

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 491

Introduced by Cavanaugh, M., 6.

Read first time January 19, 2021

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to children and families; to amend sections
2 43-2204, 43-4401, 43-4402, 43-4403, 43-4407, 68-1207, 68-1214, and
3 81-3135, Reissue Revised Statutes of Nebraska, and sections 43-4406
4 and 68-1212, Revised Statutes Cumulative Supplement, 2020; to change
5 and eliminate provisions regarding lead agencies and a pilot
6 project; to harmonize provisions; to provide an operative date; to
7 repeal the original sections; and to outright repeal sections
8 43-4408, 43-4409, and 68-1213, Reissue Revised Statutes of Nebraska.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-2204, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 43-2204 A pilot project is created to provide family finding
4 services within at least two service areas. The department shall contract
5 with providers of family finding services ~~or the case management lead~~
6 ~~agency pilot project authorized under section 68-1212~~ to carry out the
7 family finding services pilot project. A provider may contract within
8 multiple service areas. Each contracting provider shall be trained in and
9 implement the steps described in section 43-2203. The family finding
10 services pilot project shall terminate on June 30, 2019.

11 Sec. 2. Section 43-4401, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 43-4401 For purposes of sections 43-4401 to ~~43-4407~~ ~~43-4409~~:

14 (1) Department means the Department of Health and Human Services;
15 and

16 ~~(2) N-FOCUS system means the electronic data collection system in~~
17 ~~use by the department on April 12, 2012;~~

18 ~~(3) Pilot project means a case management lead agency model pilot~~
19 ~~project established by the department pursuant to Laws 2012, LB961; and~~

20 ~~(2)~~ (4) Service area means a geographic area administered by the
21 department and designated pursuant to section 81-3116.

22 Sec. 3. Section 43-4402, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 43-4402 ~~The Legislature finds that:~~

25 ~~(1) Nebraska does not have the capacity to collect and analyze~~
26 ~~routinely and effectively the data required to inform policy decisions,~~
27 ~~child welfare service development, and evaluation of its child welfare~~
28 ~~system;~~

29 ~~(2) The N-FOCUS system is difficult to use and does not provide the~~
30 ~~appropriate data for meaningful monitoring of the child welfare system~~
31 ~~for children's safety, permanency, and wellness;~~

1 ~~(3) The N-FOCUS system does not easily integrate with other computer~~
2 ~~systems that have different purposes, capacities, file structures, and~~
3 ~~operating systems, resulting in silos of operation and information; and~~

4 ~~(4) The Legislature finds that the department needs leadership in~~
5 ~~developing a uniform electronic data collection system to collect and~~
6 ~~evaluate data regarding children served, the quality of child welfare~~
7 ~~services provided, and the outcomes produced by such child welfare~~
8 ~~services.~~

9 Sec. 4. Section 43-4403, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 43-4403 It is the intent of the Legislature:

12 (1) To provide for (a) legislative oversight of the child welfare
13 system through an improved electronic data collection system, (b)
14 improved child welfare outcome measurements through increased reporting
15 by ~~any lead agencies or the pilot project~~ and the department, and (c) an
16 independent evaluation of the child welfare system; and

17 (2) To develop an electronic data collection system to integrate
18 child welfare information into one system to more effectively manage,
19 track, and share information, especially in child welfare case
20 management.

21 Sec. 5. Section 43-4406, Revised Statutes Cumulative Supplement,
22 2020, is amended to read:

23 43-4406 On or before each September 15, the department shall report
24 electronically to the Health and Human Services Committee of the
25 Legislature the following information regarding child welfare services,
26 with respect to ~~children served by any lead agency or the pilot project~~
27 ~~and~~ children served by the department:

28 (1) The percentage of children served and the allocation of the
29 child welfare budget, categorized by service area ~~and by lead agency or~~
30 ~~the pilot project~~, including:

31 (a) The percentage of children served, by service area and the

1 corresponding budget allocation; and

2 (b) The percentage of children served who are wards of the state and
3 the corresponding budget allocation;

