

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 495**

Introduced by Riepe, 12.

Read first time January 18, 2017

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to developmental disabilities; to amend  
2 section 83-1216, Reissue Revised Statutes of Nebraska, and sections  
3 71-1101, 71-1107, and 71-1108.01, Revised Statutes Cumulative  
4 Supplement, 2016; to define and redefine terms and eliminate  
5 definitions; to change and eliminate provisions relating to  
6 legislative intent; to harmonize provisions; to repeal the original  
7 sections; to outright repeal section 71-1113, Reissue Revised  
8 Statutes of Nebraska; and to declare an emergency.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1101, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 71-1101 Sections 71-1101 to 71-1134 and section 4 of this act shall  
4 be known and may be cited as the Developmental Disabilities Court-Ordered  
5 Custody Act.

6 Sec. 2. Section 71-1107, Revised Statutes Cumulative Supplement,  
7 2016, is amended to read:

8 71-1107 Developmental disability means a severe, chronic disability,  
9 including an intellectual disability, other than mental illness, which:  
10 ~~an intellectual disability or a severe chronic cognitive impairment,~~  
11 ~~other than mental illness, that is manifested before the age of twenty-~~  
12 ~~two years and is likely to continue indefinitely.~~

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

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

17 (3) Is likely to continue indefinitely;

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

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

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

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

29 (5) Reflects the individual's need for a combination and sequence of  
30 special, interdisciplinary, or generic services, individualized support,  
31 or other forms of assistance that are of lifelong or extended duration

1 and are individually planned and coordinated.

2 An individual from birth through the age of nine years who has a  
3 substantial developmental delay or specific congenital or acquired  
4 condition may be considered to have a developmental disability without  
5 manifesting substantial functional limitations in three or more of the  
6 areas of adaptive functioning described in subdivision (4) of this  
7 section if the individual, without services and support, has a high  
8 probability of manifesting such limitations in such areas later in life.

9 Sec. 3. Section 71-1108.01, Revised Statutes Cumulative Supplement,  
10 2016, is amended to read:

11 71-1108.01 Intellectual disability means ~~a state of~~ significantly  
12 subaverage general intellectual functioning which is associated with  
13 significant impairments in adaptive functioning manifested before the age  
14 of twenty-two years. Significant subaverage general intellectual  
15 functioning shall refer to a score of seventy or below on a properly  
16 administered and valid intelligence quotient test.

17 Sec. 4. Section 83-1216, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 ~~83-1216 (1) The department shall administer the medicaid home and~~  
20 ~~community-based services waivers upon application approval by the federal~~  
21 ~~Centers for Medicare and Medicaid Services Beginning July 1, 1995,~~  
22 ~~persons determined to be eligible for specialized services who on or~~  
23 ~~after September 6, 1993, graduate from high school, reach the age of~~  
24 ~~twenty-one years, or are currently receiving services shall receive~~  
25 ~~services in accordance with the Developmental Disabilities Services Act.~~  
26 ~~The amount of funding for any person receiving services shall be~~  
27 ~~determined using an objective assessment process developed by the plan in~~  
28 ~~subsection (3) of this section.~~

29 (2) The department shall provide directly or by contract service  
30 coordination to Nebraska residents found to be eligible for specialized  
31 services.

1       ~~(3) It is the intent of the Legislature that by July 1, 2010, all~~  
2 ~~persons determined to be eligible for services shall receive services in~~  
3 ~~accordance with the act.~~

4       (3) (4) It is the intent of the Legislature that the department take  
5 all possible steps to maximize federal funding ~~in order to implement~~  
6 ~~subsections (1) and (2) of this section prior to the date these~~  
7 ~~subsections become entitlements.~~ All Nebraska residents eligible for  
8 funding for specialized services through the Division of ~~under the~~  
9 ~~Developmental Disabilities Services Act~~ shall apply for and accept any  
10 federal medicaid benefits for which they may be eligible and benefits  
11 from other funding sources within the department, the State Department of  
12 Education, specifically including the Division of Rehabilitation  
13 Services, and other agencies to the maximum extent possible.

14       Sec. 5.   Original section 83-1216, Reissue Revised Statutes of  
15 Nebraska, and sections 71-1101, 71-1107, and 71-1108.01, Revised Statutes  
16 Cumulative Supplement, 2016, are repealed.

17       Sec. 6.   The following section is outright repealed: Section  
18 71-1113, Reissue Revised Statutes of Nebraska.

19       Sec. 7.   Since an emergency exists, this act takes effect when  
20 passed and approved according to law.