Nationally recognized certification" means certification granted by a board-approved national organization that ~~which is based on a skills assessment of the applicant.~~

These organizations ~~may~~ include the registry of interpreters for the deaf and the national association of the deaf.

~~6. "Video remote interpreting" is a process that allows an individual who is deaf or hard of hearing to communicate with a hearing individual at the same location through an interpreter displayed via videoconferencing equipment or through a television with a videophone.~~

~~**SECTION 2.** A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:~~

~~**Interpreter licensure board.**~~

~~1. The governor shall appoint the five members of the interpreter licensure board, which consists of one member who represents a statewide organization that advocates for the deaf and hard of hearing, such as the North Dakota association of the deaf; three members who hold a nationally recognized certification and who represent a statewide organization that represents interpreters for the deaf, such as the North Dakota registry of interpreters for the deaf; and a representative of the department of human services.~~

~~2. Except for the initial members who may serve shorter terms in order to initiate the staggered terms, the term of the board members is three years and until a successor is appointed and qualified. The terms must be arranged so no more than two terms expire on July thirty-first of each year. The governor may remove a member for good cause.~~

~~3. A member of the board, except for the member representing the department of human services, is entitled to receive for each day during which the member is actually engaged in the performance of the duties of the board such per diem as fixed by the board and each member of the board is entitled to receive reimbursement for mileage as provided under section 54-06-09 and is entitled to reimbursement for the member's actual and necessary expenses incurred in the discharge of the member's official duties.~~

~~**SECTION 3.** A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:~~

~~**Board powers and duties.**~~

~~1. The board may:~~

~~a. Manage and provide interpreter mentoring and professional training.~~

~~b. Educate licensees and members of the public regarding interpreter laws.~~

~~2. The board shall:~~

~~a. Accept applications for licensure under this chapter; evaluate the qualifications of applicants; issue licenses to qualified applicants; annually renew licenses; and take disciplinary actions against licensees as appropriate.~~

~~b. Maintain, publish, and make available upon request a list of all interpreters licensed under this chapter, including information regarding the licensees' respective levels of licensure.~~

~~c. Adopt laws as necessary to implement this chapter.~~

~~**SECTION 4. AMENDMENT.** Section 43-52-02 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**43-52-02. Practice of interpreting – Representation to the public.**~~

~~An~~

~~1. Effective until December 31, 2011, an individual may not practice or represent as an interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing individuals in the state unless the individual holds a valid nationally recognized certification. However, an individual who was practicing as an interpreter in this state before August 1, 2001, has until July 31, 2003, to meet the certification requirement under this section.~~

~~2. Effective January 1, 2012, through December 31, 2013, an individual may not practice or represent as an interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing individuals in the state unless the individual:~~

~~a. Holds a valid nationally recognized certification;~~

~~b. Is licensed under this chapter; or~~

~~c. Holds a provisional certificate issued by the board under this chapter.~~

~~3. Effective January 1, 2014, an individual may not practice or represent as an interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing individuals in the state unless licensed as an interpreter under this chapter or holds a provisional certificate issued by the board under this chapter.~~

~~4. Effective January 1, 2012, a person may not use the title "licensed interpreter for the deaf", "licensed translator for the deaf", or any similar title or abbreviation to indicate the person is a licensed interpreter unless the person is licensed under this chapter.~~

~~SECTION 5. AMENDMENT. Section 43-52-03 of the North Dakota Century Code is amended and reenacted as follows:~~

~~43-52-03. Exceptions.~~

~~This chapter does not prevent or restrict:~~

~~1. A nonresident interpreter working in this state not more than nineteen days per year.~~

~~2. An interpreter working at a religious activity.~~

~~3. An interpreter working as a volunteer without compensation.~~

~~4. An interpreter working in an emergency. An emergency is a situation in which the consumer decides that the length of time needed to obtain a licensed interpreter is likely to cause injury or loss to the consumer.~~

~~5. The activities and services of an interpreter intern or student in training enrolled in a program of study in interpreting at an accredited institution of higher learning; interpreting under the supervision of a licensed interpreter as part of a supervised program; and identified as an interpreter intern or student in training.~~

