

Approved: Al Ramirez 2.17.93
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on February 15, 1993 in Room 531-N of the Capitol.

All members were present except: Senator Feleciano - Excused

Committee staff present:

Carolyn Rampey, Legislative Research Department
Fred Carman, Revisor of Statutes
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Leonard Hall, Kansas Association of the Deaf
Brenda Eddy, Executive Director,
Kansas Commission for the Deaf and Hard of Hearing
Eva Pereira, Executive Director,
Kansas Advisory committee on Hispanic Affairs
Tim Rarus, Concerned Citizen for the Deaf
Helen Stevens, Kansas Peace Officers Association
Mike Reicht, AT&T Communications-Kansas

Others attending: See attached list

SB 219

Chairman Ramirez called the meeting to order and called on Leonard Hall, Olathe Attorney and present on behalf of the Kansas Association of the Deaf, to speak. Mr. Hall read from his testimony, (Attachment 1) and gave background information on providing interpreters for deaf and hard of hearing. He also gave recommended changes which would amend the existing bill. Mr. Hall had an additional attachment (Attachment 2) which stated that other options, other than the use of interpreters be provided since there is a substantial percentage of the deaf and hard of hearing population who do not use sign language. A new section to this effect was contained in the attachment.

Brenda Eddy, Executive Director, Kansas Commission for the Deaf and Hard of Hearing, appeared next on the bill. She outlined the commission, stating that the majority of the members must be deaf or hard of hearing. (Attachment 3) **SB 219** is about sign language interpreting services that require qualified interpreters for the deaf, hard of hearing or speech impaired persons. These services would be provided in prescribed legal situations, by governmental agencies or service providers, and in places of public accommodation. The bill also requires interpreters to be certified by or registered with the Kansas Commission for the Deaf and Hard of Hearing (KCDHH) or an agency designated by the Commission.

Eva Pereira, Executive Director, Kansas Advisory Committee on Hispanic Affairs, was present to testify on behalf of Senate Bill **219**. She specifically addressed Section 7, which addressed the need for interpreters for foreign language speakers. (Attachment 4) Ms. Pereira stated that she would like to see the foreign language section of the bill be as well constructed as the hearing impaired portion of the bill.

Tim Rarus, concerned citizen for the deaf, spoke through sign language with the help of an interpreter, Mr. Tim Anderson. He thanked the committee for allowing him to appear. Mr. Rarus spoke from his own experience as he is a fourth generation deaf person and has seen the difficulties that have arisen from being deaf. Mr. Rarus stated that he knows that his certified, qualified interpreter will make sure that his message gets across. Mr. Rarus spoke of his grandfather, who had three degrees, but whom many thought ignorant because the interpreter was not interpreting exactly what he was saying. He needed a qualified interpreter to get his message across. Often there is a paranoia in regard to the interpreter; are they going to get the message across accurately and are they going to get the message back accurately. A qualified interpreter makes the difference. The level, range and mode of communication makes a difference. If this bill is passed it will bridge the gap between hearing and deaf.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, Room 531-N
Statehouse, at 1:30 p.m. on February 15, 1993.

Helen Stevens, Kansas Peace Officers Association, was present to make a few comments. She stated a neutral position on the bill, but would remind those present that it would add another mandate to local units of government. The Association agrees with the amendments suggested by Mr. Hall and would like to add telecommunications device for the deaf. It could be one of the exceptions used by law enforcement. Some of the rural areas are going to have a very difficult time law-enforcement wise in enforcing this and having an interpreter available. It might not always be up to the pleasure of the deaf and hard of hearing person. It should be an option of law enforcement to use a technological device. With regard to the latter section of the bill dealing with other languages, the Association would like to see the telephonic language service like that offered by AT&T be amended into the bill as an alternative.

Mike Reich, AT&T Communications, Kansas, added a few comments. He stated that AT&T does offer a telecommunications device for the deaf. It can be obtained through the Special Needs unit via an 800 number. He mentioned that there is a translation or interpretation service offered to non-English speaking persons. Currently, the State of Kansas has a contract with AT&T language line services, and in that contract all units of government are covered and they, in turn, can dial an 800 number and attach themselves to a person who can translate non-English into the English language. It is mainly used in the medical professions, law enforcement, and judicial to some extent.

