

ONE HUNDRED THIRD LEGISLATURE - SECOND SESSION - 2014

COMMITTEE STATEMENT

LB908

Hearing Date: Wednesday January 29, 2014
Committee On: Judiciary
Introducer: Coash
One Liner: Change child guardianship, ward, and adoption for child out of wedlock provisions

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Ashford, Chambers, Christensen, Coash, Davis, Lathrop, McGill, Seiler

Nay:

Absent:

Present Not Voting:

Proponents:

SEN. COLBY COASH
SARAH FORREST
SUSAN SAPP
KELLY TOLLEFSON
KIM ANDERSON
MICHELLE WARNER
SARAH HELVEY

Representing:

INTRODUCER
VOICES FOR CHILDREN
AMERICAN ACADEMY OF ADOPTION ATTORNEYS
KELLY TOLLEFSEN LAW OFFICES
NE CHILDREN'S HOME SOCIETY
NE ADOPTION AGENCIES ASSOCI.
NEBRASKA APPLESEED

Opponents:

Representing:

Neutral:

THOMAS PRISTOW

Representing:

DHHS

Summary of purpose and/or changes:

Summary: LB908 would generally make three changes. The bill would provide for permanent guardianship proceedings for a child adjudicated under 43-247(3)(a), would amend time of filing provisions of a Notice of Objection to Adoption and Intent to Obtain Custody by the biological father, and would provide for a definition of "abandonment."

Sec 1: would amend 30-2608(d) to provide for the appointment of a guardian for a child who is adjudicated under subdivision (3)(a) of 43-247.

Sec 2: would amend the time of filing of a Notice of Objection to Adoption and Intent to Obtain Custody by the biological father from within five business days after the birth of the child to any time during the pregnancy through no later than five days after the birth of the child.

Sec 3: would provide for a definition of the term "abandonment" for the purposes of the Juvenile Code. The term would be defined as a parent's intentionally withholding from a child, without just cause or excuse, the parent's presence, care, love, protection, and maintenance and the opportunity for the display of parental affection for the child.

Sec 4: would provide that payments under 43-4511 and 43-4514 made on behalf of a child not terminate after the child's nineteenth birthday.

Sec 5: would strike 43-285(2)(a) as they are no longer applicable due to the passage of LB561(2013).

Sec 6: would provide that whenever a free permanent home for a child cannot be obtained, DHHS may provide subsidies to adoptive and guardianship families subject to a hearing and court approval. Section 6 would also strike "guardianship" and replace it with "legal custody and care" with respect to DHHS' relationship to the child.

Sec 7: would amend section 71-824 which provides for the instances where DHHS shall provide post-adoption and post-guardianship case management services for adoptive and guardianship families of former state wards on a voluntary basis. LB908 would amend the section to include that when extended guardianship assistance payments under 43-4511 or 43-4514 are terminated, the voluntary case management services can be terminated.

Sec 8: would provide that where the permanency plan does not recommend return of the child to his or her parent the child be placed for adoption, may place the child in a guardianship in a relative home, a kinship home, or with an individual as provided in 43-285 if: the child has been adjudicated under (3)(a) of 43-247, the child has been in the placement for at least six months, the child consents to the guardianship if the child is ten or older, and the guardian meets minimum requirements as proposed.

Section 8 would also set out the requirements for the judge's order and give the juvenile court jurisdiction over the juvenile for the purposes of a modification or termination of the guardianship order. The bill would provide that permanency reviews and case reviews be discontinued and that DHHS shall be relieved of the responsibility of supervising the placement of the child. The child shall remain in the custody of the guardian unless the court modifies the order and it shall terminate upon the child's nineteenth (19) birthday unless the child is eligible for continued guardian assistance payments and an agreement is signed by by DHHS and the guardian to continue the guardianship assistance. The bill would provide that there shall be no legal authority to make decisions on behalf of the juvenile, or more authority over the person or property of the of the child upon the child's nineteenth birthday regardless of any agreement to extend the guardianship until the child's twenty-first birthday.

The guardianship does not terminate the parent-child relationship, the right of the child to inherit from his or her parents, or the responsibility of the parents to provide financial, medical, or other support ordered by the court.

Sec 9: would provide that Section 8 be known as a part of the Foster Care Review Act.

Explanation of amendments:

AM1911 would add to Section 8 above. AM1911 would provide the young adult to opportunity to consent to enter into guardianship assistance with DHHS and the guardian. AM1911 would also provide that any guardianship assistance funds provided by DHHS shall be used for the benefit of the young adult and that DHHS shall adopt and promulgate rules and regulations defining services and supports for such benefits.

Brad Ashford, Chairperson