



2009 SENATE BILL 389

November 9, 2009 – Introduced by Senators KEDZIE, LAZICH and OLSEN, cosponsored by Representatives LOTHIAN and TOWNSEND. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 **AN ACT** *to renumber* 905.015; and *to create* 15.407 (9), 440.032, 440.08 (2) (a)
2 68c. and 905.015 (2) of the statutes; **relating to:** licensing sign language
3 interpreters, creating an evidentiary privilege for communications with those
4 interpreters, creating a Sign Language Interpreter Council, granting
5 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, no person may provide, for compensation, sign language interpretation services for a deaf or hard of hearing client unless the person holds a license granted by the Department of Regulation and Licensing (DRL). The bill exempts all of the following from the licensure requirement: 1) a person interpreting in a court proceeding, if the person is certified by the Wisconsin Supreme Court; 2) a person interpreting at a school or school-sponsored event, if the person is certified by the Department of Public Instruction; 3) a person interpreting at a religious service or religious function; 4) a support service provider facilitating communication between an interpreter and an individual who is deaf or hard of hearing; and 5) a person interpreting in the course of employment during an emergency, for up to 24 hours.

The bill creates two types of licenses, renewable and restricted. An applicant for a renewable license must have received an associate degree in sign language interpretation or completed an education and training program in such interpretation and must have a certification from a private body specified in the bill,

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except that the bill does not require the degree or completion of the training program if the applicant is deaf or hard of hearing. An applicant for a restricted license, which may be renewed only twice, must have received an associate degree or completed an education and training program, must have received a specified score on an examination administered by the Department of Health Services, must have passed a written examination administered by a specified private body, and must be a student or associate member of the Registry of Interpreters for the Deaf, Inc. An applicant for a restricted license who is deaf or hard of hearing must have completed a lesser level of training, including at least 40 hours of mentoring under a nationally certified interpreter, must be a student or associate member of the Registry of Interpreters for the Deaf, Inc., and must have a high school diploma or an equivalent, but such an applicant, once licensed, may provide interpretation services only under the supervision of an interpreter who holds a renewable license.

The bill also creates a nine-member Sign Language Interpreter Council (council), which generally advises DRL regarding the practice of sign language interpreters. The council may grant a temporary exemption from the licensure requirement, and must make recommendations to DRL regarding a code of ethics for interpreters. The bill requires DRL to promulgate rules establishing a code of ethics for interpreters and authorizes DRL to conduct disciplinary proceedings against interpreters.

Under the bill, a licensed interpreter may not disclose any aspect of confidential communication facilitated by the interpreter, unless all parties to the communication consent and a court determines that disclosure is necessary for the proper administration of justice.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.407 (9) of the statutes is created to read:

2 15.407 (9) SIGN LANGUAGE INTERPRETER COUNCIL. (a) There is created a sign
3 language interpreter council in the department of regulation and licensing
4 consisting of the secretary of regulation and licensing or a designee of the secretary
5 and the following 8 members nominated by the governor, and with the advice and
6 consent of the senate appointed, for 3-year terms:

7 1. Five deaf or hard of hearing individuals who are or have been clients of a sign
8 language interpreter, at least one of whom is a graduate of a residential school for

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1 the deaf or hard of hearing and at least one of whom is a graduate of a private or
2 public school that is not a residential school for the deaf or hard of hearing.

3 2. Two interpreters licensed under s. 440.032, at least one of whom holds a
4 renewable license under s. 440.032 (3) (a).

5 3. One individual who is not deaf or hard of hearing and who has obtained, or
6 represents an entity that has obtained, sign language interpreter services for the
7 benefit of another who is deaf or hard of hearing.

8 (b) If possible, the governor shall nominate individuals under par. (a) 1. to 3.
9 from diverse locations within the state.

10 **SECTION 2.** 440.032 of the statutes is created to read:

11 **440.032 Sign language interpreting. (1) DEFINITIONS.** In this section:

12 (a) "Client" means a deaf or hard of hearing person for whom a person provides
13 interpretation services.

14 (b) "Council" means the sign language interpreter council.

15 (c) "Support service provider" means an individual who is trained to act as a
16 link between a person who is deaf and blind and the person's environment.

17 (d) "Wisconsin interpreting and transliterating assessment" means a program
18 administered by the department of health services to determine and verify the level
19 of competence of communication access services providers who are not certified by
20 the Registry of Interpreters for the Deaf, Inc., or its successor, the National
21 Association of the Deaf or its successor, or other similar nationally recognized
22 certification organization, or a successor program administered by the department
23 of health services.

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1 **(2) LICENSE REQUIRED.** (a) Except as provided in pars. (b) and (c), no person may,
2 for compensation, provide sign language interpretation services for a client unless
3 the person is licensed by the department under sub. (3).

4 (b) No license is required under this subsection for any of the following:

5 1. A person interpreting in a court proceeding if the person is certified by the
6 supreme court to act as a qualified interpreter in court proceedings under s. 885.38
7 (2).

8 2. A person interpreting at any school or school-sponsored event if the person
9 is licensed by the department of public instruction as an educational interpreter.

