

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 287

FINAL READING

Introduced by Haar, 21.

Read first time January 15, 2015

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to civil rights; to amend sections 20-150,
2 20-151, 20-156, and 20-159, Reissue Revised Statutes of Nebraska,
3 and section 71-4728, Revised Statutes Cumulative Supplement, 2014;
4 to define and redefine terms; to change provisions relating to
5 licensure of interpreters for deaf and hard of hearing persons; to
6 provide for video remote interpreting services; to provide for civil
7 penalties for unlicensed practice; to provide exceptions as
8 prescribed; 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 Nebraska, is
2 amended to read:

3 20-150 (1) The Legislature hereby finds and declares that it is the
4 policy of the State of Nebraska to secure the rights of deaf and hard of
5 hearing persons who cannot readily understand or communicate in spoken
6 language and who consequently cannot equally participate in or benefit
7 from proceedings, programs, and activities of state agencies and law
8 enforcement personnel unless interpreters are available to assist them.
9 State agencies and law enforcement personnel shall appoint licensed
10 interpreters as provided in sections 20-150 to 20-159 and section 4 of
11 this act, except that courts and probation officials shall appoint
12 interpreters as provided in sections 20-150 to 20-159 and section 4 of
13 this act and sections 25-2401 to 25-2407 and public school districts and
14 educational service units shall appoint qualified educational
15 interpreters.

16 (2) ~~The It is the intent of the Legislature that by June 30, 2007,~~
17 ~~the Commission for the Deaf and Hard of Hearing shall license and~~
18 ~~evaluate licensed interpreters and video remote interpreting providers~~
19 ~~pursuant to section 20-156. The . Prior to June 30, 2007, the commission~~
20 shall (a) develop licensed interpreter guidelines for distribution, (b)
21 develop training to implement the guidelines, (c) adopt and promulgate
22 rules and regulations to implement the guidelines and requirements for
23 licensed interpreters, and (d) develop a roster of interpreters as
24 required in section 71-4728.

25 (3) It is the intent of the Legislature to assure that qualified
26 educational interpreters are provided to deaf and hard of hearing
27 children in kindergarten-through-grade-twelve public school districts and
28 educational service units. ~~The Prior to September 1, 1998, the State~~
29 ~~Department of Education, in cooperation with the Commission for the Deaf~~
30 ~~and Hard of Hearing, shall develop qualified educational interpreter~~
31 ~~guidelines for distribution as well as a training program to implement~~

1 ~~the guidelines. By September 1, 2000,~~ the State Department of Education
2 shall adopt and promulgate rules and regulations to implement the
3 guidelines and requirements for qualified educational interpreters, and
4 such rules and regulations shall apply to all qualified educational
5 interpreters ~~employed for the 2001-02 school year and all school years~~
6 ~~thereafter.~~

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

9 20-151 For purposes of sections 20-150 to 20-159 and section 4 of
10 this act, unless the context otherwise requires:

11 (1) Appointing authority means the state agency or law enforcement
12 personnel required to provide a licensed interpreter pursuant to sections
13 20-150 to 20-159 and section 4 of this act;

14 (2) Auxiliary aid includes, but is not limited to, sign language
15 interpreters, oral interpreters, tactile interpreters, other
16 interpreters, notetakers, transcription services, written materials,
17 assistive listening devices, assisted listening systems, videotext
18 displays, and other visual delivery systems;

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

25 (4) Intermediary interpreter means any person, including any deaf or
26 hard of hearing person, who is able to assist in providing an accurate
27 interpretation between spoken English and sign language or between
28 variants of sign language in order to facilitate communication between a
29 deaf or hard of hearing person and an interpreter;

30 (5) Licensed interpreter means a person who demonstrates
31 proficiencies in interpretation or transliteration as required by the

1 rules and regulations adopted and promulgated by the Commission for the
2 Deaf and Hard of Hearing pursuant to subsection (2) of section 20-150 and
3 who holds a license issued by the commission pursuant to section 20-156.
4 Licensed interpreter includes a licensed video remote interpreting
5 provider;

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

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

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

15 (9) Video remote interpreting services means the use of
16 videoconferencing technology with the intent to provide effective
17 interpreting services; and

18 (10) Video remote interpreting provider means a person or an entity
19 licensed to provide video remote interpreting services.

20 Sec. 3. Section 20-156, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 20-156 (1) The Commission for the Deaf and Hard of Hearing shall
23 license and evaluate licensed interpreters. The commission shall create
24 the Interpreter Review Board pursuant to section 71-4728.05 to set
25 policies, standards, and procedures for evaluation and licensing of
26 interpreters. The commission may recognize evaluation and certification
27 programs as a means to carry out the duty of evaluating interpreters'
28 skills. The commission may define and establish different levels or types
29 of licensure to reflect different levels of proficiency and different
30 specialty areas.

