

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 443

Introduced by Cook, 13.
Read first time January 22, 2013
Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to children; to amend sections 28-710,
2 68-1006.01, 71-428, 71-1901, 71-1903, 71-1907, 81-502,
3 and 83-108.04, Reissue Revised Statutes of Nebraska, and
4 sections 29-2264, 43-2,108.05, 43-1301, 43-1302, 43-1304,
5 43-4308, 68-1207, 71-1902, 71-1904, 75-302, and 79-512,
6 Revised Statutes Cumulative Supplement, 2012; to adopt
7 the Children's Residential Facilities and Placing
8 Licensure Act; to change provisions relating to foster
9 family homes; to define and redefine terms; to harmonize
10 provisions; and to repeal the original sections.

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

1 Section 1. Sections 1 to 28 of this act shall be known
2 and may be cited as the Children's Residential Facilities and Placing
3 Licensure Act.

4 Sec. 2. The purpose of the Children's Residential
5 Facilities and Placing Licensure Act is to protect the public health
6 and the health, safety, and welfare of children who reside in or who
7 are placed in settings other than the home of their parent or legal
8 guardian by providing for the licensing of residential child-caring
9 agencies and child-placing agencies in the State of Nebraska. The act
10 provides for the development, establishment, and enforcement of basic
11 standards for these agencies.

12 Sec. 3. For purposes of the Children's Residential
13 Facilities and Placing Licensure Act:

14 (1) Care means the provision of room and board and the
15 exercise of concern and responsibility for the safety and welfare of
16 children on a twenty-four-hour per day basis in settings that serve
17 as the out-of-home placement for children;

18 (2) Child means a minor less than nineteen years of age;

19 (3) Child-placing agency means any person other than the
20 parent or legal guardian of a child that receives the child for
21 placement and places or arranges for the placement of a child in a
22 foster family home, adoptive home, residential child-caring agency,
23 or independent living;

24 (4) Department means the Division of Public Health of the
25 Department of Health and Human Services;

1 (5) Director means the Director of Public Health of the
2 Division of Public Health;

3 (6) Person includes bodies politic and corporate,
4 societies, communities, the public generally, individuals,
5 partnerships, limited liability companies, joint-stock companies, and
6 associations; and

7 (7) Residential child-caring agency means a person that
8 provides care for four or more children that is not a family foster
9 home as defined in section 71-1901.

10 Sec. 4. (1) Except as provided in subsection (2) of this
11 section, a residential child-caring agency or child-placing agency
12 shall not be established, operated, or maintained in this state
13 without first obtaining a license issued by the department under the
14 Children's Residential Facilities and Placing Licensure Act. No
15 person shall hold itself out as a residential child-caring agency or
16 child-placing agency or as providing such services unless licensed
17 under the act. The department shall issue a license to a residential
18 child-caring agency or a child-placing agency that satisfies the
19 requirements for licensing under the act.

20 (2) A group home, child-caring agency, or child-placing
21 agency licensed under sections 71-1901 to 71-1906.01 on the effective
22 date of this act shall be deemed licensed under the Children's
23 Residential Facilities and Placing Licensure Act until the license
24 under such sections expires, and renewal shall be under the act.

25 (3) For purposes of requiring licensure, a residential

1 child-caring agency or child-placing agency does not include an
2 individual licensed as a foster family home under sections 71-1901 to
3 71-1906.01, a person licensed under the Health Care Facility
4 Licensure Act, a person operating a juvenile detention facility as
5 defined in section 83-4,125, a staff secure youth facility operated
6 by a county, or a person providing only casual care for children at
7 irregular intervals. Such persons may voluntarily apply for a
8 license.

9 Sec. 5. (1) An applicant for an initial or renewal
10 license to operate a residential child-caring agency or a child-
11 placing agency shall file a written application with the department.
12 The application shall be accompanied by the applicable fees under
13 section 6 of this act and shall set forth the full name and address
14 of the agency to be licensed, the full name and address of the owner
15 of the agency, the names of all persons in control of the agency, and
16 additional information as required by the department, including
17 sufficient affirmative evidence of the applicant's ability to comply
18 with rules and regulations adopted and promulgated under the
19 Children's Residential Facilities and Placing Licensure Act, and
20 evidence of adequate liability insurance or, if self-insured, of
21 sufficient funds to pay liability claims. The application shall
22 include the applicant's social security number if the applicant is an
23 individual. The social security number shall not be public record and
24 may only be used for administrative purposes.

25 (2) The application shall be signed by:

1 (a) The owner, if the applicant is an individual or
2 partnership;

3 (b) Two of its members, if the applicant is a limited
4 liability company;

5 (c) Two of its officers who have the authority to bind
6 the corporation to the terms of the application, if the applicant is
7 a corporation; or

8 (d) The head of the governmental unit having jurisdiction
9 over the agency to be licensed, if the applicant is a governmental
10 unit.

11 Sec. 6. Fees applicable to an applicant for an initial or
12 renewal license under the Children's Residential Facilities and
13 Placing Licensure Act include:

14 (1) A nonrefundable license fee of twenty-five dollars;

15 (2) A nonrefundable renewal license fee of twenty-five
16 dollars;

17 (3) A reinstatement fee of twenty-five dollars if the
18 license has lapsed or has been suspended or revoked; and

19 (4) A duplicate original license fee of ten dollars when
20 a duplicate is requested.

21 Sec. 7. Except as otherwise provided in the Children's
22 Residential Facilities and Placing Licensure Act:

23 (1) Licenses issued under the act shall expire on uniform
24 annual dates established by the department specified in rules and
25 regulations; and

1 (2) Licenses shall be issued only for the premises and
2 individuals named in the application and shall not be transferable or
3 assignable. Licenses, license record information, and inspection
4 reports shall be made available by the licensee for public inspection
5 upon request and may be displayed in a conspicuous place on the
6 licensed premises.

7 Sec. 8. (1) An applicant for licensure under the
8 Children's Residential Facilities and Placing Licensure Act shall
9 obtain a separate license for each type of residential child-caring
10 agency or child-placing agency that the applicant seeks to operate. A
11 single license may be issued for a child-caring agency operating in
12 separate buildings or structures on the same premises under one
13 management.

14 (2) An applicant for licensure shall obtain a separate
15 license for each type of placement service the applicant seeks to
16 provide. When a child-placing agency has more than one office
17 location, the agency shall inform the department of each office
18 location and the services provided at each location. A single license
19 may be issued for multiple offices or the applicant may apply for
20 individual licenses for each office location.

21 Sec. 9. A provisional license may be issued to an
22 applicant for an initial residential child-caring agency or child-
23 placing agency that substantially complies with requirements for
24 licensure under the Children's Residential Facilities and Placing
25 Licensure Act and the rules and regulations adopted and promulgated

1 under the act if the failure to fully comply with such requirements
2 does not pose a danger to the children residing in or served by the
3 agency. Such provisional license shall be valid for a period of up to
4 one year, shall not be renewed, and may be converted to a regular
5 license upon a showing that the agency fully complies with the
6 requirements for licensure under the act and rules and regulations.

7 Sec. 10. The department may inspect or provide for the
8 inspection of agencies licensed under the Children's Residential
9 Facilities and Placing Licensure Act in such manner and at such times
10 as provided in rules and regulations adopted and promulgated by the
11 department. The department shall issue an inspection report and
12 provide a copy of the report to the agency within ten working days
13 after the completion of an inspection.

14 Sec. 11. (1) The department may request the State Fire
15 Marshal to inspect any residential child-caring agency for fire
16 safety under section 81-502. The State Fire Marshal shall assess a
17 fee for such inspection under section 81-505.01 payable by the
18 applicant or licensee. The State Fire Marshal may delegate the
19 authority to make such inspections to qualified local fire prevention
20 personnel under section 81-502.

