

SECOND REGULAR SESSION

SENATE BILL NO. 860

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROHRBACH.

Pre-filed January 2, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3588L.011

AN ACT

To repeal sections 161.400, 161.403, 161.405, 161.407, 191.928, 191.934, 209.285, 209.287, 209.318, 209.319, 209.321, 209.323, 209.326, 209.334, 476.750, 476.760, and 476.763, RSMo, and to enact in lieu thereof seventeen new sections relating to the deaf and hard of hearing.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 161.400, 161.403, 161.405, 161.407, 191.928, 191.934, 209.285, 209.287, 209.318, 209.319, 209.321, 209.323, 209.326, 209.334, 476.750, 476.760, and 476.763, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 161.400, 161.403, 161.405, 161.407, 191.928, 191.934, 209.285, 209.287, 209.318, 209.319, 209.321, 209.323, 209.326, 209.334, 476.750, 476.760, and 476.763, to read as follows:

161.400. 1. As used in sections 161.400 to 161.405, the term "commission" means the Missouri commission for the deaf **and hard of hearing**.

2. There is hereby established within the department of elementary and secondary education a commission, to be known as the "Missouri Commission for the Deaf **and Hard of Hearing**", which shall be composed of nine members. Each member shall be appointed by the governor for a term of three years, except that, of the members first appointed, three shall be appointed for a term of three years, three for a term of two years and three for a term of one year. Of the members appointed, two shall be deaf **or hard of hearing**, one shall be a parent of a deaf **or hard of hearing** child, one shall be a representative of an organization representing the interests of the deaf or hard of hearing, one shall be a representative of the Missouri School for the Deaf or the department of elementary and secondary education, one shall

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

be an interpreter for the deaf, one shall be a representative of the business community, one shall be a representative of local public school administration and one shall be a professional from one of the following fields: audiology, psychology, speech pathology, mental health or medicine. No person shall be eligible to serve more than two successive terms, except that a person appointed to fill a vacancy may serve two additional successive terms. The members shall receive no compensation for their services on the Missouri commission for the deaf **and hard of hearing**, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties. The provisions of this subsection shall not prevent any person serving on the commission on August 28, 1994, from completing the term for which that person was appointed.

3. A chairperson shall be selected by the commission from among its members. The commission shall meet at the call of the chairperson, but not less than four times per year. Professional interpreting services for the deaf members shall be provided for at every meeting of the commission, with the expense of the services to be borne by the commission.

161.403. 1. The commission shall appoint an executive director, who shall serve as an executive officer of the commission. As a priority, the director shall be a deaf **or hard of hearing** person or shall have a background and knowledge of deafness and shall be fluent in using and reading American sign language or signed English as a means of communication.

2. Salary, office space and staff for the executive director shall be provided by the department of elementary and secondary education.

161.405. The commission shall function as an agency of the state to advocate public policies, regulations and programs to improve the quality and coordination of existing services for deaf **and hard of hearing** persons and to promote new services whenever necessary. The commission shall:

(1) Promote deaf awareness to the general public and serve as a consultant to any public agency needing information regarding deafness;

(2) Develop a system of state certification for those individuals serving as interpreters of the deaf by:

(a) Conducting evaluations; and

(b) Developing a fee scale for different classes of interpreters;

(3) Maintain the quality of interpreting services by:

(a) Conducting interpreter training workshops to update knowledge and skills; and

(b) Working closely with the institutions of higher education which provide, or plan to provide, instructional programs for learning sign language;

(4) Conduct and maintain a census of the deaf population in Missouri;

(5) Promote the development of a plan which advocates the initiation of improved physical and mental health services for deaf Missourians;

(6) Conduct or make available workshops or seminars as needed for educating nondeaf

individuals of the problems associated with deafness and ways by which these groups or agencies can more effectively interact with those who are deaf;

(7) Promote the development of services for deaf **and hard of hearing** adults, such as shelter homes, independent living skill training facilities and postschool educational training which will help provide for those deaf **and hard of hearing** individuals requiring such services an opportunity to live independently;

(8) Establish a network for effective communication among the deaf adult community and promote the establishment of TDD relay services where needed;

(9) Develop and establish interpreting services for state agencies.

