

LEGISLATIVE BILL 848

Approved by the Governor August 15, 2020

Introduced by Pansing Brooks, 28; Brewer, 43; Linehan, 39; McCollister, 20; Scheer, 19; Vargas, 7; Hunt, 8; Hansen, M., 26.

A BILL FOR AN ACT relating to government; to amend sections 25-2221, 43-4502, 43-4503, 43-4510, 43-4511, 43-4512, 62-301, and 72-2201, Reissue Revised Statutes of Nebraska, and section 43-4504, Revised Statutes Supplement, 2019; to rename Columbus Day as Indigenous Peoples' Day and Columbus Day; to change the Young Adult Bridge to Independence Act as it relates to young adult members of Indian tribes; to change the Nebraska State Capitol Preservation and Restoration Act with respect to placement of tribal flags; to harmonize provisions; to provide operative dates; and to repeal the original sections.

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

Section 1. The second Monday in October of each year shall be Indigenous Peoples' Day and Columbus Day and shall be set apart to recognize the historic, cultural, and contemporary significance of the people indigenous to the lands that are now known as the Americas, including Nebraska, and the many contributions of such people.

Sec. 2. Section 25-2221, Reissue Revised Statutes of Nebraska, is amended to read:

25-2221 Except as may be otherwise more specifically provided, the period of time within which an act is to be done in any action or proceeding shall be computed by excluding the day of the act, event, or default after which the designated period of time begins to run. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a day during which the offices of courts of record may be legally closed as provided in this section, in which event the period shall run until the end of the next day on which the office will be open.

All courts and their offices may be closed on Saturdays, Sundays, days on which a specifically designated court is closed by order of the Chief Justice of the Supreme Court, and these holidays: New Year's Day, January 1; Birthday of Martin Luther King, Jr., the third Monday in January; President's Day, the third Monday in February; Arbor Day, the last Friday in April; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Indigenous Peoples' Day and Columbus Day, the second Monday in October; Veterans Day, November 11; Thanksgiving Day, the fourth Thursday in November; the day after Thanksgiving; Christmas Day, December 25; and all days declared by law or proclamation of the Governor to be holidays. Such days shall be designated as nonjudicial days. If any such holiday falls on Sunday, the following Monday shall be a holiday. If any such holiday falls on Saturday, the preceding Friday shall be a holiday. Court services shall be available on all other days. If the date designated by the state for observance of any legal holiday pursuant to this section, except Veterans Day, is different from the date of observance of such holiday pursuant to a federal holiday schedule, the federal holiday schedule shall be observed.

Sec. 3. Section 43-4502, Reissue Revised Statutes of Nebraska, is amended to read:

43-4502 The purpose of the Young Adult Bridge to Independence Act is to support former state or tribal wards in transitioning to adulthood, becoming self-sufficient, and creating permanent relationships. The bridge to independence program shall at all times recognize and respect the autonomy of the young adult. Nothing in the Young Adult Bridge to Independence Act shall be construed to abrogate any other rights that a person who has attained eighteen or nineteen years of age may have as an adult under state or tribal law.

Sec. 4. Section 43-4503, Reissue Revised Statutes of Nebraska, is amended to read:

43-4503 For purposes of the Young Adult Bridge to Independence Act:

(1) Age of eligibility means:

(a) Nineteen years of age; or

(b) Eighteen years of age if the young adult has attained the age of majority under tribal law;

(2) ~~(1)~~ Bridge to independence program means the extended services and support available to a young adult under the Young Adult Bridge to Independence Act other than extended guardianship assistance described in section 43-4511 and extended adoption assistance described in section 43-4512;

(3) ~~(2)~~ Child means an individual who has not attained twenty-one years of age;

(4) ~~(3)~~ Department means the Department of Health and Human Services;

(5) ~~(4)~~ Supervised independent living setting means an independent supervised setting, consistent with 42 U.S.C. 672(c). Supervised independent living settings shall include, but not be limited to, single or shared apartments, houses, host homes, college dormitories, or other postsecondary educational or vocational housing;

(6) ~~(5)~~ Voluntary services and support agreement means a voluntary

placement agreement as defined in 42 U.S.C. 672(f) between the department and a young adult as his or her own guardian; and

(7) ~~(6)~~ Young adult means an individual who has attained the age of eligibility ~~nineteen years of age~~ but who has not attained twenty-one years of age.