31 (2) The commission shall establish and charge reasonable fees for

1 licensure of interpreters and video remote interpreting providers,
2 including applications, initial competency assessments, renewals,
3 modifications, record keeping, approval, conduct, and sponsorship of
4 continuing education, and assessment of continuing competency pursuant to
5 sections 20-150 to 20-159 and section 4 of this act. All fees collected
6 pursuant to this section by the commission shall be remitted to the State
7 Treasurer for credit to the Commission for the Deaf and Hard of Hearing
8 Fund. Such fees shall be disbursed for payment of expenses related to
9 this section.

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

15 (4) The commission may deny, refuse to renew, limit, revoke,
16 suspend, or take other disciplinary actions against a license when the
17 applicant or licensee is found to have violated any provision of sections
18 20-150 to 20-159 and section 4 of this act or sections 71-4728 to
19 71-4732, or any rule or regulation of the commission adopted and
20 promulgated pursuant to such sections, including rules and regulations
21 governing unprofessional conduct. The Interpreter Review Board shall
22 investigate complaints regarding the use of interpreters by any
23 appointing authority, or the providing of interpreting services by any
24 interpreter, alleged to be in violation of sections 20-150 to 20-159 and
25 section 4 of this act or rules and regulations of the commission. The
26 commission shall notify in writing an appointing authority determined to
27 be employing interpreters in violation of sections 20-150 to 20-159 and
28 section 4 of this act or rules and regulations of the commission and
29 shall monitor such appointing authority to prevent future violations.

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

1 (6) Any After June 30, 2007, any person or entity providing
2 interpreting services pursuant to sections 20-150 to 20-159 and section 4
3 of this act without a license issued pursuant to this section may be
4 restrained by temporary and permanent injunctions and on and after
5 January 1, 2016, shall be subject to a civil penalty as provided in
6 section 4 of this act.

7 Sec. 4. (1) Except as otherwise provided in this section, no person
8 or entity shall (a) practice as an interpreter for the deaf or hard of
9 hearing for compensation, (b) hold himself, herself, or itself out as a
10 licensed interpreter for the deaf or hard of hearing, (c) provide video
11 remote interpreting services, (d) use the title Licensed Interpreter for
12 the Deaf or Licensed Transliterater for the Deaf, or (e) use any other
13 title or abbreviation to indicate that the person or entity is a licensed
14 interpreter unless licensed pursuant to section 20-156.

15 (2) A person rostered as a qualified interpreter on or before the
16 effective date of this act may be issued a license pursuant to section
17 20-156 upon filing an application and paying the fee established by the
18 Commission for the Deaf and Hard of Hearing. Such person shall meet all
19 applicable licensure requirements of sections 20-150 to 20-159 and
20 section 4 of this act on or before January 1, 2016.

21 (3)(a) On and after January 1, 2016, any person or entity who
22 practices, offers to practice, or attempts to practice as an interpreter
23 for the deaf or hard of hearing for compensation or as a video remote
24 interpreting provider or holds himself, herself, or itself out as a
25 licensed interpreter without being licensed pursuant to section 20-156 or
26 exempt under this section shall, in addition to any other penalty
27 provided by law, pay a civil penalty to the commission in an amount not
28 to exceed five hundred dollars for each offense as determined by the
29 commission. The civil penalty shall be assessed by the commission after a
30 hearing is held in accordance with section 20-156 and shall be remitted
31 to the State Treasurer for distribution in accordance with Article VII,

1 section 5, of the Constitution of Nebraska.

2 (b) The civil penalty shall be paid within sixty days after the date
3 of the order imposing the civil penalty. The order shall constitute a
4 judgment and may be filed and executed in the same manner as any judgment
5 from any court of record.

6 (c) The commission may investigate any actual, alleged, or suspected
7 unlicensed activity.

8 (4) An unlicensed person or entity providing interpreting services
9 is not in violation of the licensure requirements of this section if the
10 person or entity is:

11 (a) Providing interpreting services as part of a religious service;

12 (b) Notwithstanding other state or federal laws or rules regarding
13 emergency treatment, providing interpreting services, until the services
14 of a licensed interpreter can be obtained if there is continued need for
15 an interpreter, in an emergency situation involving health care in which
16 the patient or his or her representative and a health care provider or
17 health care professional agree that the delay necessary to obtain a
18 licensed interpreter is likely to cause injury or loss to the patient;

19 (c) Currently enrolled in a course of study leading to a certificate
20 or degree in interpreting if such person is under the direct supervision
21 of a licensed interpreter, engages only in activities and services that
22 constitute a part of such course of study, and clearly designates himself
23 or herself as a student, a trainee, or an intern;

24 (d) Working as an educational interpreter in compliance with rules
25 and regulations adopted and promulgated by the State Department of
26 Education or working for other purposes in a public school or an
27 educational service unit;

28 (e) Holding either a certificate or a license as an interpreter in
29 his or her state of residence which he or she has submitted to the
30 commission for approval and either (i) providing interpreting services in
31 Nebraska for a period of time not to exceed fourteen days in a calendar

1 year or (ii) providing interpreting services by telecommunicating, or
2 other use of technological means of communication; or

3 (f) Employed by or under contract with a person or an entity which
4 is a licensed video remote interpreting provider in this state.