161.407. 1. In order to conduct and maintain a census of the deaf population in Missouri as mandated in section 161.405, the Missouri commission for the deaf **and hard of hearing** shall establish a census information system. The commission may also use the data collected by the census to determine needs of Missouri citizens who have a hearing loss.

2. Licensed professional clinical audiologists, licensed otolaryngologists, licensed hearing aid fitters and dealers or their designee shall inform all patients of the commission's purpose to maintain a census of the deaf population in Missouri and of the statutory requirement to file a report of deafness and hearing loss to the commission within one month of identification of such deafness or hearing loss.

3. To provide an accurate census of the deaf population in Missouri, the census report shall include the name of the patient, the patient's address, the patient's birth date, the type of hearing loss and, if known, the cause of the hearing loss being treated. The census report shall be on forms provided or approved by the commission. In order to protect identifying information, the commission shall assign a unique identifier for each report maintained in the census information system.

4. Nothing in sections 161.400 to 161.411 shall be construed to compel any individual to submit to any medical examination, treatment or supervision nor any examination, treatment or supervision by the commission of any kind.

191.928. 1. The department of health and senior services shall establish and maintain a newborn hearing screening surveillance and monitoring system for newborns who have been reported with possible hearing loss for the purpose of confirming the presence or absence of hearing loss, and referring those with hearing loss for early intervention services.

2. The department of health and senior services shall establish standards and follow-up procedures for all newborns reported with possible hearing loss pursuant to the provisions of section 191.925, as necessary to assure appropriate and timely diagnosis of hearing loss, delivery of amplification, and referral for early intervention services. Such standards and procedures shall include:

(1) Rescreening;

- (2) Diagnostic audiological assessment;
- (3) Individuals qualified to administer rescreening and diagnostic audiological assessment;
- (4) Time lines for administering rescreening and diagnostic pediatric audiological assessment; and
- (5) Time lines and content of contacts to be made by the surveillance and monitoring system.

3. The results of rescreening and diagnostic audiological assessment procedures shall be reported to the department of health and senior services in a manner prescribed by the department. Any person who acts in good faith in complying with this section in reporting rescreening or diagnostic audiological assessment procedures to the department of health and senior services, or the parents or guardians of a newborn shall not be civilly or criminally liable for furnishing the information required by this section.

4. Any newborn with a confirmed hearing loss in the surveillance and monitoring system shall be referred to the appropriate point of contact for the Part C of the Individuals with Disabilities Education Act (IDEA) system of early intervention services (First Steps) and shall be reported to the Missouri commission for the deaf **and hard of hearing** for census purposes.

5. Except as provided in this section, the information contained in the surveillance and monitoring system shall be confidential and shall not be divulged or made public in a manner that discloses the identity of an individual. The department of health and senior services may disclose and exchange such information as is necessary to provide follow-up services for newborns identified with hearing loss to the following persons without a parent's or guardian's written release:

- (1) Employees of public agencies, departments and political subdivisions who need to know such information to carry out their public duties; or
- (2) Health care professionals or their agents who undertake the pediatric care of the newborn.

If any person discloses such information for any other purposes, such person is guilty of an unauthorized release of confidential information and the person who discloses is liable for civil damages.

191.934. 1. There is hereby established a "Newborn Hearing Screening Advisory Committee".

2. The committee shall advise and assist the department of health and senior services in:
 - (1) Developing rules, regulations and standards for screening, rescreening and diagnostic audiological assessment;
 - (2) Developing forms for reporting screening, rescreening and diagnostic audiological assessment results to the surveillance and monitoring system;
 - (3) Designing a technical assistance program to support facilities implementing the

screening program and those conducting rescreening and diagnostic audiological assessment;

- (4) Developing educational materials to be provided to families; and
- (5) Evaluating program outcomes to increase effectiveness and efficiency.

The committee shall also report information concerning the newborn hearing screening program to the state interagency coordinating council, as requested, to ensure coordination of programs within the state's early intervention system, and to identify and eliminate areas of duplication.