Several questions were asked of the conferees by committee members dealing with communications. Relatives as interpreters was discussed. Mr. Hall stated that about 20 years ago there were not that many qualified interpreters. If there was something of interest to the family person, it was usually discussed between the interpreter and others, leaving the deaf person out of the discussion and thereby taking away his independence; so instead of the entity and the deaf person, business was conducted between the entity and the family member. Federal law states that no family member can be used as an interpreter. There is a provision in Section 3 of the bill stating that exceptions can be made in extreme conditions.

Mr. Hall also stated that the term, 'undue hardship' was taken from the federal statute and regulations set up on a case-by-case determination.

The lack of interpreters in the rural area was discussed and the options that law enforcement and the person being held would have. Ms. Eddy replied that a list of interpreters could be provided to rural counties so they would be aware of who these people were and could call an interpreter when one was needed.

Ms. Stevens asked the committee to keep in mind that it might take a day to get an interpreter where needed. This is at additional cost to the counties. The counties are already under a tax lid. She is not agreeing or disagreeing, but is asking that the plight of law enforcement in the cities and counties be kept in mind.

Mr. Rarus commented through his interpreter that the ADA makes it very clear and specific that effective communication must be provided.

The Chairman closed the hearing on **SB 219**. He stated there was a bill request from Senator Oleen dealing with the Corporation Commission. Senator Harris moved to introduce the bill. Senator Lee gave a second to the motion. The motion carried.

The Chairman called for action on the minutes of the February 10 meeting. Senator Gooch moved the minutes of the February 10 minutes be approved. Senator Papay gave a second to the motion. The motion carried.

The meeting was adjourned.

The next meeting is scheduled for February 16, 1993.

GUEST LIST

COMMITTEE:

Senate
Gov. Organization

DATE:

Feb 15

[illegible]

TO: Members of the Senate Committee on Governmental
Organizations
FROM: Leonard Hall
SUBJECT: Testimony on S.B. 219
DATE: February 15, 1993

I am Leonard Hall. I am an Attorney and can be reached at my office in the City of Olathe at 1-913-782-2600 if there are any further questions. I am here representing the Kansas Association of the Deaf, the K.C. Self Help for Hard of Hearing and the Legislative Committee which wrote several provisions of S.B. 219.

Background Information

First, I am going to give you some background information on providing interpreters for deaf and hard of hearing.

In Kansas, Kansas Commission for the Deaf and Hard of Hearing (KCDHH) and several local agencies have established a system of providing interpreter services. Qualified interpreters are being provided to other agencies, businesses, and local and state governments. Section 504 of the Federal Rehabilitation Act and American with Disabilities Act (ADA) require interpreters to a greater extent than that required under the Kansas interpreter law.

SB 219 reflects changes to meet the requirements as provided in federal law for qualified interpreters as well as the system providing qualified interpreters.

Two More Changes Recommended in SB 219

Second, I am going to recommend changes which would amend the existing SB 219. These changes are requested by another state agency. A sheet setting out recommended changes in SB 219 is attached for your information.

The Office of the Judicial Administration with the Kansas Courts has expressed their concern about New Section 1 (a) which does not cover deaf jurors.

The recommended language is similar to that proposed in HB 2257 for New Section 1 (a):

"In any grand jury, court or jury proceeding whether such person is the plaintiff, defendant, juror, or witness in such action and in the case of a deaf, hard of hearing, or speech impaired juror, the interpreter shall interpret throughout the actual trial and during which the jury is sequestered or engaged in its deliberations;"

The Office of Judicial Administration also pointed out that American Sign Language is also a primary language other than

*G.O. Comm.
Attachment 1
2/15/93*

English under Section 7. American Sign Language is considered to be a foreign language. It is necessary to exclude "sign language" from Section 7 as follows:

"A qualified interpreter shall be appointed in the following cases for person whose primary language is one other than English, not including any sign language used by deaf or hard of hearing person:"

or an alternative provision:

"A qualified interpreter shall be appointed in the following cases for person whose primary spoken language is one other than English:"

**Brief Explanation of
Each Provisions in SB 219**

Third, I am going to explain each provision of the new statute as set out in SB 219.

