

SB973

Measure Title: RELATING TO AMERICAN SIGN LANGUAGE INTERPRETER REFERRAL AGENCIES.

Report Title: Regulation of Interpreter Referral Agencies

Description: Regulates Interpreter Referral Agencies by requiring registration with the State of Hawaii. Includes sections about agency responsibilities, consumer rights, protections for those harmed by using an interpreter referral agency to obtain an interpreter.

Companion: [HB1107](#)

Package: Governor

Current Referral: CPH/JDL, WAM

Introducer(s): KOUCHI (Introduced by request of another party)



DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

February 10, 2017

TESTIMONY TO THE SENATE COMMITTEES ON COMMERCE, CONSUMER PROTECTION, AND HEALTH, AND JUDICIARY AND LABOR

Senate Bill 973 - Relating to American Sign Language Interpreter Referral Agencies

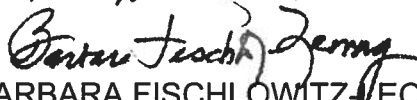
The Disability and Communication Access Board (DCAB) supports the intent of Senate Bill 973 that would regulate interpreter referral services by requiring registration of agencies providing such services to consumers in the State of Hawaii. It is a consumer protection measure to ensure that those agencies who refer interpreters to assignments in the local community are conforming to best practices for interpreter referral when placing sign language interpreters in a particular assignment.

Currently, there are two private agencies in Hawaii that specialize in the placement of American Sign Language (ASL) interpreters statewide. There are also other local agencies that place ASL interpreters on assignments, even though their primary mission is not interpreter referral. It has recently been brought to DCAB's attention that ASL referral agencies from the mainland are also contacting interpreters directly to request availability for assignments. In addition, there are also spoken language interpreter referral services who contact interpreters directly about interpreting assignments who may not be aware of the complexity of communication needs of the parties involved.

Although DCAB supports the intent of Senate Bill 973, we are aware that there is a requirement for a sunrise review to be conducted related to the enactment of new regulatory measures for unregulated professions and vocations per §26H-6, Hawaii Revised Statutes. Due to this requirement, DCAB recommends that this measure be deferred in order for the Auditor to conduct a study to assess, evaluate, review, and analyze the effect of the proposed regulation of ASL interpreter referral agencies to protect consumers (deaf and hearing) when hiring and using an ASL interpreter from a referral agency. We also request that the subject matter of the sunrise review be combined with House Bill 1106. Senate Concurrent Resolution 32 was introduced related to these measures in the Senate version of these bills.

Thank you for the opportunity to testify.

Respectfully submitted,


BARBARA FISCHLOWITZ-LEONG
Chairperson
Legislative Committee



FRANCINE WAI
Executive Director

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) OPPOSING S.B. 973**

February 10, 2017

To: Chairwoman Rosalyn H. Baker and Members of the Senate Committee on
Commerce, Consumer Protection and Health, and Chairman Gilbert S. C. Keith-Agaran
and Members of the Senate Committee on Judiciary and Labor:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the
Hawaii Association for Justice (HAJ) regarding S.B. 973, relating to American Sign
Language Interpreter Referral Agencies.

S.B. 973 addresses issues stemming from the use of interpreter referral agencies.
In section “-12 Consumer right of action,” there is a provision that states, “In any action
brought under this chapter, the prevailing party shall be entitled to the recovery of costs
of suit, including reasonable attorney’s fees.” We believe that this provision is
unnecessary and could have a chilling effect on those people who may have legitimate
claims.

Two basic underlying purposes of the American legal system are to compensate a
person for damages caused by another and to deter or prevent harmful or irresponsible
behavior. When a person or an entity realizes that they may be held liable, there is a
strong incentive to prevent the occurrence of harm. Said another way, the law
encourages responsible behavior.

