

E AND R AMENDMENTS TO LB 177

Introduced by Larson, 40, Chairperson Enrollment and Review

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

3 Section 1. Section 43-285, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 43-285 (1) When the court awards a juvenile to the care
6 of the Department of Health and Human Services, an association,
7 or an individual in accordance with the Nebraska Juvenile Code,
8 the juvenile shall, unless otherwise ordered, become a ward and
9 be subject to the guardianship of the department, association,
10 or individual to whose care he or she is committed. Any such
11 association and the department shall have authority, by and
12 with the assent of the court, to determine the care, placement,
13 medical services, psychiatric services, training, and expenditures
14 on behalf of each juvenile committed to it. Such guardianship shall
15 not include the guardianship of any estate of the juvenile.

16 (2) Following an adjudication hearing at which a juvenile
17 is adjudged to be under subdivision (3) of section 43-247, the
18 court may order the department to prepare and file with the court
19 a proposed plan for the care, placement, services, and permanency
20 which are to be provided to such juvenile and his or her family.
21 The health and safety of the juvenile shall be the paramount
22 concern in the proposed plan. The department shall include in the
23 plan for a juvenile who is sixteen years of age or older and

1 subject to the guardianship of the department a written proposal
2 describing programs and services designed to assist the juvenile in
3 acquiring independent living skills. independent living transition
4 proposal which meets the requirements of section 8 of this act.
5 If any other party, including, but not limited to, the guardian
6 ad litem, parents, county attorney, or custodian, proves by a
7 preponderance of the evidence that the department's plan is not
8 in the juvenile's best interests, the court shall disapprove the
9 department's plan. The court may modify the plan, order that an
10 alternative plan be developed, or implement another plan that is
11 in the juvenile's best interests. In its order the court shall
12 include a finding regarding the appropriateness of the programs and
13 services described in the proposal designed to assist the juvenile
14 in acquiring independent living skills. Rules of evidence shall not
15 apply at the dispositional hearing when the court considers the
16 plan that has been presented.

17 (3) Within thirty days after an order awarding a juvenile
18 to the care of the department, an association, or an individual
19 and until the juvenile reaches the age of majority, the department,
20 association, or individual shall file with the court a report
21 stating the location of the juvenile's placement and the needs of
22 the juvenile in order to effectuate the purposes of subdivision
23 (1) of section 43-246. The department, association, or individual
24 shall file a report with the court once every six months or at
25 shorter intervals if ordered by the court or deemed appropriate
26 by the department, association, or individual. The department,
27 association, or individual shall file a report and notice of

1 placement change with the court and shall send copies of the
2 notice to all interested parties at least seven days before the
3 placement of the juvenile is changed from what the court originally
4 considered to be a suitable family home or institution to some
5 other custodial situation in order to effectuate the purposes of
6 subdivision (1) of section 43-246. The court, on its own motion
7 or upon the filing of an objection to the change by an interested
8 party, may order a hearing to review such a change in placement
9 and may order that the change be stayed until the completion of
10 the hearing. Nothing in this section shall prevent the court on
11 an ex parte basis from approving an immediate change in placement
12 upon good cause shown. The department may make an immediate change
13 in placement without court approval only if the juvenile is in a
14 harmful or dangerous situation or when the foster parents request
15 that the juvenile be removed from their home. Approval of the court
16 shall be sought within twenty-four hours after making the change in
17 placement or as soon thereafter as possible. The department shall
18 provide the juvenile's guardian ad litem with a copy of any report
19 filed with the court by the department pursuant to this subsection.

20 (4) The court shall also hold a permanency hearing if
21 required under section 43-1312.

22 (5) When the court awards a juvenile to the care of the
23 department, an association, or an individual, then the department,
24 association, or individual shall have standing as a party to file
25 any pleading or motion, to be heard by the court with regard to
26 such filings, and to be granted any review or relief requested in
27 such filings consistent with the Nebraska Juvenile Code.

