

## LEGISLATIVE BILL 392

Approved by the Governor May 29, 2019

Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to the Nebraska Evidence Rules; to amend section 27-801, Reissue Revised Statutes of Nebraska; to change provisions relating to hearsay; and to repeal the original section.  
Be it enacted by the people of the State of Nebraska,

Section 1. Section 27-801, Reissue Revised Statutes of Nebraska, is amended to read:

27-801 The following definitions apply under this article:

(1) A statement is (a) an oral or written assertion or (b) nonverbal conduct of a person, if it is intended by him or her as an assertion;

(2) A declarant is a person who makes a statement;

(3) Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted; and

(4) A statement is not hearsay if:

(a) The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement ~~is~~ (i) is inconsistent with his or her testimony and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, ~~or~~ (ii) is consistent with his or her testimony and is offered to rebut an express or implied charge against him or her of recent fabrication or improper influence or motive, or (iii) identifies a person as someone the declarant perceived earlier; or

(b) The statement is offered against a party and is (i) his or her own statement, in either his or her individual or a representative capacity, ~~or~~ (ii) a statement of which he or she has manifested his or her adoption or belief in its truth, ~~or~~ (iii) a statement by a person authorized by him or her to make a statement concerning the subject, ~~or~~ (iv) a statement by his or her agent or servant within the scope of his or her agency or employment, or (v) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

Sec. 2. Original section 27-801, Reissue Revised Statutes of Nebraska, is repealed.