

LEGISLATIVE BILL 1039

Approved by the Governor April 07, 2016

Introduced by Coash, 27.

A BILL FOR AN ACT relating to developmental disabilities; to amend sections 83-381, 83-1201, and 83-1205, Reissue Revised Statutes of Nebraska, and section 71-1108.01, Revised Statutes Cumulative Supplement, 2014; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 71-1108.01, Revised Statutes Cumulative Supplement, 2014, is amended to read:

71-1108.01 Intellectual disability means a state of significantly subaverage general intellectual functioning which is associated with significant impairments in adaptive functioning manifested before the age of twenty-two years. Significant subaverage general intellectual functioning shall refer to a score of seventy or below on a properly administered and valid intelligence quotient test existing concurrently with deficits in adaptive behavior which originates in the developmental period.

Sec. 2. Section 83-381, Reissue Revised Statutes of Nebraska, is amended to read:

83-381 As used in sections 83-217, 83-218, and 83-381 to 83-390, unless the context otherwise requires:

(1) Person with an intellectual disability means any person of significant subaverage general intellectual functioning which is associated with a significant impairments in adaptive functioning manifested before the age of twenty-two years. Significant subaverage general intellectual functioning shall refer to a score of seventy or below on a properly administered and valid intelligence quotient test ~~impairment in adaptive behavior;~~

(2) Department means the Department of Health and Human Services or such person or agency within the Department of Health and Human Services as the chief executive officer of the department may designate; and

(3) Residential facility means an institution specified under section 83-217 to provide residential care by the State of Nebraska for persons with an intellectual disability.

Sec. 3. Section 83-1201, Reissue Revised Statutes of Nebraska, is amended to read:

83-1201 Sections 83-1201 to 83-1226 and section 5 of this act shall be known and may be cited as the Developmental Disabilities Services Act.

Sec. 4. Section 83-1205, Reissue Revised Statutes of Nebraska, is amended to read:

83-1205 Developmental disability shall mean a severe, chronic disability, including an intellectual disability, other than mental illness, which:

(1) Is attributable to a mental or physical impairment unless the impairment is solely attributable to a severe emotional disturbance or persistent mental illness;

(2) Is manifested before the age of twenty-two years;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in one of each of the following areas of adaptive functioning:

(a) Conceptual skills, including language, literacy, money, time, number concepts, and self-direction;

(b) Social skills, including interpersonal skills, social responsibility, self-esteem, gullibility, wariness, social problem solving, and the ability to follow laws and rules and to avoid being victimized; and

(c) Practical skills, including activities of daily living, personal care, occupational skills, healthcare, mobility, and the capacity for independent living; and

(5) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

An individual from birth through the age of nine years inclusive who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without meeting three or more of the major life activities described in subdivision (4) of this section if the individual, without services and support, has a high probability of meeting those criteria later in life.

~~(1) Intellectual disability; or~~

~~(2) A severe, chronic disability other than an intellectual disability or mental illness which:~~

~~(a) Is attributable to a mental or physical impairment other than a mental or physical impairment caused solely by mental illness;~~

~~(b) Is manifested before the age of twenty-two years;~~

~~(c) Is likely to continue indefinitely; and~~

~~(d) Results in:~~

~~(i) In the case of a person under three years of age, at least one developmental delay; or~~

~~(ii) In the case of a person three years of age or older, a substantial limitation in three or more of the following areas of major life activity, as appropriate for the person's age:~~

~~(A) Self-care;~~

~~(B) Receptive and expressive language development and use;~~

~~(C) Learning;~~

~~(D) Mobility;~~

~~(E) Self-direction;~~

~~(F) Capacity for independent living; and~~

~~(G) Economic self-sufficiency.~~

Sec. 5. Intellectual disability means significant subaverage general intellectual functioning which is associated with significant impairments in adaptive functioning manifested before the age of twenty-two years. Significant subaverage general intellectual functioning shall refer to a score of seventy or below on a properly administered and valid intelligence quotient test.

Sec. 6. Original sections 83-381, 83-1201, and 83-1205, Reissue Revised Statutes of Nebraska, and section 71-1108.01, Revised Statutes Cumulative Supplement, 2014, are repealed.