

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 87

Introduced by Byars, 30

Read first time January 6, 2005

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to deaf and hard of hearing persons; to amend
2 sections 20-158, 71-4728, and 71-4728.05, Reissue Revised
3 Statutes of Nebraska, and sections 20-150, 20-151, and
4 20-156, Revised Statutes Supplement, 2004; to change
5 provisions relating to interpreters, the Commission for
6 the Deaf and Hard of Hearing, and the Interpreter Review
7 Board; to harmonize provisions; and to repeal the
8 original sections.

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

1 Section 1. Section 20-150, Revised Statutes Supplement,
2 2004, is amended to read:

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

16 (2) It is the intent of the Legislature that by ~~September~~
17 ~~17, 2002~~ June 30, 2006, the Commission for the Deaf and Hard of
18 Hearing shall license and evaluate licensed interpreters. Prior to
19 ~~September 17, 2002~~ June 30, 2006, the commission shall (a) develop
20 licensed interpreter guidelines for distribution, (b) develop
21 training to implement the guidelines, (c) adopt and promulgate
22 rules and regulations to implement the guidelines and requirements
23 for licensed interpreters, and (d) develop a roster of interpreters
24 as required in section 71-4728.

25 (3) It is the intent of the Legislature to assure that
26 qualified educational interpreters are provided to deaf and hard of
27 hearing children in kindergarten-through-grade-twelve public school
28 districts and educational service units. Prior to September 1,

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

11 Sec. 2. Section 20-151, Revised Statutes Supplement,
12 2004, is amended to read:

13 20-151. ~~As used in~~ For purposes of sections 20-150 to
14 20-159, unless the context otherwise requires:

15 (1) Appointing authority means the state agency or law
16 enforcement personnel required to provide a licensed interpreter
17 pursuant to sections 20-150 to 20-159;

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

23 (3) Deaf or hard of hearing person means a person whose
24 hearing impairment, with or without amplification, is so severe
25 that he or she may have difficulty in auditorily processing spoken
26 language without the use of an interpreter or a person with a
27 fluctuating or permanent hearing loss which may adversely affect
28 the ability to understand spoken language without the use of an

1 interpreter or other auxiliary aid;

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

8 (5) Licensed interpreter means a person who demonstrates
9 proficiencies in interpretation or transliteration as required by
10 the ~~guidelines established~~ rules and regulations adopted and
11 promulgated by the Commission for the Deaf and Hard of Hearing
12 pursuant to subsection (2) of section 20-150 and who holds a
13 license issued by the commission pursuant to section 20-156;

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

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

20 (8) Tactile interpreter means a person who interprets for
21 a deaf-blind person. The degree of deafness and blindness will
22 determine the mode of communication to be used for each person.

23 Sec. 3. Section 20-156, Revised Statutes Supplement,
24 2004, is amended to read:

25 20-156. (1) The Commission for the Deaf and Hard of
26 Hearing shall license and evaluate licensed interpreters. The
27 commission shall create the Interpreter Review Board pursuant to
28 section 71-4728.05 to set policies, standards, and procedures for

1 evaluation and licensing of interpreters. The commission may
2 recognize evaluation and certification programs as a means to carry
3 out the duty of evaluating interpreters' skills. The commission
4 may define and establish different levels or types of licensure to
5 reflect different levels of proficiency and different specialty
6 areas.

7 (2) The commission shall establish and charge reasonable
8 fees for licensure of interpreters, including applications,
9 renewals, modifications, ~~and~~ record keeping, approval, conduct, and
10 sponsorship of continuing education, and assessment of continuing
11 competency pursuant to sections 20-150 to 20-159. All fees
12 collected pursuant to this section by the commission shall be
13 remitted to the State Treasurer for credit to the Commission for
14 the Deaf and Hard of Hearing Fund. Such fees shall be disbursed
15 for payment of expenses related to this section.

16 (3) The commission shall prepare and maintain a roster of
17 licensed interpreters as provided by section 71-4728. Nothing in
18 sections 20-150 to 20-159 shall be construed to prevent any
19 appointing authority from contracting with a licensed interpreter
20 on a full-time employment basis.

