

LEGISLATIVE BILL 497

Approved by the Governor April 11, 2018

Introduced by Brewer, 43; Linehan, 39; Blood, 3.

A BILL FOR AN ACT relating to veterans; to amend sections 48-227, 48-238, and 71-1382.01, Revised Statutes Cumulative Supplement, 2016; to change references to a federal form relating to veterans; to harmonize provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-227, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-227 (1) Veterans who obtain passing scores on all parts or phases of an examination or numerical scoring shall have five percent added to their passing score if a claim for such preference is made on the application. An additional five percent shall be added to the passing score or numerical scoring of any disabled veteran.

(2) When no examination or numerical scoring is used, the preference shall be given to the qualifying veteran if two or more equally qualified candidates are being considered for the position.

(3) All notices of positions of employment available for veterans preference and all applications for such positions by the state or its governmental subdivisions shall state that the position is subject to a veterans preference.

(4) A veteran desiring to use a veterans preference shall provide the hiring authority with a copy of the veteran's Department of Defense Form 214, also known as the DD Form 214, or its successor form or record. A spouse of a veteran desiring to use a veterans preference shall provide the hiring authority with a copy of the veteran's Department of Defense Form 214 or its successor form or record, a copy of the veteran's disability verification from the United States Department of Veterans Affairs demonstrating a one hundred percent permanent disability rating, and proof of marriage to the veteran. Any marriage claimed for veteran preference must be valid under Nebraska law.

(5) Within thirty days after filling a position, veterans who have applied and are not hired shall be notified by regular mail, electronic mail, telephone call, or personal service that they have not been hired. Such notice also shall advise the veteran of any administrative appeal available.

Sec. 2. Section 48-238, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-238 (1) For purposes of this section:

(a) Private employer means a sole proprietorship, a corporation, a partnership, an association, a limited liability company, or any other entity with one or more employees;

(b) Veteran means (i) a person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), or (ii) the spouse of a veteran who (A) has a one hundred percent permanent disability as determined by the United States Department of Veterans Affairs or (B) was killed in hostile action; and

(c) Voluntary veterans preference employment policy means a private employer's voluntary preference for hiring and promoting a veteran over another equally qualified applicant or employee.

(2) A private employer may adopt a voluntary veterans preference employment policy. Such policy shall be in writing and applied uniformly to decisions regarding hiring and promotion.

(3) If a private employer offers a voluntary veterans preference employment policy, a veteran desiring to use such policy shall provide the private employer with a copy of the veteran's Department of Defense Form 214, also known as the DD Form 214, or its successor form or record. A spouse of a veteran desiring to use such preference shall provide the private employer with a copy of the veteran's Department of Defense Form 214 or its successor form or record, proof of marriage to the veteran, and either (a) a copy of the veteran's disability verification from the United States Department of Veterans Affairs demonstrating a one hundred percent permanent disability rating or (b) a copy of the veteran's Department of Defense Form 1300 or its successor form documenting that the veteran was killed in hostile action.

(4) If a private employer implements a voluntary veterans preference employment policy, it shall notify the Commissioner of Labor of such policy. The commissioner shall use the information to maintain a registry of the private employers that have a voluntary veterans preference employment policy in Nebraska.

(5) A voluntary veterans preference employment policy shall not be considered a violation of any state or local equal employment opportunity law including the Nebraska Fair Employment Practice Act.

Sec. 3. Section 71-1382.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-1382.01 (1)(a) If the authorizing agent or his or her representative has not directed or otherwise arranged for the final disposition of cremated remains or claimed cremated remains for final disposition as provided in section 71-1382, the crematory authority or funeral establishment may provide information regarding the unclaimed remains to the United States Department of Veterans Affairs, the Nebraska Department of Veterans' Affairs, or a veterans service organization and request that the department or the veterans service organization working with the department:

(i) Determine if, based on the information received, the unclaimed cremated remains are those of a veteran or the spouse or dependent of a veteran; and

(ii) Verify if the decedent is eligible for burial in a veteran cemetery.

(b) The information provided to the department may include a copy of the person's death certificate, the person's name, date of birth, place of birth, date of death, marriage certificate, social security number, military service number, branch of service, or military rank on date of death, or the Department of Defense Form 214, also known as the DD Form 214, or its successor form or record.

(c) The information submitted by the crematory authority or funeral establishment to the Nebraska Department of Veterans' Affairs shall not be considered a public record for purposes of sections 84-712 to 84-712.09.

(2) If the crematory authority or funeral establishment receives notification of a determination by the United States Department of Veterans Affairs or the Nebraska Department of Veterans' Affairs that the unclaimed cremated remains are those of a veteran or the spouse or dependent of a veteran and such person is eligible for burial in a veteran cemetery, then the crematory authority or funeral establishment may relinquish control of such remains to a veterans service organization or a designated member or employee of such organization.

(3)(a) The veterans service organization shall provide disposition of the remains of such veteran or the spouse or dependent of a veteran with a funeral at a veteran cemetery after:

(i) The veterans service organization has made reasonable efforts to locate the authorizing agent to notify him or her of the veterans service organization's intent to claim the cremated remains for the purpose of providing disposition in accordance with this section;

(ii) The cremated remains of such veteran or the spouse or dependent of a veteran have been in the possession of the veterans service organization for a period of at least one year; and

(iii) No attempt has been made to claim the unclaimed cremated remains by the authorizing agent within such one-year period.

(b) The veterans service organization may provide disposition of cremated remains by placement in a tomb, mausoleum, crypt, or columbarium in a veteran cemetery or by burial in a veteran cemetery but shall not scatter the cremated remains.

(4) If the crematory authority or funeral establishment relinquishes control of the unclaimed cremated remains to a veterans service organization, it shall:

(a) Establish and maintain a record identifying the veterans service organization receiving the remains; and

(b) Retain such record for five years from the date of transfer of the remains to the veterans service organization.

(5) A crematory operator, funeral director, crematory authority, funeral establishment, or veterans service organization shall not be liable for the disposition of cremated remains in accordance with this section unless there is negligence or misconduct.

Sec. 4. Original sections 48-227, 48-238, and 71-1382.01, Revised Statutes Cumulative Supplement, 2016, are repealed.