4 (2) The number of siblings in out-of-home care placed with siblings
5 as of the June 30 immediately preceding the date of the report,
6 categorized by service area ~~and by lead agency or the pilot project~~;

7 (3) The number of waivers granted under subsection (2) of section
8 71-1904;

9 (4) An update of the information in the report of the Children's
10 Behavioral Health Task Force pursuant to sections 43-4001 to 43-4003,
11 including:

12 (a) The number of children receiving mental health and substance
13 abuse services annually by the Division of Behavioral Health of the
14 department;

15 (b) The number of children receiving behavioral health services
16 annually at the Hastings Regional Center;

17 (c) The number of state wards receiving behavioral health services
18 as of September 1 immediately preceding the date of the report;

19 (d) Funding sources for children's behavioral health services for
20 the fiscal year ending on the immediately preceding June 30;

21 (e) Expenditures in the immediately preceding fiscal year by the
22 division, categorized by category of behavioral health service and by
23 behavioral health region; and

24 (f) Expenditures in the immediately preceding fiscal year from the
25 medical assistance program and CHIP as defined in section 68-969 for
26 mental health and substance abuse services, for all children and for
27 wards of the state;

28 (5) The following information as obtained for each service area ~~and~~
29 ~~lead agency or the pilot project~~:

30 (a) Case manager education, including college degree, major, and
31 level of education beyond a baccalaureate degree;

1 (b) Average caseload per case manager;

2 (c) Average number of case managers per child during the preceding
3 twelve months;

4 (d) Average number of case managers per child for children who have
5 been in the child welfare system for three months, for six months, for
6 twelve months, and for eighteen months and the consecutive yearly average
7 for children until the age of majority or permanency is attained;

8 (e) Monthly case manager turnover;

9 (f) Monthly face-to-face contacts between each case manager and the
10 children on his or her caseload;

11 (g) Monthly face-to-face contacts between each case manager and the
12 parent or parents of the children on his or her caseload;

13 (h) Case documentation of monthly consecutive team meetings per
14 quarter;

15 (i) Case documentation of monthly consecutive parent contacts per
16 quarter;

17 (j) Case documentation of monthly consecutive child contacts with
18 case manager per quarter;

19 (k) Case documentation of monthly consecutive contacts between child
20 welfare service providers and case managers per quarter;

21 (l) Timeliness of court reports; and

22 (m) Non-court-involved children, including the number of children
23 served, the types of services requested, the specific services provided,
24 the cost of the services provided, and the funding source;

25 (6) All placements in residential treatment settings made or paid
26 for by the child welfare system, the Office of Juvenile Services, the
27 State Department of Education or local education agencies, ~~any lead~~
28 ~~agency or the pilot project through letters of agreement,~~ and the medical
29 assistance program, including, but not limited to:

30 (a) Child variables;

31 (b) Reasons for placement;

1 (c) The percentage of children denied medicaid-reimbursed services
2 and denied the level of placement requested;

3 (d) With respect to each child in a residential treatment setting:

4 (i) If there was a denial of initial placement request, the length
5 and level of each placement subsequent to denial of initial placement
6 request and the status of each child before and immediately after, six
7 months after, and twelve months after placement;

8 (ii) Funds expended and length of placements;

9 (iii) Number and level of placements;

10 (iv) Facility variables; and

11 (v) Identification of specific child welfare services unavailable in
12 the child's community that, if available, could have prevented the need
13 for residential treatment; and

14 (e) Identification of child welfare services unavailable in the
15 state that, if available, could prevent out-of-state placements;

16 ~~(7) From any lead agency or the pilot project, the percentage of its~~
17 ~~accounts payable to subcontracted child welfare service providers that~~
18 ~~are thirty days overdue, sixty days overdue, and ninety days overdue;~~

19 ~~(7)~~ (8) For any individual involved in the child welfare system
20 receiving a service or a placement through the department or its agent
21 for which referral is necessary, the date when such referral was made by
22 the department or its agent and the date and the method by which the
23 individual receiving the services was notified of such referral. To the
24 extent the department becomes aware of the date when the individual
25 receiving the referral began receiving such services, the department or
26 its agent shall document such date;