21 (2) The department may investigate any residential child-
22 caring agency to determine if the place or places to be covered by
23 the license meet standards of sanitation and physical well-being set
24 by the department for the care and protection of the children who may
25 be placed with the agency. The department may delegate this authority

1 to qualified local environmental health personnel.

2 Sec. 12. If the inspection report issued under section 10
3 of this act contains findings of noncompliance by a licensed agency
4 with any applicable provisions of the Children's Residential
5 Facilities and Placing Licensure Act or rules and regulations adopted
6 under the act, the department shall review such findings within
7 twenty working days after such inspection. If the findings are
8 supported by the evidence, the department shall proceed under
9 sections 16 to 23 of this act, except that if the findings indicate
10 one or more violations that create no imminent danger of death or
11 serious physical harm and no direct or immediate adverse relationship
12 to the health, safety, or welfare of the children residing in or
13 served by the agency, the department may send a letter to the agency
14 requesting a statement of compliance. The letter shall include a
15 description of each violation, a request that the agency submit a
16 statement of compliance within ten working days, and a notice that
17 the department may take further steps if the statement of compliance
18 is not submitted. The statement of compliance shall indicate any
19 steps which have been or will be taken to correct each violation and
20 the period of time estimated to be necessary to correct each
21 violation. If the agency fails to submit and implement a statement of
22 compliance which indicates a good faith effort to correct the
23 violations, the department may proceed under sections 15 to 22 of
24 this act.

25 Sec. 13. (1) Any person may submit a complaint to the

1 department and request investigation of an alleged violation of the
2 Children's Residential Facilities and Placing Licensure Act or rules
3 and regulations adopted and promulgated under the act. The department
4 shall review all complaints and determine whether to conduct an
5 investigation. In making such determination, the department may
6 consider factors such as:

7 (a) Whether the complaint pertains to a matter within the
8 authority of the department to enforce;

9 (b) Whether the circumstances indicate that a complaint
10 is made in good faith;

11 (c) Whether the complaint is timely or has been delayed
12 too long to justify present evaluation of its merit;

13 (d) Whether the complainant may be a necessary witness if
14 action is taken and is willing to identify himself or herself and
15 come forward to testify if action is taken; or

16 (e) Whether the information provided or within the
17 knowledge of the complainant is sufficient to provide a reasonable
18 basis to believe that a violation has occurred or to secure necessary
19 evidence from other sources.

20 (2) A complaint submitted to the department shall be
21 confidential. An individual submitting a complaint shall be immune
22 from criminal or civil liability of any nature, whether direct or
23 derivative, for submitting a complaint or for disclosure of
24 documents, records, or other information to the department.

25 Sec. 14. Licensees shall not discriminate or retaliate

1 against an individual or the family of an individual residing in,
2 served by, or employed at the agency who has initiated or
3 participated in any proceeding authorized by the Children's
4 Residential Facilities and Placing Licensure Act or who has presented
5 a complaint or provided information to the administrator of the
6 agency or the department. Such individual may maintain an action for
7 any type of relief, including injunctive and declaratory relief,
8 permitted by law.

9 Sec. 15. (1) Whenever the department finds that an
10 emergency exists requiring immediate action to protect the health,
11 safety, or welfare of a child in a residential child-caring agency or
12 child-placing agency, the department may, without notice or hearing,
13 issue an order declaring the existence of such an emergency and
14 requiring that such action be taken as the department deems necessary
15 to meet the emergency. The order may include an immediate prohibition
16 on the care or placement of children by the licensee. An order under
17 this subsection shall be effective immediately. Any person to whom
18 the order is directed shall comply immediately, and upon application
19 to the department, the person shall be afforded a hearing as soon as
20 possible and not later than ten days after his or her application for
21 the hearing. On the basis of such hearing the department shall
22 continue to enforce such order or rescind or modify it.

23 (2) A copy of the notice shall also be mailed to the
24 holder of the license if the holder is not actually involved in the
25 daily operation of the agency. If the holder of the license is a

1 corporation, a copy of the notice shall be sent to the corporation's
2 registered agent.

3 (3) The department may petition the appropriate district
4 court for an injunction whenever there is the belief that any person
5 is violating the Children's Residential Facilities and Placing
6 Licensure Act, an order issued under the act, or any rule or
7 regulation adopted and promulgated under the act. It shall be the
8 duty of each county attorney or the Attorney General to whom the
9 department reports a violation to cause appropriate proceedings to be
10 instituted without delay to ensure compliance with the act, rules,
11 regulations, and orders. In charging any defendant in a complaint in
12 such action, it shall be sufficient to charge that such defendant
13 did, upon a certain day and in a certain county, establish, operate,
14 or maintain a residential child-caring agency or a child-placing
15 agency without obtaining a license to do so, without alleging any
16 further or more particular facts concerning the charge.

17 Sec. 16. The department may deny or refuse to renew a
18 license under the Children's Residential Facilities and Placing
19 Licensure Act to any agency that fails to meet the requirements for
20 licensure provided in the act or in rules and regulations adopted and
21 promulgated under the act, including:

22 (1) Failing an inspection under section 10 of this act;

23 (2) Having had a license revoked within the two-year
24 period preceding application; or

25 (3) Any of the grounds listed in section 17 of this act.

1 Sec. 17. The department may deny, refuse to renew, or
2 take disciplinary action against a license issued under the
3 Children's Residential Facilities and Placing Licensure Act on any of
4 the following grounds:

5 (1) Failure to meet or violation of any of the
6 requirements of the act or the rules and regulations adopted and
7 promulgated under the act;

8 (2) Violation of an order of the department under the
9 act;

10 (3) Conviction, admission, or substantial evidence of
11 committing or permitting, aiding, or abetting another to commit, any
12 unlawful act, including, but not limited to, unlawful acts committed
13 by an applicant or licensee under the act, household members who
14 reside at the place where children's residential care or child-
15 placing services are provided, or employees of the applicant or
16 licensee that involve:

17 (a) Physical abuse of children or vulnerable adults as
18 defined in section 28-371;

19 (b) Endangerment or neglect of children or vulnerable
20 adults;

21 (c) Sexual abuse, sexual assault, or sexual misconduct;

22 (d) Homicide;

23 (e) Use, possession, manufacturing, or distribution of a
24 controlled substance listed in section 28-405;

25 (f) Property crimes, including, but not limited to,

- 1 fraud, embezzlement, and theft by deception; and
- 2 (g) Use of a weapon in the commission of an unlawful act;
- 3 (4) Conduct or practices detrimental to the health,
- 4 safety, or welfare of any individual residing in, served by, or
- 5 employed at the agency;
- 6 (5) Failure to allow an agent or employee of the
- 7 department access to the agency for the purposes of inspection,
- 8 investigation, or other information collection activities necessary
- 9 to carry out the duties of the department;
- 10 (6) Failure to allow local or state inspectors,
- 11 investigators, or law enforcement officers access to the agency for
- 12 the purposes of investigation necessary to carry out their duties;
- 13 (7) Failure to meet requirements relating to sanitation,
- 14 fire safety, and building codes;
- 15 (8) Failure to comply with or violation of the Medication
- 16 Aide Act;
- 17 (9) Failure to file a report of suspected abuse or
- 18 neglect as required by sections 28-372 and 28-711;
- 19 (10) Violation of any city, village, or county rules,
- 20 regulations, resolutions, or ordinances regulating licensees;
- 21 (11) A history of misconduct or violations by an
- 22 applicant or licensee involving children or vulnerable adults; or
- 23 (12) Violation of any federal, state, or local law
- 24 involving care of children.
- 25 Sec. 18. (1) The department may impose any one or a

1 combination of the following types of disciplinary action against the
2 license of a residential child-caring agency or child-placing agency:

3 (a) A fine not to exceed ten thousand dollars per
4 violation;

5 (b) A period of probation not to exceed two years, during
6 which time the agency may continue to operate under terms and
7 conditions fixed by the order of probation;

8 (c) Restrictions on new admissions to a residential
9 child-caring agency or acceptance of new referrals by a child-placing
10 agency;

11 (d) Restrictions or other limitations on the number,
12 gender, or age of children served by the agency;

13 (e) Other restrictions or limitations on the type of
14 service provided by the agency;

15 (f) Suspension of the license for a period not to exceed
16 three years, during which time the licensee shall not operate a
17 residential child-caring agency or child-placing agency; or

18 (g) Revocation of the license. A former licensee whose
19 license has been revoked shall not apply for a license for a minimum
20 of two years after the date of revocation.

