

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1039

FINAL READING

Introduced by Coash, 27.

Read first time January 20, 2016

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to developmental disabilities; to amend
2 sections 83-381, 83-1201, and 83-1205, Reissue Revised Statutes of
3 Nebraska, and section 71-1108.01, Revised Statutes Cumulative
4 Supplement, 2014; to define and redefine terms; to harmonize
5 provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1108.01, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 71-1108.01 Intellectual disability means a state of significantly
4 subaverage general intellectual functioning which is associated with
5 significant impairments in adaptive functioning manifested before the age
6 of twenty-two years. Significant subaverage general intellectual
7 functioning shall refer to a score of seventy or below on a properly
8 administered and valid intelligence quotient test existing concurrently
9 with deficits in adaptive behavior which originates in the developmental
10 period.

11 Sec. 2. Section 83-381, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 83-381 As used in sections 83-217, 83-218, and 83-381 to 83-390,
14 unless the context otherwise requires:

15 (1) Person with an intellectual disability means any person of
16 significant subaverage general intellectual functioning which is
17 associated with a significant impairments in adaptive functioning
18 manifested before the age of twenty-two years. Significant subaverage
19 general intellectual functioning shall refer to a score of seventy or
20 below on a properly administered and valid intelligence quotient test
21 impairment in adaptive behavior;

22 (2) Department means the Department of Health and Human Services or
23 such person or agency within the Department of Health and Human Services
24 as the chief executive officer of the department may designate; and

25 (3) Residential facility means an institution specified under
26 section 83-217 to provide residential care by the State of Nebraska for
27 persons with an intellectual disability.

28 Sec. 3. Section 83-1201, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 83-1201 Sections 83-1201 to 83-1226 and section 5 of this act shall
31 be known and may be cited as the Developmental Disabilities Services Act.

1 Sec. 4. Section 83-1205, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 83-1205 Developmental disability shall mean a severe, chronic
4 disability, including an intellectual disability, other than mental
5 illness, which:

6 (1) Is attributable to a mental or physical impairment unless the
7 impairment is solely attributable to a severe emotional disturbance or
8 persistent mental illness;

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

10 (3) Is likely to continue indefinitely;

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

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

15 (b) Social skills, including interpersonal skills, social
16 responsibility, self-esteem, gullibility, wariness, social problem
17 solving, and the ability to follow laws and rules and to avoid being
18 victimized; and

19 (c) Practical skills, including activities of daily living, personal
20 care, occupational skills, healthcare, mobility, and the capacity for
21 independent living; and

22 (5) Reflects the individual's need for a combination and sequence of
23 special, interdisciplinary, or generic services, individualized supports,
24 or other forms of assistance that are of lifelong or extended duration
25 and are individually planned and coordinated.

26 An individual from birth through the age of nine years inclusive who
27 has a substantial developmental delay or specific congenital or acquired
28 condition may be considered to have a developmental disability without
29 meeting three or more of the major life activities described in
30 subdivision (4) of this section if the individual, without services and
31 support, has a high probability of meeting those criteria later in life.

- 1 ~~(1) Intellectual disability; or~~
- 2 ~~(2) A severe, chronic disability other than an intellectual~~
3 ~~disability or mental illness which:~~
- 4 ~~(a) Is attributable to a mental or physical impairment other than a~~
5 ~~mental or physical impairment caused solely by mental illness;~~
- 6 ~~(b) Is manifested before the age of twenty-two years;~~
- 7 ~~(c) Is likely to continue indefinitely; and~~
- 8 ~~(d) Results in:~~
- 9 ~~(i) In the case of a person under three years of age, at least one~~
10 ~~developmental delay; or~~
- 11 ~~(ii) In the case of a person three years of age or older, a~~
12 ~~substantial limitation in three or more of the following areas of major~~
13 ~~life activity, as appropriate for the person's age:~~
- 14 ~~(A) Self-care;~~
- 15 ~~(B) Receptive and expressive language development and use;~~
- 16 ~~(C) Learning;~~
- 17 ~~(D) Mobility;~~
- 18 ~~(E) Self-direction;~~
- 19 ~~(F) Capacity for independent living; and~~
- 20 ~~(G) Economic self-sufficiency.~~

21 Sec. 5. Intellectual disability means significant subaverage
22 general intellectual functioning which is associated with significant
23 impairments in adaptive functioning manifested before the age of twenty-
24 two years. Significant subaverage general intellectual functioning shall
25 refer to a score of seventy or below on a properly administered and valid
26 intelligence quotient test.

27 Sec. 6. Original sections 83-381, 83-1201, and 83-1205, Reissue
28 Revised Statutes of Nebraska, and section 71-1108.01, Revised Statutes
29 Cumulative Supplement, 2014, are repealed.