

State of Arizona  
Senate  
Forty-fourth Legislature  
Second Regular Session  
2000

# SENATE BILL 1151

## AN ACT

AMENDING SECTION 12-242, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 36, CHAPTER 17.1, ARIZONA REVISED STATUTES, TO "COMMISSION FOR THE DEAF AND THE HARD OF HEARING"; RENUMBERING SECTIONS 36-1941, 36-1942 AND 36-1943, ARIZONA REVISED STATUTES, AS SECTIONS 36-1942, 36-1943 AND 36-1944, RESPECTIVELY; AMENDING TITLE 36, CHAPTER 17.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-1941; AMENDING SECTIONS 36-1942, 36-1943 AND 36-1944, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING SECTIONS 36-1945, 36-1946 AND 36-1947, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 17.1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; REPEALING SECTION 41-3000.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3010.01; RELATING TO THE COMMISSION FOR THE DEAF AND THE HARD OF HEARING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-242, Arizona Revised Statutes, is amended to  
3 read:

4 12-242. Interpreters for deaf persons; proceedings; definitions

5 A. The court shall in any civil or criminal case or grand jury  
6 proceeding in which a deaf person is party to such action, either as a  
7 witness, complainant, defendant or attorney, appoint a qualified interpreter  
8 to interpret the proceedings to the deaf person, to interpret the deaf  
9 person's testimony or statements and to interpret preparations with the deaf  
10 person's attorney.

11 B. A department, board, commission, agency or licensing authority of  
12 this state or a political subdivision of this state shall, in any proceeding  
13 before such department, board, commission, agency or licensing authority in  
14 which a deaf person is a principal party of interest or witness, appoint a  
15 qualified interpreter to interpret the proceedings to the deaf person and to  
16 interpret the deaf person's testimony or statements.

17 C. If a person known or ascertained to be deaf is arrested and taken  
18 into custody for any alleged violation of a criminal law of this state, the  
19 arresting officer, ~~his~~ THE OFFICER'S superiors or the court shall procure a  
20 qualified interpreter in order to properly interpret any of the following:

21 1. Warnings of the person's constitutional privilege against  
22 self-incrimination as it relates to custodial interrogation.

23 2. Interrogation of the deaf person.

24 3. The deaf person's statements.

25 D. If a juvenile whose parent or parents are deaf is brought before a  
26 court for any reason, the court ~~may~~ SHALL appoint a qualified interpreter to  
27 interpret the proceedings and testimony for the deaf parent or parents and to  
28 interpret any statements or testimony the deaf parent or parents may be  
29 called upon to give to the court.

30 E. If a communication made by a deaf person through an interpreter is  
31 privileged, the privilege extends also to the interpreter.

32 F. If the ~~only available~~ interpreter ~~does not possess adequate~~  
33 ~~interpreting skills for the particular situation,~~ OR THE DEAF PERSON  
34 DETERMINES THAT EFFECTIVE COMMUNICATION IS NOT OCCURRING the court or  
35 appointing authority ~~may~~ SHALL permit THE INTERPRETER OR the deaf person to  
36 nominate ~~another person to act as an~~ A QUALIFIED intermediary interpreter TO  
37 PROVIDE INTERPRETING SERVICES between the deaf person and the appointed  
38 interpreter during proceedings.

39 G. A deaf person entitled to the services of an interpreter under this  
40 section may knowingly and intelligently waive these services. A deaf person  
41 who has waived an interpreter under this subsection may provide his own  
42 interpreter at his own expense, ~~without regard to whether the interpreter is~~  
43 ~~qualified under this section.~~

44 H. As used in this section:

1           1. "Deaf person" means a person whose hearing impairment is so  
2 significant that the individual is impaired in processing linguistic  
3 information through hearing.

4           2. "Qualified interpreter" means a person who has a ~~certificate~~ VALID  
5 LICENSE of competency authorized by the ~~Arizona council~~ COMMISSION for the  
6 deaf AND THE HARD OF HEARING.