3. The committee shall be composed of the following sixteen members, with no less than two such members being deaf or hard of hearing, appointed by the director of the department of health and senior services:

- (1) Three consumers, including one deaf individual who experienced hearing loss in early childhood, one hard-of-hearing individual who experienced hearing loss in early childhood and one parent of a child with a hearing loss;

- (2) Two audiologists who have experience in evaluation and intervention of infants and young children;

- (3) Two physicians who have experience in the care of infants and young children, one of which shall be a pediatrician;

- (4) One representative of an organization with experience in providing early intervention services for children with hearing loss;

- (5) One representative of the Missouri school for the deaf;

- (6) One representative of a hospital with experience in the care of newborns;

- (7) One representative of the Missouri commission for the deaf **and hard of hearing**;

- (8) One representative from each of the departments of health and senior services, elementary and secondary education, mental health, social services and insurance.

4. The department of health and senior services member shall chair the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

5. The department of health and senior services shall provide technical and administrative support services as required by the committee. Such services shall include technical support from individuals qualified to administer infant hearing screening, rescreening and diagnostic audiological assessments.

6. Members of the committee shall receive no compensation for their services as members but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

7. The committee shall adopt written bylaws to govern its activities.

8. The newborn hearing screening advisory committee shall be terminated on August 28, 2001.

209.285. As used in sections 209.285 to 209.339, unless the context clearly requires otherwise, the following terms mean:

(1) "American sign language", a visual-gestural system of communication that has its own syntax, rhetoric and grammar. American sign language is recognized, accepted and used by many deaf Americans. This native language represents concepts rather than words;

(2) "Board", the Missouri board for certification of interpreters, established within the commission in section 209.287;

(3) "Certification", a document issued by the Missouri commission for the deaf **and hard of hearing** declaring that the holder is qualified to practice interpreting at a disclosed level;

(4) "Commission", the Missouri commission for the deaf **and hard of hearing**;

(5) "Committee", the Missouri state committee of interpreters, established in section 209.319;

(6) "Conversion levels", the process of granting levels of certification by the commission to individuals holding certification from another state or within another certification system in this state or another state;

(7) "Coordinator", a staff person, hired by the executive director of the Missouri commission for the deaf **and hard of hearing**, who shall serve as coordinator for the Missouri interpreter certification system;

(8) "Deaf person", any person who is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(9) "Department", the Missouri department of economic development;

(10) "Director", the director of the division of professional registration in the department of economic development;

(11) "Division", the division of professional registration;

(12) "Executive director", the executive director of the Missouri commission for the deaf **and hard of hearing**;

(13) "Interpreter", any person who offers to render interpreting services implying that he **or she** is trained, and experienced in interpreting, and holds a current, valid certification and license to practice interpreting in this state; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be an interpreter;

(14) "Interpreter trainer", a person, certified and licensed by the state of Missouri as an interpreter, who trains new interpreters in the translating of spoken English or written concepts to any necessary specialized vocabulary used by a deaf consumer. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;

(15) "Interpreting", the translating of English spoken or written concepts to any

necessary specialized vocabulary used by a deaf person or the translating of a deaf person's specialized vocabulary to English spoken or written concepts; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be interpreting. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;

(16) "Language deficient", mode of communication used by deaf individuals who lack crucial language components, including, but not limited to, vocabulary, language concepts, expressive skills, language skills and receptive skills;

(17) "Missouri commission for the deaf", Missouri commission for the deaf **and hard of hearing** established in section 161.400;

(18) "Oral", mode of communication having characteristics of speech, speech reading and residual hearing as a primary means of communication using situational and culturally appropriate gestures, without the use of sign language;

(19) "Pidgin Signed English", a mode of communication having characteristics of American sign language;

(20) "Practice of interpreting", rendering or offering to render or supervise those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies or the general public any interpreting service involving the translation of any mode of communication used by a deaf person to spoken English or of spoken English to a mode of communication used by a deaf person;

(21) "Tactile sign", mode of communication, used by deaf and blind individuals, using any one or a combination of the following: tactile sign, constricted space sign or notetaking.

209.287. 1. There is hereby established within the Missouri commission for the deaf **and hard of hearing** a board to be known as the "Board for Certification of Interpreters", which shall be composed of five members. The executive director of the Missouri commission for the deaf **and hard of hearing** or [his] the director's designee shall be a nonvoting member of the board.