NEW SECTION 1:

New Section 1 (a) to (c) is a combination of those requirements currently set out in K.S.A. 75-4351 (a) to (e).

New Section 1 (d) is taken directly from 42 USC 12132 of Title II of ADA covering local and state governments. This section basically states that a person with disability can not be excluded from the benefits of services, programs or activities of a public entity. For over 15 years, Section 504 has required local and state governments to provide interpreters for deaf and hard of hearing people in its programs and services.

New Section 1 (e) is taken directly from 42 USC 12182 of Title III of ADA covering public accommodation. Note that exceptions are provided in the event that securing interpreters does not cause undue burden.

New Section 1 (f) is taken directly from 42 USC 12112 of Title I of ADA covering employment. Note that exceptions are provided in the event that securing interpreters does not cause undue hardship.

NEW SECTION 2:

New Section 2 (a) includes the requirement that all interpreters shall be certified by or registered with the KCDHH or an agency designated by the Commission. The **first purpose** of this sentence is to provide flexibility in requiring all interpreters regardless of their skill level to register with the Commission. Registered interpreters with some interpreting skills will be encouraged to obtain more training to become certified.

The **second purpose** is to allow designated local agencies across Kansas to certify interpreters as well as to register interpreters. By doing this, more qualified interpreters can become available on the local level. There are local agencies in Johnson County, Wichita, Hays, Topeka, Salina and possibly other communities who can provide these necessary services.

New Section 2 (b) allows the Commission to recommend reasonable fees for services of interpreters.

NEW SECTION 3. The first sentence which defined "qualified interpreter" is taken directly from the ADA regulations provided by the EEOC. The second sentence prohibiting the use of relatives for interpreters is taken from the current state statute and ADA regulations.

NEW SECTION 4. This Section simply outlines who can make the determination that the person is qualified to interpret.

NEW SECTION 5. This sentence is taken directly from a state statute recently adopted by the State of Texas. The confidentiality and privacy of the deaf or hard of hearing person should be protected.

NEW SECTION 6. Currently, there is no enforcement provision under the current interpreter statute.

Please find attached a copy of recommended changes and explanation of several provision of SB 219.

SENATE BILL No. 219

By Committee on Governmental Organization

2-5

AN ACT concerning interpreters for certain persons; deaf, hard of hearing and speech impaired persons; persons speaking foreign language; amending K.S.A. 75-4351, 75-4353 and 75-4354 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. A qualified interpreter shall be secured for the deaf, hard of hearing or speech impaired person in the following cases:

(a) In any grand jury, court or jury proceeding whether such person is the plaintiff, defendant or witness in such action;

(b) in any proceeding before a board, commission, agency or licensing authority of the state or any of its political subdivisions;

(c) when such person is arrested for an alleged violation of a criminal law of the state or any city ordinances;

(d) in any services, programs or activities of any institution, department or agency of the state of Kansas or any political subdivision, county or municipality so long as securing such interpreter does not cause undue burden or undue hardship;

(e) in any services, programs or activities of any place of public accommodation by any person who owns, leases or operates a place of public accommodation, as defined by federal laws and regulations so long as securing such interpreter does not cause undue burden;

(f) in any employment situation, including but not limited to job application procedures, admission, hiring, advancement, discharge, training or any other terms, conditions or privileges of employment, so long as securing such interpreter does not cause undue hardship.

New Sec. 2. (a) All interpreters for the deaf, hard of hearing and speech impaired secured under the provisions of this act shall be certified by or registered with the Kansas commission for the deaf and hard of hearing or an agency designated by the commission. The chairperson, court, presiding officer or executive officer of the company, board, agency, committee or entity shall be responsible for assuring the procurement of the interpreter.