Sec. 5. Section 43-4504, Revised Statutes Supplement, 2019, is amended to read:

43-4504 The bridge to independence program is available, on a voluntary basis, to a young adult:

(1) Who has attained the age of eligibility ~~at least nineteen years of age~~;

(2) Who was adjudicated to be a juvenile described in subdivision (3)(a) of section 43-247 or the equivalent under tribal law or who was adjudicated to be a juvenile described in subdivision (8) of section 43-247 or the equivalent under tribal law if the young adult's guardianship or state-funded adoption assistance agreement was disrupted or terminated after he or she had attained the age of sixteen years and ~~who~~ (a) who, upon attaining the age of eligibility ~~nineteen years of age~~, was in an out-of-home placement or had been discharged to independent living or (b) with respect to whom a kinship guardianship assistance agreement or an adoption assistance agreement was in effect pursuant to 42 U.S.C. 673 if the young adult had attained sixteen years of age before the agreement became effective or with respect to whom a state-funded guardianship assistance agreement or a state-funded adoption assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective;

(3) Who is:

(a) Completing secondary education or an educational program leading to an equivalent credential;

(b) Enrolled in an institution which provides postsecondary or vocational education;

(c) Employed for at least eighty hours per month;

(d) Participating in a program or activity designed to promote employment or remove barriers to employment; or

(e) Incapable of doing any of the activities described in subdivisions (3) (a) through (d) of this section due to a medical condition, which incapacity is supported by regularly updated information in the case plan of the young adult;

(4) Who is a Nebraska resident, except that this requirement shall not disqualify a young adult who was a Nebraska resident but was placed outside Nebraska pursuant to the Interstate Compact for the Placement of Children; and

(5) Who does not meet the level of care for a nursing facility as defined in section 71-424, for a skilled nursing facility as defined in section 71-429, or for an intermediate care facility for persons with developmental disabilities as defined in section 71-421.

The changes made to subdivision (2)(b) of this section by Laws 2015, LB243, become operative on July 1, 2015.

Sec. 6. Section 43-4510, Reissue Revised Statutes of Nebraska, is amended to read:

43-4510 (1) If desired by the young adult, the young adult shall be provided a court-appointed attorney who has received training appropriate to the role. The attorney's representation of the young adult shall be client-directed. The attorney shall protect the young adult's legal rights and vigorously advocate for the young adult's wishes and goals, including assisting the young adult as necessary to ensure that the bridge to independence program is providing the young adult with the services and support required under the Young Adult Bridge to Independence Act. For young adults who were appointed a guardian ad litem before the young adult attained the age of eligibility ~~nineteen years of age~~, the guardian ad litem's appointment may be continued, with consent from the young adult, but under a client-directed model of representation. Before entering into a voluntary services and support agreement and at least sixty days prior to each permanency and case review, the independence coordinator shall notify the young adult of his or her right to request a client-directed attorney if the young adult would like an attorney to be appointed and shall provide the young adult with a clear and developmentally appropriate written notice regarding the young adult's right to request a client-directed attorney, the benefits and role of such attorney, and the specific steps to take to request that an attorney be appointed if the young adult would like an attorney appointed.

(2) The court has discretion to appoint a court appointed special advocate volunteer or continue the appointment of a previously appointed court appointed special advocate volunteer with the consent of the young adult.

Sec. 7. Section 43-4511, Reissue Revised Statutes of Nebraska, is amended to read:

43-4511 (1) The department shall provide extended guardianship assistance and medical care under the medical assistance program for a young adult who has attained the age of eligibility ~~is at least nineteen years of age~~ but is less than twenty-one years of age and with respect to whom a kinship guardianship assistance agreement was in effect pursuant to 42 U.S.C. 673 if the young adult had attained sixteen years of age before the agreement became effective or with respect to whom a state-funded guardianship assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective and if the young adult meets at least one of the following conditions for eligibility:

(a) The young adult is completing secondary education or an educational

program leading to an equivalent credential;

(b) The young adult is enrolled in an institution that provides postsecondary or vocational education;

(c) The young adult is employed for at least eighty hours per month;

(d) The young adult is participating in a program or activity designed to promote employment or remove barriers to employment; or

(e) The young adult is incapable of doing any part of the activities in subdivisions (1)(a) through (d) of this section due to a medical condition, which incapacity must be supported by regularly updated information in the case plan of the young adult.

(2) The guardian shall ensure that any guardianship assistance funds provided by the department and received by the guardian shall be used for the benefit of the young adult. The department shall adopt and promulgate rules and regulations defining services and supports encompassed by such benefit.

(3) The changes made to this section by Laws 2015, LB243, become operative on July 1, 2015.