2. The members shall be appointed by the governor with the advice and consent of the senate from a list of recommendations from the commission. The members shall be appointed for terms of three years, except those first appointed whose terms shall be staggered and one member appointed to serve for one year, two members to serve for two years and two members to serve for three years. No member shall be eligible to serve more than two consecutive terms, except a person appointed to fill a vacancy for a partial term may serve two additional terms. Two of the members appointed shall be deaf, two shall be certified interpreters and one shall be deaf or a certified interpreter. The members shall be fluent in American sign language, Pidgin Signed English, oral, tactile sign, or any specialized vocabulary used by deaf persons. The member shall

have a background and knowledge of interpreting and evaluation.

3. The members shall receive no compensation for their services on the board, but the commission shall reimburse the members for actual and necessary expenses incurred in the performance of their official duties. The board shall meet not less than two times per year. The board shall elect from its membership a chairperson and a secretary. A quorum of the board shall consist of three of its members.

4. Any member of the commission may petition the governor to remove a member from the board for the following reasons: misconduct, inefficiency, incompetence or neglect of his official duties. The governor may remove the member after giving the committee member written notice of the charges against him and an opportunity to be heard pursuant to administrative procedures in chapter 621, RSMo.

209.318. 1. There is hereby established in the state treasury a fund to be known as the "Missouri Commission for the Deaf **and Hard of Hearing** Board of Certification of Interpreters Fund". All fees provided for in sections 209.287 to 209.318 shall be collected by the executive director of the commission and shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the Missouri commission for the deaf **and hard of hearing** board of certification of interpreters fund. Such funds, upon appropriation, shall be disbursed only for payment of expenses of maintaining the board and for the enforcement of the provisions of sections 209.287 to 209.318 and shall not be used to pay the salary of the coordinator hired pursuant to section 209.289. Warrants shall be drawn on the state treasury for payment out of the fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year.

3. The expenses of maintaining the board enforcement of the provisions of sections 209.287 to 209.318 during the first fiscal year shall be paid by the commission from funds appropriated from general revenue for that purpose.

209.319. 1. There is hereby established in the division of professional registration the "Missouri State Committee of Interpreters", which shall consist of seven members, including two public members. At least one of the public members shall be deaf. The committee members shall be appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state and, except as provided in subsections 2 and 3 of this section, shall be licensed as an interpreter by this state.

2. The initial interpreter appointments made to the committee shall be made from

interpreters who have voluntarily registered with the Missouri commission for the deaf **and hard of hearing**. In making the initial appointments to the committee, the governor shall stagger the terms of the appointees so that two members serve initial terms of two years, two members serve initial terms of three years, two members serve initial terms of four years and one member serves an initial term of one year.

3. At the time of appointment the public members shall be United States citizens, Missouri residents for a period of one year, registered voters, persons who are not and never were members of any profession licensed or regulated pursuant to sections 209.285 to 209.339, persons who do not have and never have had a material financial interest in providing interpreting services or persons who do not have and never have had a financial interest in an activity or organization directly related to interpreting.

4. Members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for eight or more years. The membership of the committee shall reflect the differences in levels of certification, work experience and education. Not more than two interpreter educators shall be members of the committee at the same time.

5. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term. The governor may remove a committee member for misconduct, inefficiency, incompetence or neglect of his or her official duties after giving the committee member written notice of the charges against the committee member and an opportunity to be heard.

6. Each member of the committee shall receive as compensation an amount set by the committee not to exceed fifty dollars for each day devoted to the affairs of the committee and shall be reimbursed for necessary and actual expenses incurred in the performance of his or her official duties.

7. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The committee may hold such additional meetings as may be required in the performance of its duties. A quorum of the committee shall consist of four of its members.

8. The staff for the committee shall be provided by the director of the division of professional registration.

9. The committee may sue and be sued in its official name and shall have a seal which shall be affixed to all certified copies of records and papers on file and to such other instruments as the committee may direct. All courts shall take judicial notice of such seal. Copies of records and proceedings of the committee and of all papers on file with the division on behalf of the committee certified under the seal shall be received as evidence in all courts of record.

209.321. 1. No person shall represent himself **or herself** as an interpreter or engage in

the practice of interpreting as defined in section 209.285 in the state of Missouri unless [he] **such person** is licensed as required by the provisions of sections 209.319 to 209.339.

2. A person registered, certified or licensed by this state, another state or any recognized national certification agent, acceptable to the committee that allows that person to practice any other occupation or profession in this state, is not considered to be interpreting if he **or she** is in performance of the occupation or profession for which he **or she** is registered, certified or licensed. The professions referred to in this subsection include, but are not limited to, physicians, psychologists, nurses, certified public accountants, architects and attorneys.