(b) The commission for the deaf and hard of hearing shall recommend reasonable fees for the services of the interpreter. At no

New Section 1 (a) (b) and (c) is taken from K.S.A. 75-4351 (a) to (e).

Recommended Changes for Sec. 1 (a). "In any grand jury, court or jury proceeding whether such person is the plaintiff, defendant, juror, or witness in such action and in the case of a deaf, hard of hearing, or speech impaired juror, the interpreter shall interpret throughout the actual trial and during which the jury is sequestered or engaged in its deliberations;"

New Section 1 (d) is taken from 42 USC 12132 of Title II of A.D.A. governing local and state governments.

New Section 1 (e) is taken directly from 42 USC 12182 of Title III of A.D.A. covering public accommodation.

New Section 1 (f) is taken directly from 42 USC 12112 of Title I of A.D.A. covering employment.

Note that interpreter shall be certified by or registered with the Commission or an agency designated by the Commission. This provision will encourage local agency to work with interpreters.

Note that reasonable fees will be set by the Commission.

time all the fees for interpreter services be assessed against the person receiving the services.

New Sec. 3. Qualified interpreter means an interpreter who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. No person shall serve as an interpreter for a person if the interpreter is married to that person, related to that person or is otherwise interested in the outcome of the proceeding. Exceptions can be made, in extreme conditions, subject to the approval of the commission for the deaf and hard of hearing.

New Sec. 4. No person shall serve as an interpreter pursuant to this act, unless the commission for the deaf and hard of hearing makes the determination that the person is qualified to interpret. The commission may designate the executive director of the commission or another agency, or both, to make such determination and approval under the provisions of this act.

New Sec. 5. An interpreter who is employed to interpret, transcribe or relay a communication between a person who can hear and a person who is deaf, hard of hearing or speech impaired is a conduit for the communication and may not disclose or be compelled to disclose, through reporting or testimony or by subpoena, the contents of the communication.

New Sec. 6. Any person may have the right to enforce any provisions of this act in the district court. Nothing in this act shall be construed to limit or impair rights existing under any other state laws.

Sec. 7. K.S.A. 75-4351 is hereby amended to read as follows: 75-4351. A qualified interpreter shall be appointed in the following cases for persons whose primary language is one other than English, ~~or who are deaf or mute or both~~: (a) In any grand jury proceeding, when such person is called as a witness;

(b) in any court proceeding involving such person and such proceeding may result in the confinement of such person or the imposition of a penal sanction against such person;

(c) in any civil proceeding, whether such person is the plaintiff, defendant or witness in such action;

(d) in any proceeding before a board, commission, agency, or licensing authority of the state or any of its political subdivisions, when such person is the principal party in interest;

(e) when such person is arrested for an alleged violation of a criminal law of the state or any city ordinance. Such appointment shall be made prior to any attempt to interrogate or take a statement from such persons.

New Section 3:

Definition of Qualified Interpreter is taken from ADA Regulations provided by E.E.O.C.

Note that spouse or relatives can not be interpreters except in extreme conditions.

New Section 4:

Note that the Commission or its Executive Director or the designated agency shall make the determination that the person is qualified to interpret.

New Section 5:

Privileged Communication for Interpreters.

New Section 6:

Right of a person to enforce any provisions in the District Court.

Recommended Change in Sec. 7 (a)

"A qualified interpreters shall be appointed in the following cases for person who primary language is one other than English, not including any sign language used by deaf or hard of hearing person:"

8. K.S.A. 75-4353 is hereby amended to read as follows:

(a) No one shall be appointed to serve as an interpreter for a person pursuant to the provisions of K.S.A. 75-4351 *and amendments thereto*, if ~~he or she~~ *the person appointed to same as an interpreter* is married to that person, related to that person within the first or second degrees of consanguinity, living with that person or is otherwise interested in the outcome of the proceeding, unless the appointing authority determines that no other qualified interpreter is available to serve.