The rule in America is for each person to be responsible for their own legal
expenses unless the court determines otherwise. This is to allow the courts to enforce the
laws for both poor and rich. The “loser pays” provision in this bill makes it mandatory

for the court to charge all expenses to the loser. Loser pay favors businesses and the rich because they can afford to take the risk of loss while it discourages ordinary consumers from pursuing even valid claims because they cannot afford to take the risk of having to pay attorney's fees and costs. That threat alone is an unfair disadvantage for the average person.

Current court rules and laws regarding frivolous cases and the awarding of attorneys' fees and costs already exist. Hawaii Rules of Civil Procedure 54 and 68 provide methods for the recovery of attorneys' fees and expenses. HRS §607-14.5 provides penalties for frivolous lawsuits. We therefore request that this measure be amended to delete the last sentence of that section.

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.



Tamar H. Lani, MBA, CI, CT, NIC, SC:L

Susan Kroe-Unabia, CI, CT

PO Box 1380

Kaneohe, Hawaii 96744

Telephone: 808-445-9125

E-mail: info@isleinterpret.com

TO: Sen. Rosalyn H. Baker, Chair; Sen. Clarence K. Nishihara, Vice-Chair
Committee on Commerce, Consumer Protection, and Health
Sen. Gilbert Keith-Agaran, Chair; Sen. Karl Rhoads, Vice-Chair
Committee on Judiciary and Labor

FROM: Tamar H. Lani, MBA, CI, CT, NIC, SC:L, President
Susan Kroe-Unabia, CI, CT, Vice President

HEARING: February 10, 2017, 8:30 a.m., Rm. 016

RE: **OPPOSE, SB 973**, Relating to American Sign Language Interpreter Referral Agencies

As owners of an American Sign Language Interpreter Referral Agency, we agree with the need to conduct business ethically and be accountable to the consumers we serve. However, we strongly **oppose SB 973** and **do not support Senate Concurrent Resolution 32** requesting for a sunrise study to be conducted if it is scheduled for a hearing.

Feasibility

- Hawaii has two (2) American Sign Language Interpreter Referral Agencies
- There is a lack of clarity as to why the bill is being introduced

Monitoring Systems in place in Hawaii

- State of Hawaii DHS/DVR Interpreter Referral Contract: Isle Interpret is the awardee and adheres to contract reporting requirements. There is a Quality Control and Grievance Plan that monitors quality of services and adherence to best practices.
- National Credential: Certifying body, Registry of Interpreters for the Deaf (RID), certifies American Sign Language interpreters, overseeing and monitors their Continuing Education Units (CEU) and Grievance processes.
- State Credential: Credentialing body, Disability and Communication Access Board (DCAB), credentials American Sign Language interpreters, overseeing and monitoring their Continuing Education Units (CEU). DCAB credentialed interpreters do not have a grievance process.

Lack of Supporting Data

- The lists of concerns are questions about the referral process and how it works.
- A copy of the State of Hawaii DHS/DVR Interpreter Referral Contract can be obtained from the contract administrator and outlines the interpreter referral process.
- The concerns listed have not been shared with Isle Interpret (who has had the State of Hawaii DHS/DVR Interpreter Referral Contract since 2013)



Consumer protections are already in place. Licensure does not add additional protection

- Hawaii laws already protect deaf consumers' rights (HRS Title 11, Chapter 218)
- The ADA specifies the use of a qualified interpreter. Interpreter licensure will limit the use of only certified and/or credentialed interpreters. For example, the use of Hawaii Sign Language, a Deaf Interpreter (DI) or a Deaf Blind tactile interpreter who is qualified but not certified would be a "prohibited act" punishable to the interpreter and the referral agency that vetted them.

Current Licensure Trend

- There is no evidence that licensure of interpreter referral agencies has been done in other states and is effective
- There was a discussion in 2012 with an online group, www.streetleverage.com * about the idea of Registry of Interpreters for the Deaf (RID), who certifies American Sign Language interpreters, to explore the idea of a "certification system" for interpreter referral agencies. RID has not taken a position and there is no current news on this discussion.

