

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 392

FINAL READING

Introduced by Lathrop, 12.

Read first time January 17, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Evidence Rules; to amend
- 2 section 27-801, Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to hearsay; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 27-801, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 27-801 The following definitions apply under this article:

4 (1) A statement is (a) an oral or written assertion or (b) nonverbal
5 conduct of a person, if it is intended by him or her as an assertion;

6 (2) A declarant is a person who makes a statement;

7 (3) Hearsay is a statement, other than one made by the declarant
8 while testifying at the trial or hearing, offered in evidence to prove
9 the truth of the matter asserted; and

10 (4) A statement is not hearsay if:

11 (a) The declarant testifies at the trial or hearing and is subject
12 to cross-examination concerning the statement, and the statement ~~is~~ (i)
13 is inconsistent with his or her testimony and was given under oath
14 subject to the penalty of perjury at a trial, hearing, or other
15 proceeding, or in a deposition, ~~or~~ (ii) is consistent with his or her
16 testimony and is offered to rebut an express or implied charge against
17 him or her of recent fabrication or improper influence or motive, or
18 (iii) identifies a person as someone the declarant perceived earlier; or

19 (b) The statement is offered against a party and is (i) his or her
20 own statement, in either his or her individual or a representative
21 capacity, ~~or~~ (ii) a statement of which he or she has manifested his or
22 her adoption or belief in its truth, ~~or~~ (iii) a statement by a person
23 authorized by him or her to make a statement concerning the subject, ~~or~~
24 (iv) a statement by his or her agent or servant within the scope of his
25 or her agency or employment, or (v) a statement by a coconspirator of a
26 party during the course and in furtherance of the conspiracy.

27 Sec. 2. Original section 27-801, Reissue Revised Statutes of
28 Nebraska, is repealed.