21 (2) Any fine imposed and unpaid under the Children's
22 Residential Facilities and Placing Licensure Act shall constitute a
23 debt to the State of Nebraska which may be collected in the manner of
24 a lien foreclosure or sued for and recovered in any proper form of
25 action in the name of the State of Nebraska in the district court of

1 the county in which the agency is located. The department shall,
2 within thirty days after receipt, remit fines to the State Treasurer
3 for distribution in accordance with Article VII, section 5, of the
4 Constitution of Nebraska.

5 Sec. 19. In determining what type of disciplinary action
6 to impose, the department may consider:

7 (1) The gravity of the violation, including the
8 probability that death or serious physical or mental harm will
9 result, the severity of the actual or potential harm, and the extent
10 to which the provisions of applicable statutes, rules, and
11 regulations were violated;

12 (2) The reasonableness of the diligence exercised by the
13 licensee in identifying or correcting the violation;

14 (3) The degree of cooperation exhibited by the licensee
15 in the identification, disclosure, and correction of the violation;

16 (4) Any previous violations committed by the licensee;
17 and

18 (5) The financial benefit to the licensee of committing
19 or continuing the violation.

20 Sec. 20. Except as provided in section 15 of this act:

21 (1) If the department determines to deny, refuse renewal
22 of, or take disciplinary action against a license, the department
23 shall send to the applicant or licensee, by certified mail to the
24 last known address shown on the records of the department, a notice
25 setting forth the determination, the particular reasons for the

1 determination, including a specific description of the nature of the
2 violation and the statute, rule, or regulation violated, and the type
3 of disciplinary action which is pending. The denial, refusal to
4 renew, or disciplinary action shall become final fifteen days after
5 the mailing of the notice unless the applicant or licensee, within
6 such fifteen-day period, makes a written request for a hearing under
7 section 21 of this act.

8 (2) A copy of the notice in subsection (1) of this
9 section shall also be mailed to the holder of the license if the
10 holder is not actually involved in the daily operation of the agency.
11 If the holder of the license is a corporation, a copy of the notice
12 shall be sent to the corporation's registered agent.

13 Sec. 21. Within fifteen days after the mailing of a
14 notice under section 20 of this act, an applicant or licensee shall
15 notify the department in writing that the applicant or licensee:

16 (1) Desires to contest the notice and requests a hearing;
17 or

18 (2) Does not contest the notice. If the department does
19 not receive notification within such fifteen-day period, the action
20 of the department shall be final.

21 Sec. 22. (1) If the applicant or licensee requests a
22 hearing under section 21 of this act, the department shall hold a
23 hearing and give the applicant or licensee the right to present such
24 evidence as may be proper. On the basis of such evidence, the
25 director shall affirm, modify, or set aside the determination. A copy

1 of such decision setting forth the findings of facts and the
2 particular reasons upon which the decision is based shall be sent by
3 either registered or certified mail to the applicant or licensee.

4 (2) The procedure governing hearings authorized by this
5 section shall be in accordance with rules and regulations adopted and
6 promulgated by the department. A full and complete record shall be
7 kept of all proceedings. Witnesses may be subpoenaed by either party
8 and shall be allowed fees at a rate prescribed by rule and
9 regulation.

10 Sec. 23. Any party to a decision of the department under
11 the Children's Residential Facilities and Placing Licensure Act may
12 appeal such decision. The appeal shall be in accordance with the
13 Administrative Procedure Act.

14 Sec. 24. (1) A license issued under the Children's
15 Residential Facilities and Placing Licensure Act that has lapsed for
16 nonpayment of fees is eligible for reinstatement at any time by
17 applying to the department and paying the fees as provided in section
18 6 of this act.

19 (2) A license that has been disciplined by being placed
20 on suspension is eligible for reinstatement at the end of the period
21 of suspension upon successful completion of an inspection and payment
22 of the fees as provided in section 6 of this act.

23 (3) A license that has been disciplined by being placed
24 on probation is eligible for reinstatement at the end of the period
25 of probation upon successful completion of an inspection if the

1 department determines an inspection is warranted.

2 (4) A license that has been disciplined by being placed
3 on probation or suspension may be reinstated prior to the completion
4 of the term of such probation or suspension as provided in this
5 subsection. Upon petition from a licensee and after consideration of
6 materials submitted with such petition, the director may order an
7 inspection or other investigation of the licensee. On the basis of
8 material submitted by the licensee and the results of any inspection
9 or investigation by the department, the director shall determine
10 whether to grant full reinstatement of the license, to modify the
11 probation or suspension, or to deny the petition for reinstatement.
12 The director's decision shall become final fifteen days after mailing
13 the decision to the licensee unless the licensee requests a hearing
14 within such fifteen-day period. Any requested hearing shall be held
15 according to rules and regulations of the department for
16 administrative hearings in contested cases. Any party to the decision
17 shall have a right to judicial review under the Administrative
18 Procedure Act.

19 (5) A license that has been disciplined by being revoked
20 is not eligible for relicensure until two years after the date of
21 such revocation. A reapplication for an initial license may be made
22 at the end of such two-year period.

23 Sec. 25. A licensee may voluntarily surrender a license
24 issued under the Children's Residential Facilities and Placing
25 Licensure Act at any time, except that the department may refuse to

1 accept a voluntary surrender of a license if the licensee is under
2 investigation or if the department has initiated disciplinary action
3 against the licensee.

4 Sec. 26. (1) To protect the health, safety, and welfare
5 of the public and to insure to the greatest extent possible the
6 efficient, adequate, and safe care of children, the department may
7 adopt and promulgate rules and regulations consistent with the
8 Children's Residential Facilities and Placing Licensure Act, as
9 necessary for:

10 (a) The proper care and protection of children in
11 residential child-caring agencies and child-placing agencies
12 regulated under the act;

13 (b) The issuance, discipline, and reinstatement of
14 licenses; and

15 (c) The proper administration of the act.

16 (2) Such rules and regulations shall establish standards
17 for levels of care and services which may include, but are not
18 limited to, supervision and structured activities designed to address
19 the social, emotional, educational, rehabilitative, medical, and
20 physical needs of children residing in or being placed by an agency
21 and may include the use of community resources to meet the needs of
22 children and qualifications of staff.

23 (3) Contested cases of the department under the act shall
24 be in accordance with the Administrative Procedure Act.

25 Sec. 27. Any person who establishes, operates, or

1 maintains a residential child-caring agency or child-placing agency
2 subject to the Children's Residential Facilities and Placing
3 Licensure Act without first obtaining a license as required under the
4 act or who violates any of the provisions of the act shall be guilty
5 of a Class I misdemeanor. Each day such person operates after a first
6 conviction shall be considered a subsequent offense.

