

Resolution: CERTIFIED INTERPRETER STATUTE RESOLUTION

BE IT RESOLVED by the House of Delegate of the Oklahoma Bar Association that the Association adopt, as a part of its Legislative Program, proposed legislation which would codify new law at 20 O.S. Section 1701, as published in the *Oklahoma Bar Journal* and posted on the OBA Web site, www.okbar.org, relating to creation of the Sate Board of Examiners of Certified Courtroom Interpreters. (Submitted by OBA Access to Justice Committee. Adoption recommended by the Board of Governors.)

An Act relating to the Courts; creating a board to oversee testing and certifying of interpreters and translators authorized to serve in Oklahoma Courts.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1701 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. State Board of Examiners of Official Courtroom Interpreters: There is hereby created the State Board of Examiners of Certified Courtroom Interpreters which shall consist of five (5) members, four (4) of whom who shall be certified courtroom interpreters and at least one (1) of whom shall be certified in American Sign Language, at least one (1) of whom shall be certified in Spanish, and at least one (1) of whom shall be certified in Vietnamese. The Board shall also consist of one (1) member who shall be a licensed attorney or judge and who shall not be required to be a certified courtroom interpreter or translator. The members shall be persons who have been, for at least two (2) years prior to their appointment to the Board, residents of this state and, except for the attorney/judge member, certified courtroom interpreters. All members shall be appointed by the Chief Justice of the Supreme Court and shall serve in staggered terms, each for a period of five (5) years except for the initial appointees (see Section 1(B), below). No member may serve more than two (2) terms in succession. The Board shall elect from its membership a chairman and a secretary. Three (3) members shall constitute a quorum. The Board may adopt a seal for its official use. All actions of the Board shall be supervised by the Supreme Court and be subjected to approval by the Court. All members shall be required to maintain their certification/license during their time on the Board.

B. Provided however, the following rules shall be utilized in forming the initial Board:

1. The members constituting the initial Board under this Act shall be certified as a courtroom interpreter or translator in another state or under the federal system until obtaining, during their first year of service, certification in the state of Oklahoma; and

2. The initial appointees shall serve for staggered terms: one (1) member serving for one (1) year, one (1) member serving for two (2) years, one (1) member serving for three (3) years, one (1) member serving for four (4) years, and one (1) member serving for five (5) years. Thereafter, all terms shall be for five (5) years.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1702 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Duties of the Board: The State Board of Examiners of Certified Courtroom Interpreters shall:

1. Determine and establish levels of interpreter or translator certifications and specialization certificates to meet the needs of a variety of court proceedings, as the Board deems necessary and appropriate.

2. Conduct preliminary investigations to determine the qualifications of applicants seeking to attain the status of certified courtroom interpreter or translator.

3. Conduct at least once a year, at a place and time to be published by ample notice as directed by the Supreme Court, an examination of those persons who seek to attain the status of certified courtroom interpreter or translator, or contract for such examination. The Board shall also include an examination of interpreter or translator ethics as a condition of attaining the status of certified courtroom interpreter or translator.

4. Recommend to the Supreme Court for official enrollment as certified courtroom interpreter or translator those persons who, on their examination, have established the requisite proficiency as set forth in Section 3 of this Title.

5. Conduct proceedings, on reasonable notice, the object of which is to recommend to the Supreme Court the suspension, cancellation, revocation, or reinstatement of the enrollment of a certified courtroom interpreter or translator or of the

status of any acting courtroom interpreter or translator, regular or temporary, on the following grounds:

- a. a final conviction of a criminal offense involving moral turpitude,
- b. misrepresentation in obtaining licensure,
- c. any violation of or noncompliance with any rule or directive of the Supreme Court,
- d. fraud, gross incompetence, or gross or habitual neglect of duty,
- e. engaging in the practice of courtroom interpreting or translating using a method for which the interpreter or translator is not certified,
- f. engaging in the practice of courtroom interpreting or translating while certification is suspended,
- g. nonpayment of renewal dues, or
- h. failure to annually complete at least eight (8) hours of continuing education approved by the State Board of Examiners of Courtroom Interpreters;

6. Adopt, with the approval of the Supreme Court, examination standards and rules governing enrollment, discipline, suspension, cancellation, and revocation proceedings and any other matter within the Board's cognizance; and

7. Keep a current roll of certified courtroom interpreters and a file on all disciplined certified courtroom interpreters, official or unofficial, regular or temporary.

