

AMENDMENTS TO LB 820

(Amendments to E & R amendments, ER192)

Introduced by Campbell

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. (1) (a) The Title IV-E Demonstration Project
4 Committee is created. The members of the committee shall be
5 appointed by the Director of Children and Family Services or his
6 or her designee and shall include representatives of the Department
7 of Health and Human Services and representatives of child welfare
8 stakeholder entities, including one advocacy organization which
9 deals with legal and policy issues that include child welfare,
10 one advocacy organization the singular focus of which is issues
11 impacting children, two child welfare service agencies that provide
12 a wide range of child welfare services, and one entity which
13 is a lead agency as of March 1, 2012. Members of the committee
14 shall have experience or knowledge in the area of child welfare
15 that involves Title IV-E eligibility criteria and activities.
16 In addition, there shall be at least one ex officio member
17 of the committee, appointed by the State Court Administrator.
18 The ex officio member or members shall not be involved in
19 decisionmaking, implementation plans, or reporting but may attend
20 committee meetings, provide information to the committee about
21 the processes and programs of the court system involving children
22 and juveniles, and inform the State Court Administrator of the

1 committee's activities. The committee shall be convened by the
2 director within thirty days after the operative date of this
3 section.

4 (b) The committee shall review, report, and provide
5 recommendations regarding the application of the Department of
6 Health and Human Services for a demonstration project pursuant to
7 42 U.S.C. 1320a-9 to obtain a waiver as provided in 42 U.S.C.
8 1320a-9(b), as such section existed on January 1, 2012. The
9 committee may engage a consultant with expertise in Title IV-E
10 demonstration project applications and requirements.

11 (c) The committee shall (i) review Nebraska's current
12 status of Title IV-E participation and penetration rates,
13 (ii) review strategies and solutions for raising Nebraska's
14 participation rate and reimbursement for Title IV-E in child
15 placement, case management, replacement, training, adoption, court
16 findings, and proceedings, and (iii) recommend specific actions for
17 addressing barriers to participation and reimbursement.

18 (d) The committee shall provide an implementation plan
19 and a timeline for making application for a Title IV-E waiver. The
20 implementation plan shall support and align with the goals of the
21 statewide strategic plan required pursuant to Legislative Bill 821,
22 One Hundred Second Legislature, Second Session, 2012, including,
23 but not limited to, maximizing federal funding to be able to
24 utilize state and federal funding for a broad array of services for
25 children, including prevention, intervention, and community-based,
26 in-home, and out-of-home services to attain positive outcomes
27 for the safety and well-being of and to expedite permanency for

1 children. The committee shall report on its activities to the
2 Health and Human Services Committee of the Legislature on or before
3 July 1, 2012, September 1, 2012, and November 1, 2012, and shall
4 provide a final written report to the department, the Health and
5 Human Services Committee of the Legislature, and the Governor by
6 December 15, 2012.

7 (e) If the Nebraska Children's Commission is created by
8 the One Hundred Second Legislature, Second Session, 2012, the Title
9 IV-E Demonstration Project Committee shall thereupon come under
10 the commission's jurisdiction. The commission may make changes it
11 deems necessary to comply with this subsection to facilitate the
12 application for such demonstration project.

13 (2) The committee's implementation plan shall address
14 the demonstration project designed to meet the requirements of 42
15 U.S.C. 1320a-9, including, but not limited to, the following:

16 (a) Increasing permanency for children by reducing the
17 time in foster care placements when possible and promoting a
18 successful transition to adulthood for older youth;

19 (b) Increasing positive outcomes for children and
20 families in their homes and communities, including tribal
21 communities, and improving the safety and well-being of children;

22 (c) Preventing child abuse and neglect and the reentry of
23 children into foster care; and

24 (d) Considering the options of developing a program to
25 (i) permit foster care maintenance payments to be made under Title
26 IV-E of the federal Social Security Act, as such act existed on
27 January 1, 2012, to a long-term therapeutic family treatment center

1 on behalf of children residing in such a center or (ii) identify
2 and address domestic violence that endangers children and results
3 in the placement of children in foster care.