7 Sec. 28. (1) All rules and regulations adopted prior to
8 December 1, 2012, under sections 71-1901 to 71-1906.01 or other
9 statutes amended by this legislative bill, may continue to be
10 effective under the Children's Residential Facilities and Placing
11 Licensure Act to the extent not in conflict with the act.

12 (2) All licenses issued prior to December 1, 2012, in
13 accordance with sections 71-1901 to 71-1906.01 or other statutes
14 amended by this legislative bill shall remain valid as issued for
15 purposes of the Children's Residential Facilities and Placing
16 Licensure Act unless revoked or otherwise terminated by law.

17 (3) Any suit, action, or other proceeding, judicial or
18 administrative, which was lawfully commenced prior to December 1,
19 2012, under sections 71-1901 to 71-1906.01 or other statutes amended
20 by this legislative bill subject to the provisions of sections
21 71-1901 to 71-1906.01 such other statutes as they existed prior to
22 December 1, 2012.

23 Sec. 29. Section 28-710, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 28-710 (1) Sections 28-710 to 28-727 shall be known and

1 may be cited as the Child Protection Act.

2 (2) For purposes of the Child Protection Act:

3 (a) Child abuse or neglect means knowingly,
4 intentionally, or negligently causing or permitting a minor child to
5 be:

6 (i) Placed in a situation that endangers his or her life
7 or physical or mental health;

8 (ii) Cruelly confined or cruelly punished;

9 (iii) Deprived of necessary food, clothing, shelter, or
10 care;

11 (iv) Left unattended in a motor vehicle if such minor
12 child is six years of age or younger;

13 (v) Sexually abused; or

14 (vi) Sexually exploited by allowing, encouraging, or
15 forcing such person to solicit for or engage in prostitution,
16 debauchery, public indecency, or obscene or pornographic photography,
17 films, or depictions;

18 (b) Department means the Department of Health and Human
19 Services;

20 (c) Law enforcement agency means the police department or
21 town marshal in incorporated municipalities, the office of the
22 sheriff in unincorporated areas, and the Nebraska State Patrol;

23 (d) Out-of-home child abuse or neglect means child abuse
24 or neglect occurring in day care homes, foster homes, day care
25 centers, ~~group homes,~~ residential child-caring agencies as defined in

1 section 2 of this act, and other child care facilities or
2 institutions; and

3 (e) Subject of the report of child abuse or neglect means
4 the person or persons identified in the report as responsible for the
5 child abuse or neglect.

6 Sec. 30. Section 29-2264, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 29-2264 (1) Whenever any person is placed on probation by
9 a court and satisfactorily completes the conditions of his or her
10 probation for the entire period or is discharged from probation prior
11 to the termination of the period of probation, the sentencing court
12 shall issue an order releasing the offender from probation. Such
13 order in all felony cases shall provide notice that the person's
14 voting rights are restored two years after completion of probation.
15 The order shall include information on restoring other civil rights
16 through the pardon process, including application to and hearing by
17 the Board of Pardons.

18 (2) Whenever any person is convicted of a misdemeanor or
19 felony and is placed on probation by the court or is sentenced to a
20 fine only, he or she may, after satisfactory fulfillment of the
21 conditions of probation for the entire period or after discharge from
22 probation prior to the termination of the period of probation and
23 after payment of any fine, petition the sentencing court to set aside
24 the conviction.

25 (3) In determining whether to set aside the conviction,

1 the court shall consider:

2 (a) The behavior of the offender after sentencing;

3 (b) The likelihood that the offender will not engage in
4 further criminal activity; and

5 (c) Any other information the court considers relevant.

6 (4) The court may grant the offender's petition and issue
7 an order setting aside the conviction when in the opinion of the
8 court the order will be in the best interest of the offender and
9 consistent with the public welfare. The order shall:

10 (a) Nullify the conviction; and

11 (b) Remove all civil disabilities and disqualifications
12 imposed as a result of the conviction.

13 (5) The setting aside of a conviction in accordance with
14 the Nebraska Probation Administration Act shall not:

15 (a) Require the reinstatement of any office, employment,
16 or position which was previously held and lost or forfeited as a
17 result of the conviction;

18 (b) Preclude proof of a plea of guilty whenever such plea
19 is relevant to the determination of an issue involving the rights or
20 liabilities of someone other than the offender;

21 (c) Preclude proof of the conviction as evidence of the
22 commission of the misdemeanor or felony whenever the fact of its
23 commission is relevant for the purpose of impeaching the offender as
24 a witness, except that the order setting aside the conviction may be
25 introduced in evidence;

1 (d) Preclude use of the conviction for the purpose of
2 determining sentence on any subsequent conviction of a criminal
3 offense;

4 (e) Preclude the proof of the conviction as evidence of
5 the commission of the misdemeanor or felony in the event an offender
6 is charged with a subsequent offense and the penalty provided by law
7 is increased if the prior conviction is proved;

8 (f) Preclude the proof of the conviction to determine
9 whether an offender is eligible to have a subsequent conviction set
10 aside in accordance with the Nebraska Probation Administration Act;

11 (g) Preclude use of the conviction as evidence of
12 commission of the misdemeanor or felony for purposes of determining
13 whether an application filed or a license issued under sections
14 71-1901 to 71-1906.01, ~~or~~ the Child Care Licensing Act, or the
15 Children's Residential Facilities and Placing Licensure Act or a
16 certificate issued under sections 79-806 to 79-815 should be denied,
17 suspended, or revoked;

18 (h) Preclude use of the conviction as evidence of
19 incompetence, neglect of duty, physical, mental, or emotional
20 incapacity, or final conviction of or pleading guilty or nolo
21 contendere to a felony for purposes of determining whether an
22 application filed or a certificate issued under sections 81-1401 to
23 81-1414.10 should be denied, suspended, or revoked;

24 (i) Preclude proof of the conviction as evidence whenever
25 the fact of the conviction is relevant to a determination of the

1 registration period under section 29-4005; or

2 (j) Relieve a person who is convicted of an offense for
3 which registration is required under the Sex Offender Registration
4 Act of the duty to register and to comply with the terms of the act.

5 (6) Except as otherwise provided for the notice in
6 subsection (1) of this section, changes made to this section by Laws
7 2005, LB 713, shall be retroactive in application and shall apply to
8 all persons, otherwise eligible in accordance with the provisions of
9 this section, whether convicted prior to, on, or subsequent to
10 September 4, 2005.

11 Sec. 31. Section 43-2,108.05, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 43-2,108.05 (1) If the court orders the record of a
14 juvenile sealed pursuant to section 43-2,108.04, the court shall:

15 (a) Order that all records, including any information or
16 other data concerning any proceedings relating to the offense,
17 including the arrest, taking into custody, petition, complaint,
18 indictment, information, trial, hearing, adjudication, correctional
19 supervision, dismissal, or other disposition or sentence, be deemed
20 never to have occurred;

21 (b) Send notice of the order to seal the record (i) to
22 the Nebraska Commission on Law Enforcement and Criminal Justice, (ii)
23 if the record includes impoundment or prohibition to obtain a license
24 or permit pursuant to section 43-287, to the Department of Motor
25 Vehicles, (iii) if the juvenile whose record has been ordered sealed

1 was a ward of the state at the time the proceeding was initiated or
2 if the Department of Health and Human Services was a party in the
3 proceeding, to such department, and (iv) to law enforcement agencies,
4 county attorneys, and city attorneys referenced in the court record;

5 (c) Order all notified under subdivision (1)(b) of this
6 section to seal all records pertaining to the offense;

7 (d) If the case was transferred from district court to
8 juvenile court or was transferred under section 43-282, send notice
9 of the order to seal the record to the transferring court; and

10 (e) Explain to the juvenile what sealing the record means
11 verbally if the juvenile is present in the court at the time the
12 court issues the sealing order or by written notice sent by regular
13 mail to the juvenile's last-known address if the juvenile is not
14 present in the court at the time the court issues the sealing order.