7           Sec. 2. Heading change

8           The chapter heading of title 36, chapter 17.1, Arizona Revised  
9 Statutes, is changed from "COUNCIL FOR THE HEARING IMPAIRED" TO "COMMISSION  
10 FOR THE DEAF AND THE HARD OF HEARING".

11          Sec. 3. ReNUMBER

12          Sections 36-1941, 36-1942 and 36-1943, Arizona Revised Statutes, are  
13 renumbered as section 36-1942, 36-1943 and 36-1944, respectively.

14          Sec. 4. Title 36, chapter 17.1, article 1, Arizona Revised Statutes,  
15 is amended by adding a new section 36-1941, to read:

16          36-1941. Definitions

17          IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

18          1. "COMMISSION" MEANS THE COMMISSION FOR THE DEAF AND THE HARD OF  
19 HEARING.

20          2. "DEAF" MEANS THOSE PERSONS WHO CANNOT GENERALLY UNDERSTAND SPEECH  
21 SOUNDS WITH OR WITHOUT A HEARING AID WHEN IN OPTIMAL LISTENING CONDITIONS.

22          3. "HARD OF HEARING" MEANS THOSE PERSONS WHO HAVE A DEGREE OF HEARING  
23 LOSS GREATER THAN 40dB PTA-2, BUT LESS THAN 85dB PTA-2, IN THE BETTER EAR.

24          4. "INTERPRETING" MEANS TRANSLATING OR TRANSLITERATING OF ENGLISH  
25 CONCEPTS TO ANY NECESSARY SPECIALIZED VOCABULARY USED BY A CONSUMER OR THE  
26 TRANSLATING OF A CONSUMER SPECIALIZED VOCABULARY TO ENGLISH CONCEPTS.

27          5. "NECESSARY SPECIALIZED VOCABULARY" INCLUDES AMERICAN SIGN LANGUAGE,  
28 ENGLISH BASED SIGN LANGUAGE, CUED SPEECH AND ORAL INTERPRETING.

29          6. "PTA-2" MEANS THE AVERAGE OF HEARING LEVELS AT ONE THOUSAND, TWO  
30 THOUSAND AND FOUR THOUSAND Hz.

31          Sec. 5. Section 36-1942, Arizona Revised Statutes, as renumbered by  
32 this act, is amended to read:

33          36-1942. Commission for the deaf and the hard of hearing

34          ~~A. There is established an Arizona council for the hearing impaired.~~

35          ~~B. The council shall consist of the following nineteen members~~  
36 ~~appointed by the governor.~~

37          A. THE COMMISSION FOR THE DEAF AND THE HARD OF HEARING IS ESTABLISHED  
38 CONSISTING OF THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

39          1. One member selected from the department of economic security.

40          ~~2. One member selected from the department of health services.~~

41          ~~3. One member selected from the department of education.~~

42          4. 2. One member selected from the Arizona school for the deaf and  
43 the blind at Tucson or the Phoenix day school for the deaf.

44          ~~5.~~ 3. One member who is a clinical audiologist.

~~6. One member who is a physician licensed pursuant to title 32, chapter 13.~~

~~7. One member who is a hearing aid dispenser licensed pursuant to title 36, chapter 17.~~

~~8.~~ 4. ~~Five~~ FOUR members who are deaf persons.

~~9.~~ 5. One member selected from the Arizona register of interpreters for the deaf.

~~10.~~ 6. One member who is a parent of a deaf person.

~~11.~~ 7. ~~Five~~ FOUR members who are hard of hearing.

~~C. The terms of office of the members of the council shall be for three years.~~

B. COMMISSION MEMBERS SERVE THREE YEARS AND MAY BE REAPPOINTED ONCE. THE GOVERNOR MAY REMOVE A COMMISSION MEMBER FOR CAUSE.

~~D.~~ C. The ~~council~~ COMMISSION shall meet at least four times a year at the call of the chairman, who shall be selected by the ~~council~~ COMMISSION from among its membership.

~~E.~~ D. Members of the ~~council shall receive no~~ COMMISSION ARE NOT ELIGIBLE TO RECEIVE compensation but ~~shall be reimbursed for~~ ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF expenses pursuant to title 38, chapter 4, article 2.

