

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 310

Introduced by Haar, 21; Avery, 28.

Read first time January 15, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to deaf and hard of hearing persons;
2 to amend sections 20-150, 20-151, 20-153, and 20-156,
3 Reissue Revised Statutes of Nebraska; to state intent;
4 to define and redefine terms; to require places of
5 public accommodation to appoint licensed interpreters;
6 to require video remote interpreting companies to use
7 licensed interpreters; to change and provide penalties;
8 to harmonize provisions; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 20-150, Reissue Revised Statutes of
2 Nebraska, 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
5 rights of deaf and hard of hearing persons who ~~cannot readily~~
6 ~~understand or communicate in spoken language~~ communicate by means
7 of sign language or manual language and who consequently ~~cannot~~
8 ~~equally~~ can participate in or benefit from proceedings, programs,
9 and activities of state agencies, places of public accommodation,
10 and law enforcement personnel ~~unless~~ only when interpreters are
11 available to ~~assist~~ provide communication for them. State agencies,
12 places of public accommodation, and law enforcement personnel shall
13 appoint licensed interpreters as provided in sections 20-150 to
14 20-159, except that courts and probation officials shall appoint
15 interpreters as provided in sections 20-150 to 20-159 and 25-2401
16 to 25-2407 and public school districts and educational units shall
17 appoint qualified educational interpreters.

18 (2) It is the intent of the Legislature that by June
19 30, 2007, the Commission for the Deaf and Hard of Hearing shall
20 license and evaluate licensed interpreters. Prior to June 30, 2007,
21 the commission shall (a) develop licensed interpreter guidelines
22 for distribution, (b) develop training to implement the guidelines,
23 (c) adopt and promulgate rules and regulations to implement the
24 guidelines and requirements for licensed interpreters, and (d)
25 develop a roster of interpreters as required in section 71-4728.

1 (3) It is the intent of the Legislature to assure that
2 qualified educational interpreters are provided to deaf and hard
3 of hearing children in kindergarten-through-grade-twelve public
4 school districts and educational service units. Prior to September
5 1, 1998, the State Department of Education, in cooperation with
6 the Commission for the Deaf and Hard of Hearing, shall develop
7 qualified educational interpreter guidelines for distribution as
8 well as a training program to implement the guidelines. By
9 September 1, 2000, the State Department of Education shall adopt
10 and promulgate rules and regulations to implement the guidelines
11 and requirements for qualified educational interpreters, and such
12 rules and regulations shall apply to all qualified educational
13 interpreters employed for the 2001-02 school year and all school
14 years thereafter.

15 Sec. 2. Section 20-151, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 20-151 For purposes of sections 20-150 to 20-159, unless
18 the context otherwise requires:

19 (1) Appointing authority means the state agency, place
20 of public accommodation, or law enforcement personnel required
21 to provide a licensed interpreter pursuant to sections 20-150 to
22 20-159;

23 (2) Auxiliary aid includes, but is not limited to, sign
24 language interpreters, oral interpreters, tactile interpreters,
25 other interpreters, notetakers, transcription services, written

1 materials, assistive listening devices, assisted listening systems,
2 videotext displays, and other visual delivery systems;

3 (3) Deaf or hard of hearing person means a person whose
4 hearing impairment, with or without amplification, is so severe
5 that he or she may have difficulty in auditorily processing spoken
6 language without the use of an interpreter or a person with a
7 fluctuating or permanent hearing loss which may adversely affect
8 the ability to understand spoken language without the use of an
9 interpreter or other auxiliary aid;

10 (4) Intermediary interpreter means any person, including
11 any deaf or hard of hearing person, who is able to assist in
12 providing an accurate interpretation between spoken English and
13 sign language or between variants of sign language in order to
14 facilitate communication between a deaf or hard of hearing person
15 and an interpreter;

16 (5) Licensed interpreter means a person who demonstrates
17 proficiencies in interpretation or transliteration as required by
18 the rules and regulations adopted and promulgated by the Commission
19 for the Deaf and Hard of Hearing pursuant to subsection (2) of
20 section 20-150 and who holds a license issued by the commission
21 pursuant to section 20-156;

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

24 (7) Place of public accommodation has the definition
25 found in section 20-133;

1 ~~(7)~~ (8) State agency means any state entity which
2 receives appropriations from the Legislature and includes
3 the Legislature, legislative committees, executive agencies,
4 courts, and probation officials but does not include political
5 subdivisions; ~~and~~

6 ~~(8)~~ (9) Tactile interpreter means a person who interprets
7 for a deaf-blind person. The degree of deafness and blindness will
8 determine the mode of communication to be used for each person;
9 ~~and-~~

10 (10) Video remote interpreting means the use of
11 videoconferencing technology and the Internet to provide American
12 Sign Language interpreting services.

