

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 39

Introduced by Haar, 21.

Read first time January 06, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to civil rights; to amend sections 20-150,
2 20-151, 20-159, and 71-4728, Reissue Revised Statutes of
3 Nebraska, and section 20-156, Revised Statutes Cumulative
4 Supplement, 2010; to change provisions relating to
5 licensure of interpreters for deaf and hard of hearing
6 persons; to harmonize provisions; and to repeal the
7 original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 20-150, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 20-150 (1) The Legislature hereby finds and declares that
4 it is the policy of the State of Nebraska to secure the rights of
5 deaf and hard of hearing persons who cannot readily understand or
6 communicate in spoken language and who consequently cannot equally
7 participate in or benefit from proceedings, programs, and activities
8 of state agencies and law enforcement personnel unless interpreters
9 are available to assist them. State agencies and law enforcement
10 personnel shall appoint licensed interpreters as provided in sections
11 20-150 to 20-159, except that courts and probation officials shall
12 appoint interpreters as provided in sections 20-150 to 20-159 and
13 25-2401 to 25-2407 and public school districts and educational units
14 shall appoint qualified educational interpreters.

15 ~~(2) It is the intent of the Legislature that by June 30,~~
16 ~~2007, the~~ The Commission for the Deaf and Hard of Hearing shall
17 license and evaluate licensed interpreters. ~~Prior to June 30, 2007,~~
18 ~~the~~ pursuant to section 20-156. The commission shall (a) develop
19 licensed interpreter guidelines for distribution, (b) develop
20 training to implement the guidelines, (c) adopt and promulgate rules
21 and regulations to implement the guidelines and requirements for
22 licensed interpreters, and (d) develop a roster of interpreters as
23 required in section 71-4728.

24 (3) It is the intent of the Legislature to assure that
25 qualified educational interpreters are provided to deaf and hard of

1 hearing children in kindergarten-through-grade-twelve public school
2 districts and educational service units. ~~Prior to September 1, 1998,~~
3 ~~the State Department of Education, in cooperation with the Commission~~
4 ~~for the Deaf and Hard of Hearing, shall develop qualified educational~~
5 ~~interpreter guidelines for distribution as well as a training program~~
6 ~~to implement the guidelines. By September 1, 2000, the The State~~
7 Department of Education shall adopt and promulgate rules and
8 regulations to implement the guidelines and requirements for
9 qualified educational interpreters, and such rules and regulations
10 shall apply to all qualified educational interpreters employed for
11 the 2001-02 school year and all school years thereafter.

12 Sec. 2. Section 20-151, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 20-151 For purposes of sections 20-150 to 20-159 and
15 section 4 of this act, unless the context otherwise requires:

16 (1) Appointing authority means the state agency or law
17 enforcement personnel required to provide a licensed interpreter
18 pursuant to sections 20-150 to 20-159 and section 4 of this act;

19 (2) Auxiliary aid includes, but is not limited to, sign
20 language interpreters, oral interpreters, tactile interpreters, other
21 interpreters, notetakers, transcription services, written materials,
22 assistive listening devices, assisted listening systems, videotext
23 displays, and other visual delivery systems;

24 (3) Deaf or hard of hearing person means a person whose
25 hearing impairment, with or without amplification, is so severe that

1 he or she may have difficulty in auditorily processing spoken
2 language without the use of an interpreter or a person with a
3 fluctuating or permanent hearing loss which may adversely affect the
4 ability to understand spoken language without the use of an
5 interpreter or other auxiliary aid;

6 (4) Intermediary interpreter means any person, including
7 any deaf or hard of hearing person, who is able to assist in
8 providing an accurate interpretation between spoken English and sign
9 language or between variants of sign language in order to facilitate
10 communication between a deaf or hard of hearing person and an
11 interpreter;

12 (5) Licensed interpreter means a person who demonstrates
13 proficiencies in interpretation or transliteration as required by the
14 rules and regulations adopted and promulgated by the Commission for
15 the Deaf and Hard of Hearing pursuant to subsection (2) of section
16 20-150 and who holds a license issued by the commission pursuant to
17 section 20-156 and section 4 of this act;

18 (6) Oral interpreter means a person who interprets
19 language through facial expression, body language, and mouthing;

20 (7) State agency means any state entity which receives
21 appropriations from the Legislature and includes the Legislature,
22 legislative committees, executive agencies, courts, and probation
23 officials but does not include political subdivisions; and

24 (8) Tactile interpreter means a person who interprets for
25 a deaf-blind person. The degree of deafness and blindness will

1 determine the mode of communication to be used for each person.

2 Sec. 3. Section 20-156, Revised Statutes Cumulative
3 Supplement, 2010, is amended to read:

4 20-156 (1) The Commission for the Deaf and Hard of
5 Hearing shall license and evaluate licensed interpreters. The
6 commission shall create the Interpreter Review Board pursuant to
7 section 71-4728.05 to set policies, standards, and procedures for
8 evaluation and licensing of interpreters. The commission may
9 recognize evaluation and certification programs as a means to carry
10 out the duty of evaluating interpreters' skills. The commission may
11 define and establish different levels or types of licensure to
12 reflect different levels of proficiency and different specialty
13 areas.