15 (2) The effect of having a record sealed under section
16 43-2,108.04 is that thereafter no person is allowed to release any
17 information concerning such record, except as provided by this
18 section. After a record is sealed, the person whose record was sealed
19 can respond to any public inquiry as if the offense resulting in such
20 record never occurred. A government agency and any other public
21 office or agency shall reply to any public inquiry that no
22 information exists regarding a sealed record. Except as provided in
23 subsection (3) of this section, an order to seal the record applies
24 to every government agency and any other public office or agency that
25 has a record relating to the offense, regardless of whether it

1 receives notice of the hearing on the sealing of the record or a copy
2 of the order. Upon the written request of a person whose record has
3 been sealed and the presentation of a copy of such order, a
4 government agency or any other public office or agency shall seal all
5 records pertaining to the offense.

6 (3) A sealed record is accessible to law enforcement
7 officers, county attorneys, and city attorneys in the investigation,
8 prosecution, and sentencing of crimes, to the sentencing judge in the
9 sentencing of criminal defendants, and to any attorney representing
10 the subject of the sealed record. Inspection of records that have
11 been ordered sealed under section 43-2,108.04 may be made by the
12 following persons or for the following purposes:

13 (a) By the court or by any person allowed to inspect such
14 records by an order of the court for good cause shown;

15 (b) By the court, city attorney, or county attorney for
16 purposes of collection of any remaining parental support or
17 obligation balances under section 43-290;

18 (c) By the Nebraska Probation System for purposes of
19 juvenile intake services, for presentence and other probation
20 investigations, and for the direct supervision of persons placed on
21 probation and by the Department of Correctional Services, the Office
22 of Juvenile Services, a juvenile assessment center, a criminal
23 detention facility, or a juvenile detention facility, for an
24 individual committed to it, placed with it, or under its care;

25 (d) By the Department of Health and Human Services for

1 purposes of juvenile intake services, the preparation of case plans
2 and reports, the preparation of evaluations, compliance with federal
3 reporting requirements, or the supervision and protection of persons
4 placed with the department or for licensing or certification purposes
5 under sections 71-1901 to 71-1906.01, ~~or~~ the Child Care Licensing
6 Act, or the Children's Residential Facilities and Placing Licensure
7 Act;

8 (e) Upon application, by the person who is the subject of
9 the sealed record and by persons authorized by the person who is the
10 subject of the sealed record who are named in that application;

11 (f) At the request of a party in a civil action that is
12 based on a case that has a sealed record, as needed for the civil
13 action. The party also may copy the sealed record as needed for the
14 civil action. The sealed record shall be used solely in the civil
15 action and is otherwise confidential and subject to this section;

16 (g) By persons engaged in bona fide research, with the
17 permission of the court, only if the research results in no
18 disclosure of the person's identity and protects the confidentiality
19 of the sealed record; or

20 (h) By a law enforcement agency if a person whose record
21 has been sealed applies for employment with the law enforcement
22 agency.

23 (4) Nothing in this section prohibits the Department of
24 Health and Human Services from releasing information from sealed
25 records in the performance of its duties with respect to the

1 supervision and protection of persons served by the department.

2 (5) In any application for employment, bonding, license,
3 education, or other right or privilege, any appearance as a witness,
4 or any other public inquiry, a person cannot be questioned with
5 respect to any offense for which the record is sealed. If an inquiry
6 is made in violation of this subsection, the person may respond as if
7 the offense never occurred. Applications for employment shall contain
8 specific language that states that the applicant is not obligated to
9 disclose a sealed record. Employers shall not ask if an applicant has
10 had a record sealed. The Department of Labor shall develop a link on
11 the department's web site to inform employers that employers cannot
12 ask if an applicant had a record sealed and that an application for
13 employment shall contain specific language that states that the
14 applicant is not obligated to disclose a sealed record.

15 (6) Any person who violates this section may be held in
16 contempt of court.

17 Sec. 32. Section 43-1301, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 43-1301 For purposes of the Foster Care Review Act,
20 unless the context otherwise requires:

21 (1) Local board means a local foster care review board
22 created pursuant to section 43-1304;

23 (2) Office means the Foster Care Review Office created
24 pursuant to section 43-1302;

25 (3) Foster care facility means any foster family home as

1 defined in section 71-1901, residential child-caring agency as
2 defined in section 2 of this act, group home, child care facility,
3 public agency, private agency, or any other person or entity
4 receiving and caring for foster children;

5 (4) Foster care placements means all placements of
6 juveniles as described in subdivision (3)(b) of section 43-247,
7 placements of neglected, dependent, or delinquent children, including
8 those made directly by parents or by third parties, and placements of
9 children who have been voluntarily relinquished pursuant to section
10 43-106.01 to the Department of Health and Human Services or any ~~child~~
11 ~~placement~~ child-placing agency as defined in section 2 of this act
12 licensed by the Department of Health and Human Services;

13 (5) Person or court in charge of the child means (a) the
14 Department of Health and Human Services, an association, or an
15 individual who has been made the guardian of a neglected, dependent,
16 or delinquent child by the court and has the responsibility of the
17 care of the child and has the authority by and with the assent of the
18 court to place such a child in a suitable family home or institution
19 or has been entrusted with the care of the child by a voluntary
20 placement made by a parent or legal guardian, (b) the court which has
21 jurisdiction over the child, or (c) the entity having jurisdiction
22 over the child pursuant to the Nebraska Indian Child Welfare Act;

23 (6) Voluntary placement means the placement by a parent
24 or legal guardian who relinquishes the possession and care of a child
25 to a third party, individual, or agency;

1 (7) Family unit means the social unit consisting of the
2 foster child and the parent or parents or any person in the
3 relationship of a parent, including a grandparent, and any siblings
4 with whom the foster child legally resided prior to placement in
5 foster care, except that for purposes of potential sibling placement,
6 the child's family unit also includes the child's siblings even if
7 the child has not resided with such siblings prior to placement in
8 foster care;

9 (8) ~~Child-caring~~ Residential child-caring agency has the
10 definition found in section ~~71-1902; 2~~ of this act;

11 (9) Child-placing agency has the definition found in
12 section ~~71-1902; 2~~ of this act; and

13 (10) Siblings means biological siblings and legal
14 siblings, including, but not limited to, half-siblings and
15 stepsiblings.

16 Sec. 33. Section 43-1302, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 43-1302 (1)(a) The Foster Care Review Office is hereby
19 established. The purpose of the office is to provide information and
20 direct reporting to the courts, the Department of Health and Human
21 Services, and the Legislature regarding the foster care system in
22 Nebraska; to provide oversight of the foster care system; and to make
23 recommendations regarding foster care policy to the Legislature. The
24 executive director of the office shall provide information and
25 reporting services, provide analysis of information obtained, and

1 oversee foster care file audit case reviews and tracking of cases of
2 children in the foster care system. The executive director of the
3 office shall, through information analysis and with the assistance of
4 the Foster Care Advisory Committee, (i) determine key issues of the
5 foster care system and ways to resolve the issues and to otherwise
6 improve the system and (ii) make policy recommendations.