27 ~~(8)~~ (9) The number of sexual abuse allegations that occurred for
28 children being served by the Division of Children and Family Services of
29 the Department of Health and Human Services and placed at a residential
30 child-caring agency and the number of corresponding (a) screening
31 decision occurrences by category, (b) open investigations by category,

1 and (c) agency substantiations, court substantiations, and court-pending
2 status cases; and

3 (9) ~~(10)~~ Information on children who are reported or suspected
4 victims of sex trafficking of a minor or labor trafficking of a minor, as
5 defined in section 28-830, including:

6 (a) The number of reports to the statewide toll-free number pursuant
7 to section 28-711 alleging sex trafficking of a minor or labor
8 trafficking of a minor and the number of children alleged to be victims;

9 (b) The number of substantiated victims of sex trafficking of a
10 minor or labor trafficking of a minor, including demographic information
11 and information on whether the children were already served by the
12 department;

13 (c) The number of children determined to be reported or suspected
14 victims of sex trafficking of a minor or labor trafficking of a minor,
15 including demographic information and information on whether the children
16 were previously served by the department;

17 (d) The types and costs of services provided to children who are
18 reported or suspected victims of sex trafficking of a minor or labor
19 trafficking of a minor; and

20 (e) The number of ongoing cases opened due to allegations of sex
21 trafficking of a minor or labor trafficking of a minor and number of
22 children and families served through these cases.

23 Sec. 6. Section 43-4407, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 43-4407 (1) Each service area administrator ~~and any lead agency or~~
26 ~~the pilot project~~ shall annually survey children, parents, foster
27 parents, judges, guardians ad litem, attorneys representing parents, and
28 service providers involved with the child welfare system to monitor
29 satisfaction with (a) adequacy of communication by the case manager, (b)
30 response by the department, ~~any lead agency, or the pilot project~~ to
31 requests and problems, (c) transportation issues, (d) medical and

1 psychological services for children and parents, (e) visitation
2 schedules, (f) payments, (g) support services to foster parents, (h)
3 adequacy of information about foster children provided to foster parents,
4 and (i) the case manager's fulfillment of his or her responsibilities. A
5 summary of the survey shall be reported electronically to the Health and
6 Human Services Committee of the Legislature on September 15, 2012, and
7 each September 15 thereafter.

8 (2) Each service area administrator ~~and any lead agency or the pilot~~
9 ~~project~~ shall provide monthly reports to the child advocacy center that
10 corresponds with the geographic location of the child regarding the
11 services provided through the department ~~or a lead agency or the pilot~~
12 ~~project~~ when the child is identified as a voluntary or non-court-involved
13 child welfare case. The monthly report shall include the plan implemented
14 by the department, ~~the lead agency, or the pilot project~~ for the child
15 and family and the status of compliance by the family with the plan. The
16 child advocacy center shall report electronically to the Health and Human
17 Services Committee of the Legislature on September 15, 2012, and every
18 September 15 thereafter, or more frequently if requested by the
19 committee.

20 Sec. 7. Section 68-1207, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 68-1207 (1) The Department of Health and Human Services shall
23 supervise all public child welfare services as described by law. The
24 department ~~and the pilot project described in section 68-1212~~ shall
25 maintain caseloads to carry out child welfare services which provide for
26 adequate, timely, and indepth investigations and services to children and
27 families. Caseloads shall range between twelve and seventeen cases as
28 determined pursuant to subsection (2) of this section. In establishing
29 the specific caseloads within such range, the department ~~and the pilot~~
30 ~~project~~ shall (a) include the workload factors that may differ due to
31 geographic responsibilities, office location, and the travel required to

1 provide a timely response in the investigation of abuse and neglect, the
2 protection of children, and the provision of services to children and
3 families in a uniform and consistent statewide manner and (b) utilize the
4 workload criteria of the standards established as of January 1, 2012, by
5 the Child Welfare League of America. The average caseload shall be
6 reduced by the department in all service areas as designated pursuant to
7 section 81-3116 ~~and by the pilot project~~ to comply with the caseload
8 range described in this subsection by September 1, 2012. Beginning
9 September 15, 2012, the department shall include in its annual report
10 required pursuant to section 68-1207.01 a report on the attainment of the
11 decrease according to such caseload standards. The department's annual
12 report shall also include changes in the standards of the Child Welfare
13 League of America or its successor.