5 Sec. 5. Section 20-159, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 20-159 A licensed interpreter appointed pursuant to sections 20-150
8 to 20-159 and section 4 of this act is entitled to a fee for professional
9 services and other relevant expenses as agreed between the licensed
10 interpreter and the contracting entity ~~approved by the governing body of~~
11 ~~the appointing authority~~. When the licensed interpreter is appointed by a
12 court, the fee shall be paid out of the General Fund with funds
13 appropriated to the Supreme Court for that purpose or from funds,
14 including grant money, made available to the Supreme Court for such
15 purpose. When the licensed interpreter is appointed by an appointing
16 authority other than a court, the fee shall be paid out of funds
17 available to the governing body of the appointing authority.

18 Sec. 6. Section 71-4728, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 71-4728 The commission shall serve as the principal state agency
21 responsible for monitoring public policies and implementing programs
22 which shall improve the quality and coordination of existing services for
23 deaf or hard of hearing persons and promote the development of new
24 services when necessary. To perform this function the commission shall:

25 (1) Inventory services available for meeting the problems of persons
26 with a hearing loss and assist such persons in locating and securing such
27 services;

28 (2) License interpreters and video remote interpreting providers
29 under sections 20-150 to 20-159 and section 4 of this act and prepare and
30 maintain a roster of licensed interpreters as defined in section 20-151.

31 The roster shall include the type of employment the interpreter generally

1 engages in, the type of license held ~~the interpreter holds~~, and the
2 expiration date of the license. Each interpreter included on the roster
3 shall provide the commission with his or her social security number which
4 shall be kept confidential by the commission. The roster shall be made
5 available to local, state, and federal agencies and shall be used for
6 referrals to private organizations and individuals seeking interpreters
7 and video remote interpreting providers;

8 (3) Promote the training of interpreters and video remote
9 interpreting providers for deaf or hard of hearing persons;

10 (4) Provide counseling to deaf or hard of hearing persons or refer
11 such persons to private or governmental agencies which provide counseling
12 services;

13 (5) Conduct a voluntary census of deaf or hard of hearing persons in
14 Nebraska and compile a current registry;

15 (6) Promote expanded adult educational opportunities for deaf or
16 hard of hearing persons;

17 (7) Serve as an agency for the collection of information concerning
18 deaf or hard of hearing persons and for the dispensing of such
19 information to interested persons by collecting studies, compiling
20 bibliographies, gathering information, and conducting research with
21 respect to the education, training, counseling, placement, and social and
22 economic adjustment of deaf or hard of hearing persons and with respect
23 to the causes, diagnosis, treatment, and methods of prevention of
24 impaired hearing;

25 (8) Appoint advisory or special committees when appropriate for
26 indepth investigations and study of particular problems and receive
27 reports of findings and recommendations;

28 (9) Assess and monitor programs for services to deaf or hard of
29 hearing persons and make recommendations to those state agencies
30 providing such services regarding changes necessary to improve the
31 quality and coordination of the services;

1 (10) Make recommendations to the Governor and the Legislature with
2 respect to modification in existing services or establishment of
3 additional services for deaf or hard of hearing persons. The
4 recommendations submitted to the Legislature shall be submitted
5 electronically;

6 (11) Promote awareness and understanding of the rights of deaf or
7 hard of hearing persons;

8 (12) Promote statewide communication services for deaf or hard of
9 hearing persons;

10 (13) Assist deaf or hard of hearing persons in accessing
11 comprehensive mental health, alcoholism, and drug abuse services;

12 (14) Provide licensed interpreters in public and private settings
13 for the benefit of deaf or hard of hearing persons, if private-practice
14 licensed interpreters are not available, and establish and collect
15 reasonable fees for such ~~interpreter~~ services; and

16 ~~(15) Make recommendations to the State Department of Education,~~
17 ~~public school districts, and educational service units regarding policies~~
18 ~~and procedures for qualified educational interpreter guidelines and a~~
19 ~~training program as required in subsection (3) of section 20-150,~~
20 ~~including, but not limited to, testing, training, and grievances; and~~

21 (15 16) Approve, conduct, and sponsor continuing education programs
22 and other activities to assess continuing competence of licensees. The
23 commission shall establish and charge reasonable fees for such
24 activities. All fees collected pursuant to this section by the commission
25 shall be remitted to the State Treasurer for credit to the Commission for
26 the Deaf and Hard of Hearing Fund. Such fees shall be disbursed for
27 payment of expenses related to this section.

28 Sec. 7. Original sections 20-150, 20-151, 20-156, and 20-159,
29 Reissue Revised Statutes of Nebraska, and section 71-4728, Revised
30 Statutes Cumulative Supplement, 2014, are repealed.