7 (b) All equipment and effects of the State Foster Care
8 Review Board on July 1, 2012, shall be transferred to the Foster Care
9 Review Office, and all staff of the board, except the executive
10 director and interim executive director, shall be transferred to the
11 office. The State Foster Care Review Board shall terminate on July 1,
12 2012. Beginning on July 1, 2012, the data coordinator of the board,
13 as such position existed prior to such date, shall serve as the
14 executive director of the office until the Foster Care Advisory
15 Committee hires an executive director as prescribed by this section.
16 It is the intent of the Legislature that the staff of the board
17 employed prior to July 1, 2012, shall continue to be employed by the
18 office until such time as the executive director is hired by the
19 committee.

20 (c) It is the intent of the Legislature that the funds
21 appropriated to the State Foster Care Review Board be transferred to
22 the Foster Care Review Office for FY2012-13.

23 (2)(a) The Foster Care Advisory Committee is created. The
24 committee shall have five members appointed by the Governor. The
25 members shall have no pecuniary interest in the foster care system

1 and shall not be employed by the office, the Department of Health and
2 Human Services, a county, a residential child-caring agency, a child-
3 placing agency, or a court.

4 (b) The Governor shall appoint three members from a list
5 of twelve local board members submitted by the Health and Human
6 Services Committee of the Legislature, one member from a list of four
7 persons with data analysis experience submitted by the Health and
8 Human Services Committee of the Legislature, and one member from a
9 list of four persons who are residents of the state and are
10 representative of the public at large submitted by the Health and
11 Human Services Committee of the Legislature. The Health and Human
12 Services Committee of the Legislature shall hold a confirmation
13 hearing for the appointees, and the appointments shall be subject to
14 confirmation by the Legislature, except that the initial members and
15 members appointed while the Legislature is not in session shall serve
16 until the next session of the Legislature, at which time a majority
17 of the members of the Legislature shall approve or disapprove of the
18 appointments.

19 (c) The terms of the members shall be for three years,
20 except that the Governor shall designate two of the initial
21 appointees to serve initial terms ending on March 1, 2014, and three
22 of the initial appointees to serve initial terms ending on March 1,
23 2015. The Governor shall make the initial appointments within thirty
24 days after July 1, 2012. Members shall not serve more than two
25 consecutive terms, except that members shall serve until their

1 successors have been appointed and qualified. The Governor shall
2 appoint members to fill vacancies in the same manner as the original
3 appointments to serve for the remainder of the unexpired term.

4 (d) The Foster Care Advisory Committee shall meet at
5 least four times each calendar year. Each member shall attend at
6 least two meetings each calendar year and shall be subject to removal
7 for failure to attend at least two meetings unless excused by a
8 majority of the members of the committee. Members shall be reimbursed
9 for their actual and necessary expenses as provided in sections
10 81-1174 to 81-1177.

11 (e) The duties of the Foster Care Advisory Committee are
12 to:

13 (i) Hire and fire an executive director for the office
14 who has training and experience in foster care; and

15 (ii) Support and facilitate the work of the office,
16 including the tracking of children in foster care and reviewing
17 foster care file audit case reviews.

18 (3) The executive director of the office shall hire,
19 fire, and supervise office staff and shall be responsible for the
20 duties of the office as provided by law, including the annual report
21 and other reporting, review, tracking, data collection and analysis,
22 and oversight and training of local boards.

23 Sec. 34. Section 43-1304, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 43-1304 There shall be local foster care review boards to

1 conduct the foster care file audit case reviews of children in foster
2 care placement and carry out other powers and duties given to such
3 boards under the Foster Care Review Act. Members of local boards
4 serving on July 1, 2012, shall continue to serve the unexpired
5 portion of their terms. The executive director of the office shall
6 select members to serve on local boards from a list of applications
7 submitted to the office. Each local board shall consist of not less
8 than four and not more than ten members as determined by the
9 executive director. The members of the local board shall reasonably
10 represent the various social, economic, racial, and ethnic groups of
11 the county or counties from which its members may be appointed. A
12 person employed by the office, the Department of Health and Human
13 Services, a residential child-caring agency, a child-placing agency,
14 or a court shall not be appointed to a local board. A list of the
15 members of each local board shall be sent to the department.

16 Sec. 35. Section 43-4308, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 43-4308 Licensed child care facility means a facility or
19 program licensed under the Child Care Licensing Act, the Children's
20 Residential Facilities and Placing Licensure Act, or sections 71-1901
21 to 71-1906.01.

22 Sec. 36. Section 68-1006.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 68-1006.01 The Department of Health and Human Services
25 shall include in the standard of need for eligible aged, blind, and

1 disabled persons at least fifty dollars per month for a personal
2 needs allowance if such persons reside in an alternative living
3 arrangement.

4 For purposes of this section, an alternative living
5 arrangement shall include board and room, a boarding home, a
6 certified adult family home, a licensed assisted-living facility, a
7 licensed ~~group home for children or residential~~ child-caring agency
8 as defined in section 2 of this act, a licensed center for the
9 developmentally disabled, and a long-term care facility.

10 Sec. 37. Section 68-1207, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 68-1207 (1) The Department of Health and Human Services
13 shall supervise all public child welfare services as described by
14 law. The department and the pilot project described in section
15 68-1212 shall maintain caseloads to carry out child welfare services
16 which provide for adequate, timely, and indepth investigations and
17 services to children and families. Caseloads shall range between
18 twelve and seventeen cases as determined pursuant to subsection (2)
19 of this section. In establishing the specific caseloads within such
20 range, the department and the pilot project shall (a) include the
21 workload factors that may differ due to geographic responsibilities,
22 office location, and the travel required to provide a timely response
23 in the investigation of abuse and neglect, the protection of
24 children, and the provision of services to children and families in a
25 uniform and consistent statewide manner and (b) utilize the workload

1 criteria of the standards established as of January 1, 2012, by the
2 Child Welfare League of America. The average caseload shall be
3 reduced by the department in all service areas as designated pursuant
4 to section 81-3116 and by the pilot project to comply with the
5 caseload range described in this subsection by September 1, 2012.
6 Beginning September 15, 2012, the department shall include in its
7 annual report required pursuant to section 68-1207.01 a report on the
8 attainment of the decrease according to such caseload standards. The
9 department's annual report shall also include changes in the
10 standards of the Child Welfare League of America or its successor.

11 (2) Caseload size shall be determined in the following
12 manner: (a) If children are placed in the home, the family shall
13 count as one case regardless of how many children are placed in the
14 home; (b) if a child is placed out of the home, the child shall count
15 as one case; (c) if, within one family, one or more children are
16 placed in the home and one or more children are placed out of the
17 home, the children placed in the home shall count as one case and
18 each child placed out of the home shall count as one case; and (d)
19 any child receiving services from the department or a private entity
20 under contract with the department shall be counted as provided in
21 subdivisions (a) through (c) of this subsection whether or not such
22 child is a ward of the state. For purposes of this subsection, a
23 child is considered to be placed in the home if the child is placed
24 with his or her biological or adoptive parent or a legal guardian and
25 a child is considered to be placed out of the home if the child is

1 placed in a foster care, group home care, family home as defined in
2 section 71-1901, a residential child-caring agency as defined in
3 section 2 of this act, or any other setting which is not the child's
4 planned permanent home.

5 (3) To insure appropriate oversight of noncourt and
6 voluntary cases when any child welfare services are provided, either
7 by the department or by a lead agency participating in the pilot
8 project, as a result of a child safety assessment, the department or
9 lead agency shall develop a case plan that specifies the services to
10 be provided and the actions to be taken by the department or lead
11 agency and the family in each such case.

12 (4) To carry out the provisions of this section, the
13 Legislature shall provide funds for additional staff.

14 Sec. 38. Section 71-428, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-428 (1) Respite care service means a person or any
17 legal entity that provides short-term temporary care on an
18 intermittent basis to persons with special needs when the person's
19 primary caregiver is unavailable to provide such care.