3. A licensed interpreter shall limit his **or her** practice to demonstrated areas of competence as documented by relevant professional education, training, experience and certification. An interpreter not trained in an area shall not practice in that area without obtaining additional relevant professional education, training and experience through an acceptable program as defined by rule by the Missouri commission for the deaf **and hard of hearing**.

4. A person is not considered to be interpreting pursuant to the provisions of this section if, in a casual setting and as defined by rule, a person is acting as an interpreter gratuitously or is engaged in interpreting incidental to traveling.

5. A person is not considered to be interpreting pursuant to the provisions of this section if a person is engaged as a telecommunications operator providing deaf relay service or operator services for the deaf.

209.323. 1. Applications for licensure as an interpreter shall be submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing [his] **the applicant's** education, certification and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained in the application is true and correct to the best knowledge and belief of the applicant, subject to the penalties, as provided in sections 209.319 to 209.339, for the making of a false affidavit or declaration. Each application shall be accompanied by the required application fee. The application fee must be submitted in a manner as required by the committee and shall not be refundable. The applicant must be eighteen years of age or older. Within a length of time established by rule, the applicant must submit to the committee, verification from the Missouri commission for the deaf **and hard of hearing** that the applicant has achieved the appropriate certification to qualify for licensure.

2. Each license issued pursuant to the provisions of sections 209.319 to 209.339 shall expire on the renewal date. The division shall mail a renewal notice to the last known address of each licensee prior to the registration renewal date. The license will expire upon failure to provide the division with the information required for registration or to pay the required registration fee within sixty days of the registration renewal date. The license may be reinstated

within two years after the registration date, if the applicant applies for reinstatement and pays the required registration fee plus a delinquency fee as established by the committee.

3. Except as provided in section 209.321, the committee with assistance from the division shall issue or renew a license to each person who files an application and fee as required by the provisions of sections 209.319 to 209.339 and who furnishes satisfactory evidence to the committee that he has complied with the provisions of subsection 1 or 2 of this section.

4. The committee may issue a new license to replace any license which is lost, destroyed or mutilated upon payment of a fee as provided by the committee.

209.326. Any person who holds a valid unrevoked and unexpired license or certification as an interpreter issued by a state or organization other than this state and recognized by the committee and concurrently by the Missouri commission for the deaf **and hard of hearing** and, provided for by rule, may be granted a temporary license by the committee to practice interpreting in this state. The application for a temporary license must be accompanied by the appropriate fee as established by the committee and that fee is nonrefundable. If issued, the temporary license is valid for ninety days. A temporary license may not be issued to the same individual more than once per year. The committee may not issue more than one temporary license to an individual who has established residency in this state during [his] **the individual's** residency.

209.334. 1. The committee may refuse to issue or renew any license required by the provisions of sections 209.319 to 209.339 for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his **or her** right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 209.319 to 209.339 or any person who has failed to renew or has surrendered his license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of interpreting;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of an interpreter, for any offense an essential element of which is fraud, dishonesty or an act of violence, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 209.319 to 209.339 or in obtaining permission to take any

examination given or required pursuant to the provisions of sections 209.319 to 209.339;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of interpreting;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 209.319 to 209.339, or of any lawful rule or regulation adopted pursuant to sections 209.319 to 209.339;

(7) Impersonation of any person holding a license or allowing any person to use his or her license or certification;

(8) Discipline of a license or other right to practice interpreting granted by another state, territory, federal agency or country upon grounds for which discipline is authorized in this state;

(9) Discipline of a certification issued by the Missouri commission for the deaf **and hard of hearing** or any other certifying body upon grounds for which discipline is authorized in this state if the licensee was given notice and an opportunity to be heard before the certification was disciplined;

(10) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(11) Assisting or enabling any person to practice or offer to practice interpreting who is not licensed and currently eligible to practice under the provisions of sections 209.319 to 209.339;

(12) Issuance of a license based upon a material mistake of fact;

(13) Violation of any professional trust or confidence;

(14) Failure to display or present a valid license if so required by sections 209.319 to 209.339 or any rule promulgated pursuant thereto.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 209.319 to 209.339 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

5. In any order of revocation, the committee may provide that the person may not apply for reinstatement of his license for three years after the revocation.