13 Sec. 3. Section 20-153, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 20-153 (1) For any proceeding before an appointing
16 authority, including any court at which a deaf or hard of
17 hearing person is subpoenaed or requested in writing to attend,
18 the appointing authority shall obtain a licensed interpreter to
19 interpret the proceedings to the deaf or hard of hearing person and
20 to interpret his or her testimony or statements.

21 (2) Whenever any state agency uses the services of a
22 qualified interpreter, as defined in federal law, to comply with
23 sections 42 U.S.C. 12102, 12131, and 12132, and any regulations
24 adopted thereunder, as such sections and regulations existed on
25 July 20, 2002, the state agency shall obtain a licensed interpreter

1 to act as a qualified interpreter for such purposes.

2 (3) Any video remote interpreting company shall use
3 licensed interpreters when providing interpreting services.
4 Violation of this subsection is a Class IV misdemeanor.

5 Sec. 4. Section 20-156, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 20-156 (1) The Commission for the Deaf and Hard of
8 Hearing shall license and evaluate licensed interpreters. The
9 commission shall create the Interpreter Review Board pursuant
10 to section 71-4728.05 to set policies, standards, and procedures
11 for evaluation and licensing of interpreters. The commission may
12 recognize evaluation and certification programs as a means to carry
13 out the duty of evaluating interpreters' skills. The commission
14 may define and establish different levels or types of licensure
15 to reflect different levels of proficiency and different specialty
16 areas.

17 (2) The commission shall establish and charge reasonable
18 fees for licensure of interpreters, including applications,
19 renewals, modifications, record keeping, approval, conduct, and
20 sponsorship of continuing education, and assessment of continuing
21 competency pursuant to sections 20-150 to 20-159. All fees
22 collected pursuant to this section by the commission shall be
23 remitted to the State Treasurer for credit to the Commission for
24 the Deaf and Hard of Hearing Fund. Such fees shall be disbursed for
25 payment of expenses related to this section.

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

6 (4) The commission may deny, refuse to renew, limit,
7 revoke, suspend, or take other disciplinary actions against a
8 license or levy a civil fine not to exceed five hundred dollars
9 when the applicant or licensee is found to have violated any
10 provision of sections 20-150 to 20-159 or 71-4728 to 71-4732, or
11 any rule or regulation of the commission adopted and promulgated
12 pursuant to such sections, including rules and regulations
13 governing unprofessional conduct. The Interpreter Review Board
14 shall investigate complaints regarding the use of interpreters
15 by any appointing authority, or the providing of interpreting
16 services by any interpreter or video remote interpreting company,
17 alleged to be in violation of sections 20-150 to 20-159 or rules
18 and regulations of the commission. The commission shall notify
19 in writing an appointing authority determined to be employing
20 interpreters in violation of sections 20-150 to 20-159 or rules and
21 regulations of the commission and shall monitor such appointing
22 authority to prevent future violations.

23 (5) Any decision of the commission pursuant to this
24 section shall be subject to review according to the Administrative
25 Procedure Act.

1 (6) After June 30, 2007, any person providing
2 interpreting services pursuant to sections 20-150 to 20-159 without
3 a license issued pursuant to this section may be restrained by
4 temporary and permanent injunctions.

5 (7) After June 30, 2010, any video remote interpreting
6 company using interpreters who are not licensed pursuant to
7 sections 20-150 to 20-159 may be restrained by temporary and
8 permanent injunctions.

9 Sec. 5. Original sections 20-150, 20-151, 20-153, and
10 20-156, Reissue Revised Statutes of Nebraska, are repealed.