(b) No person shall be appointed as an interpreter pursuant to the provisions of K.S.A. 75-4351 *and amendments thereto*, unless the appointing authority makes a preliminary determination that the interpreter is able to readily communicate with the person whose primary language is one other than English, ~~or who is deaf or mute, or both~~, and is able to accurately repeat and translate the statement of said ~~the~~ person.

Sec. 9. K.S.A. 75-4354 is hereby amended to read as follows: 75-4354. Every interpreter appointed pursuant to the provisions of K.S.A. 75-4351 *and amendments thereto*, before entering upon ~~his or her~~ *the duties of an interpreter*, shall take an oath that ~~he or she~~ *the interpreter* will make a true interpretation in an understandable manner to the person for whom ~~he or she~~ *the interpreter* is appointed, and that ~~he or she~~ *the interpreter* will repeat the statements of such person in the English language to the best of ~~his or her~~ *the interpreter's* skill and judgment.

Sec. 10. K.S.A. 75-4351, 75-4353 and 75-4354 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

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ADDITIONAL RESPONSES RECEIVED FROM OTHER PARTIES:

It had been suggested that other options, other than the use of interpreter, be provided. Such options include notetakers, open-captioning equipments, and assistive listening devices can be used by the deaf, hard of hearing, and/or speech impaired persons in some situations.

There is a substantial percentage of the deaf and hard of hearing population who do not use sign language, so other modes of communication should be used.

It is recommended that the following section be added to SB 219:

NEW SECTION: "If preferable by the deaf, hard of hearing, or speech impaired person and if feasible, other modes of communication, such as notetakers, open-captioning equipments, assistive listening devices, or other technology, may be used in place of an interpreter."

*G.O. Comm.
Attachment 2
2/15/93*

**Kansas Department of Social and Rehabilitation Services
Donna Whiteman, Secretary**

Presenter's name: Brenda Eddy
Executive Director
Kansas Commission for the Deaf and Hard of Hearing
(913) 296-2874 (V/TDD)

Topic: Testimony in favor of SB 219

Date: February 15, 1993

Committee: Senate Committee on Governmental Organization

Mr. Chairman and Members of the Committee: On behalf of the Secretary of Social and Rehabilitation Services and the Kansas Commission for the Deaf and Hard of Hearing, I thank you for the opportunity to address you in support of Senate Bill 219.

My name is Brenda Eddy and I am the executive director of the Kansas Commission for the Deaf and Hard of Hearing. We are an advocacy and coordinating agency with the purpose of representing the needs of deaf and hard of hearing Kansans. We are governed by a 17 member Commission, of which five ex-officio members represent key state agencies. Twelve at-large members are appointed by the Governor. The majority of members must be deaf or hard of hearing. For administrative purposes, we are located with Kansas Rehabilitation Services, which is part of the Kansas Department of Social and Rehabilitation Services.

The Commission for the Deaf and Hard of Hearing started out as an advocacy agency but in the past five years there has been a need to add two important direct services. These two services are statewide interpreter referral coordination and statewide certification of sign language interpreters. The need for interpreter referral services arose out of the fact that many deaf people were not able to participate in the mainstream of society because interpreters were not being provided in doctors offices, courts of law, public agencies and the classrooms. Even those entities that wanted to provide interpreters did not know how to find an interpreter, or what was a reasonable fee, or how to determine if they were qualified to do the job. There was a need to have a centralized agency that could keep an updated list of all the practicing sign language interpreters in Kansas and "match them up" with the people needing the service. We were the logical agency to do this since we have statewide jurisdiction. However, there are five other local referral agencies in Kansas and we work closely together in coordinating services.

Senate Bill 219 is about sign language interpreting services. It and HB 2257 are bills requiring that qualified interpreters for the deaf, hard of hearing or speech impaired persons be provided in prescribed legal situations, by governmental agencies or service

The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities, and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety, and support in collaboration with others.

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Attachment 3
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providers, and in places of public accommodation. The bill requires interpreters to be certified by or registered with the Kansas Commission for the Deaf and Hard of Hearing (KCDHH) or an agency designated by the commission.