~~F. In this chapter, unless the context otherwise requires:~~

~~1. "Deaf" means those persons who cannot generally understand speech sounds with or without a hearing aid when in optimal listening conditions.~~

~~2. "Hard of hearing" means those persons who have a degree of hearing loss greater than 40dB PTA-2, but less than 85dB PTA-2, in the better ear.~~

~~3. "PTA-2" means the average of hearing levels at one thousand, two thousand and four thousand Hz.~~

Sec. 6. Section 36-1943, Arizona Revised Statutes, as renumbered by this act, is amended to read:

36-1943. Executive director; duties

A. The ~~council~~ COMMISSION shall appoint an executive ~~secretary~~ DIRECTOR who ~~shall be the executive officer of the council~~ SERVES AT THE PLEASURE OF THE COMMISSION. The ~~council~~ COMMISSION may appoint ~~such~~ other employees as ~~are necessary and advisable~~ and SHALL fix their compensation and prescribe their powers and duties. With the approval of the ~~council~~ COMMISSION, the executive ~~secretary~~ DIRECTOR may contract for ~~such~~ professional, technical and clerical services ~~as may be necessary~~ to carry out ~~the ongoing program review~~ functions of the ~~council~~ COMMISSION.

B. The executive ~~secretary~~ DIRECTOR shall be a trained professional experienced in problems of the deaf and ~~THE~~ hard of hearing and skilled in the use of manual communication, commonly referred to as sign language, and may be either a deaf person, ~~A PERSON WHO IS HARD OF HEARING~~ or a person with normal hearing. The executive ~~secretary~~ DIRECTOR shall ~~have the responsibility of implementing the~~ ASSIST THE COMMISSION TO IMPLEMENT ITS programs and activities ~~of the council~~ and TO IMPLEMENT THIS CHAPTER. THE EXECUTIVE DIRECTOR SHALL NOT BE A COMMISSION MEMBER. THE EXECUTIVE DIRECTOR

1 IS ELIGIBLE TO RECEIVE COMPENSATION SET BY THE COMMISSION WITHIN THE RANGE  
2 DETERMINED PURSUANT TO SECTION 38-611.

3 Sec. 7. Section 36-1944, Arizona Revised Statutes, as renumbered by  
4 this act, is amended to read:

5 36-1944. Duties

6 The ~~council~~ COMMISSION shall act as a bureau of information to the deaf  
7 and THE hard of hearing, state agencies and institutions providing services  
8 to the deaf and THE hard of hearing, local agencies of government and other  
9 public or private community agencies and programs. In this capacity, the  
10 ~~council~~ COMMISSION shall:

11 ~~1. Maintain an office within the rehabilitation services bureau of the~~  
12 ~~department of economic security.~~

13 ~~2.~~ 1. Inform the deaf and THE hard of hearing of the availability of  
14 the programs and activities of the ~~council~~ COMMISSION and other services  
15 available for the deaf and THE hard of hearing at all levels of government.

16 ~~3.~~ 2. Develop and foster a framework for consultation and cooperation  
17 with the rehabilitation services bureau of the department of economic  
18 security and with all ~~state agencies and~~ institutions represented on the  
19 ~~council~~ COMMISSION.

20 ~~4.~~ 3. Study ~~the handicapping problems afflicting~~ ISSUES RELATING TO  
21 the deaf and THE hard of hearing ~~of all ages~~, review the administration and  
22 operation of the various programs for the deaf and THE hard of hearing in  
23 this state and make recommendations concerning ~~such~~ THESE problems and  
24 programs to the several agencies and institutions represented on the ~~council~~  
25 COMMISSION as ~~the council~~ IT deems necessary ~~and proper~~.

26 ~~5.~~ 4. Submit an annual report to the governor and the legislature  
27 concerning its findings and recommendations.

28 ~~6.~~ 5. Review the problems of the deaf and THE hard of hearing as they  
29 relate to the need for ~~amplification systems~~ EFFECTIVE AND APPROPRIATE  
30 AUXILIARY AIDS in public places.