1 (6) Whenever a juvenile is in a foster care placement as
2 defined in section 43-1301, the State Foster Care Review Board may
3 participate in proceedings concerning the juvenile as provided in
4 section 43-1313 and notice shall be given as provided in section
5 43-1314.

6 (7) Any written findings or recommendations of the State
7 Foster Care Review Board or any designated local foster care
8 review board with regard to a juvenile in a foster care placement
9 submitted to a court having jurisdiction over such juvenile shall
10 be admissible in any proceeding concerning such juvenile if such
11 findings or recommendations have been provided to all other parties
12 of record.

13 (8) Any member of the State Foster Care Review Board,
14 any of its agents or employees, or any member of any local foster
15 care review board participating in an investigation or making any
16 report pursuant to the Foster Care Review Act or participating in a
17 judicial proceeding pursuant to this section shall be immune from
18 any civil liability that would otherwise be incurred except for
19 false statements negligently made.

20 Sec. 2. Section 43-905, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-905 (1) The Department of Health and Human Services
23 shall be the legal guardian of all children committed to
24 it. The department shall afford temporary care and shall use
25 special diligence to provide suitable homes for such children.
26 The department shall make reasonable efforts to accomplish
27 joint-sibling placement or sibling visitation or ongoing

1 interaction between siblings as provided in section 7 of this act.

2 The department is authorized to place such children in suitable
3 families for adoption, foster care, or guardianship or, in the
4 discretion of the department, on a written contract.

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

9 (3) Whenever any child who has been committed to the
10 department becomes self-supporting, the department shall declare
11 that fact and the guardianship of the department shall cease.
12 Thereafter the child shall be entitled to his or her own earnings.

13 Guardianship of and services by the department shall never extend
14 beyond the age of majority, except that services by the department
15 to a child shall continue until the child reaches the age of
16 twenty-one if the child is a student regularly attending a
17 school, college, or university or regularly attending a course
18 of vocational or technical training designed to prepare such child
19 for gainful employment.

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

25 (5) Whenever permanent free homes for the children cannot
26 be obtained, the department shall have the authority to provide and
27 pay for the maintenance of the children in private families, in

1 foster care, in guardianship, in boarding homes, or in institutions
2 for care of children.

3 Sec. 3. Section 43-1301, Reissue Revised Statutes of
4 Nebraska, is amended to read:

43-1301 For purposes of the Foster Care Review Act,
unless the context otherwise requires:

1 by and with the assent of the court to place such a child in a
2 suitable family home or institution or has been entrusted with
3 the care of the child by a voluntary placement made by a parent
4 or legal guardian, (b) the court which has jurisdiction over
5 the child, or (c) the entity having jurisdiction over the child
6 pursuant to the Nebraska Indian Child Welfare Act;

7 (6) Voluntary placement shall mean the placement by a
8 parent or legal guardian who relinquishes the possession and care
9 of a child to a third party, individual, or agency;

10 (7) Family unit shall mean the social unit consisting of
11 the foster child and the parent or parents or any person in the
12 relationship of a parent, including a grandparent, and any siblings
13 with whom the foster child legally resided prior to placement
14 in foster care, except that for purposes of potential sibling
15 placement, the child's family unit shall also include the child's
16 siblings even if the child has not resided with such siblings prior
17 to placement in foster care;

18 (8) Child-caring agency shall have the definition found
19 in section 71-1902; and

20 (9) Child-placing agency shall have the definition found
21 in section 71-1902; and-

22 (10) Siblings means biological siblings and legal
23 siblings, including, but not limited to, half-siblings and
24 stepsiblings.