~~6. An individual using sign language or a manual communication system as a means of communication with or on behalf of a family member, a deaf individual, a deaf-blind individual, a speech-impaired individual, or hard-of-hearing individual who has specifically requested that use by that individual.~~

~~7. A communication made as a reasonable accommodation for the employment of a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual.~~

~~8. A communication with a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual who could not communicate using American sign language or English-based sign language.~~

~~9. An individual working in an elementary or secondary school who has successfully completed a three-year educational interpreter certificate program of study or who has passed the educational interpreter performance assessment at a level of 3.5 or higher. The individual may work in the school setting without national certification until August 1, 2005, if the individual is being mentored by a trained mentor who is either a~~

certified interpreter or a deaf adult. To continue working in the school setting after August 1, 2005, the individual must have obtained national certification.

~~10. An individual who has successfully completed an accredited interpreter training program from interpreting without certification for a period of up to two years from the date of completion of the program if, during that period, the individual is mentored by a trained mentor who is either a certified interpreter or a deaf adult. This exemption applies through December 31, 2013, after which time the exemption does not apply.~~

SECTION 6. A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:

Application for licensure.

~~1. An applicant for licensure shall file an application with the board on forms established by the board and submit the required fees.~~

~~2. Effective January 1, 2012, the board shall issue an initial license to an applicant who meets one of the following requirements:~~

~~a. Holds an assessment certification at a board-established level from a board-approved organization, such as the educational interpreter performance assessment;~~

~~b. Holds a valid interpreter or transliterator certificate issued by a board-approved national membership organization representing the professionals who facilitate communication between people who are deaf or hard-of-hearing and people who can hear, such as the registry of interpreters for the deaf;~~

~~c. Holds a board-approved state license or certification or holds a nationally-recognized certification; or~~

~~d. Completed a board-approved provisional license period during which the educational plan was successfully completed.~~

~~3. Effective January 1, 2012, the board shall issue a provisional license to an applicant who does not meet the requirements of subsection 2 if the applicant meets the board's provisional license qualifications. During the provisional period, the provisional licensee shall develop and implement a board-approved education plan in collaboration with a board-approved mentor. A provisional license is valid for twelve months and may be renewed once. The board may grant a second renewal of a~~

~~provisional license if the applicant is able to establish good cause as determined by the board.~~

~~— **SECTION 7.** A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:~~

~~— **License renewal - Fees.**~~

~~1. The board shall establish an application fee, which may not exceed fifty dollars; a license fee, which may not exceed one hundred dollars; a renewal fee, which may not exceed one hundred dollars; and a late fee.~~

~~2. A license issued under this chapter is subject to annual renewal and expires January first unless renewed in the manner prescribed by rules of the board. The board may provide for the late renewal of a license upon the payment of a late fee, but late renewal of a license may not be granted more than thirty days following expiration of the license. If a licensee fails to renew a license within thirty days of expiration, the licensee is subject to reapplication.~~

~~— **SECTION 8.** A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:~~

~~— **Video remote interpreting - Registration.**~~

~~1. A person may not provide video remote interpreting services in this state unless registered with the board under this section. Annually, a video remote interpreting service shall register with the board on forms established by the board and shall submit the required fees.~~

~~2. The registration fees under this section are:~~

~~a. For an employer of fewer than six interpreters, one hundred dollars;~~

~~b. For an employer of more than five but fewer than eleven interpreters, three hundred dollars; and~~

~~c. For an employer of more than ten interpreters, five hundred dollars.~~

~~— **SECTION 9.** A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:~~

~~— **Disciplinary proceedings - Civil penalty.**~~

~~1. The board may deny, revoke, suspend, or place on probation the license of an interpreter for any of the following grounds:~~

- ~~a. The licensee is guilty of fraud in the practice of interpreting or of fraud or deceit in admission to the practice of interpreting.~~
- ~~b. The licensee has been convicted of an offense determined by the board to have a direct bearing upon the licensee's ability to serve the public as an interpreter.~~
- ~~c. The licensee is guilty of untrue, fraudulent, misleading, or deceptive advertising.~~
- ~~d. The licensee is guilty of willful negligence in the practice of interpreting.~~
- ~~e. The licensee is guilty of violating this chapter or any rule adopted by the board.~~
- ~~2. A complaint may be submitted to the board by any person or on the board's own motion. A complaint must be signed by the complainant and verified under oath.~~
- ~~3. The board may impose a civil penalty not exceeding two hundred dollars for each violation of this chapter, in order to deprive the person of any economic advantage gained by the violation or to reimburse the board for attorney's fees and the cost of the investigation and proceeding.~~