20 (2) Respite care service does not include:

21 (a) A person or any legal entity which is licensed under
22 the Health Care Facility Licensure Act and which provides respite
23 care services at the licensed location;

24 (b) A person or legal entity which is licensed to provide
25 child care to thirteen or more children under the Child Care

1 Licensing Act or which is licensed as a ~~group home or residential~~
2 child-caring agency under ~~sections 71-1901 to 71-1906.01~~; the
3 Children's Residential Facilities and Placing Licensure Act;

4 (c) An agency that recruits, screens, or trains a person
5 to provide respite care;

6 (d) An agency that matches a respite care service or
7 other providers of respite care with a person with special needs, or
8 refers a respite care service or other providers of respite care to a
9 person with special needs, unless the agency receives compensation
10 for such matching or referral from the service or provider or from or
11 on behalf of the person with special needs;

12 (e) A person who provides respite care to fewer than
13 eight unrelated persons in any seven-day period in his or her home or
14 in the home of the recipient of the respite care; or

15 (f) A nonprofit agency that provides group respite care
16 for no more than eight hours in any seven-day period.

17 Sec. 39. Section 71-1901, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-1901 For purposes of sections 71-1901 to 71-1906.01:

20 (1) Person includes a partnership, limited liability
21 company, firm, agency, association, or corporation;

22 (2) Child means an unemancipated minor;

23 (3) Department means the Division of Public Health of the
24 Department of Health and Human Services;

25 (4) Foster care means engaged in the service of

1 exercising twenty-four-hour daily care, supervision, custody, or
2 control over children, for compensation or hire, in lieu of the care
3 or supervision normally exercised by parents in their own home.
4 Foster care does not include casual care at irregular intervals or
5 programs as defined in section 71-1910; and

6 (5) Foster family home means any home which provides
7 twenty-four-hour care to children who are not related to the foster
8 parent by blood, marriage, or adoption; and

9 ~~(5)-(6)~~ Native American means a person who is a member of
10 an Indian tribe or eligible for membership in an Indian tribe.

11 Sec. 40. Section 71-1902, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 71-1902 (1) Except as otherwise provided in this section,
14 no person shall furnish or offer to furnish foster care for one or
15 more children not related to such person by blood, marriage, or
16 adoption without having in full force and effect a written license
17 issued by the department upon such terms and conditions as may be
18 prescribed by general rules and regulations adopted and promulgated
19 by the department. The department may issue a time-limited,
20 nonrenewable provisional license to an applicant who is unable to
21 comply with all licensure requirements and standards, is making a
22 good faith effort to comply, and is capable of compliance within the
23 time period stated in the license. The department may issue a time-
24 limited, nonrenewable probationary license to a licensee who agrees
25 to establish compliance with rules and regulations that, when

1 violated, do not present an unreasonable risk to the health, safety,
2 or well-being of the foster children in the care of the applicant. ~~No~~
3 Except as provided in section 71-1904, no license shall be issued
4 pursuant to this section unless the applicant has completed the
5 required hours of training in foster care as prescribed by the
6 department.

7 (2) All nonprovisional and nonprobationary licenses
8 issued under sections 71-1901 to 71-1906.01 shall expire two years
9 from the date of issuance and shall be subject to renewal under the
10 same terms and conditions as the original license, except that if a
11 licensee submits a completed renewal application thirty days or more
12 before the license's expiration date, the license shall remain in
13 effect until the department either renews the license or denies the
14 renewal application. ~~No~~ Except as provided in section 71-1904, no
15 license issued pursuant to this section shall be renewed unless the
16 licensee has completed the required hours of training in foster care
17 in the preceding twelve months as prescribed by the department. ~~For~~
18 ~~the issuance or renewal of each nonprovisional and nonprobationary~~
19 ~~license, the department shall charge a fee of fifty dollars for a~~
20 ~~group home, fifty dollars for a child caring agency, and fifty~~
21 ~~dollars for a child placing agency. For the issuance of each~~
22 ~~provisional license and each probationary license, the department~~
23 ~~shall charge a fee of twenty five dollars for a group home, twenty~~
24 ~~five dollars for a child caring agency, and twenty five dollars for a~~
25 ~~child placing agency.~~ A license may be revoked for cause, after

1 notice and hearing, in accordance with rules and regulations adopted
2 and promulgated by the department.

3 ~~(3) For purposes of this section:~~

4 ~~(a) Foster family home means any home which provides~~
5 ~~twenty four hour care to children who are not related to the foster~~
6 ~~parent by blood, marriage, or adoption;~~

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

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

16 ~~(d) Child placing agency means an organization which is~~
17 ~~authorized by its articles of incorporation and by its license to~~
18 ~~place children in foster family homes.~~

19 Sec. 41. Section 71-1903, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-1903 (1) Before issuance of a license under sections
22 71-1901 to 71-1906.01, the department shall cause such investigation
23 to be made as it deems necessary to determine if the character of the
24 applicant, any member of the applicant's household, or the person in
25 charge of the service and the place where the foster care is to be

1 furnished are such as to ensure the proper care and treatment of
2 children. The department may request the State Fire Marshal to
3 inspect such places for fire safety pursuant to section 81-502. The
4 State Fire Marshal shall assess a fee for such inspection pursuant to
5 section 81-505.01, payable by the licensee or applicant for a
6 license, except that the department may pay the fee for inspection
7 for fire safety of foster family homes, ~~as defined in section~~
8 ~~71-1902.~~ The department may conduct sanitation and health standards
9 investigations pursuant to subsection (2) of this section. The
10 department may also, at any time it sees fit, cause an inspection to
11 be made of the place where any licensee is furnishing foster care to
12 see that such service is being properly conducted.

13 (2) The department shall make an investigation and report
14 of all ~~facilities and programs of licensed foster care providers of~~
15 ~~foster care programs~~ subject to this section or applicants for
16 licenses to provide such ~~programs~~ care to determine if ~~the place or~~
17 ~~places to be covered by such licenses meet~~ standards of health and
18 sanitation set by the department for the care and protection of the
19 child or children who may be placed in ~~such facilities and programs.~~
20 foster family homes are being met. The department may delegate the
21 investigation authority to qualified local environmental health
22 personnel.

23 (3) Before the foster care placement of any child in
24 Nebraska by the department, the department shall require a national
25 criminal history record information check of the prospective foster

1 parent of such child and each member of such prospective foster
2 parent's household who is eighteen years of age or older. The
3 department shall provide two sets of legible fingerprints for such
4 persons to the Nebraska State Patrol for submission to the Federal
5 Bureau of Investigation. The Nebraska State Patrol shall conduct a
6 criminal history record information check of such persons and shall
7 submit such fingerprints to the Federal Bureau of Investigation for a
8 national criminal history record information check. The criminal
9 history record information check shall include information from
10 federal repositories of such information and repositories of such
11 information in other states if authorized by federal law. The
12 Nebraska State Patrol shall issue a report of the results of such
13 criminal history record information check to the department. The
14 department shall pay a fee to the Nebraska State Patrol for
15 conducting such check. Information received from the criminal history
16 record information check required under this subsection shall be used
17 solely for the purpose of evaluating and confirming information
18 provided by such persons for providing foster care or for the
19 finalization of an adoption. A child may be placed in foster care by
20 the department prior to the completion of a criminal history record
21 information check under this subsection in emergency situations as
22 determined by the department.