4 (3) The implementation plan for the demonstration project
5 shall include information showing:

6 (a) The ability and capacity of the department to
7 effectively use the authority to conduct a demonstration project
8 under this section by identifying changes the department has made
9 or plans to make in policies, procedures, or other elements of
10 the state's child welfare program that will enable the state to
11 successfully achieve the goal or goals of the project; and

12 (b) That the department has implemented, or plans to
13 implement within three years after the date of submission of its
14 application under this section or within two years after the date
15 on which the United States Secretary of Health and Human Services
16 approves such application, whichever is later, at least two of the
17 child welfare program improvement policies described in 42 U.S.C.
18 1320a-9(a)(7), as such section existed on January 1, 2012.

19 (4) At least one of the child welfare program improvement
20 policies to be implemented by the Department of Health and Human
21 Services under the demonstration project shall be a policy that the
22 state has not previously implemented as of the date of submission
23 of its application under this section.

24 (5) For purposes of this section, long-term therapeutic
25 family treatment center has the definition found in 42 U.S.C.
26 1320a-9(a)(8), as such section existed on January 1, 2012.

27 Sec. 2. The Department of Health and Human Services

1 shall report to the Health and Human Services Committee of the
2 Legislature by September 15, 2012, on the status of the application
3 for the demonstration project under section 1 of this act.

4 Sec. 3. On or before September 30, 2013, the Department
5 of Health and Human Services shall apply to the United States
6 Secretary of Health and Human Services for approval of a
7 demonstration project pursuant to 42 U.S.C. 1320a-9 to obtain a
8 waiver as provided in 42 U.S.C. 1320a-9(b), as such section existed
9 on January 1, 2012.

10 Sec. 4. The Legislature finds that:

11 (1) Surveys of foster parents demonstrate that the safety
12 net provided by foster families is fragile and damaged;

13 (2) Increased focus on recruiting and retaining high
14 quality, trained, and experienced foster parents should be a
15 priority under reform of the child welfare system in Nebraska;

16 (3) A 2007 study entitled Foster Care Minimum Adequate
17 Rates for Children completed by Children's Rights, the National
18 Foster Parent Association, and the University of Maryland School of
19 Social Work analyzed foster care maintenance payments under Title
20 IV-E of the federal Social Security Act, as amended, which are
21 defined as the cost of providing food, clothing, shelter, daily
22 supervision, school supplies, personal incidentals, insurance, and
23 travel for visitation with the biological family;

24 (4) The study set a basic foster care payment rate,
25 calculated by (a) analyzing consumer expenditure data reflecting
26 the costs of caring for a child, (b) identifying and accounting
27 for additional costs specific to children in foster care, and (c)

1 applying a geographic cost-of-living adjustment in order to develop
2 rates for each of the fifty states and the District of Columbia.
3 The rate includes adequate funds to meet a foster child's basic
4 physical needs and the cost of activities such as athletic and
5 artistic programs which are important for children who have been
6 traumatized or isolated by abuse, neglect, and placement in foster
7 care;

8 (5) The study found that Nebraska's foster care payment
9 rates were the lowest in the country, with an average payment of
10 two hundred twenty-six dollars per month for a child two years of
11 age. The next lowest foster care payment rate was Missouri, paying
12 two hundred seventy-one dollars per month; and

13 (6) Foster care placements with relatives are more stable
14 and more likely to result in legal guardianship with a relative
15 of the child. Children in relative placements are less likely to
16 reenter the child welfare system after reunification with their
17 parents and report that they feel more loved and less stigmatized
18 when living with family.

19 Sec. 5. (1) The Department of Health and Human Services
20 shall convene a Foster Care Reimbursement Rate Committee to develop
21 a standard statewide foster care reimbursement rate structure
22 for children in foster care in Nebraska. Such structure shall
23 include a statewide standardized level of care assessment and shall
24 tie performance with payments to achieve permanency outcomes for
25 children and families.