31 ~~7.~~ 6. Review and compile information on the development of acoustical  
32 technology for the hard of hearing and advocate the use of this technology if  
33 it deems appropriate.

34 ~~8.~~ 7. Make recommendations to state agencies, political subdivisions  
35 and institutions on how to meet the needs of the hard of hearing.

36 Sec. 8. Section 36-1945, Arizona Revised Statutes, is amended to read:

37 36-1945. Commission for the deaf and the hard of hearing fund;  
38 gifts and donations; annual report

39 ~~A. The council is authorized to receive such gifts and donations,~~  
40 ~~either from public or private sources, as may be offered unconditionally or~~  
41 ~~under such conditions as in the judgment of the council are proper and~~  
42 ~~consistent with this chapter. All monies received as gifts or donations~~  
43 ~~shall be remitted by the council to the state treasurer to be placed in a~~  
44 ~~fund known as the council for the hearing impaired fund, for use by the~~  
45 ~~council in accomplishing its objectives and duties.~~



1 B. The ~~council~~ COMMISSION may adopt administrative procedures, rules,  
2 criteria and forms to establish and administer the telecommunication device  
3 program under this section.

4 C. Telecommunication devices furnished by the ~~council~~ COMMISSION under  
5 this section remain the property of this state. A person who receives a  
6 telecommunication device from the ~~council~~ COMMISSION under this section is  
7 liable for the loss of or damage to the device. The ~~council~~ COMMISSION may  
8 impose a civil penalty against the person in an amount equal to the cost of  
9 the device or the amount of damage done to the device. If a person objects  
10 to the imposition of a civil penalty, the ~~council~~ COMMISSION shall conduct a  
11 hearing as prescribed in title 41, chapter 6. Monies collected by the  
12 ~~council~~ COMMISSION under this subsection shall be deposited in the  
13 telecommunication fund for the deaf ESTABLISHED BY SUBSECTION D OF THIS  
14 SECTION.

15 D. ~~A- THE telecommunication fund for the deaf is established to be~~  
16 ~~administered by the council for the purposes of this section. THE COMMISSION~~  
17 ~~SHALL ADMINISTER THE FUND.~~ Monies in the fund shall be derived from the  
18 telecommunication services excise tax levied under section 42-5252,  
19 subsection A, paragraph ~~2- 4~~. Interest accruing to the fund shall be  
20 deposited in the fund. Monies in the fund are exempt from section 35-190  
21 relating to lapsing of appropriations. Subject to legislative appropriation,  
22 the ~~council~~ COMMISSION shall use FUND monies ~~in the fund~~ to purchase and  
23 repair telecommunication devices and administer the program established by  
24 this section.

25 E. Expenditures from the telecommunication fund for the deaf ~~shall be~~  
26 ARE subject to quarterly review by the joint legislative budget committee.

27 Sec. 11. Title 36, chapter 17.1, Arizona Revised Statutes, is amended  
28 by adding article 2, to read:

29 ARTICLE 2. LICENSURE

30 36-1971. Licensure; acts and persons not affected

31 A. A PERSON SHALL NOT PRACTICE AS AN INTERPRETER FOR THE DEAF AND THE  
32 HARD OF HEARING WITHOUT A LICENSE ISSUED PURSUANT TO THIS ARTICLE. THE  
33 LICENSURE REQUIREMENTS OF THIS ARTICLE ALSO APPLY TO INTERPRETERS WHO PROVIDE  
34 SERVICES FOR LEGAL PROCEEDINGS AS PRESCRIBED IN SECTION 12-242.

35 B. THE COMMISSION BY RULE SHALL PRESCRIBE EDUCATION, EXAMINATION AND  
36 WORK HISTORY REQUIREMENTS FOR THE FOLLOWING THREE CATEGORIES OF LICENSES:

- 37 1. LEGAL.
- 38 2. GENERALIST.
- 39 3. PROVISIONAL.