25 Sec. 4. Section 43-1311, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 43-1311 Except as otherwise provided in the Nebraska

1 Indian Child Welfare Act, immediately following removal of a child
2 from his or her home pursuant to section 43-284, the person or
3 court in charge of the child shall:

4 (1) Conduct or cause to be conducted an investigation
5 of the child's circumstances designed to establish a safe and
6 appropriate plan for the rehabilitation of the foster child and
7 family unit or permanent placement of the child;

8 (2) Require that the child receive a medical examination
9 within two weeks of his or her removal from his or her home;

10 (3) Subject the child to such further diagnosis and
11 evaluation as is necessary; and

12 (4) Require that the child attend the same school as
13 prior to the foster care placement unless the person or court in
14 charge determines that attending such school would not be in the
15 best interests of the child; and.

16 (5) Notify the Department of Health and Human Services
17 to identify, locate, and provide written notification to adult
18 relatives of the child as provided in section 6 of this act.

19 Sec. 5. Section 43-1312, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-1312 (1) Following the investigation conducted
22 pursuant to section 43-1311 and immediately following the initial
23 placement of the child, the person or court in charge of the child
24 shall cause to be established a safe and appropriate plan for the
25 child. The plan shall contain at least the following:

26 (a) The purpose for which the child has been placed in
27 foster care;

1 (b) The estimated length of time necessary to achieve the
2 purposes of the foster care placement;

3 (c) A description of the services which are to be
4 provided in order to accomplish the purposes of the foster care
5 placement;

6 (d) The person or persons who are directly responsible
7 for the implementation of such plan;

8 (e) A complete record of the previous placements of the
9 foster child; and

10 (f) The name of the school the child shall attend as
11 provided in section 43-1311.

12 (2) If the return of the child to his or her parents
13 is not likely based upon facts developed as a result of the
14 investigation, the Department of Health and Human Services shall
15 recommend termination of parental rights and referral for adoption,
16 guardianship, placement with a relative, or, as a last resort,
17 another planned permanent living arrangement. If the child is
18 removed from his or her home, the department shall make reasonable
19 efforts to accomplish joint-sibling placement or sibling visitation
20 or ongoing interaction between the siblings as provided in section
21 7 of this act.

22 (3) Each child in foster care under the supervision of
23 the state shall have a permanency hearing by a court, no later
24 than twelve months after the date the child enters foster care
25 and annually thereafter during the continuation of foster care. The
26 court's order shall include a finding regarding the appropriateness
27 of the permanency plan determined for the child and shall include

1 whether, and if applicable when, the child will be:

2 (a) Returned to the parent;

3 (b) Referred to the state for filing of a petition for

4 termination of parental rights;

5 (c) Placed for adoption;

6 (d) Referred for guardianship; or

7 (e) In cases where the state agency has documented to the

8 court a compelling reason for determining that it would not be in

9 the best interests of the child to return home, (i) referred for

10 termination of parental rights, (ii) placed for adoption with a fit

11 and willing relative, or (iii) placed with a kinship guardian or

12 guardian.

13 Sec. 6. (1) When notified pursuant to section 43-1311

14 or upon voluntary placement of a child, the Department of Health

15 and Human Services shall, as provided in this section, identify,

16 locate, and provide written notification of the removal of the

17 child from his or her home, within thirty days after removal, to

18 any noncustodial parent and to all grandparents, adult siblings,

19 adult aunts, adult uncles, adult cousins, and adult relatives

20 suggested by the child or the child's parents, except when

21 that relative's history of family or domestic violence makes

22 notification inappropriate. If the child is Native American, the

23 child's extended family members as defined in section 43-1503 shall

24 be notified. Such notification shall include all of the following

25 information:

26 (a) The child has been or is being removed from the

27 custody of the parent or parents of the child;

1 (b) An explanation of the options the relative has under
2 federal, state, and local law to participate in the care and
3 placement of the child, including any options that may be lost by
4 failing to respond to the notice;

5 (c) A description of the requirements for the relative to
6 serve as a foster care provider or other type of care provider for
7 the child and the additional services, training, and other support
8 available for children receiving such care; and

9 (d) Information concerning the option to apply for
10 kinship guardianship assistance payments.

