

BILL ANALYSIS

C.S.H.B. 3374
By: Kuempel
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that speech-to-text translation of the spoken word into English text is a fast-growing service for individuals who are deaf or who have a hearing impairment. The parties have expressed a need to ensure the same level of accuracy and competency for all individuals providing such services in Texas. C.S.H.B. 3374 seeks to address this need by requiring an individual to obtain a certificate of registration to engage in the practice of communication access realtime translation and by providing for the regulation of these providers.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Office of Court Administration of the Texas Judicial System in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3374 amends the Government Code to prohibit a person from facilitating communication between an individual who is deaf or has a hearing impairment and another individual through the immediate, verbatim translation of the spoken word into English text in Texas unless the person holds a certificate of registration issued by the Office of Court Administration of the Texas Judicial System (OCA). The bill requires an applicant for such a certificate to submit an application to OCA on the form and in the manner provided by OCA and requires the application to include proof that the applicant is at least 18 years of age; proof that the applicant holds a certificate to provide communication access realtime translation, or "CART," services issued by the Texas Court Reporters Association or another certification association selected by OCA; proof that the applicant has complied with the education, training, experience, and other requirements for engaging in such a practice of communication access realtime translation as prescribed by OCA rule; and any other information OCA may require. The bill requires OCA by rule to establish the training, educational, and experience requirements for the certificate and requires OCA to consider the best interests of individuals who are deaf or have a hearing impairment in developing those requirements. The bill requires OCA to issue a certificate of registration to an applicant who complies with the bill's requirements and sets the expiration of the certificate on the first anniversary of the date of issuance.

C.S.H.B. 3374 requires OCA to establish and maintain a registry of individuals certified by OCA as CART providers and requires the registry to include the name of each CART provider and any other information prescribed by OCA and to indicate if a CART provider is also a CART provider certified to provide communication access realtime translation services at an advanced or master level by the Texas Court Reporters Association or another certification association

selected by the applicable health and human services agency. The bill requires OCA to post the registry on the OCA website and to provide a copy of the registry to any person without charge. The bill requires a person to obtain a renewal certificate of registration not later than the anniversary of the date on which the initial registration was issued to be able to continue engaging in the practice of communication access realtime translation. The bill authorizes OCA by rule to impose fees to cover the cost of administering the bill's provisions and requires OCA to set fees for issuing or renewing a certificate of registration in amounts designed to allow OCA to recover from certificate holders all of the direct and indirect costs in administering and enforcing the bill's provisions. The bill requires OCA to develop by rule ethical standards for CART providers and requires the standards to require that a provider maintain the confidentiality of all communications between a CART provider and an individual receiving the CART provider's services.

C.S.H.B. 3374 subjects a person who violates the bill's provisions or a rule adopted under those provisions to a civil penalty of not less than \$50 or more than \$2,000 for each act of violation and establishes that each day of a violation is a separate violation. The bill authorizes the attorney general, if it appears that a person has violated or is threatening to violate such provisions or rules and at the request of OCA, to file an action for injunctive relief to restrain the person from continuing the alleged violation, the civil penalty, or both injunctive relief and the civil penalty. The bill authorizes the attorney general to recover reasonable costs and fees incurred in bringing such an action.

C.S.H.B. 3374 authorizes OCA to adopt rules necessary to implement the bill's provisions and requires OCA to adopt rules necessary to implement the bill's provisions not later than January 1, 2018. The bill establishes that a person is not required to hold a certificate of registration to engage in the practice of communication access realtime translation until September 1, 2018. The bill exempts from its provisions a person who is licensed by another state to engage in the practice of communication access realtime translation and who engages in the communication access realtime translation in Texas for not more than 30 days in a calendar year or, if the services provided are necessary because a CART provider registered in Texas is not available, by teleconference; engages in the practice of communication access realtime translation solely for meetings of a nonprofit or religious organization; engages in the practice of communication access realtime translation as necessary for the provision of an emergency medical or governmental service to a person who is deaf or has a hearing impairment; or is a CART provider certified to provide communication access realtime translation services at an advanced or master level by the Texas Court Reporters Association or another certification association selected by the applicable health and human services agency.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3374 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Title 2, Government Code, is amended by adding Subtitle M to read as follows:

SUBTITLE M. REGULATION OF

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Title 2, Government Code, is amended by adding Subtitle M to read as follows:

SUBTITLE M. REGULATION OF

OTHER PROFESSIONS

CHAPTER 176. REAL-TIME
CAPTIONING PROVIDERS

SUBCHAPTER A. GENERAL
PROVISIONS

Sec. 176.001. DEFINITIONS. In this
chapter:

(1) "Commission" means the Judicial
Branch Certification Commission
established under Section 152.051.

(2) "Deaf" means having a hearing
impairment of such severity that an
individual must depend on visual methods to
communicate.

(3) "Hearing impairment" means a
disability that results in a loss of hearing
function to an individual and in which the
individual:

(A) relies on residual hearing; and

(B) may depend on visual methods to
communicate.

(4) "Practice of real-time captioning" means
the facilitation of communication between
an individual who is deaf or has a hearing
impairment and another individual through
the use of real-time captioning.

(5) "Real-time captioning" means the
immediate, verbatim translation of the
spoken word into English text by a real-time
captioning provider.

(6) "Real-time captioning provider" means
an individual who holds a certificate of
registration issued by the commission to
engage in the practice of real-time
captioning in this state.

OTHER PROFESSIONS

CHAPTER 176. COMMUNICATION
ACCESS REALTIME TRANSLATION
PROVIDERS

SUBCHAPTER A. GENERAL
PROVISIONS

Sec. 176.001. DEFINITIONS. In this
chapter:

(1) "CART provider" means an individual
who holds a certificate of registration issued
by the office of court administration to
engage in the practice of communication
access realtime translation in this state.

(2) "Communication access realtime
translation" or "CART" means the
immediate, verbatim translation of the
spoken word into English text by a CART
provider.

(3) "Deaf" means having a hearing
impairment of such severity that an
individual must depend on visual methods to
communicate.

(4) "Hearing impairment" means a
disability that results in a loss of hearing
function to an individual and in which the
individual:

(A) relies on residual hearing; and

(B) may depend on visual methods to
communicate.

(5) "Office of court administration" means
the Office of Court Administration of the
Texas Judicial System.

(6) "Practice of communication access
realtime translation" means the facilitation
of communication between an individual
who is deaf or has a hearing impairment and
another individual through the use of
communication access realtime translation.

Sec. 176.002. APPLICABILITY OF CHAPTER. This chapter does not apply to a person who:

(1) is licensed by another state to engage in the practice of real-time captioning and who engages in the practice of real-time captioning in this state:

(A) for not more than 30 days in a calendar year; or

(B) by teleconference, if the services provided are necessary because a real-time captioning provider registered in this state is not available;

(2) engages in the practice of real-time captioning solely for meetings of a nonprofit or religious organization;

(3) engages in the practice of real-time captioning as necessary for the provision of an emergency medical or governmental service to a person who is deaf or has a hearing impairment; or

(4) is certified as a court interpreter under Section 57.021.

Sec. 176.003. RULEMAKING AUTHORITY. The commission may adopt rules necessary to implement this chapter.

SUBCHAPTER B. CERTIFICATE OF REGISTRATION

Sec. 176.051. CERTIFICATE OF REGISTRATION REQUIRED. A person may not engage in the practice of real-time captioning in this state unless the person holds a certificate of registration issued by the commission.