40 C. THIS ARTICLE DOES NOT APPLY TO:

- 41 1. AN INTERPRETER WHO WORKS IN THIS STATE FOR LESS THAN TWENTY DAYS IF  
42 THAT PERSON REGISTERS WITH THE COMMISSION TO PROVIDE INTERPRETING SERVICES IN  
43 NONLEGAL SITUATIONS.
- 44 2. AN INTERPRETER WHO PROVIDES INTERPRETING SERVICES AT RELIGIOUS  
45 ACTIVITIES.





1 BY THE COMMISSION FOR LATE RENEWAL. A PERSON WHO PRACTICES INTERPRETING IN  
2 THIS STATE AFTER THAT PERSON'S LICENSE HAS EXPIRED IS IN VIOLATION OF THIS  
3 ARTICLE.

4 D. A PERSON WHOSE LICENSE TERMINATES SHALL SUBMIT AN APPLICATION AND  
5 APPLICATION FEE AS AN ORIGINAL APPLICANT FOR LICENSURE.

6 E. THE COMMISSION BY RULE MAY PRESCRIBE CONTINUING EDUCATION  
7 REQUIREMENTS AS A CONDITION OF LICENSE RENEWAL.

8 36-1975. Denial of licensure

9 THE COMMISSION MAY REFUSE TO ISSUE OR RENEW A LICENSE IF THE COMMISSION  
10 FINDS THAT ANY OF THE FOLLOWING IS TRUE:

11 1. THE APPLICANT COMMITTED FRAUD OR MISREPRESENTATION IN APPLYING FOR  
12 A LICENSE IN THIS STATE OR ANOTHER STATE.

13 2. THE APPLICANT WAS CONVICTED OF A FELONY OFFENSE OR ANY OTHER  
14 OFFENSE INVOLVING MORAL TURPITUDE.

15 3. THE APPLICANT DOES NOT MEET MINIMUM QUALIFICATIONS AS PRESCRIBED BY  
16 THIS ARTICLE.

17 4. THE APPLICANT WAS ADJUDICATED INSANE OR INCOMPETENT.

18 5. THE APPLICANT ENGAGED IN FRAUD, DISHONESTY OR CORRUPTION ON A  
19 CERTIFICATION EXAMINATION IN ANOTHER STATE.

20 36-1976. Revocation or suspension of license

21 A. THE COMMISSION MAY REVOKE OR SUSPEND A LICENSE ISSUED UNDER THIS  
22 ARTICLE, PLACE A LICENSEE ON PROBATION, ISSUE A REPRIMAND OR IMPOSE A CIVIL  
23 PENALTY FOR ANY OF THE FOLLOWING REASONS:

24 1. UNPROFESSIONAL CONDUCT.

25 2. A VIOLATION OF THIS ARTICLE.

26 3. GROSS NEGLIGENCE OR INCOMPETENCE IN THE PERFORMANCE OF DUTIES.

27 4. FRAUD, DISHONESTY OR CORRUPTION.

28 5. INABILITY TO PERFORM THE DUTIES OF AN INTERPRETER AT A LEVEL OF  
29 SKILL THAT IS REQUIRED BY THE COMMISSION.

30 6. CONVICTION OF A FELONY OFFENSE OR ANY OTHER OFFENSE INVOLVING MORAL  
31 TURPITUDE.

32 7. FAILING TO MEET MINIMUM QUALIFICATIONS AS PRESCRIBED BY THIS  
33 ARTICLE.

34 8. ADJUDICATION OF INSANITY OR INCOMPETENCY.

35 B. BEFORE IT TAKES DISCIPLINARY ACTION PURSUANT TO THIS SECTION, THE  
36 COMMISSION SHALL GIVE A LICENSEE NOTICE AND AN OPPORTUNITY FOR A HEARING  
37 PURSUANT TO ITS RULES.

38 C. THE COMMISSION MAY ISSUE SUBPOENAS, EXAMINE WITNESSES AND  
39 ADMINISTER OATHS PURSUANT TO A HEARING HELD UNDER THIS SECTION.