14 (2) The commission shall establish and charge reasonable
15 fees for licensure of interpreters, including applications, initial
16 competency assessments, renewals, modifications, record keeping,
17 approval, conduct, and sponsorship of continuing education, and
18 assessment of continuing competency pursuant to sections 20-150 to
19 20-159 and section 4 of this act. All fees collected pursuant to this
20 section by the commission shall be remitted to the State Treasurer
21 for credit to the Commission for the Deaf and Hard of Hearing Fund.
22 Such fees shall be disbursed for payment of expenses related to this
23 section.

24 (3) The commission shall prepare and maintain a roster of
25 licensed interpreters as provided by section 71-4728. Nothing in

1 sections 20-150 to 20-159 and section 4 of this act shall be
2 construed to prevent any appointing authority from contracting with a
3 licensed interpreter on a full-time employment basis.

4 (4) The commission may deny, refuse to renew, limit,
5 revoke, suspend, or take other disciplinary actions against a license
6 when the applicant or licensee is found to have violated any
7 provision of sections 20-150 to 20-159 and section 4 of this act or
8 71-4728 to 71-4732, or any rule or regulation of the commission
9 adopted and promulgated pursuant to such sections, including rules
10 and regulations governing unprofessional conduct. The Interpreter
11 Review Board shall investigate complaints regarding the use of
12 interpreters by any appointing authority, or the providing of
13 interpreting services by any interpreter, alleged to be in violation
14 of sections 20-150 to 20-159 and section 4 of this act or rules and
15 regulations of the commission. The commission shall notify in writing
16 an appointing authority determined to be employing interpreters in
17 violation of sections 20-150 to 20-159 and section 4 of this act or
18 rules and regulations of the commission and shall monitor such
19 appointing authority to prevent future violations.

20 (5) Any decision of the commission pursuant to this
21 section shall be subject to review according to the Administrative
22 Procedure Act.

23 (6) ~~After June 30, 2007, any~~ Any person providing
24 interpreting services pursuant to sections 20-150 to 20-159 and
25 section 4 of this act without a license issued pursuant to this

1 section may be restrained by temporary and permanent injunctions and,
2 on or after January 1, 2012, shall be subject to a civil penalty as
3 provided in section 4 of this act.

4 Sec. 4. (1) Except as otherwise provided in this section,
5 no person shall practice as an interpreter for the deaf or hard of
6 hearing, hold himself or herself out as a licensed interpreter for
7 the deaf or hard of hearing, or use the title Licensed Interpreter
8 for the Deaf, Licensed Transliterater for the Deaf, or use any other
9 title or abbreviation to indicate that the person is a licensed
10 interpreter unless he or she is licensed pursuant to section 20-156.

11 (2) A person registered as a qualified interpreter on or
12 before the effective date of this act may be issued a license
13 pursuant to section 20-156 upon filing an application and paying the
14 fee established by the Commission for the Deaf and Hard of Hearing.
15 Such person shall meet all applicable licensure requirements of
16 sections 20-150 to 20-159 and section 4 of this act on or before
17 January 1, 2012.

18 (3)(a) On and after January 1, 2012, any person who
19 practices, offers to practice, attempts to practice, or holds himself
20 or herself out as an interpreter for the deaf without being licensed
21 pursuant to section 20-156 or exempt under this section shall, in
22 addition to any other penalty provided by law, pay a civil penalty to
23 the commission in an amount not to exceed five hundred dollars for
24 each offense as determined by the commission. The civil penalty shall
25 be assessed by the commission after a hearing is held in accordance

1 with section 20-156 and shall be remitted to the State Treasurer for
2 distribution in accordance with Article VII, section 5, of the
3 Constitution of Nebraska.

4 (b) The civil penalty shall be paid within sixty days
5 after the date of the order imposing the civil penalty. The order
6 shall constitute a judgment and may be filed and executed in the same
7 manner as any judgment from any court of record.

8 (c) The commission may investigate any actual, alleged,
9 or suspected unlicensed activity.

10 (4) An unlicensed person providing interpreting services
11 is not in violation of the licensure requirements of this section if
12 he or she is:

13 (a) Providing interpreting services as part of a
14 religious service;

15 (b) Notwithstanding other state or federal laws or rules
16 regarding emergency treatment, providing interpreting services, until
17 the services of a licensed interpreter can be obtained if there is
18 continued need for an interpreter, in an emergency situation
19 involving health care in which the patient or his or her
20 representative and a health care provider or health care professional
21 agree that the delay necessary to obtain a licensed interpreter is
22 likely to cause injury or loss to the patient;

23 (c) Currently enrolled in a course of study leading to a
24 certificate or degree in interpreting if such person is under the
25 direct supervision of a licensed interpreter, engages only in

1 activities and services that constitute a part of such course of
2 study, and clearly designates himself or herself as a student, a
3 trainee, or an intern;

4 (d) Working as an educational interpreter in compliance
5 with rules and regulations adopted and promulgated by the State
6 Department of Education; or

7 (e) Holder of either a certificate or a license as an
8 interpreter in his or her state of residence which he or she has
9 submitted to the commission for approval and either (i) provides
10 interpreting services in Nebraska for a period of time not to exceed
11 fourteen days in a calendar year or (ii) provides interpreting
12 services by teleconference, video conference, or other use of
13 technological means of communication.

