

## LEGISLATIVE BILL 92

Approved by the Governor February 7, 2008

Introduced by Cornett, 45.

FOR AN ACT relating to foreign national minors; to amend sections 43-3801, 43-3802, 43-3803, 43-3804, 43-3805, 43-3806, 43-3807, 43-3808, and 43-3809, Revised Statutes Cumulative Supplement, 2006, and section 43-3810, Revised Statutes Supplement, 2007; to change references to dual citizenship; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 43-3801, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3801 (1) The purpose of sections 43-3801 to 43-3812 is to protect foreign national minors or minors ~~holding dual citizenship~~ having multiple nationalities within the State of Nebraska.

(2) The Legislature recognizes that:

(a) Foreign national minors and minors ~~holding dual citizenship~~ having multiple nationalities are essential to the maintenance of their culture, traditions, and values;

(b) The governments of foreign countries have a duty to care for the interests of their nationals and citizens abroad, particularly foreign national minors and minors ~~holding dual citizenship~~; having multiple nationalities;

(c) The governments of foreign countries have the right to information and access in all cases involving minors who are children of foreign nationals and minors ~~holding dual citizenship~~; having multiple nationalities; and

(d) The state should be able to identify foreign national minors and minors ~~holding dual citizenship~~ having multiple nationalities and their families in order to provide services for them.

Sec. 2. Section 43-3802, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3802 For purposes of sections 43-3801 to 43-3812:

(1) Agency means the agency in a foreign country charged with ensuring the welfare of minors who are nationals of that country or who ~~held dual citizenship~~ have multiple nationalities in that country and the United States;

(2) Custodian means the nonparental caretaker of a foreign national minor or minor ~~holding dual citizenship~~ having multiple nationalities who has been entrusted by the parent of the minor with the day-to-day care of the minor;

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

(4) Foreign national minor means an unmarried person who is under the age of eighteen years and was born in a country other than the United States; and

(5) Minor ~~holding dual citizenship~~ having multiple nationalities means an unmarried person who is under the age of eighteen years and who holds citizenship simultaneously in the United States and one other country.

Sec. 3. Section 43-3803, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3803 The department, in conjunction with the appropriate consulate, shall provide a method of early identification of foreign national minors and minors ~~holding dual citizenship~~ having multiple nationalities and their families in order to provide services which assure all the protections afforded by all applicable treaties and laws.

Sec. 4. Section 43-3804, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3804 (1) When a court makes a minor a ward of the department, the department shall determine whether the minor is a foreign national minor or a minor ~~holding dual citizenship~~; having multiple nationalities. If such minor is a foreign national minor or a minor ~~holding dual citizenship~~; having multiple nationalities, the department shall provide such minor and his or her parent or custodian with the following information:

(a) Written information in English and the minor's native language, explaining the juvenile court process and the rights of the minor and his or her parents or custodian; and

(b) The address and telephone number of the nearest consulate serving the minor.

(2) The department shall notify the appropriate consulate in writing within ten working days after (a) the initial date the department takes custody of a foreign national minor or a minor ~~holding dual citizenship~~ having multiple nationalities or the date the department learns that a minor in its custody is a foreign national minor or a minor ~~holding dual citizenship~~ having multiple nationalities, whichever occurs first, (b) the parent of a foreign national minor or a minor ~~holding dual citizenship~~ having multiple nationalities has requested that the consulate be notified, or (c) the department determines that a noncustodial parent of a foreign national minor or a minor ~~holding dual citizenship~~ having multiple nationalities in its custody resides in the country represented by the consulate.

(3) The department shall provide the consulate with the name and date of birth of the foreign national minor or the minor ~~holding dual citizenship~~ having multiple nationalities, the name of his or her parent or custodian, and the name and telephone number of the departmental caseworker directly responsible for the case.

(4) If the consulate needs additional specific information regarding the case of the foreign national minor or the minor ~~holding dual citizenship~~ having multiple nationalities, the consulate may contact the department and the department may release any information not required to be kept confidential under the Nebraska Juvenile Code or other state or federal statutes.

Sec. 5. Section 43-3805, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3805 A consular representative may interview a foreign national minor or minor ~~holding dual citizenship~~ having multiple nationalities who is a citizen of the country represented by the consulate. The consular representative shall contact the department to arrange for an interview of a foreign national minor or a minor ~~holding dual citizenship~~ having multiple nationalities.

Sec. 6. Section 43-3806, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3806 If a court makes a foreign national minor or a minor ~~holding dual citizenship~~ having multiple nationalities a ward of the department and the minor has become eligible for special immigrant juvenile status as defined in 8 U.S.C. 1101(a)(27)(J), the consulate will assist the department in obtaining the necessary documentation for completion of the application for special immigrant juvenile status.

Sec. 7. Section 43-3807, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3807 The department may obtain a birth certificate from the appropriate country for a foreign national minor or a minor ~~holding dual citizenship~~ having multiple nationalities in the custody of the department. The department may request the assistance of the consulate in obtaining the necessary documentation to complete the application for a birth certificate under this section.

Sec. 8. Section 43-3808, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3808 (1) Upon notification to a consulate pursuant to section 43-3804, the department shall request that the consulate obtain through the agency the appropriate home studies of potential families in such country who may be involved in the case and forward the information to the departmental caseworker directly responsible for the case.

(2) When a foreign national minor is placed in his or her country or a minor ~~holding dual citizenship~~ having multiple nationalities is placed in the country other than the United States in which he or she holds citizenship, the department shall take all steps necessary to obtain the cooperation of the consulate and the agency to ensure the minor's welfare and provide whatever services are needed. The department shall request copies of the monitoring reports prepared by the agency concerning the welfare of the minor.

Sec. 9. Section 43-3809, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3809 The department will request the cooperation of the appropriate consulate in order to notify a person who resides in a foreign country and is required to appear in a court in this state regarding the case of a foreign national minor or a minor ~~holding dual citizenship~~ having multiple nationalities.

Sec. 10. Section 43-3810, Revised Statutes Supplement, 2007, is amended to read:

43-3810 The chief executive officer of the department or his or her designee shall meet as necessary with consular officials to discuss, clarify, and coordinate activities, ideas and concerns of a high-profile nature, timely

media attention, and joint prevention efforts regarding the protection and well-being of foreign national minors and minors ~~holding dual citizenship~~ having multiple nationalities and families.

Sec. 11. Original sections 43-3801, 43-3802, 43-3803, 43-3804, 43-3805, 43-3806, 43-3807, 43-3808, and 43-3809, Revised Statutes Cumulative Supplement, 2006, and section 43-3810, Revised Statutes Supplement, 2007, are repealed.