Sec. 176.052. CERTIFICATE OF REGISTRATION APPLICATION. An applicant for a certificate of registration under this chapter shall submit an application to the commission on the form and in the manner provided by the commission. The application must include:

(1) proof that the applicant is at least 18 years of age;

Sec. 176.002. APPLICABILITY OF CHAPTER. This chapter does not apply to a person who:

(1) is licensed by another state to engage in the practice of communication access realtime translation and who engages in the practice of communication access realtime translation in this state:

(A) for not more than 30 days in a calendar year; or

(B) by teleconference, if the services provided are necessary because a CART provider registered in this state is not available;

(2) engages in the practice of communication access realtime translation solely for meetings of a nonprofit or religious organization;

(3) engages in the practice of communication access realtime translation as necessary for the provision of an emergency medical or governmental service to a person who is deaf or has a hearing impairment; or

(4) is a certified CART provider, as defined by Section 57.001.

Sec. 176.003. RULEMAKING AUTHORITY. The office of court administration may adopt rules necessary to implement this chapter.

SUBCHAPTER B. CERTIFICATE OF REGISTRATION

Sec. 176.051. CERTIFICATE OF REGISTRATION REQUIRED. A person may not engage in the practice of communication access realtime translation in this state unless the person holds a certificate of registration issued by the office of court administration.

Sec. 176.052. CERTIFICATE OF REGISTRATION APPLICATION. An applicant for a certificate of registration under this chapter shall submit an application to the office of court administration on the form and in the manner provided by the office of court administration. The application must include:

(1) proof that the applicant is at least 18 years of age;

(2) proof that the applicant holds a certificate to provide communication access

(2) proof that the applicant has complied with the education, training, experience, and other requirements for engaging in the practice of real-time captioning as prescribed by commission rule; and

(3) any other information the commission may require.

Sec. 176.053. CERTIFICATE OF REGISTRATION REQUIREMENTS. The commission by rule shall establish the training, educational, and experience requirements for a certificate of registration under this chapter. In developing the requirements, the commission shall consider the best interests of individuals who are deaf or have a hearing impairment.

Sec. 176.054. ISSUANCE OF CERTIFICATE OF REGISTRATION; TERM. (a) The commission shall issue a certificate of registration to an applicant who complies with Sections 176.052 and 176.053 and rules adopted under this chapter.

(b) The certificate expires on the first anniversary of the date of issuance.

Sec. 176.055. REGISTRY OF REAL-TIME CAPTIONING PROVIDERS. (a) The commission shall establish and maintain a registry of real-time captioning providers. The registry must include:

(1) the name of the provider and any other information prescribed by the commission; and

(2) if the person is certified to engage in the practice of interpreting, each professional classification in which the person is certified to practice.

(b) The commission shall post the registry on the commission's Internet website. The commission shall provide a copy of the registry to any person without charge.

Sec. 176.056. ANNUAL RENEWAL. To

realtime translation services issued by the Texas Court Reporters Association or another certification association selected by the office of court administration;

(3) proof that the applicant has complied with the education, training, experience, and other requirements for engaging in the practice of communication access realtime translation as prescribed by office of court administration rule; and

(4) any other information the office of court administration may require.

Sec. 176.053. CERTIFICATE OF REGISTRATION REQUIREMENTS. The office of court administration by rule shall establish the training, educational, and experience requirements for a certificate of registration under this chapter. In developing the requirements, the office of court administration shall consider the best interests of individuals who are deaf or have a hearing impairment.

Sec. 176.054. ISSUANCE OF CERTIFICATE OF REGISTRATION; TERM. (a) The office of court administration shall issue a certificate of registration to an applicant who complies with Sections 176.052 and 176.053 and rules adopted under this chapter.

(b) The certificate expires on the first anniversary of the date of issuance.

Sec. 176.055. REGISTRY OF COMMUNICATION ACCESS REALTIME TRANSLATION PROVIDERS. (a) The office of court administration shall establish and maintain a registry of CART providers. The registry must:

(1) include the name of each CART provider and any other information prescribed by the office of court administration; and

(2) indicate if a CART provider is also a certified CART provider, as defined by Section 57.001.