B. In all hearings or investigations on revocation, cancellation, or suspension of enrollment, each Board member shall be empowered to administer oaths or affirmations, subpoena witnesses, and take evidence anywhere in the state, after giving reasonable notice to the party whose status is sought to be affected.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1703 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Examination for Enrollment as Certified Courtroom Interpreter or Translator: Every applicant who seeks to be examined for enrollment as a certified courtroom interpreter or translator shall prove to the satisfaction of the State Board of Examiners of Courtroom Interpreters that he or she:

1. Is of legal age;
2. Meets the requisite standards of ethical fitness as established by the Board pursuant to the recommendation of the State Ethics Commission; and
3. Has at least a high school education or its equivalent.

B. The examination for certification for the level for which applied in one or more authorized methods or languages of courtroom interpreting or translating consists of three parts, designated as Part 1, Part 2, and Part 3 as follows:

1. Part 1 consists of proof of having passed the Oklahoma Courtroom Interpreter Examination for the level for which the individual has applied or an equivalent test as authorized by the Supreme Court consisting of the following requirements: demonstrated proficiency in interpreting or translating from the source language to the target language at a level of at least 80% proficiency, and demonstrated proficiency in interpreting or translating from the target language to the source language at a level of at least 80% proficiency. This test shall include legal terminology and shall involve scenarios related to courtroom interpreting or translating such as opening statements, closing arguments, witness examinations, and evidence translation.

2. Part 2 consists of a written exam of not less than twenty-five (25) multiple choice questions relating to the ethical responsibilities of courtroom interpreters.

3. Part 3 is the Oklahoma Written Knowledge Test for Courtroom Interpreters which consists of not less than twenty-five (25) multiple choice questions relating to Oklahoma law and court rules, duties of courtroom interpreters, and general court procedure. The examination shall be approved by

the Supreme Court. A person who has tested with the Board and successfully completed the written knowledge portion of the examination shall be allowed to retain the credit for that portion for one (1) year from the date passed, and shall not be required to retake that portion during the one-year period

C. An applicant who is academically dishonest when taking any authorized examination is disqualified and may not take the examination again until five (5) years have elapsed from the date of the examination at which the applicant is disqualified.

D. A certification issued under this section must be for one or more of the following methods of courtroom interpreting or translating:

1. Translation of written text;
2. Interpretation of spoken words; and/or
3. Any other method of interpreting or translating authorized by the

Supreme Court.

E. Effective January 1, 2006, no person may engage in courtroom interpreting or translating unless the person is a certified courtroom interpreter or translator or otherwise authorized by law or the Supreme Court. Provided however, nothing in this Act shall prevent a judge from appointing an interpreter or translator on an ad hoc basis for a particular case/hearing in accordance with the rules of the Board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1704 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Continuing Education Requirements for Certified Courtroom Interpreters: Every certified courtroom interpreter or translator and every courtroom interpreter or translator temporarily employed by a court of competent jurisdiction shall annually complete at least eight (8) hours of continuing education approved by the State Board of Examiners of Courtroom Interpreters, which shall include at least two (2) hours which relate to Oklahoma court rules and procedures.