6. Before restoring to good standing a license issued pursuant to sections 209.319 to 209.339 which has been revoked, suspended or inactive for any cause, the committee shall

require the applicant to submit to the committee, verification, from the Missouri commission for the deaf that the applicant has a current certification which qualifies that person for licensure.

476.750. As used in sections 476.750 to 476.766, the following terms mean:

(1) "Auxiliary aids and services", the device or service that the deaf person feels would best serve him **or her** which includes, but is not limited to, qualified interpreters, notetakers, transcription services, written materials, assistive listening devices, assistive listening systems, closed caption decoders, open and closed captioning, videotext displays or other effective method of making aurally delivered materials available to individuals with hearing loss as defined by the American with Disabilities Act of 1990, P.L. 101-336, as amended;

(2) "Deaf person", any person who, because of a hearing loss, is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(3) "Designated responsible authority", the presiding officer, chairman, hearing officer, judge, clerk or similar official in any court, board, commission, department, agency or legislative body or the designated Americans with Disabilities Act coordinator who is responsible for providing auxiliary aids and services;

(4) "Primary consideration", when an auxiliary aid or service is required, the designated responsible authority shall when possible provide an opportunity for the qualified individual with a disability to designate the auxiliary aid or service of his or her choice. The designated responsible authority may honor the choice of the qualified individual with a disability, unless the designated responsible authority provides an equally effective auxiliary aid or service, or that use of the means chosen would result in a fundamental alteration in the service, program or activity or in undue financial or administrative burdens;

(5) "Qualified interpreter", an interpreter certified and licensed by the Missouri interpreter certification system or deemed competent by the Missouri commission for the deaf **and hard of hearing**, who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

476.760. 1. All communications between a deaf person and such person's attorney through the use of auxiliary aids and services shall be protected as privileged communications in the same manner as communications between an attorney and such attorney's hearing client. The auxiliary aids and services provider cannot be compelled to testify as to the information retained.

2. In any action or proceeding in which an auxiliary aids and services provider is required to be appointed, the court or administrative authority may not commence proceedings until the appointed auxiliary aids and services provider are in full view or spatially situated to assure proper communication with the deaf person or persons involved as participants.

3. No waiver of the right to auxiliary aids and services by a deaf person shall be valid

unless that deaf person knowingly and voluntarily signs a written waiver. Such waiver is subject to the approval of counsel to the deaf person. If no counsel is used, then it is subject to the approval of the designated responsible authority. In no event is the failure of the deaf person to request a qualified interpreter and auxiliary aids and services provider deemed a waiver of that right.

4. An auxiliary aids and services provider appointed pursuant to sections 476.750 to 476.766 is entitled to a reasonable fee for such provider's service, including waiting time, necessary travel expenses and subsistence expenses. The fee may be based on a fee schedule for interpreters and auxiliary aids and services recommended by the Missouri commission for the deaf **and hard of hearing**. Reimbursements for necessary travel and subsistence expenses shall be at the rates provided by law for state employees.

5. The fees and expenses of providers of auxiliary aids and services who serve before any civil court or criminal, civil or juvenile proceeding are payable from funds appropriated to the office of the state courts administrator.

6. At no time shall any deaf person involved in a proceeding or action as provided for in sections 476.750 to 476.766 assume any portion of the cost for an interpreter or auxiliary aids and services nor shall the court, board, commission, department, agency or legislative body assess the cost for an interpreter or auxiliary aids and services to the cost of such proceedings.

476.763. 1. Whenever a designated responsible authority is required to provide auxiliary aids and services, the authority shall request from the Missouri commission for the deaf **and hard of hearing** a current list of qualified interpreters or other auxiliary aids and services. If the choice of a qualified interpreter or other auxiliary aids and services does not meet the needs of, or adequately accommodate, the deaf person, the designated responsible authority may appoint another qualified interpreter or auxiliary aids and services.

2. The Missouri commission for the deaf **and hard of hearing** shall, in cooperation with the Missouri Assistive Technology Advisory Council, when appropriate, issue compliance directives for designated responsible authorities regarding the standards which should be followed, along with the resources available to comply with sections 476.750 to 476.766.