40 36-1977. Right to examine and copy evidence

41 IN CONNECTION WITH A COMMISSION INVESTIGATION CONDUCTED PURSUANT TO  
42 SECTION 36-1976, THE COMMISSION AT ALL REASONABLE TIMES HAS THE RIGHT TO  
43 EXAMINE AND COPY ANY DOCUMENTS, REPORTS, RECORDS OR OTHER PHYSICAL EVIDENCE  
44 OF ANY PERSON BEING INVESTIGATED OR REPORTS, RECORDS AND ANY OTHER DOCUMENTS  
45 MAINTAINED BY AND IN THE POSSESSION OF ANY PUBLIC OR PRIVATE AGENCY IF THE

1 COMMISSION BELIEVES THIS INFORMATION IS RELATED TO UNPROFESSIONAL CONDUCT OR  
2 THE MENTAL OR PHYSICAL ABILITY OF A LICENSEE TO PRACTICE PURSUANT TO THIS  
3 ARTICLE.

4 36-1978. Injunctive relief; bond; service of process

5 A. IN ADDITION TO ALL OTHER AVAILABLE REMEDIES, IF THE COMMISSION HAS  
6 ANY REASON TO BELIEVE THAT A PERSON HAS VIOLATED THIS ARTICLE OR A COMMISSION  
7 RULE, THE COMMISSION THROUGH THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY OF  
8 THE COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED MAY APPLY TO  
9 THE SUPERIOR COURT IN THAT COUNTY FOR AN INJUNCTION RESTRAINING THAT PERSON  
10 FROM ENGAGING IN THE VIOLATION.

11 B. THE COURT SHALL ISSUE A TEMPORARY RESTRAINING ORDER, A PRELIMINARY  
12 INJUNCTION OR A PERMANENT INJUNCTION WITHOUT REQUIRING THE COMMISSION TO POST  
13 A BOND.

14 C. SERVICE OF PROCESS MAY BE ON THE DEFENDANT IN ANY COUNTY OF THIS  
15 STATE WHERE THE DEFENDANT IS FOUND.

16 Sec. 12. Repeal

17 Section 41-3000.01, Arizona Revised Statutes, is repealed.

18 Sec. 13. Title 41, chapter 27, article 2, Arizona Revised Statutes, is  
19 amended by adding section 41-3010.01, to read:

20 41-3010.01. Commission for the deaf and the hard of hearing;  
21 termination July 1, 2010

22 A. THE COMMISSION FOR THE DEAF AND THE HARD OF HEARING TERMINATES ON  
23 JULY 1, 2010.

24 B. TITLE 36, CHAPTER 17.1 IS REPEALED ON JANUARY 1, 2011.

25 Sec. 14. Retroactivity

26 Sections 12 and 13 of this act are effective retroactively to July 1,  
27 2000.

28 Sec. 15. Purpose

29 Pursuant to section 41-2955, Arizona Revised Statutes, the purpose of  
30 the commission for the deaf and the hard of hearing is to act as a bureau of  
31 information to the deaf and the hard of hearing and state agencies that  
32 provide services to the deaf and the hard of hearing and to protect the  
33 public by regulating the practice of interpreting.

34 Sec. 16. Reporting requirement

35 The executive director of the commission for the deaf and the hard of  
36 hearing shall submit a report regarding the estimated number of licensees,  
37 estimated cost of licensure and potential qualifications for licensure to the  
38 governor, the president of the senate and the speaker of the house of  
39 representatives on or before December 31 of each year through the year 2006.  
40 The report submitted in 2006 shall include recommendations to establish  
41 licensure fees and qualifications for qualified interpreters licensed by the  
42 commission for the deaf and the hard of hearing in the Arizona Revised  
43 Statutes for consideration in the forty-eighth legislature, first regular  
44 session.

1           Sec. 17. Retention of members

2           All persons serving as members of the commission for the deaf and the  
3 hard of hearing on the effective date of this act may continue to serve until  
4 the expiration of their normal terms. The governor shall make all subsequent  
5 appointments as prescribed by section 36-1942, Arizona Revised Statutes.

6           Sec. 18. Effective date

7           Section 12-242, Arizona Revised Statutes, as amended by this act and  
8 title 36, chapter 17.1, article 2, Arizona Revised Statutes, as added by this  
9 act, are effective from and after September 30, 2007.