

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 645**

FINAL READING

Introduced by Pansing Brooks, 28; Baker, 30; Brewer, 43; Crawford, 45;  
Ebke, 32; Kolowski, 31; Linehan, 39; Morfeld, 46; Walz, 15;  
McCollister, 20; Kolterman, 24; Harr, 8; Erdman, 47.

Read first time January 18, 2017

Committee: Education

- 1 A BILL FOR AN ACT relating to special education; to amend section
- 2 79-1118.01, Reissue Revised Statutes of Nebraska; to define a term;
- 3 and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1118.01, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 79-1118.01 Disability means an impairment which causes a child to be  
4 identified as having at least one of the conditions defined in this  
5 section and causes such child to need special education and related  
6 services. For purposes of this section:

7 (1) Autism means a developmental disability significantly affecting  
8 verbal and nonverbal communication and social interaction, generally  
9 evident before age three, that adversely affects a child's educational  
10 performance. Other characteristics often associated with autism are  
11 engagement in repetitive activities and stereotyped movements, resistance  
12 to environmental change or change in daily routines, and unusual  
13 responses to sensory experiences. Autism does not apply if a child's  
14 educational performance is adversely affected primarily because the child  
15 has an emotional disturbance;

16 (2) Blind and visually impaired means partially seeing or blind,  
17 which visual impairment, even with correction, adversely affects a  
18 child's educational performance;

19 (3) Deaf means a hearing impairment which is so severe that  
20 processing linguistic information through hearing, with or without  
21 amplification, is impaired to the extent that educational performance is  
22 adversely affected;

23 (4) Deaf-blind means concomitant hearing and visual impairments, the  
24 combination of which causes such severe communication and other  
25 developmental and educational problems that such impairments cannot be  
26 accommodated in special education programs solely for children who are  
27 deaf or blind;

28 (5) Developmental delay means either (a) a significant delay in  
29 function in one or more of the following areas: (i) Cognitive  
30 development; (ii) physical development; (iii) communication development;  
31 (iv) social or emotional development; or (v) adaptive behavior or skills

1 development, or (b) a diagnosed physical or mental condition that has a  
2 high probability of resulting in a substantial delay in function in one  
3 or more of such areas;

4 (6) Dyslexia means a specific learning disability under subdivision  
5 (13) of this section that (a) is neurobiological in origin, (b) is  
6 characterized by difficulties with accurate or fluent word recognition  
7 and by poor spelling and decoding abilities, (c) typically results from a  
8 deficit in the phonological component of language that is often  
9 unexpected in relation to other cognitive abilities and effective  
10 classroom instruction, and (d) has secondary consequences that may  
11 include problems in reading comprehension and reduced reading experience  
12 that may impede growth of vocabulary and background knowledge;

13 (7)(a) ~~(6)(a)~~ Emotional disturbance means a condition in which a  
14 student exhibits one or more of the following characteristics over a long  
15 period of time and to a marked degree which adversely affects educational  
16 performance:

17 (i) An inability to learn which cannot be explained by intellectual,  
18 sensory, or health factors;

19 (ii) An inability to build or maintain satisfactory interpersonal  
20 relationships with peers and teachers;

21 (iii) Inappropriate types of behavior or feelings under normal  
22 circumstances;

23 (iv) A general pervasive mood of unhappiness or depression; or

24 (v) A tendency to develop physical symptoms or fears associated with  
25 personal or school problems.

26 (b) Emotional disturbance includes schizophrenia but does not  
27 include social maladjustment unless a characteristic defined in  
28 subdivision (7)(a)(i) ~~(6)(a)(i)~~ or (ii) of this section is also present;

29 (8) ~~(7)~~ Hard of hearing means a hearing impairment, whether  
30 permanent or fluctuating, which adversely affects educational performance  
31 but is not included under the term deaf in subdivision (3) of this

1 section;

2 (9) ~~(8)~~ Intellectual disability means a condition in which a child  
3 exhibits significantly subaverage general intellectual functioning  
4 existing concurrently with deficits in adaptive behavior and manifested  
5 during the developmental period which adversely affects educational  
6 performance;

7 (10) ~~(9)~~ Multiple disabilities means concomitant impairments, such  
8 as intellectual disability-blind or intellectual disability-orthopedic  
9 impairment, the combination of which causes such severe educational  
10 problems that a child with such impairments cannot be accommodated in  
11 special education programs for one of the impairments. Multiple  
12 disabilities does not include deaf-blind;

13 (11) ~~(10)~~ Orthopedic impairment means a severe orthopedic impairment  
14 which adversely affects a child's educational performance. Severe  
15 orthopedic impairments include impairments caused by (a) congenital  
16 anomaly, including, but not limited to, clubfoot or absence of a member,  
17 (b) disease, including, but not limited to, poliomyelitis or bone  
18 tuberculosis, or (c) other causes, including, but not limited to,  
19 cerebral palsy, amputations, and fractures and burns which cause  
20 contractures;

21 (12) ~~(11)~~ Other health impaired means having limited strength,  
22 vitality, or alertness due to chronic or acute health problems,  
23 including, but not limited to, a heart condition, tuberculosis, rheumatic  
24 fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead  
25 poisoning, leukemia, or diabetes, which adversely affects a child's  
26 educational performance;

27 (13) ~~(12)~~ Specific learning disability means a disorder in one or  
28 more of the basic psychological processes involved in understanding or in  
29 using language, spoken or written, which may manifest itself in an  
30 imperfect ability to listen, think, speak, read, write, spell, or do  
31 mathematical calculations. Specific learning disability includes, but is

1 not limited to, perceptual disabilities, brain injury, minimal brain  
2 dysfunction, dyslexia, and developmental aphasia;

3 (14) ~~(13)~~ Speech-and-language-impaired means having a communication  
4 disorder such as stuttering, impaired articulation, language impairments,  
5 or voice impairment which adversely affects a child's educational  
6 performance; and

7 (15) ~~(14)~~ Traumatic brain injury means an acquired injury to the  
8 brain caused by an external physical force, resulting in total or partial  
9 functional disability or psychosocial impairment, or both, that adversely  
10 affects a child's educational performance. Traumatic brain injury applies  
11 to open or closed head injuries resulting in impairments in one or more  
12 areas, including cognition; language; memory; attention; reasoning;  
13 abstract thinking; judgment; problem solving; sensory, perceptual, and  
14 motor abilities; psychosocial behavior; physical functions; information  
15 processing; and speech. Traumatic brain injury does not include brain  
16 injuries that are congenital or degenerative or brain injuries induced by  
17 birth trauma.

18 The State Department of Education may group or subdivide the  
19 classifications of children with disabilities for the purpose of program  
20 description and reporting. The department shall establish eligibility  
21 criteria and age ranges for the disability classification of  
22 developmental delay.

23 Sec. 2. Original section 79-1118.01, Reissue Revised Statutes of  
24 Nebraska, is repealed.