21 (4) ~~The commission may revoke an interpreter's license if~~
22 ~~the interpreter has violated rules and regulations of the~~
23 ~~commission~~ The commission may deny, refuse to renew, limit, revoke,
24 suspend, or take other disciplinary actions taken against a license
25 when the applicant or licensee is found to have violated any
26 provision of sections 20-150 to 20-159, sections 71-4728 to
27 71-4732, or any rule or regulation of the commission adopted and
28 promulgated pursuant to such sections, including rules and

1 regulations governing unprofessional conduct. The Interpreter
2 Review Board shall ~~serve as a board of inquiry in matters of~~
3 ~~license revocation.~~ ~~The commission through the Interpreter Review~~
4 ~~Board shall~~ investigate claims of the use of interpreters by any
5 appointing authority, or the provision of interpreting services by
6 any interpreter, alleged to be in violation of sections 20-150 to
7 20-159 by any appointing authority or rules and regulations of the
8 commission. The commission shall notify in writing an appointing
9 authority determined to be employing interpreters in violation of
10 sections 20-150 to 20-159 or rules and regulations of the
11 commission and shall monitor such appointing authority to prevent
12 future violations.

13 (5) Any decision of the commission pursuant to this
14 section shall be subject to review according to the Administrative
15 Procedure Act.

16 (6) After June 30, 2006, any person providing
17 interpreting services pursuant to sections 20-150 to 20-159 without
18 a license issued pursuant to section 20-156 may be restrained by
19 temporary and permanent injunctions.

20 Sec. 4. Section 20-158, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 20-158. Whenever a deaf or hard of hearing person
23 communicates through an interpreter under circumstances in which
24 the communication would otherwise be privileged, the privilege
25 shall apply to the interpreter as well.

26 Sec. 5. Section 71-4728, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 71-4728. The commission shall serve as the principal

1 state agency responsible for monitoring public policies and
2 implementing programs which shall improve the quality and
3 coordination of existing services for deaf or hard of hearing
4 persons and promote the development of new services when necessary.
5 To perform this function the commission shall:

6 (1) Inventory services available for meeting the problems
7 of persons with a hearing loss and assist such persons in locating
8 and securing such services;

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

19 (3) Promote the training of interpreters for deaf or hard
20 of hearing persons;

21 (4) Provide counseling to deaf or hard of hearing persons
22 or refer such persons to private or governmental agencies which
23 provide counseling services;

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

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

28 (7) Serve as an agency for the collection of information

1 concerning deaf or hard of hearing persons and for the dispensing
2 of such information to interested persons by collecting studies,
3 compiling bibliographies, gathering information, and conducting
4 research with respect to the education, training, counseling,
5 placement, and social and economic adjustment of deaf or hard of
6 hearing persons and with respect to the causes, diagnosis,
7 treatment, and methods of prevention of impaired hearing;

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

11 (9) Assess and monitor programs for services to deaf or
12 hard of hearing persons and make recommendations to those state
13 agencies providing such services regarding changes necessary to
14 improve the quality and coordination of the services;

15 (10) Make recommendations to the Governor and the
16 Legislature with respect to modification in existing services or
17 establishment of additional services for deaf or hard of hearing
18 persons;

19 (11) Promote awareness and understanding of the rights of
20 deaf or hard of hearing persons;

21 (12) Promote statewide communication services for deaf or
22 hard of hearing persons;

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

25 (14) Provide licensed interpreters in public and private
26 settings for the benefit of deaf or hard of hearing persons, if
27 private-practice licensed interpreters are not available, and
28 establish and collect reasonable fees for such interpreter

1 services; ~~and~~

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

8 (16) Approve, conduct, and sponsor continuing education
9 programs and other activities to assess continuing competence of
10 licensees. The commission shall establish and charge reasonable
11 fees for such activities. All fees collected pursuant to this
12 section by the commission shall be remitted to the State Treasurer
13 for credit to the Commission for the Deaf and Hard of Hearing Fund.
14 Such fees shall be disbursed for payment of expenses related to
15 this section.

