

LEGISLATIVE BILL 169

Approved by the Governor February 26, 1992

Introduced by Bernard-Stevens, 42; Smith, 33; Crosby, 29

AN ACT relating to social services; to amend section 43-905, Reissue Revised Statutes of Nebraska, 1943, and section 81-8,239.01, Revised Statutes Supplement, 1991; to require the Department of Social Services to provide liability and property damage insurance and the payment of liability and property damage claims to foster parents; to state intent; to create a fund; to provide duties for the Risk Manager; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. That section 43-905, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-905. (1) The Department of Social Services shall be the legal guardian of all children committed to it. The department shall afford temporary care and shall use special diligence to provide suitable homes for such children. The department is authorized to place such children in suitable families for adoption or, in the discretion of the department, on a written contract.

(2) The contract shall provide (a) for the children's education in the public schools or otherwise, (b) for teaching them some useful occupation, and (c) for kind and proper treatment as members of the family where in which they are placed.

(3) Whenever any child who has been committed to the Nebraska Center for Children and Youth or the Department of Social Services becomes self-supporting, the director shall declare that fact and the guardianship of the department shall cease. Thereafter the child shall be entitled to his or her own earnings. Guardianship of, and services by, the Department of Social Services shall never extend beyond the age of majority, except that services by the department to a child shall continue until the child reaches the age of twenty-one if the child is a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to prepare such child for gainful employment.

(4) Whenever the parents of any ward, whose parental rights have not been terminated, have become able to support and educate their child, the department shall restore the child to ~~the~~ his or her parents, if the home of such parents would be a suitable home. The guardianship of the department shall then cease.

(5) Whenever permanent free homes for the children cannot be obtained, the department shall have the authority to provide and pay for the maintenance of the children in private families, boarding homes, or institutions for care of children.

(6) The department shall provide and pay for liability and property damage insurance for participants in a family foster parent program who have been licensed or approved by the department to provide care or who have been licensed or approved by a legally established Indian tribal council operating within the state to provide care.

Sec. 2. (1) The Legislature finds and declares that foster parents are a valuable resource providing an important service to the citizens of Nebraska. The Legislature recognizes that the current insurance crisis has adversely affected some foster parents in several ways. Foster parents have been unable to obtain liability insurance coverage over and above homeowner's or tenant's coverage for actions filed against them by the foster child, the child's parents, or the child's legal guardian. In addition, the monthly payment made to foster parents is not sufficient to cover the cost of obtaining extended coverage and there is no mechanism in place by which foster parents can recapture the cost. Foster parents' personal resources are at risk, and therefor the Legislature desires to provide relief to address these problems.

(2) There is hereby created the Foster Parent Liability and Property Damage Fund. The fund shall be administered by the Department of Social Services and shall be used to purchase any liability and property damage insurance policy provided by the department pursuant to subsection (6) of section 43-905 and reimburse foster parents for unreimbursed liability and property damage incurred or caused by a foster child as the result of acts covered by the insurance policy purchased by the department. Claims for unreimbursed liability and property damage incurred or caused by a foster child may be submitted in the manner provided in the State Miscellaneous Claims Act. Each claim shall be limited to the amount of any deductible applicable to the insurance policy provided by the Department of

Social Services pursuant to subsection (6) of section 43-905, and there may be a fifty-dollar deductible payable by the foster parent per claim. The department shall adopt and promulgate rules and regulations to carry out this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 3. That section 81-8,239.01, Revised Statutes Supplement, 1991, be amended to read as follows:

81-8,239.01. (1) For purposes of sections 44-1615, 44-1616, and 81-8,239.01 to 81-8,239.04, unless the context otherwise requires, the definition of state agencies found in section 81-8,210 shall apply, except that such term shall not include the Board of Regents of the University of Nebraska.

(2) There is hereby established a Risk Management Program for the State of Nebraska. The program shall consist of the systematic identification of exposures to risk of loss as provided in section 2 of this act and sections 11-201 to 11-203, 13-911, 25-2165, 44-1615, 44-1616, 48-194, 48-197, 48-1,103, 48-1,104, 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225, 81-8,226, 81-8,233, 81-8,239.01 to 81-8,239.07, and 81-8,300 and shall include the appropriate methods for dealing with such exposures in relation to the state budget pursuant to such sections. Such program shall be administered by the Risk Manager and shall include the operations of the State Claims Board and other operations provided in such sections.

(3) Under the Risk Management Program, the Risk Manager shall have the authority and responsibility to:

- (a) Employ any personnel necessary to administer the Risk Management Program;
- (b) Develop and maintain loss and exposure data on all state property and liability risks;
- (c) Develop and recommend risk reduction or elimination programs for the state and its agencies and establish, implement, and monitor a statewide safety program;
- (d) Determine which risk exposures shall be insured and which risk exposures shall be self-insured or assumed by the state;
- (e) Establish standards for the purchase of necessary insurance coverage or risk management services at the lowest costs, consistent with good underwriting practices and sound risk management techniques;
- (f) Be the exclusive negotiating and

contracting agency to purchase insurance or risk management services and, after consultation with the state agency for which the insurance or services are purchased, enter into such contracts on behalf of the state and its agencies, officials, and employees to the extent deemed necessary and in the best interest of the state, and authorize payment for such purchase out of the appropriate funds created by section 81-8,239.02;

(g) Determine whether the state suffered a loss for which self-insured property loss funds have been created and authorize and administer payments for such loss from the State Self-Insured Property Fund for the purpose of replacing or rebuilding state property;

(h) Perform all duties assigned to the Risk Manager under the Nebraska Workers' Compensation Act and sections 11-201 to 11-203, 81-8,239.05, 81-8,239.07, and 84-1603;

(i) Approve the use of risk management pools by any department, agency, board, bureau, commission, or council of the State of Nebraska; and

(j) Recommend to the Legislature such legislation as may be necessary to carry out the purposes of section 2 of this act and sections 11-201 to 11-203, 13-911, 25-2165, 44-1615, 44-1616, 48-194, 48-197, 48-1,103, 48-1,104, 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225, 81-8,226, 81-8,233, 81-8,239.01 to 81-8,239.07, and 81-8,300 and make appropriation requests for the administration of the Risk Management Program and the funding of the separate funds administered by the Risk Manager.

(4) No official or employee of any entity created by local public agencies pursuant to the Interlocal Cooperation Act shall be considered a state official or employee for purposes of sections 81-8,239.01 to 81-8,239.06.

Sec. 4. That original section 43-905, Reissue Revised Statutes of Nebraska, 1943, and section 81-8,239.01, Revised Statutes Supplement, 1991, are repealed.