14 (2) Caseload size shall be determined in the following manner: (a)
15 If children are placed in the home, the family shall count as one case
16 regardless of how many children are placed in the home; (b) if a child is
17 placed out of the home, the child shall count as one case; (c) if, within
18 one family, one or more children are placed in the home and one or more
19 children are placed out of the home, the children placed in the home
20 shall count as one case and each child placed out of the home shall count
21 as one case; and (d) any child receiving services from the department or
22 a private entity under contract with the department shall be counted as
23 provided in subdivisions (a) through (c) of this subsection whether or
24 not such child is a ward of the state. For purposes of this subsection, a
25 child is considered to be placed in the home if the child is placed with
26 his or her biological or adoptive parent or a legal guardian and a child
27 is considered to be placed out of the home if the child is placed in a
28 foster family home as defined in section 71-1901, a residential child-
29 caring agency as defined in section 71-1926, or any other setting which
30 is not the child's planned permanent home.

31 (3) To insure appropriate oversight of noncourt and voluntary cases

1 when any child welfare services are provided, ~~either by the department or~~
2 ~~by a lead agency participating in the pilot project,~~ as a result of a
3 child safety assessment, the department ~~or lead agency~~ shall develop a
4 case plan that specifies the services to be provided and the actions to
5 be taken by the department ~~or lead agency~~ and the family in each such
6 case. Such case plan shall clearly indicate, when appropriate, that
7 children are receiving services to prevent out-of-home placement and
8 that, absent preventive services, foster care is the planned arrangement
9 for the child.

10 (4) To carry out the provisions of this section, the Legislature
11 shall provide funds for additional staff.

12 Sec. 8. Section 68-1212, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 68-1212 For ~~(1) Except as provided in subsection (2) of this~~
15 ~~section,~~ for all cases in which a court has awarded a juvenile to the
16 care of the Department of Health and Human Services according to
17 subsection (1) of section 43-285 and for any noncourt and voluntary
18 cases, the case manager shall be an employee of the department. Such case
19 manager shall be responsible for and shall directly oversee: Case
20 planning; service authorization; investigation of compliance; monitoring
21 and evaluation of the care and services provided to children and
22 families; and decisionmaking regarding the determination of visitation
23 and the care, placement, medical services, psychiatric services,
24 training, and expenditures on behalf of each juvenile under subsection
25 (1) of section 43-285. Such case manager shall be responsible for
26 decisionmaking and direct preparation regarding the proposed plan for the
27 care, placement, services, and permanency of the juvenile filed with the
28 court required under subsection (2) of section 43-285. The health and
29 safety of the juvenile shall be the paramount concern in the proposed
30 plan ~~in accordance with such subsection.~~

31 ~~(2) The department may contract with a lead agency for a case~~

1 ~~management lead agency model pilot project in the department's eastern~~
2 ~~service area as designated pursuant to section 81-3116. The department~~
3 ~~shall include in the pilot project the appropriate conditions,~~
4 ~~performance outcomes, and oversight for the lead agency, including, but~~
5 ~~not be limited to:~~

6 ~~(a) The reporting and survey requirements of lead agencies described~~
7 ~~in sections 43-4406 and 43-4407;~~

8 ~~(b) Departmental monitoring and functional capacities of lead~~
9 ~~agencies described in section 43-4408;~~

10 ~~(c) The key areas of evaluation specified in subsection (3) of~~
11 ~~section 43-4409;~~

12 ~~(d) Compliance and coordination with the strategic child welfare~~
13 ~~priorities determined by the Nebraska Children's Commission as provided~~
14 ~~in section 43-4204; and~~

15 ~~(e) Assurance of financial accountability and reporting by the lead~~
16 ~~agency.~~

17 ~~(3) A lead agency contracted to provide community-based care for~~
18 ~~children and families shall:~~