14 Sec. 5. Section 20-159, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 20-159 A licensed interpreter appointed pursuant to
17 sections 20-150 to 20-159 and section 4 of this act is entitled to a
18 fee for professional services and other relevant expenses as ~~approved~~
19 ~~by the governing body of the appointing authority.~~ agreed between the
20 licensed interpreter and the contracting entity. When the licensed
21 interpreter is appointed by a court, the fee shall be paid out of the
22 General Fund with funds appropriated to the Supreme Court for that
23 purpose. When the licensed interpreter is appointed by an appointing
24 authority other than a court, the fee shall be paid out of funds
25 available to the governing body of the appointing authority.

1 Sec. 6. Section 71-4728, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-4728 The commission shall serve as the principal state
4 agency responsible for monitoring public policies and implementing
5 programs which shall improve the quality and coordination of existing
6 services for deaf or hard of hearing persons and promote the
7 development of new services when necessary. To perform this function
8 the commission shall:

9 (1) Inventory services available for meeting the problems
10 of persons with a hearing loss and assist such persons in locating
11 and securing such services;

12 (2) License interpreters under sections 20-150 to 20-159
13 and section 4 of this act and prepare and maintain a roster of
14 licensed interpreters. The roster shall include the type of
15 employment the interpreter generally engages in, the type of license
16 the interpreter holds, and the expiration date of the license. Each
17 interpreter included on the roster shall provide the commission with
18 his or her social security number which shall be kept confidential by
19 the commission. The roster shall be made available to local, state,
20 and federal agencies and shall be used for referrals to private
21 organizations and individuals seeking interpreters;

22 (3) Promote the training of interpreters for deaf or hard
23 of hearing persons;

24 (4) Provide counseling to deaf or hard of hearing persons
25 or refer such persons to private or governmental agencies which

1 provide counseling services;

2 (5) Conduct a voluntary census of deaf or hard of hearing
3 persons in Nebraska and compile a current registry;

4 (6) Promote expanded adult educational opportunities for
5 deaf or hard of hearing persons;

6 (7) Serve as an agency for the collection of information
7 concerning deaf or hard of hearing persons and for the dispensing of
8 such information to interested persons by collecting studies,
9 compiling bibliographies, gathering information, and conducting
10 research with respect to the education, training, counseling,
11 placement, and social and economic adjustment of deaf or hard of
12 hearing persons and with respect to the causes, diagnosis, treatment,
13 and methods of prevention of impaired hearing;

14 (8) Appoint advisory or special committees when
15 appropriate for indepth investigations and study of particular
16 problems and receive reports of findings and recommendations;

17 (9) Assess and monitor programs for services to deaf or
18 hard of hearing persons and make recommendations to those state
19 agencies providing such services regarding changes necessary to
20 improve the quality and coordination of the services;

21 (10) Make recommendations to the Governor and the
22 Legislature with respect to modification in existing services or
23 establishment of additional services for deaf or hard of hearing
24 persons;

25 (11) Promote awareness and understanding of the rights of

1 deaf or hard of hearing persons;

2 (12) Promote statewide communication services for deaf or
3 hard of hearing persons;

4 (13) Assist deaf or hard of hearing persons in accessing
5 comprehensive mental health, alcoholism, and drug abuse services;

6 (14) Provide licensed interpreters in public and private
7 settings for the benefit of deaf or hard of hearing persons, if
8 private-practice licensed interpreters are not available, and
9 establish and collect reasonable fees for such interpreter services;

10 (15) Make recommendations to the State Department of
11 Education, public school districts, and educational service units
12 regarding policies and procedures for qualified educational
13 interpreter guidelines and a training program as required in
14 subsection (3) of section 20-150, including, but not limited to,
15 testing, training, and grievances; and

16 (16) Approve, conduct, and sponsor continuing education
17 programs and other activities to assess continuing competence of
18 licensees. The commission shall establish and charge reasonable fees
19 for such activities. All fees collected pursuant to this section by
20 the commission shall be remitted to the State Treasurer for credit to
21 the Commission for the Deaf and Hard of Hearing Fund. Such fees shall
22 be disbursed for payment of expenses related to this section.

23 Sec. 7. Original sections 20-150, 20-151, 20-159, and
24 71-4728, Reissue Revised Statutes of Nebraska, and section 20-156,
25 Revised Statutes Cumulative Supplement, 2010, are repealed.