26 (2) The committee shall include (a) the chief
27 executive officer of the department or his or her designee, (b)

1 representatives from the Division of Children and Family Services
2 of the department from each service area designated pursuant to
3 section 81-3116, including at least one division employee with a
4 thorough understanding of the current foster care payment system
5 and at least one division employee with a thorough understanding of
6 the N-FOCUS electronic data collection system, (c) representatives
7 from a child welfare agency that contracts directly with foster
8 parents, from each of such service areas, (d) a representative
9 from an advocacy organization which deals with legal and policy
10 issues that include child welfare, (e) a representative from
11 an advocacy organization the singular focus of which is issues
12 impacting children, (f) a representative from a foster and adoptive
13 parent association, (g) a representative from a lead agency, (h)
14 a representative from a child advocacy organization that supports
15 young adults who were in foster care as children, (i) a foster
16 parent who contracts directly with the department, and (j) a foster
17 parent who contracts with a child welfare agency. The members
18 described in subdivisions (b) through (j) of this subsection shall
19 be appointed by the chief executive officer of the department. The
20 committee shall meet and organize as soon as possible after the
21 operative date of this section.

22 (3) The committee shall use the study described in
23 subdivision (3) of section 4 of this act as a beginning standard
24 for setting reimbursement rates. The committee shall adjust the
25 standard to reflect the reasonable cost of achieving measurable
26 outcomes for all children in foster care in Nebraska. The committee
27 shall (a) analyze consumer expenditure data reflecting the costs

1 of caring for a child in Nebraska, (b) identify and account for
2 additional costs specific to children in foster care, and (c)
3 apply a geographic cost-of-living adjustment for Nebraska. The
4 reimbursement rate structure shall comply with funding requirements
5 related to Title IV-E of the federal Social Security Act, as
6 amended, and other federal programs as appropriate to maximize the
7 utilization of federal funds to support foster care.

8 (4) The committee shall develop a statewide standardized
9 level of care assessment containing standardized criteria to
10 determine a foster child's placement needs and to appropriately
11 identify the foster care reimbursement rate. The committee
12 shall review other states' assessment models and foster care
13 reimbursement rate structures in completing the statewide
14 standardized level of care assessment and the standard statewide
15 foster care reimbursement rate structure. The statewide
16 standardized level of care assessment shall be research-based,
17 supported by evidence-based practices, and reflect the commitment
18 to systems of care and a trauma-informed, child-centered,
19 family-involved, coordinated process. The committee shall develop
20 the statewide standardized level of care assessment and the
21 standard statewide foster care reimbursement rate structure in a
22 manner that provides incentives to tie performance in achieving
23 the goals of safety, maintaining family connection, permanency,
24 stability, and well-being to reimbursements received.

25 (5) The committee shall provide written reports to the
26 Health and Human Services Committee of the Legislature on July 1,
27 2012, and September 15, 2012, and a final report to the committee

1 and the Governor, with recommendations for the statewide level
2 of care assessment system and the foster care reimbursement rate
3 structure, on December 15, 2012.

4 (6) If the Nebraska Children's Commission is created
5 by the One Hundred Second Legislature, Second Session, 2012, the
6 Foster Care Reimbursement Rate Committee shall immediately come
7 under the commission's jurisdiction. The commission may make any
8 changes necessary to comply with sections 4 to 6 of this act.

9 Sec. 6. In recognition of Nebraska foster parents'
10 essential contribution to the safety and well being of Nebraska's
11 foster children and the need for additional compensation for the
12 services provided by Nebraska foster parents while the Foster Care
13 Reimbursement Rate Committee completes its duties under section
14 5 of this act, beginning July 1, 2012, through June 30, 2013,
15 all foster parents providing foster care in Nebraska, including
16 traditional, agency-based, licensed, approved, relative placement,
17 and child-specific foster care, shall receive an additional stipend
18 of three dollars and ten cents per day per child. The stipend
19 shall be in addition to the current foster care reimbursement rates
20 for relatives and foster parents contracting with the Department
21 of Health and Human Services and in addition to the relative and
22 tiered rate paid to a contractor for agency-based foster parents.
23 The additional stipend shall be paid monthly through the agency
24 that is contracting with the foster parent or, in the case of a
25 foster parent contracting with the department, directly from the
26 department. The contracting agency shall receive an administrative
27 fee of twenty-five cents per child per day for processing the