19 ~~(a) Have a board of directors of which at least fifty-one percent of~~
20 ~~the membership is comprised of Nebraska residents who are not employed by~~
21 ~~the lead agency or by a subcontractor of the lead agency;~~

22 ~~(b) Demonstrate readiness shown by the completion of a readiness~~
23 ~~assessment developed by the Department of Health and Human Services to~~
24 ~~determine the lead agency's viability. The assessment shall evaluate~~
25 ~~organizational, operational, and programmatic capabilities and~~
26 ~~performance, including readiness of: The board of directors; compliance~~
27 ~~and oversight; financial risk management; financial liquidity and~~
28 ~~performance; infrastructure maintenance; funding sources, including~~
29 ~~state, federal, and external private funding; and operations, including~~
30 ~~reporting, staffing, evaluation, training, supervision, contract~~
31 ~~monitoring, and program performance tracking capabilities;~~

1 ~~(c) Have the ability to provide directly or by contract through a~~
2 ~~local network of providers the services required of a lead agency. A lead~~
3 ~~agency shall not directly provide more than thirty-five percent of direct~~
4 ~~services required under the contract; and~~

5 ~~(d) Provide accountability for meeting the outcomes and performance~~
6 ~~standards related to child welfare services established by Nebraska child~~
7 ~~welfare policy and the federal government.~~

8 ~~(4) Each condition of subsection (3) of this section shall be met~~
9 ~~prior to the assumption of service provision by such lead agency under~~
10 ~~this section. Nothing in this section shall prohibit the department from~~
11 ~~phasing the transition of case management services to such lead agency~~
12 ~~over a period of time.~~

13 ~~(5) The Director of Children and Family Services of the Division of~~
14 ~~Children and Family Services of the Department of Health and Human~~
15 ~~Services shall notify the Health and Human Services Committee of the~~
16 ~~Legislature when the readiness assessment required under subdivision (3)~~
17 ~~(b) of this section is complete and provide assurance that the lead~~
18 ~~agency has demonstrated full readiness, prior to the assumption of~~
19 ~~service provision by such lead agency.~~

20 Sec. 9. Section 68-1214, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 68-1214 To facilitate consistency in training all case managers and
23 allow for Title IV-E reimbursement for case manager training under Title
24 IV-E of the federal Social Security Act, as amended, the same program for
25 initial training of case managers shall be utilized for all case
26 managers, whether they are employed by the department or by an
27 organization under contract with the department. The initial training of
28 all case managers shall be provided by the department or one or more
29 organizations under contract with the department. The department shall
30 create a formal system for measuring and evaluating the quality of such
31 training. All case managers shall complete a formal assessment process

1 after initial training to demonstrate competency prior to assuming
2 responsibilities as a case manager. The training curriculum for case
3 managers shall include, but not be limited to: (1) An understanding of
4 the benefits of utilizing evidence-based and promising casework
5 practices; (2) the importance of guaranteeing service providers' fidelity
6 to evidence-based and promising casework practices; and (3) a commitment
7 to evidence-based and promising family-centered casework practices that
8 utilize a least restrictive approach for children and families.

9 Sec. 10. Section 81-3135, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-3135 On and after April 10, 2012, the Department of Health and
12 Human Services shall not reinstate a lead agency in the southeast,
13 central, western, or northern service areas of Nebraska as such service
14 areas are designated pursuant to section 81-3116.

15 On and after October 1, 2021, the department shall not reinstate a
16 lead agency in the eastern service area of Nebraska as such service area
17 is designated pursuant to section 81-3116.

18 Sec. 11. This act becomes operative on October 1, 2021.

19 Sec. 12. Original sections 43-2204, 43-4401, 43-4402, 43-4403,
20 43-4407, 68-1207, 68-1214, and 81-3135, Reissue Revised Statutes of
21 Nebraska, and sections 43-4406 and 68-1212, Revised Statutes Cumulative
22 Supplement, 2020, are repealed.

23 Sec. 13. The following sections are outright repealed: Sections
24 43-4408, 43-4409, and 68-1213, Reissue Revised Statutes of Nebraska.