16 Sec. 6. Section 71-4728.05, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-4728.05. (1) The commission shall appoint the
19 Interpreter Review Board as required in section 20-156. ~~The~~

20 (2) Until the effective date of this act, the board shall
21 consist of the following members, of whom the majority shall ~~who~~
22 have knowledge of sign language:

23 ~~(1)~~ (a) The Director of Health and Human Services or his
24 or her designee;

25 ~~(2)~~ (b) The executive director of the commission or his
26 or her designee;

27 ~~(3)~~ (c) Two deaf or hard of hearing persons;

28 ~~(4)~~ For the initial appointments, two qualified

1 ~~interpreters who must become licensed interpreters within one year~~
2 ~~of their appointment or they will be disqualified. For subsequent~~
3 ~~appointments, two~~ (d) Two licensed interpreters; and

4 ~~(5)~~ (e) Two members representing local government.

5 (3) Members of the Interpreter Review Board serving on
6 the effective date of this act shall have their terms extended to
7 June 30, 2006. After that date, membership on the board shall be
8 as follows:

9 (a) The Director of Health and Human Services or his or
10 her designee and the executive director of the commission or his or
11 her designee, both of whom shall serve continuously and without
12 limitation;

13 (b) One qualified interpreter, appointed for a term to
14 expire on June 30, 2007;

15 (c) One representative of local government, appointed for
16 a term to expire on June 30, 2007;

17 (d) One deaf or hard of hearing person, appointed for a
18 term to expire on June 30, 2008;

19 (e) One qualified interpreter, appointed for a term to
20 expire on June 30, 2008;

21 (f) One deaf or hard of hearing person, appointed for a
22 term to expire on June 30, 2009; and

23 (g) One representative of local government, appointed for
24 a term to expire on June 30, 2009;

25 (4) Upon the expiration of the terms described in
26 subsection (3) of this section, members other than those identified
27 in subdivision (3) (a) of this section shall be appointed for terms
28 of three years. No such member may serve consecutive three-year

1 terms, or more than five consecutive years, beginning June 30,
2 2006, except that members whose terms have expired shall continue
3 to serve until their successors have been appointed and qualified.

4 (5) The commission may remove a member of the board for
5 inefficiency, neglect of duty, or misconduct in office after
6 delivering to such member a copy of the charges and affording such
7 member an opportunity to be publicly heard in person, or by
8 counsel, in his or her own defense, upon not less than ten days'
9 notice. If a vacancy occurs on the board, the commission shall
10 appoint another member with the same qualifications as the vacating
11 member to serve the remainder of the term. The members of the
12 board shall receive no compensation but shall be reimbursed for
13 their actual and necessary expenses, as provided in sections
14 81-1174 to 81-1177 in attending meetings of the commission and in
15 carrying out their official duties as provided in this section and
16 section 20-156.

17 (6) The board shall establish policies, standards, and
18 procedures for evaluating and licensing interpreters, including,
19 but not limited to, testing, training, ~~grievances,~~ and ~~license~~
20 ~~revocation~~ issuance, renewal, and denial of licenses, continuing
21 education and continuing competency assessment, investigation of
22 complaints, and disciplinary actions against a license pursuant to
23 section 20-156. ~~Except for members listed in subdivisions (1) and~~
24 ~~(2) of this section,~~ a member shall not serve on the board for more
25 than three consecutive years. Members of the board may be removed
26 by the commission for inefficiency, neglect of duty, or misconduct
27 in office but only after delivering to such member a copy of the
28 charges and affording such member an opportunity to be publicly

1 heard in person, or by counsel, in his or her own defense, upon not
2 less than ten days' notice. If a vacancy occurs on the board, the
3 commission shall appoint another member with the same
4 qualifications as the vacating member to serve the remainder of the
5 term. The members of the board shall receive no compensation but
6 shall be reimbursed for their actual and necessary expenses in
7 attending meetings of the commission and in carrying out their
8 official duties as provided in this section and section 20-156.

9 Sec. 7. Original sections 20-158, 71-4728, and
10 71-4728.05, Reissue Revised Statutes of Nebraska, and sections
11 20-150, 20-151, and 20-156, Revised Statutes Supplement, 2004, are
12 repealed.