10 3. A person interpreting at a religious service or at a religious function,
11 including educational or social events sponsored by a religious organization. This
12 subdivision does not apply to a person interpreting for a religious organization at a
13 professional service provided or sponsored by the religious organization.

14 4. A support service provider interpreting for the purpose of facilitating
15 communication between an individual who provides interpretation services and a
16 client of the individual.

17 5. A person who, in the course of the person's employment, provides
18 interpretation services during an emergency unless the interpretation services are
19 provided during a period that exceeds 24 hours.

20 (c) 1. The council may grant a temporary exemption to an individual who is not
21 a resident of this state that authorizes the individual to provide interpretation
22 services for a period not to exceed 20 days, if the individual is certified by the Registry
23 of Interpreters for the Deaf, Inc., or its successor, or the National Association of the
24 Deaf or its successor. The council may not grant an individual more than 2 temporary
25 exemptions under this subdivision per year.

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1 2. The council may grant a temporary or permanent exemption to an individual
2 who is a resident of this state that authorizes the individual to provide interpretation
3 services for a period specified by the council or for persons specified by the council.

4 **(3) LICENSURE REQUIREMENTS.** (a) *Renewable licenses.* 1. The department shall
5 grant a license as a sign language interpreter to an applicant who submits an
6 application on a form provided by the department, pays the fee determined by the
7 department under s. 440.03 (9) (a), and submits evidence satisfactory to the
8 department that the applicant has received an associate degree in sign language
9 interpretation or has received a certificate of completion of an education and training
10 program regarding such interpretation, and the applicant has one of the following:

11 a. Any valid certification granted by the Registry of Interpreters for the Deaf,
12 Inc., or its successor.

13 b. A valid certification level 3, 4, or 5 granted by the National Association of the
14 Deaf or its successor.

15 c. Any valid certification granted by any other organization that the
16 department determines is substantially equivalent to a certification specified in
17 subd. 1. a. or b.

18 2. The department shall grant a license as a sign language interpreter to an
19 applicant who submits an application on a form provided by the department and pays
20 the fee determined by the department under s. 440.03 (9) (a), if the applicant has a
21 certification specified in subd. 1. a. and if the applicant provides to the department
22 satisfactory evidence of a diagnosis by a physician that the applicant is deaf or hard
23 of hearing.

24 3. The department shall grant a license as a sign language interpreter to an
25 applicant who has not received an associate degree in sign language interpretation

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1 or a certificate of completion of an education and training program regarding such
2 interpretation, but who otherwise satisfies the requirements in subd. 1. (intro.), if,
3 within 24 months after establishing residency in the state, the applicant provides
4 evidence satisfactory to the department that the applicant holds one of the
5 certifications specified in subd. 1. a., b., or c., that the applicant obtained the
6 certification prior to establishing residency in the state, and that the applicant held
7 the certification at the time the applicant established residency in the state.

8 (b) *Restricted licenses.* 1. The department shall grant a license as a sign
9 language interpreter to an applicant who submits an application on a form provided
10 by the department, pays the fee determined by the department under s. 440.03 (9)
11 (a), and submits evidence satisfactory to the department of all of the following:

12 a. The applicant has received an associate degree in sign language
13 interpretation or has received a certificate of completion of an education and training
14 program regarding such interpretation.

15 b. The applicant is verified by the Wisconsin interpreting and transliterating
16 assessment at level 2 or higher in both interpreting and transliterating.

17 c. The applicant has passed the written examination administered by the
18 Registry of Interpreters for the Deaf, Inc., or its successor.

19 d. The applicant is an associate or student member of the Registry of
20 Interpreters for the Deaf, Inc., or its successor.

21 2. The department shall grant a restricted license as a sign language
22 interpreter, authorizing the holder to provide interpretation services only under the
23 supervision of an interpreter licensed under par. (a), to an applicant who submits an
24 application on a form provided by the department, pays the fee determined by the

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1 department under s. 440.03 (9) (a), and submits evidence satisfactory to the
2 department of all of the following:

3 a. The applicant has been diagnosed by a physician as deaf or hard of hearing.

4 b. The applicant has completed 8 hours of training sponsored by the Registry
5 of Interpreters for the Deaf, Inc., or its successor, on the role and function of deaf
6 interpreters.

7 c. The applicant has completed 8 hours of training sponsored by the Registry
8 of Interpreters for the Deaf, Inc., or its successor, on professional ethics.

9 d. The applicant has obtained letters of recommendation from at least 3
10 individuals who have held national certification for at least 5 years and who are
11 members in good standing of the Registry of Interpreters for the Deaf, Inc., or its
12 successor, if the letters together document that the applicant has completed at least
13 40 hours of mentoring, including at least 20 hours observing professional work and
14 at least 10 hours observing certified deaf interpreters.

15 e. The applicant has completed at least 40 hours of training consisting of
16 workshops sponsored by the Registry of Interpreters for the Deaf, Inc., or its
17 successor, or other relevant courses.

