

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.