11 (2) The department shall investigate the names and
12 locations of the relatives, including, but not limited to, asking
13 the child in an age-appropriate manner about relatives important to
14 the child and obtaining information regarding the location of the
15 relatives.

16 (3) The department shall provide to the court, within
17 thirty calendar days after removal of the child, the names and
18 relationship to the child of all relatives contacted, the method of
19 contact, and the responses received from the relatives.

20 Sec. 7. (1) (a) Reasonable efforts shall be made to place
21 a child and the child's siblings in the same foster care placement
22 or adoptive placement, unless such placement is contrary to the
23 safety or well-being of any of the siblings. This requirement
24 applies even if the custody orders of the siblings are made at
25 separate times.

26 (b) If the siblings are not placed together in a
27 joint-sibling placement, the department shall provide the siblings

1 and the court with the reasons why a joint-sibling placement would
2 be contrary to the safety or well-being of any of the siblings.

3 (2) When siblings are not placed together in a
4 joint-sibling placement, the department shall make a reasonable
5 effort to provide for frequent sibling visitation or ongoing
6 interaction between the child and the child's siblings unless the
7 department provides the siblings and the court with reasons why
8 such sibling visitation or ongoing interaction would be contrary to
9 the safety or well-being of any of the siblings. The court shall
10 determine the type and frequency of sibling visitation or ongoing
11 interaction to be implemented by the department.

12 (3) Parties to the case may file a motion for
13 joint-sibling placement, sibling visitation, or ongoing interaction
14 between siblings.

15 (4) The court shall periodically review and evaluate the
16 effectiveness and appropriateness of the joint-sibling placement,
17 sibling visitation, or ongoing interaction between siblings.

18 (5) If an order is entered for termination of parental
19 rights of siblings who are subject to this section, unless
20 the court has suspended or terminated joint-sibling placement,
21 sibling visitation, or ongoing interaction between siblings, the
22 department shall make reasonable efforts to make a joint-sibling
23 placement or do all of the following to facilitate frequent
24 sibling visitation or ongoing interaction between the child and the
25 child's siblings when the child is adopted or enters a permanent
26 placement: (a) Include in the training provided to prospective
27 adoptive parents information regarding the importance of sibling

1 relationships to an adopted child and counseling methods for
2 maintaining sibling relationships; (b) provide prospective adoptive
3 parents with information regarding the child's siblings; and (c)
4 encourage prospective adoptive parents to plan for facilitating
5 post-adoption contact between the child and the child's siblings.

6 (6) Any information regarding court-ordered or authorized
7 joint-sibling placement, sibling visitation, or ongoing interaction
8 between siblings shall be provided by the department to the parent
9 or parents if parental rights have not been terminated unless the
10 court determines that doing so would be contrary to the safety
11 or well-being of the child and to the foster parent, relative
12 caretaker, guardian, prospective adoptive parent, and child as soon
13 as reasonably possible following the entry of the court order or
14 authorization as necessary to facilitate the sibling time.

15 Sec. 8. (1) When a child placed in foster care turns
16 sixteen years of age or enters foster care and is at least sixteen
17 years of age, a written independent living transition proposal
18 shall be developed by the Department of Health and Human Services
19 at the direction and involvement of the child to prepare for the
20 transition from foster care to adulthood. The transition proposal
21 shall be personalized based on the child's needs. The transition
22 proposal shall include, but not be limited to, the following needs:

23 (a) Education;
24 (b) Employment services and other workforce support;
25 (c) Health and health care coverage;
26 (d) Financial assistance, including education on credit
27 card financing, banking, and other services;

1 (e) Housing;
2 (f) Relationship development; and
3 (g) Adult services, if the needs assessment indicates
4 that the child is reasonably likely to need or be eligible for
5 services or other support from the adult services system.