~~**SECTION 10.** A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:~~

~~**Penalty - Civil penalty.**~~

~~Any person who violates this chapter is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin a violation of this chapter without proof of actual damages sustained by any person.~~

SECTION 1. AMENDMENT. Section 43-52-01 of the North Dakota Century Code is amended and reenacted as follows:

43-52-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Consumer" means an individual who is deaf, deaf-blind, speech-impaired, hard-of-hearing, or who requires special communication techniques in order to communicate.
2. "Interpreter" means an individual who engages in the practice of interpreting.
3. "Interpreting" means the translating or transliterating of English concepts to any necessary specialized vocabulary used by a consumer or translating of a consumer's specialized vocabulary to English concepts. Necessary specialized vocabularies include American sign language, English-based sign language, and oral interpreting.

1 4. "Nationally recognized certification" means certification granted by a national
2 organization that is based on a skills assessment of the applicant. These organizations
3 include the registry of interpreters for the deaf and the national association of the deaf.

4 5. "Video remote interpreting" is a process that allows an individual who is deaf or
5 hard-of-hearing to communicate with a hearing individual at the same location through
6 an interpreter displayed via videoconferencing equipment or through a television with
7 a videophone.

8 **SECTION 2. AMENDMENT.** Section 43-52-02 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-52-02. Practice of interpreting.**

11 An individual may not practice or represent as an interpreter for deaf, deaf-blind,
12 speech-impaired, or hard-of-hearing individuals in the state unless the individual holds a valid
13 nationally recognized certification. ~~However, an individual who was practicing as an interpreter~~
14 ~~in this state before August 1, 2001, has until July 31, 2003, to meet the certification requirement~~
15 ~~under this section.~~ A person may not provide video remote interpreting services in this state
16 unless certified under this chapter.

17 **SECTION 3. AMENDMENT.** Section 43-52-03 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **43-52-03. Exceptions.**

20 This chapter does not prevent or restrict:

- 21 1. A nonresident interpreter working in this state not more than nineteen days per year.
- 22 2. An interpreter working at a religious activity.
- 23 3. An interpreter working as a volunteer without compensation.
- 24 4. An interpreter working in an emergency. An emergency is a situation in which the
25 consumer decides that the length of time needed to obtain a licensed interpreter is
26 likely to cause injury or loss to the consumer.
- 27 5. The activities and services of an interpreter intern or student-in-training enrolled in a
28 program of study in interpreting at an accredited institution of higher learning;
29 interpreting under the supervision of a licensed interpreter as part of a supervised
30 program; and identified as an interpreter intern or student-in-training.

6. An individual using sign language or a manual communication system as a means of communication with or on behalf of a family member, a deaf individual, a deaf-blind individual, a speech-impaired individual, or hard-of-hearing individual who has specifically requested that use by that individual.
7. A communication made as a reasonable accommodation for the employment of a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual.
8. A communication with a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual who could not communicate using American sign language or English-based sign language.
9. An individual working in an elementary or secondary school who has successfully completed a three-year educational interpreter certificate program of study or who has passed the educational interpreter performance assessment at a level of 3.5 or higher.
~~The individual may work in the school setting without national certification until August 1, 2005, if the individual is being mentored by a trained mentor who is either a certified interpreter or a deaf adult. To continue working in the school setting after August 1, 2005, the individual must have obtained national certification.~~
- ~~10. An individual who has successfully completed an accredited interpreter training program from interpreting without certification for a period of up to two years from the date of completion of the program if, during that period, the individual is mentored by a trained mentor who is either a certified interpreter or a deaf adult.~~

SECTION 4. A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:

Penalty - Civil penalty.

Any person who violates this chapter is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin a violation of this chapter without proof of actual damages sustained by any person.

SECTION 5. EFFECTIVE DATE. Section 3 of this Act becomes effective on January 1, 2014.