

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1172**

Introduced by Pirsch, 4.

Read first time January 19, 2012

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to children; to amend section 43-292.02, Reissue
- 2 Revised Statutes of Nebraska; to provide an additional
- 3 ground for termination of parental rights; and to repeal
- 4 the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 43-292.02, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-292.02 (1) A petition shall be filed on behalf of the  
4 state to terminate the parental rights of the juvenile's parents or,  
5 if such a petition has been filed by another party, the state shall  
6 join as a party to the petition, and the state shall concurrently  
7 identify, recruit, process, and approve a qualified family for an  
8 adoption of the juvenile, if:

9           (a) A juvenile has been in foster care under the  
10 responsibility of the state for fifteen or more months of the most  
11 recent twenty-two months; ~~or~~

12           (b) A juvenile five years of age or younger has been in  
13 out-of-home care for twelve or more consecutive months; or

14           ~~(b)~~(c) A court of competent jurisdiction has determined  
15 the juvenile to be an abandoned infant or has made a determination  
16 that the parent has committed murder of another child of the parent,  
17 committed voluntary manslaughter of another child of the parent,  
18 aided or abetted, attempted, conspired, or solicited to commit  
19 murder, or aided or abetted voluntary manslaughter of the juvenile or  
20 another child of the parent, or committed a felony assault that has  
21 resulted in serious bodily injury to the juvenile or another minor  
22 child of the parent. For purposes of this subdivision, infant means a  
23 child eighteen months of age or younger.

24           (2) A petition shall not be filed on behalf of the state  
25 to terminate the parental rights of the juvenile's parents or, if

1 such a petition has been filed by another party, the state shall not  
2 join as a party to the petition if the sole factual basis for the  
3 petition is that (a) the parent or parents of the juvenile are  
4 financially unable to provide health care for the juvenile or (b) the  
5 parent or parents of the juvenile are incarcerated. The fact that a  
6 qualified family for an adoption of the juvenile has been identified,  
7 recruited, processed, and approved shall have no bearing on whether  
8 parental rights shall be terminated.

9 (3) The petition is not required to be filed on behalf of  
10 the state or if a petition is filed the state shall not be required  
11 to join in a petition to terminate parental rights or to concurrently  
12 find a qualified family to adopt the juvenile under this section if:

13 (a) The child is being cared for by a relative;

14 (b) The Department of Health and Human Services has  
15 documented in the case plan or permanency plan, which shall be  
16 available for court review, a compelling reason for determining that  
17 filing such a petition would not be in the best interests of the  
18 juvenile; or

19 (c) The family of the juvenile has not had a reasonable  
20 opportunity to avail themselves of the services deemed necessary in  
21 the case plan or permanency plan approved by the court if reasonable  
22 efforts to preserve and reunify the family are required under section  
23 43-283.01.

24 Sec. 2. Original section 43-292.02, Reissue Revised  
25 Statutes of Nebraska, is repealed.