

LEGISLATIVE BILL 248

Approved by the Governor May 29, 2019

Introduced by Howard, 9; Blood, 3.

A BILL FOR AN ACT relating to deaf or hard of hearing persons; to amend sections 20-126, 20-128, 20-131.01, 20-131.04, 28-1009.01, 71-4720, and 83-101.14, Reissue Revised Statutes of Nebraska; to change terminology relating to hearing-impaired persons; to remove obsolete provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 20-126, Reissue Revised Statutes of Nebraska, is amended to read:

20-126 It is the policy of this state to encourage and enable blind, visually handicapped, deaf or hard of hearing ~~hearing-impaired~~, or physically disabled persons to participate fully in the social and economic life of the state and to engage in remunerative employment.

Sec. 2. Section 20-128, Reissue Revised Statutes of Nebraska, is amended to read:

20-128 In addition to the provisions of sections 28-1313 and 28-1314, the driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color or using a service animal or a deaf or hard of hearing ~~hearing-impaired~~ or physically disabled pedestrian who is using a service animal shall take all necessary precautions to avoid injury to such pedestrian, and any driver who fails to take such precautions shall be liable in damages for any injury caused such pedestrian. A totally or partially blind pedestrian not carrying such a cane or using a service animal or a deaf or hard of hearing ~~hearing-impaired~~ or physically disabled pedestrian not using a service animal in any of the places, accommodations, or conveyances listed in section 20-127 shall have all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind pedestrian to carry such a cane or to use a service animal or the failure of a deaf or hard of hearing ~~hearing-impaired~~ or physically disabled pedestrian to use a service animal in any such places, accommodations, or conveyances does not constitute and is not evidence of contributory negligence.

Sec. 3. Section 20-131.01, Reissue Revised Statutes of Nebraska, is amended to read:

20-131.01 It is the intent of the Legislature that blind persons, visually handicapped persons, deaf or hard of hearing ~~hearing-impaired~~ persons, and other physically disabled persons shall be entitled to full and equal access to all housing accommodations offered for rent, lease, or compensation in this state.

Sec. 4. Section 20-131.04, Reissue Revised Statutes of Nebraska, is amended to read:

20-131.04 Every totally or partially blind person, deaf or hard of hearing ~~hearing-impaired~~ person, or physically disabled person who has a service animal or obtains a service animal shall have full and equal access to all housing accommodations with such animal as prescribed in sections 20-131.01 to 20-131.04. Such person shall not be required to pay extra compensation for such animal. Such person shall be liable for any damage done to such premises by such animal. Any person who rents, leases, or provides housing accommodations for compensation to any totally or partially blind person, deaf or hard of hearing ~~hearing-impaired~~ person, or physically disabled person who has or obtains a service animal shall not charge an additional deposit for such animal.

Sec. 5. Section 28-1009.01, Reissue Revised Statutes of Nebraska, is amended to read:

28-1009.01 (1) A person commits the offense of violence on a service animal when he or she (a) intentionally injures, harasses, or threatens to injure or harass or (b) attempts to intentionally injure, harass, or threaten an animal that he or she knows or has reason to believe is a service animal for a blind or visually impaired person, a deaf or hard of hearing ~~hearing-impaired~~ person, or a physically limited person.

(2) A person commits the offense of interference with a service animal when he or she (a) intentionally impedes, interferes, or threatens to impede or interfere or (b) attempts to intentionally impede, interfere, or threaten to impede or interfere with an animal that he or she knows or has reason to believe is a service animal for a blind or visually impaired person, a deaf or hard of hearing ~~hearing-impaired~~ person, or a physically limited person.

(3) Evidence that the defendant initiated or continued conduct toward an animal as described in subsection (1) or (2) of this section after being requested to avoid or discontinue such conduct by the blind, visually impaired, deaf or hard of hearing ~~hearing-impaired~~, or physically limited person being served or assisted by the animal shall create a rebuttable presumption that the conduct of the defendant was initiated or continued intentionally.

(4) For purposes of this section:

(a) Blind person means a person with totally impaired vision or with vision, with or without correction, which is so severely impaired that the primary means of receiving information is through other sensory input, including, but not limited to, braille, mechanical reproduction, synthesized speech, or readers;

(b) Deaf person means a person with totally impaired hearing or with hearing, with or without amplification, which is so severely impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling, or reading;

(c) Hard of hearing ~~Hearing-impaired~~ person means a person who is unable to hear air conduction thresholds at an average of forty decibels or greater in the person's better ear;

(d) Physically limited person means a person having limited ambulatory abilities, including, but not limited to, having a permanent impairment or condition that requires the person to use a wheelchair or to walk with difficulty or insecurity to the extent that the person is insecure or exposed to danger; and

(e) Visually impaired person means a person having a visual acuity of 20/200 or less in the person's better eye with correction or having a limitation to the person's field of vision so that the widest diameter of the visual field subtends an angular distance not greater than twenty degrees.

(5) Violence on a service animal or interference with a service animal is a Class III misdemeanor.

Sec. 6. Section 71-4720, Reissue Revised Statutes of Nebraska, is amended to read:

71-4720 There is hereby created the Commission for the Deaf and Hard of Hearing which shall consist of nine members to be appointed by the Governor subject to approval by the Legislature. The commission members shall include three deaf persons, three hard of hearing persons, and three persons who have an interest in and knowledge of deafness and hearing loss issues. A majority of the commission members who are deaf or hard of hearing shall be able to express themselves through sign language. Employees of any state agency other than employees of the commission shall be eligible to serve on the commission. When appointing members to the commission, the Governor shall consider recommendations from individuals, organizations, and the public.

~~On September 13, 1997, all personnel, furniture, equipment, books, files, records, and other property of the Commission for the Hearing Impaired shall be transferred to the Commission for the Deaf and Hard of Hearing.~~

Sec. 7. Section 83-101.14, Reissue Revised Statutes of Nebraska, is amended to read:

83-101.14 The Department of Health and Human Services with the assistance of the Commission for the Deaf and Hard of Hearing shall adopt and promulgate rules and regulations to define criteria and standards for access by eligible deaf or hard of hearing ~~hearing-impaired~~ persons to mental health, alcoholism, and drug abuse treatment programs.

Sec. 8. Original sections 20-126, 20-128, 20-131.01, 20-131.04, 28-1009.01, 71-4720, and 83-101.14, Reissue Revised Statutes of Nebraska, are repealed.