1 payments for the benefit of the foster parents and the state,
2 which administrative fee shall be paid monthly by the state. The
3 administrative fee shall not reduce the stipend of three dollars
4 and ten cents provided by this section.

5 Sec. 7. Section 71-1902, Revised Statutes Supplement,
6 2011, is amended to read:

7 71-1902 (1) Except as otherwise provided in this section,
8 no person shall furnish or offer to furnish foster care for
9 ~~two~~ one or more children ~~from different families~~ not related
10 to such person by blood, marriage, or adoption without having
11 in full force and effect a written license issued by the
12 department upon such terms and conditions as may be prescribed
13 by general rules and regulations adopted and promulgated by the
14 department. The department may issue a time-limited, nonrenewable
15 provisional license to an applicant who is unable to comply
16 with all licensure requirements and standards, is making a good
17 faith effort to comply, and is capable of compliance within the
18 time period stated in the license. The department may issue a
19 time-limited, nonrenewable probationary license to a licensee who
20 agrees to establish compliance with rules and regulations that,
21 when violated, do not present an unreasonable risk to the health,
22 safety, or well-being of the foster children in the care of the
23 applicant. No license shall be issued pursuant to this section
24 unless the applicant has completed the required hours of training
25 in foster care as prescribed by the department.

26 (2) All nonprovisional and nonprobationary licenses
27 issued under sections 71-1901 to 71-1906.01 shall expire two years

1 from the date of issuance and shall be subject to renewal under the
2 same terms and conditions as the original license, except that if
3 a licensee submits a completed renewal application thirty days or
4 more before the license's expiration date, the license shall remain
5 in effect until the department either renews the license or denies
6 the renewal application. No license issued pursuant to this section
7 shall be renewed unless the licensee has completed the required
8 hours of training in foster care in the preceding twelve months as
9 prescribed by the department. For the issuance or renewal of each
10 nonprovisional and nonprobationary license, the department shall
11 charge a fee of fifty dollars for a group home, fifty dollars for a
12 child-caring agency, and fifty dollars for a child-placing agency.
13 For the issuance of each provisional license and each probationary
14 license, the department shall charge a fee of twenty-five dollars
15 for a group home, twenty-five dollars for a child-caring agency,
16 and twenty-five dollars for a child-placing agency. A license may
17 be revoked for cause, after notice and hearing, in accordance with
18 rules and regulations adopted and promulgated by the department.

19 (3) For purposes of this section:

20 ~~(1)~~ (a) Foster family home means any home which provides
21 twenty-four-hour care to children who are not related to the foster
22 parent by blood, marriage, or adoption;

23 ~~(2)~~ (b) Group home means a home which is operated under
24 the auspices of an organization which is responsible for providing
25 social services, administration, direction, and control for the
26 home and which is designed to provide twenty-four-hour care for
27 children and youth in a residential setting;

1 ~~(3)~~ (c) Child-caring agency means an organization which
2 is organized as a corporation or a limited liability company for
3 the purpose of providing care for children in buildings maintained
4 by the organization for that purpose; and

5 ~~(4)~~ (d) Child-placing agency means an organization which
6 is authorized by its articles of incorporation and by its license
7 to place children in foster family homes.

8 Sec. 8. Sections 7 and 9 of this act become operative on
9 July 1, 2012. The other sections of this act become operative on
10 their effective date.

11 Sec. 9. Original section 71-1902, Revised Statutes
12 Supplement, 2011, is repealed.

13 Sec. 10. Since an emergency exists, this act takes effect
14 when passed and approved according to law.