Sec. 8. Section 43-4512, Reissue Revised Statutes of Nebraska, is amended to read:

43-4512 (1) The department shall provide extended adoption assistance and medical care under the medical assistance program for a young adult who has attained the age of eligibility ~~is at least nineteen years of age~~ but is less than twenty-one years of age and with respect to whom an adoption assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective and who meets at least one of the following conditions of eligibility:

(a) The young adult is completing secondary education or an educational program leading to an equivalent credential;

(b) The young adult is enrolled in an institution that provides postsecondary or vocational education;

(c) The young adult is employed for at least eighty hours per month;

(d) The young adult is participating in a program or activity designed to promote employment or remove barriers to employment; or

(e) The young adult is incapable of doing any part of the activities in subdivisions (1)(a) through (d) of this section due to a medical condition, which incapacity must be supported by regularly updated information in the case plan of the young adult.

(2) The adoptive parent or parents shall ensure that any adoption assistance funds provided by the department and received by the adoptive parent shall be used for the benefit of the young adult. The department shall adopt and promulgate rules and regulations defining services and supports encompassed by such benefit.

Sec. 9. Section 62-301, Reissue Revised Statutes of Nebraska, is amended to read:

62-301 (1) For the purposes of the Uniform Commercial Code and section 62-301.01, the following days shall be holidays: New Year's Day, January 1; Birthday of Martin Luther King, Jr., the third Monday in January; President's Day, the third Monday in February; Arbor Day, the last Friday in April; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Indigenous Peoples' Day and Columbus Day, the second Monday in October; Veterans Day, November 11, and the federally recognized holiday therefor, or either of them; Thanksgiving Day, the fourth Thursday in November; the day after Thanksgiving; and Christmas Day, December 25. If any such holiday falls on Sunday, the following Monday shall be a holiday. If the date designated by the state for observance of any legal holiday enumerated in this section, except Veterans Day, is different from the date of observance of such holiday pursuant to a federal holiday schedule, the federal holiday schedule shall be observed.

(2) Any bank doing business in this state may, by a brief written notice at, on, or near its front door, fully dispense with or restrict, to such extent as it may determine, the hours within which it will be open for business.

(3) Any bank may close on Saturday if it states such fact by a brief written notice at, on, or near its front door. When such bank will, in observance of such a notice, not be open for general business, such day shall, with respect to the particular bank, be the equivalent of a holiday as fully as if such day were listed in subsection (1) of this section, and any act authorized, required, or permitted to be performed at, by, or with respect to such bank which will, in observance of such notice, not be open for general business, acting in its own behalf or in any capacity whatever, may be performed on the next succeeding business day and no liability or loss of rights on the part of any person shall result from such delay.

(4) Any bank which, by the notice provided for by subsection (3) of this section, has created the holiday for such bank may, without destroying the legal effect of the holiday for it and solely for the convenience of its customers, remain open all or part of such day in a limited fashion by treating every transaction with its customers on such day as though the transaction had taken place immediately upon the opening of such bank on the first following business day.

(5) Whenever the word bank is used in this section it includes building and loan association, savings and loan association, credit union, savings bank, trust company, investment company, and any other type of financial institution.

Sec. 10. Section 72-2201, Reissue Revised Statutes of Nebraska, is amended to read:

72-2201 Sections 72-2201 to 72-2214 and section 11 of this act shall be

known and may be cited as the Nebraska State Capitol Preservation and Restoration Act.

Sec. 11. (1)(a) The Clerk of the Legislature shall cause to be displayed within the Warner Legislative Chamber flags representing the four federally recognized tribes with headquarters in Nebraska: the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Santee Sioux Nation, and the Winnebago Tribe of Nebraska.

(b) The Commission on Indian Affairs shall obtain such flags, as well as poles and bases, through donations from the tribes. The Commission on Indian Affairs shall be responsible for replacing such flags, poles, and bases.

(c) The Clerk of the Legislature shall approve placement locations within the Warner Legislative Chamber. The size, proportion, and placement of such flags shall be similar to that of the flag of the United States and the flag of the State of Nebraska.

(2)(a) The State Capitol Administrator shall cause to be displayed in the Memorial Chamber on the fourteenth floor of the State Capitol the flags of any Indian tribes with historic and regional connections to Nebraska.

(b) The Commission on Indian Affairs shall designate the tribes with historic and regional connections to Nebraska and the flags to be displayed under subdivision (2)(a) of this section. The Commission on Indian Affairs shall obtain such flags, as well as poles and bases, through donations from the tribes. The Commission on Indian Affairs shall be responsible for replacing such flags, poles, and bases.

(c) The Nebraska Capitol Commission shall approve placement locations in the Memorial Chamber.

Sec. 12. Sections 3, 4, 5, 6, 7, 8, and 14 of this act become operative on July 1, 2021. The other sections of this act become operative on their effective date.

Sec. 13. Original sections 25-2221, 62-301, and 72-2201, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 14. Original sections 43-4502, 43-4503, 43-4510, 43-4511, and 43-4512, Reissue Revised Statutes of Nebraska, and section 43-4504, Revised Statutes Supplement, 2019, are repealed.