

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 491

Introduced by McCollister, 20.

Read first time January 17, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and punishments; to amend section
- 2 28-1009.01, Reissue Revised Statutes of Nebraska; to define terms;
- 3 to provide for the offense of fraudulent misrepresentation of a
- 4 service animal; to provide penalties; to harmonize provisions; and
- 5 to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1009.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 28-1009.01 (1) A person commits the offense of violence on a service
4 animal when he or she (a) intentionally injures, harasses, or threatens
5 to injure or harass or (b) attempts to intentionally injure, harass, or
6 threaten an animal that he or she knows or has reason to believe is a
7 service animal for a blind or visually impaired person, a deaf or
8 hearing-impaired person, or a physically limited person.

9 (2) A person commits the offense of interference with a service
10 animal when he or she (a) intentionally impedes, interferes, or threatens
11 to impede or interfere or (b) attempts to intentionally impede,
12 interfere, or threaten to impede or interfere with an animal that he or
13 she knows or has reason to believe is a service animal for a blind or
14 visually impaired person, a deaf or hearing-impaired person, or a
15 physically limited person.

16 (3) Evidence that the defendant initiated or continued conduct
17 toward an animal as described in subsection (1) or (2) of this section
18 after being requested to avoid or discontinue such conduct by the blind,
19 visually impaired, deaf, hearing-impaired, or physically limited person
20 being served or assisted by the animal shall create a rebuttable
21 presumption that the conduct of the defendant was initiated or continued
22 intentionally.

23 (4) Violence on a service animal or interference with a service
24 animal is a Class III misdemeanor.

25 (5) A person commits the offense of fraudulent misrepresentation of
26 a service animal when he or she:

27 (a) Intentionally and fraudulently misrepresents an animal in his or
28 her possession to be his or her service animal for the purpose of
29 obtaining any of the rights or privileges of a blind or visually impaired
30 person, a deaf or hearing-impaired person, or a physically limited
31 person; or

1 (b) Intentionally and fraudulently misrepresents himself or herself
2 to be a trainer of a service animal for the purpose of obtaining any of
3 the rights and privileges of a blind or visually impaired person, a deaf
4 or hearing-impaired person, or a physically limited person; and:

5 (i) He or she is not training the animal in his or her possession as
6 a service animal; or

7 (ii) The activity for which the animal in his or her possession is
8 being used does not qualify as a benefit provided by a service animal.

9 (6) Fraudulent misrepresentation of a service animal is a Class III
10 misdemeanor for a first offense and a Class II misdemeanor for any second
11 or subsequent offense.

12 (7) (4) For purposes of this section:

13 (a) Blind person means a person with totally impaired vision or with
14 vision, with or without correction, which is so severely impaired that
15 the primary means of receiving information is through other sensory
16 input, including, but not limited to, braille, mechanical reproduction,
17 synthesized speech, or readers;

18 (b) Deaf person means a person with totally impaired hearing or with
19 hearing, with or without amplification, which is so severely impaired
20 that the primary means of receiving spoken language is through other
21 sensory input, including, but not limited to, lip reading, sign language,
22 finger spelling, or reading;

23 (c) Hearing-impaired person means a person who is unable to hear air
24 conduction thresholds at an average of forty decibels or greater in the
25 person's better ear;

26 (d) Physically limited person means a person having limited
27 ambulatory abilities, including, but not limited to, having a permanent
28 impairment or condition that requires the person to use a wheelchair or
29 to walk with difficulty or insecurity to the extent that the person is
30 insecure or exposed to danger;~~and~~

31 (e) Service animal has the same meaning as in section 49-801;

1 (f) Trainer of a service animal means a person who individually
2 trains a service animal; and

3 (g) (e) Visually impaired person means a person having a visual
4 acuity of 20/200 or less in the person's better eye with correction or
5 having a limitation to the person's field of vision so that the widest
6 diameter of the visual field subtends an angular distance not greater
7 than twenty degrees.

8 ~~(5) Violence on a service animal or interference with a service~~
9 ~~animal is a Class III misdemeanor.~~

10 Sec. 2. Original section 28-1009.01, Reissue Revised Statutes of
11 Nebraska, is repealed.