6 (2) The transition proposal shall be developed and
7 frequently reviewed by the department in collaboration with the
8 child's transition team. The transition team shall be comprised
9 of the child, the child's caseworker, the child's guardian ad
10 litem, individuals selected by the child, and individuals who have
11 knowledge of services available to the child.

12 (3) The transition proposal shall be considered a working
13 document and shall be, at the least, updated for and reviewed at
14 every permanency or review hearing by the court.

15 (4) The final transition proposal prior to the child's
16 leaving foster care shall specifically identify how the need for
17 housing will be addressed.

18 (5) If the child is interested in pursuing higher
19 education, the transition proposal shall provide for the process in
20 applying for any applicable state, federal, or private aid.

21 (6) On or before the date the child reaches nineteen
22 years of age, the department shall provide the child a certified
23 copy of the child's birth certificate and facilitate securing a
24 federal social security card when the child is eligible for such
25 card. All fees associated with securing the certified copy shall be
26 waived by the state.

27 Sec. 9. Section 43-1318, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-1318 Sections 43-1301 to 43-1318 and sections 6 to 8
3 of this act shall be known and may be cited as the Foster Care
4 Review Act.

5 Sec. 10. Section 68-1202, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 68-1202 Social services may be provided on behalf of
8 recipients with payments for such social services made directly
9 to vendors. Social services shall include those mandatory and
10 optional services to former, present, or potential social services
11 recipients provided for under the federal Social Security Act,
12 as such act existed on September 4, 2005, amended, and described
13 by the State of Nebraska in the approved State Plan for
14 Services. Such services may include, but shall not be limited to,
15 foster care for children, child care, family planning, treatment
16 for alcoholism and drug addiction, treatment for persons with
17 mental retardation, health-related services, protective services
18 for children, homemaker services, employment services, foster
19 care for adults, protective services for adults, transportation
20 services, home management and other functional education services,
21 housing improvement services, legal services, adult day services,
22 home delivered or congregate meals, educational services, and
23 secondary prevention services, including, but not limited to, home
24 visitation, child screening and early intervention, and parenting
25 education programs.

26 Sec. 11. Section 68-1204, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 68-1204 (1) For the purpose of providing or purchasing
2 social services described in section 68-1202, the state hereby
3 accepts and assents to all applicable provisions of the federal
4 Social Security Act, as such act existed on July 1, 2006.
5 amended. The Department of Health and Human Services may adopt
6 and promulgate rules and regulations, enter into agreements, and
7 adopt fee schedules with regard to social services described in
8 section 68-1202.

9 (2) The department shall adopt and promulgate rules
10 and regulations to administer funds under Title XX of the
11 federal Social Security Act, as such title existed on July 1,
12 2006, amended, designated for specialized developmental disability
13 services.

14 Sec. 12. Original sections 43-905, 43-1301, 43-1311,
15 43-1312, 43-1318, 68-1202, and 68-1204, Reissue Revised Statutes
16 of Nebraska, and section 43-285, Revised Statutes Cumulative
17 Supplement, 2010, are repealed.

18 2. On page 1, strike beginning with "foster" in line
19 1 through line 12 and insert "health and human services; to
20 amend sections 43-905, 43-1301, 43-1311, 43-1312, 43-1318, 68-1202,
21 and 68-1204, Reissue Revised Statutes of Nebraska, and section
22 43-285, Revised Statutes Cumulative Supplement, 2010; to provide
23 for a written independent living transition proposal for children
24 in foster care; to provide for notification of relatives when a
25 child is removed from his or her home; to require reasonable
26 efforts for joint-sibling placement or sibling visitation or
27 ongoing interactions; to change provisions relating to placement

ER83
LB177
NPN-04/07/2011

ER83
LB177
NPN-04/07/2011

- 1 of children and the purchase and provision of social services; to
- 2 harmonize provisions; and to repeal the original sections.".