18 f. The applicant is an associate or student member of the Registry of
19 Interpreters for the Deaf, Inc., or its successor.

20 g. The applicant has a high school diploma or an equivalent.

21 3. A license granted under subd. 1. or 2. may be renewed twice and is not valid
22 upon the expiration of the 2nd renewal period.

23 **(4) NOTIFICATION REQUIRED.** A person who is licensed under sub. (3) shall notify
24 the department in writing within 30 days if the person's certification or membership
25 specified in sub. (3) that is required for the license is revoked or invalidated. The

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1 department shall revoke a license granted under sub. (3) if such a certification or
2 membership is revoked or invalidated.

3 (5) LICENSE RENEWAL. The renewal dates for licenses granted under sub. (3) (a)
4 are specified in s. 440.08 (2) (a) 38j. Renewal applications shall be submitted to the
5 department on a form provided by the department and shall include the renewal fee
6 determined by the department under s. 440.03 (9) (a) and evidence satisfactory to the
7 department that the person's certification or membership specified in sub. (3) that
8 is required for the license has not been revoked or invalidated.

9 (6) COUNCIL. The council shall do all of the following:

10 (a) Make recommendations to the department regarding the promulgation of
11 rules establishing a code of ethics that governs the professional conduct of persons
12 licensed under sub. (3).

13 (b) Advise the department regarding the promulgation and implementation of
14 rules regarding the practice of sign language interpreters.

15 (c) Advise the legislature regarding legislation affecting sign language
16 interpreters.

17 (d) Promulgate rules establishing a process and criteria for granting
18 exemptions under sub. (2) (c) 2.

19 (e) Assist the department in alerting sign language interpreters and the deaf
20 community in this state to changes in the law affecting the practice of sign language
21 interpreters.

22 (7) RULE MAKING. (a) The department may not promulgate rules that impose
23 requirements for granting a license that are in addition to the requirements specified
24 in sub. (3).

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1 (b) After considering the recommendations of the council, the department shall
2 promulgate rules that establish a code of ethics that governs the professional conduct
3 of persons licensed under sub. (3). In promulgating rules under this paragraph, the
4 department shall consider including as part or all of the rules part or all of the code
5 of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor.
6 The department shall periodically review the code of ethics established by the
7 Registry of Interpreters for the Deaf, Inc., or its successor, and, if appropriate, revise
8 the rules promulgated under this paragraph to reflect revisions to that code of ethics.

9 **(8) DISCIPLINARY PROCEEDINGS AND ACTIONS.** Subject to the rules promulgated
10 under s. 440.03 (1), the department may make investigations and conduct hearings
11 to determine whether a violation of this section or any rule promulgated under this
12 section has occurred and may reprimand a person who is licensed under sub. (3) or
13 may deny, limit, suspend, or revoke a license granted under sub. (3) if it finds that
14 the applicant or licensee has violated this section or any rule promulgated under this
15 section.

16 **(9) PENALTY.** A person who violates this section or any rule promulgated under
17 this section may be fined not more than \$200 or imprisoned for not more than 6
18 months or both.

19 **SECTION 3.** 440.08 (2) (a) 68c. of the statutes is created to read:

20 440.08 **(2)** (a) 68c. Sign language interpreter: September 1 of each
21 odd-numbered year.

22 **SECTION 4.** 905.015 of the statutes is renumbered 905.015 (1).

23 **SECTION 5.** 905.015 (2) of the statutes is created to read:

24 905.015 **(2)** In addition to the privilege under sub. (1), a person who is licensed
25 as an interpreter under s. 440.032 (3) may not disclose any aspect of a confidential

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1 communication facilitated by the interpreter unless one of the following conditions
2 applies:

3 (a) All parties to the confidential communication consent to the disclosure.

4 (b) A court determines that the disclosure is necessary for the proper
5 administration of justice.

6 **SECTION 6. Nonstatutory provisions.**

7 (1) EXEMPTIONS FROM CERTAIN LICENSURE REQUIREMENTS.

8 (a) Notwithstanding section 440.032 (3) (a) 1. of the statutes, as created by this
9 act, the department of regulation and licensing shall grant a license as a sign
10 language interpreter to a person who, not later than the first day of the 24th month
11 beginning after the effective date of this paragraph, pays the fee specified in section
12 440.05 (1) of the statutes and submits evidence satisfactory to the department that
13 the person has any of the following:

14 1. Any valid certification that was granted by the Registry of Interpreters for
15 the Deaf, Inc., or its successor, before the first day of the 24th month beginning after
16 the effective date of this subdivision.

17 2. A valid certification level 3, 4, or 5 granted by the National Association of the
18 Deaf or its successor before the first day of the 24th month beginning after the
19 effective date of this subdivision.

20 3. Any valid certification that was granted by another organization before the
21 first day of the 24th month beginning after the effective date of this subdivision, if
22 the department determines that the other certification is substantially similar to a
23 certification specified in subdivision 1. or 2.

24 (b) A license granted under paragraph (a) is considered to be granted under
25 section 440.032 (3) (a) 1. of the statutes, as created by this act.