(b) The office of court administration shall post the registry on the office of court administration's Internet website. The office of court administration shall provide a copy of the registry to any person without charge.

Sec. 176.056. ANNUAL RENEWAL. To

continue to engage in the practice of real-time captioning, a person must obtain a renewal certificate of registration not later than the anniversary of the date on which the initial registration was issued.

Sec. 176.057. FEES. The commission by rule may impose fees to cover the cost of administering this chapter. The commission shall set fees for issuing or renewing a certificate of registration in amounts designed to allow the commission to recover from certificate holders all of the commission's direct and indirect costs in administering and enforcing this chapter.

Sec. 176.058. ETHICAL STANDARDS. The commission shall develop by rule ethical standards for real-time captioning providers. The ethical standards must require that a provider maintain the confidentiality of all communications between a provider and an individual receiving the provider's services.

SUBCHAPTER C. ENFORCEMENT

Sec. 176.101. CIVIL PENALTY; INJUNCTION. (a) A person who violates this chapter or a rule adopted under this chapter is subject to a civil penalty of not less than \$50 or more than \$2,000 for each act of violation. Each day of a violation is a separate violation for purposes of this section.

(b) If it appears that a person has violated or is threatening to violate this chapter or a rule adopted under this chapter, the attorney general, at the request of the commission, may file an action for:

- (1) injunctive relief to restrain the person from continuing the alleged violation;
- (2) a civil penalty described by Subsection (a); or
- (3) both.

(c) The attorney general may recover reasonable costs and fees incurred in bringing an action under this section.

SECTION 2. (a) The Judicial Branch Certification Commission shall adopt rules necessary to implement Chapter 176, Government Code, as added by this Act, not

continue to engage in the practice of communication access realtime translation, a person must obtain a renewal certificate of registration not later than the anniversary of the date on which the initial registration was issued.

Sec. 176.057. FEES. The office of court administration by rule may impose fees to cover the cost of administering this chapter. The office of court administration shall set fees for issuing or renewing a certificate of registration in amounts designed to allow the office of court administration to recover from certificate holders all of the office of court administration's direct and indirect costs in administering and enforcing this chapter.

Sec. 176.058. ETHICAL STANDARDS. The office of court administration shall develop by rule ethical standards for CART providers. The ethical standards must require that a CART provider maintain the confidentiality of all communications between a CART provider and an individual receiving the CART provider's services.

SUBCHAPTER C. ENFORCEMENT

Sec. 176.101. CIVIL PENALTY; INJUNCTION. (a) A person who violates this chapter or a rule adopted under this chapter is subject to a civil penalty of not less than \$50 or more than \$2,000 for each act of violation. Each day of a violation is a separate violation for purposes of this section.

(b) If it appears that a person has violated or is threatening to violate this chapter or a rule adopted under this chapter, the attorney general, at the request of the office of court administration, may file an action for:

- (1) injunctive relief to restrain the person from continuing the alleged violation;
- (2) a civil penalty described by Subsection (a); or
- (3) both injunctive relief and the civil penalty.

(c) The attorney general may recover reasonable costs and fees incurred in bringing an action under this section.

SECTION 2. (a) The Office of Court Administration of the Texas Judicial System shall adopt rules necessary to implement Chapter 176, Government Code, as added

later than January 1, 2018.

(b) Notwithstanding Chapter 176, Government Code, as added by this Act, a person is not required to hold a certificate of registration under that chapter to engage in the practice of **real-time captioning** until September 1, 2018.

SECTION 3. This Act takes effect September 1, 2017.

by this Act, not later than January 1, 2018.

(b) Notwithstanding Chapter 176, Government Code, as added by this Act, a person is not required to hold a certificate of registration under that chapter to engage in the practice of **communication access realtime translation** until September 1, 2018.

SECTION 3. Same as introduced version.