

LEGISLATIVE BILL 648

Approved by the Governor May 4, 2011

Introduced by Christensen, 44.

FOR AN ACT relating to child placement; to amend sections 43-1314 and 71-1902, Reissue Revised Statutes of Nebraska, and section 43-285, Revised Statutes Cumulative Supplement, 2010; to change provisions relating to juvenile care and placement plans and foster care placement; to change foster care licensure requirements for child-caring agencies; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

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

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

(2) Following an adjudication hearing at which a juvenile is adjudged to be under subdivision (3) of section 43-247, the court may order the department to prepare and file with the court a proposed plan for the care, placement, services, and permanency which are to be provided to such juvenile and his or her family. The health and safety of the juvenile shall be the paramount concern in the proposed plan. The department shall include in the plan for a juvenile who is sixteen years of age or older and subject to the guardianship of the department a written proposal describing programs and services designed to assist the juvenile in acquiring independent living skills. ~~If any other party, including, but not limited to, the guardian ad litem, parents, county attorney, or custodian, proves by a preponderance of the evidence that the department's plan is not in the juvenile's best interests, the court shall disapprove the department's plan.~~ The court may approve the plan, modify the plan, order that an alternative plan be developed, or implement another plan that is in the juvenile's best interests. In its order the court shall include a finding regarding the appropriateness of the programs and services described in the proposal designed to assist the juvenile in acquiring independent living skills. Rules of evidence shall not apply at the dispositional hearing when the court considers the plan that has been presented.

(3) Within thirty days after an order awarding a juvenile to the care of the department, an association, or an individual and until the juvenile reaches the age of majority, the department, association, or individual shall file with the court a report stating the location of the juvenile's placement and the needs of the juvenile in order to effectuate the purposes of subdivision (1) of section 43-246. The department, association, or individual shall file a report with the court once every six months or at shorter intervals if ordered by the court or deemed appropriate by the department, association, or individual. The department, association, or individual shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties at least seven days before the placement of the juvenile is changed from what the court originally considered to be a suitable family home or institution to some other custodial situation in order to effectuate the purposes of subdivision (1) of section 43-246. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change in placement and may order that the change be stayed until the completion of the hearing. Nothing in this section shall prevent the court on an ex parte basis from approving an immediate change in placement upon good cause shown. The department may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation or when the foster parents request that the juvenile be removed from their home. Approval of the court shall be sought within twenty-four hours after making the change in placement or as soon thereafter as possible. The department shall provide the juvenile's guardian ad litem with a copy of any report filed with the court by the department pursuant to this subsection.

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

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

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

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

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

Sec. 2. Section 43-1314, Reissue Revised Statutes of Nebraska, is amended to read:

43-1314 (1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, notice of the court review or hearing and the right of participation in all court reviews and hearings pertaining to a child in a foster care placement shall be provided by the court having jurisdiction over such child for the purposes of foster care placement. The Department of Health and Human Services or contract agency shall have the contact information for all child placements available for all courts to comply with the notification requirements found in this section. The department or contract agency shall each have one telephone number by which any court seeking to provide notice may obtain up-to-date contact information of all persons listed in subdivisions (2) (a) through (h) of this section. All contact information shall be up-to-date within seventy-two hours of any placement change, either in court, by mail, or in such other manner as the court may direct. Such notice

(2) Notice shall be provided to all of the following parties that are applicable to the case: ~~(1)~~ (a) The person charged with the care of such child; ~~(2)~~ (b) the child's parents or guardian unless the parental rights of the parents have been terminated by court action as provided in section 43-292 or 43-297; ~~(3)~~ (c) the foster child if age fourteen or over; ~~(4)~~ (d) the foster parent or parents of the foster child; ~~(5)~~ (e) the guardian ad litem of the foster child; ~~(6)~~ (f) the state board; ~~(7)~~ (g) the preadoptive parent; and ~~(8)~~ (h) the relative providing care for the child. Notice of all court reviews and hearings shall be mailed or personally delivered to the counsel or party, if the party is not represented by counsel, five full days prior to the review or hearing. The use of ordinary mail shall constitute sufficient compliance. Notice to the foster parent, preadoptive parent, or relative providing care shall not be construed to require that such foster parent, preadoptive parent, or relative is a necessary party to the review or hearing.

(3) The court may shall inquire into the well-being of the foster child by asking questions, if present at the hearing, of the any willing foster parent, preadoptive parent, or relative providing care for the child.

Sec. 3. Section 71-1902, Reissue Revised Statutes of Nebraska, is amended to read:

71-1902 Except as otherwise provided in this section, no person shall furnish or offer to furnish foster care for two or more children from different families without having in full force and effect a written license issued by the department upon such terms and conditions as may be prescribed by general rules and regulations adopted and promulgated by the department. The department may issue a time-limited, nonrenewable provisional license to an applicant who is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the time period stated in the license. The department may issue a time-limited, nonrenewable probationary license to a licensee who agrees to establish compliance with rules and regulations that, when violated, do not present an unreasonable risk to the health, safety, or well-being of the foster children in the care of the applicant. No license shall be issued

pursuant to this section unless the applicant has completed the required hours of training in foster care as prescribed by the department.

All nonprovisional and nonprobationary licenses issued under sections 71-1901 to 71-1906.01 shall expire two years from the date of issuance and shall be subject to renewal under the same terms and conditions as the original license, except that if a licensee submits a completed renewal application thirty days or more before the license's expiration date, the license shall remain in effect until the department either renews the license or denies the renewal application. No license issued pursuant to this section shall be renewed unless the licensee has completed the required hours of training in foster care in the preceding twelve months as prescribed by the department. For the issuance or renewal of each nonprovisional and nonprobationary license, the department shall charge a fee of fifty dollars for a group home, fifty dollars for a child-caring agency, and fifty dollars for a child-placing agency. For the issuance of each provisional license and each probationary license, the department shall charge a fee of twenty-five dollars for a group home, twenty-five dollars for a child-caring agency, and twenty-five dollars for a child-placing agency. A license may be revoked for cause, after notice and hearing, in accordance with rules and regulations adopted and promulgated by the department.

For purposes of this section:

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

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

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

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

Sec. 4. Original sections 43-1314 and 71-1902, Reissue Revised Statutes of Nebraska, and section 43-285, Revised Statutes Cumulative Supplement, 2010, are repealed.