B. A certified courtroom interpreter or translator is exempt from the requirement of subsection A of this section if the interpreter or translator verifies under oath to the State Board of Examiners of Certified Courtroom Interpreters that he or she:

1. Is a member of the armed forces on full-time active duty during the entire calendar year for which the interpreter or translator seeks and exemption; or
2. Has provided written verification by a licensed physician that a medical condition has prevented the court interpreter or translator from working in such capacity and completing continuing education for the calendar year for which the interpreter or translator seeks an exemption.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1705 of Title 20, unless there is created a duplication in numbering, reads as follows:

Licenses from Other States: A person holding a license from another state which is deemed by the Board to be equivalent to that of an Oklahoma certified courtroom interpreter or translator may be enrolled without examination as an Oklahoma certified courtroom interpreter or translator upon payment of fees established by the Board, satisfying the Board that his/her credentials are in proper order and that he/she is a resident of Oklahoma. Provided, however, the court may utilize a person certified in another state to serve as an interpreter or translator for a particular case provided such person has registered in accordance with the rules of the Board.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1706 of Title 20, unless there is created a duplication in numbering, reads as follows:

Licenses from National Entities: A person holding a license from a national entity which is deemed by the Board to be equivalent to that of an Oklahoma certified courtroom interpreter or translator may be enrolled without examination as an Oklahoma certified courtroom interpreter or translator upon satisfying the Board that his/her credential are in proper order and that he/she is a resident of Oklahoma.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1707 of Title 20, unless there is created a duplication in numbering, reads as follows:

Fees: The State Board of Examiners of Certified Courtroom Interpreters shall annually set and publish a fee schedule with approval of the Supreme Court.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1708 of Title 20, unless there is created a duplication in numbering, reads as follows:

Deposit of Fees-Withdrawals: All fees authorized to be charged shall be paid to the Clerk of the Supreme Court who shall deposit them in the State Judicial Fund. The Chief Justice shall be authorized to draw against the Supreme Court Revolving Fund such amounts as are lawfully claimed by the Board for its necessary supplies and expenses. When performing essential duties each Board member shall be entitled to his/her actual expenses and shall receive, in addition thereto, the sum of One Hundred Dollars (\$100.00) for each full day of service or a fraction thereof for less than a day's service or whatever amount is established by the Legislature.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1709 of Title 20, unless there is created a duplication in numbering, reads as follows:

Use of Abbreviations-Powers of Certified Interpreters: Every person enrolled as a certified courtroom interpreter or translator shall be entitled to use the abbreviation C.C.I. after his/her name. Courtroom interpreters holding a temporary certification shall not be allowed the use of the abbreviation. Certified courtroom interpreters shall be authorized to interpret and/or translate all proceedings related to the case to which he/she has been assigned.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1710 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Courtroom Interpreter Contracts: A courtroom interpreter or translator or owner of a courtroom interpreter or translator firm shall not enter into any contract or relationship that compromises the impartiality of courtroom interpreters or that may result in the appearance that the impartiality of a courtroom interpreter or translator has been compromised.

B. A violation of this section shall be grounds for the State Board of Examiners of Courtroom Interpreters to refuse to renew the enrollment of a certified courtroom interpreter or translator. A willful violation of this section shall be grounds for the Board to

suspend, cancel, or revoke the enrollment of a certified courtroom interpreter or translator.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1711 of Title 20, unless there is created a duplication in numbering, reads as follows:

When good cause is shown and the court has determined that it would not be practical, within a reasonable time frame, to secure the services of an individual certified under this act, the court may utilize the services of a non-certified person. For purposes of this Section, good cause means that due to the nature of the hearing, and time being of the essence, the securing of a certified interpreter or translator would not be possible due to the time, distance, or availability of a certified interpreter or translator. Further, the court shall make a specific finding as to the good cause for the emergency circumstances. In addition, the non-certified person shall have reasonably demonstrated to the court and the parties his/her proficiency for the purposes of that hearing. It is also mandatory that the proceedings are audio taped, and in the event of a hearing-impaired individual audio and video taped. The recording shall be labeled and remain an official part of the record.