The requirements regarding provision of interpreters essentially duplicates situations currently covered by the Kansas Act Against Discrimination and the Americans with Disabilities Act. Sign language interpreting is a relatively new profession. Only in the last twenty years has interpreting grown from a volunteer service to a bonafide profession. For this reason, the profession is still in the infancy stages and regulatory standards that monitor the profession are weak. The national organization of the Registry of Interpreters for the Deaf offers a certification system for assessing the skills of interpreters. However, the \$800 fee for being evaluated by this organization was cost prohibitive for most interpreters in Kansas.

Consequently, until we established our state certification system five years ago, there was no quality assurance measure of sign language interpreters in Kansas and deaf consumers were paying the price. In the 1992 legislative session, the legislature recognized the need for certification of sign language interpreters and amended K.S.A. 75-5393, allowing the Kansas Commission for the Deaf and Hard of Hearing to "provide for a program of regulation and certification of interpreters." Last year we certified 60 interpreters and transliterators, finished the development of a third set of videotapes for evaluating interpreters, and developed a certification tool for evaluating manually coded English interpreters. We have six workshops scheduled around the state for interpreters on preparing for the certification process and have two workshops scheduled to train deaf consumers to become evaluators of interpreting skills.

Up until three years ago there was no networking organization that represented all of the interpreter referral agencies in Kansas. There was a lack of consistency and standards in coordinating interpreter services across the state. There was little recognition or appreciation of each regions' needs and resources. KCDHH formed a network made up of all of the non-profit organizations concerned with interpreter services across the state. This group was so effective and beneficial that it evolved into a sub-committee of one of the Commission's standing committees. I might add that this group has been the most active and dedicated committee of our Commission. Each month interpreters and deaf consumers travel at their own expense from around the state to work together on issues of concern to the deaf and interpreting communities. This bill is a product of their labor. A draft of this bill was presented at the Feb. 12, 1993 board meeting of the Kansas Commission for the Deaf and Hard of Hearing and they unanimously agreed to support this bill.

Senate Bill 219 is a good, proactive bill and a precedent to future policies and legislation requiring certification of all interpreters. It reflects the spirit of consensus and cooperation of agencies who work with deaf and hard of hearing people in Kansas. Requiring that all interpreters be certified by or registered with the KCDHH encourages monitoring of the profession and establishes standards and regulations. It will allow those non-certified interpreters the time and opportunity to get ready for certification by becoming registered. It will grant interpreters privileged communication to protect the confidentiality of deaf people.

On behalf of quality interpreter services for deaf Kansans, I urge you to support this bill.

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DATE: February 15, 1993

TESTIMONY TO: Senate Governmental Organization Committee

FROM: Eva Pereira, Executive Director
Kansas Advisory Committee on Hispanic Affairs

I am Eva Pereira, Executive Director of the Kansas Advisory Committee on Hispanic Affairs. I am here to testify on behalf of Senate Bill 219.

The section of the Bill I would like to comment on is Section 7, which addresses the need for interpreters for foreign language speakers. I feel that because our office is frequently asked to provide interpreter services in the courts, and with state agencies, such as Job Service, Worker's Compensation, and driver's license bureaus, we are uniquely aware of the great need in this state for interpreters. Unfortunately, we are able to provide these services only if our time allows and only in the Topeka area. I believe that we are seeing only the tip of the iceberg of statewide need for foreign language interpreters.

Hispanics in the state of Kansas are both some of the first immigrants and the latest immigrants. Consequently, there are significant numbers, in select counties, that need interpreters when dealing with the courts and state agencies.

I would like to see the foreign language section of the bill to be as well constructed and specific as the hearing impaired portion of the bill, especially in the areas of who pays for the service, the privilege extended to the interpreter and the expertise of the interpreter.

Attached is U.S. Census data for language isolation by select counties.

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Spanish Language Isolated

(By County)

• Finney County	1,526
Ford County	1,107
Grant County	234
Stanton County	76
Sedgwick County	2,265
Seward County	1,171
Shawnee County	453
Wyandotte County	1,018