Alternative Solutions to Licensure

- Disability and Communication Access Board (DCAB) undertakes capacity building by meeting with deaf and interpreting communities to work on grassroots solutions to the "concerns" shared in SB 972 & SB 973
- Create a bill to change the Disability and Communication Access Board's (DCAB) mandate to include regulation of HQAS interpreters so they can develop a grievance process for interpreters they credential.
- Disability and Communication Access Board's (DCAB) develop a protocol to reach out to interpreter referral agencies to share community questions and concerns.

It was shared by DCAB that the objective of submitting the bill is to have it deferred or die in order to be able to request a Senate Concurrent Resolution for the auditor to conduct a sunrise review of licensure of sign language interpreters and regulation of sign language interpreter agencies. We feel a study will find similar evidence presented in our testimony that licensure is unwarranted, infeasible, and not in Hawaii's best interest. We ask the committee to vote in **opposition to SB 973 and to not support Senate Concurrent Resolution 32** requesting for a sunrise review to be conducted if it is scheduled for a hearing. Pursuing a sunrise study would be a poor use of public time and funds for licensure regulation measure that the community does not support nor need.

Mahalo,

Tamar Lani, MBA, CI, CT, NIC, SC:L, President
Susan Kroe-Unabia, CI, CT, Vice President

* "Is it Time to Certify Sign Language Interpreter Referral Agencies?" 2012
<http://www.streetleverage.com/2012/07/is-it-time-to-certify-sign-language-interpreter-referral-agencies/>

CPH Testimony

From: Lucy Miller <drlucy@hawaii.rr.com>
Sent: Monday, February 6, 2017 7:24 PM
To: CPH Testimony
Subject: SB 973 Favor Passage

Follow Up Flag: Follow up
Flag Status: Flagged

As a long-time user of ASL interpreting services, I strongly urge your committee to pass SB 973 to regulate Interpreter Referral Agencies to provide consumer protection for users of sign language interpreters referred by the referral agencies.

Mahalo,

Lucy
Dr. Lucy Miller
Lihue, HI
drlucy@hawaii.rr.com

Kevin Bernadt, MBA,DI

PO Box 283183

Honolulu, Hawaii 96828
E-mail: KevinB.Online.Contact@gmail.com

TO: Hawaii State Senators and Representatives
FROM: Kevin Bernadt, Deaf Interpreter
HEARING: February 9, 2017, 9:00 a.m., Rm. 016
RE: **OPPOSE, SB 973 & HB 1107**, Relating to regulation of ASL interpreter referral agencies

As a former owner of a sign language interpreter agency, and an interpreter working in Hawaii, and as a member of the Deaf Community voters whom are directly impacted by this Bill, I do agree that Sign Language Interpreters need to conduct business ethically and be accountable to the consumers they serve. However, the community is very small and vocally active in market regulation of the sign language interpreters and interpreter referring across the state. **I strongly oppose SB 973 and its concurrent bill, HB1107** establishing a regulatory body for interpreter referral agencies.

One of the challenges I had in operating my sign language interpreter agency was the burdensome licensing and government oversight regulations required to conduct business in the State of Colorado. As a result of the excessive regulatory oversight, I ended up selling the business to another owner whom, in turn, sold it to a company licensed in California. This case study portends a dangerous precedent of selling out our proudly local businesses if Hawaii were to follow the same regulatory path. Given the large number of voters whom value the unique local-identities and autonomy of Hawaii-based businesses, licensing by the state would be antithetical to our community's desires and needs.

The state will need to fund the licensing program. The statewide pool of about 50 interpreters cannot contribute enough to support a program with a full licensing board comprised of interpreters, deaf consumers, hard of hearing consumers, deaf-blind consumers, and hearing consumers. With only two interpreter referral agencies serving the entire state of Hawaii, and a pool of approximately 50 interpreters,

I ask the committee to vote in **opposition to SB 973 and HB1107**, that establishes unnecessary regulatory measures for a small industry with limited resources; a measure that the Deaf community and voters do not support nor need.

Mahalo,

Kevin Bernadt, MBA, Deaf Interpreter