23 Sec. 42. Section 71-1904, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 71-1904 (1) The department shall adopt and promulgate

1 rules and regulations pursuant to sections 71-1901 to 71-1906.01 for
2 (a) the proper care and protection of children by licensees under
3 such sections, (b) the issuance, suspension, and revocation of
4 licenses to provide foster care, (c) the issuance, suspension, and
5 revocation of probationary licenses to provide foster care, (d) the
6 issuance, suspension, and revocation of provisional licenses to
7 provide foster care, (e) the provision of training in foster care,
8 which training shall be directly related to the skills necessary to
9 care for children in need of out-of-home care, including, but not
10 limited to, abused, neglected, dependent, and delinquent children,
11 and (f) the proper administration of sections 71-1901 to 71-1906.01.

12 (2) The training required by subdivision (1)(e) of this
13 section may be waived in whole or in part by the department for
14 persons operating foster family homes providing foster care only to
15 relatives of the foster care provider. Such waivers shall be granted
16 on a case-by-case basis upon assessment by the department of the
17 appropriateness of the relative foster care placement. The department
18 shall submit electronically an annual report to the Health and Human
19 Services Committee of the Legislature on the number of waivers
20 granted under this subsection and the total number of children placed
21 in relative foster homes. For 2012, 2013, and 2014, the department
22 shall provide the report to the Health and Human Services Committee
23 of the Legislature on or before September 15.

24 Sec. 43. Section 71-1907, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-1907 Any person furnishing foster care who is subject
2 to licensure under section 71-1902 or the Children's Residential
3 Facilities and Placing Licensure Act, when transporting in a motor
4 vehicle any children for whom care is being furnished, shall use an
5 approved child passenger restraint system for each child, except that
6 an occupant protection system as defined in section 60-6,265 may be
7 used for any child six years of age or older.

8 Any person violating this section shall be guilty of an
9 infraction as defined in section 29-431 and shall have his or her
10 license to furnish foster care revoked or suspended by the Department
11 of Health and Human Services.

12 For purposes of this section, approved child passenger
13 restraint system shall mean a restraint system which meets Federal
14 Motor Vehicle Safety Standard 213 as developed by the National
15 Highway Traffic Safety Administration, as such standard existed on
16 July 20, 2002.

17 Sec. 44. Section 75-302, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 75-302 For purposes of sections 75-301 to 75-322 and in
20 all rules and regulations adopted and promulgated by the commission
21 pursuant to such sections, unless the context otherwise requires:

22 (1) Attended services means an attendant or caregiver
23 accompanying a minor or persons who are physically, mentally, or
24 developmentally disabled and unable to travel or wait without
25 assistance or supervision;

1 (2) Carrier enforcement division means the carrier
2 enforcement division of the Nebraska State Patrol or the Nebraska
3 State Patrol;

4 (3) Certificate means a certificate of public convenience
5 and necessity issued under Chapter 75, article 3, to common carriers
6 by motor vehicle;

7 (4) Civil penalty means any monetary penalty assessed by
8 the commission or carrier enforcement division due to a violation of
9 Chapter 75, article 3, or section 75-126 as such section applies to
10 any person or carrier specified in Chapter 75, article 3; any term,
11 condition, or limitation of any certificate or permit issued pursuant
12 to Chapter 75, article 3; or any rule, regulation, or order of the
13 commission, the Division of Motor Carrier Services, or the carrier
14 enforcement division issued pursuant to Chapter 75, article 3;

15 (5) Commission means the Public Service Commission;

16 (6) Common carrier means any person who or which
17 undertakes to transport passengers or household goods for the general
18 public in intrastate commerce by motor vehicle for hire, whether over
19 regular or irregular routes, upon the highways of this state;

20 (7) Contract carrier means any motor carrier which
21 transports passengers or household goods for hire other than as a
22 common carrier designed to meet the distinct needs of each individual
23 customer or a specifically designated class of customers without any
24 limitation as to the number of customers it can serve within the
25 class;

1 (8) Division of Motor Carrier Services means the Division
2 of Motor Carrier Services of the Department of Motor Vehicles;

3 (9) Highway means the roads, highways, streets, and ways
4 in this state;

5 (10) Household goods means personal effects and property
6 used or to be used in a dwelling, when a part of the equipment or
7 supply of such dwelling, and similar property as the commission may
8 provide by regulation if the transportation of such effects or
9 property, is:

10 (a) Arranged and paid for by the householder, including
11 transportation of property from a factory or store when the property
12 is purchased by the householder with the intent to use in his or her
13 dwelling; or

14 (b) Arranged and paid for by another party;

15 (11) Intrastate commerce means commerce between any place
16 in this state and any other place in this state and not in part
17 through any other state;

18 (12) Licensed care transportation services means
19 transportation provided by an entity licensed by the Department of
20 Health and Human Services as a residential child-caring agency as
21 defined in section ~~71-1902-2~~ of this act or child-placing agency as
22 defined in such section or a child care facility licensed under the
23 Child Care Licensing Act to a client of the entity or facility when
24 the person providing transportation services also assists and
25 supervises the passenger or, if the client is a minor, to a family

1 member of a minor when it is necessary for agency or facility staff
2 to accompany or facilitate the transportation in order to provide
3 necessary services and support to the minor. Licensed care
4 transportation services must be incidental to and in furtherance of
5 the social services provided by the entity or facility to the
6 transported client;

7 (13) Motor carrier means any person other than a
8 regulated motor carrier who or which owns, controls, manages,
9 operates, or causes to be operated any motor vehicle used to
10 transport passengers or property over any public highway in this
11 state;

12 (14) Motor vehicle means any vehicle, machine, tractor,
13 trailer, or semitrailer propelled or drawn by mechanical power and
14 used upon the highways in the transportation of passengers or
15 property but does not include any vehicle, locomotive, or car
16 operated exclusively on a rail or rails;

17 (15) Permit means a permit issued under Chapter 75,
18 article 3, to contract carriers by motor vehicle;

19 (16) Person means any individual, firm, partnership,
20 limited liability company, corporation, company, association, or
21 joint-stock association and includes any trustee, receiver, assignee,
22 or personal representative thereof;

23 (17) Private carrier means any motor carrier which owns,
24 controls, manages, operates, or causes to be operated a motor vehicle
25 to transport passengers or property to or from its facility, plant,

1 or place of business or to deliver to purchasers its products,
2 supplies, or raw materials (a) when such transportation is within the
3 scope of and furthers a primary business of the carrier other than
4 transportation and (b) when not for hire. Nothing in sections 75-301
5 to 75-322 shall apply to private carriers;

6 (18) Regulated motor carrier means any person who or
7 which owns, controls, manages, operates, or causes to be operated any
8 motor vehicle used to transport passengers, other than those excepted
9 under section 75-303, or household goods over any public highway in
10 this state;

11 (19) Residential care means care for a minor or a person
12 who is physically, mentally, or developmentally disabled who resides
13 in a residential home or facility regulated by the Department of
14 Health and Human Services, including, but not limited to, a foster
15 home, treatment facility, group home, or shelter;

16 (20) Residential care transportation services means
17 transportation services to persons in residential care when such
18 residential care transportation services and residential care are
19 provided as part of a services contract with the Department of Health
20 and Human Services or pursuant to a subcontract entered into incident
21 to a services contract with the department; and

22 (21) Supported transportation services means
23 transportation services to a minor or for a person who is physically,
24 mentally, or developmentally disabled when the person providing
25 transportation services also assists and supervises the passenger or

1 transportation services to a family member of a minor when it is
2 necessary for provider staff to accompany or facilitate the
3 transportation in order to provide necessary services and support to
4 the minor. Supported transportation services must be provided as part
5 of a services contract with the Department of Health and Human
6 Services or pursuant to a subcontract entered into incident to a
7 services contract with the department, and the driver must meet
8 department requirements for (a) training or experience working with
9 minors or persons who are physically, mentally, or developmentally
10 disabled, (b) training with regard to the specific needs of the
11 client served, (c) reporting to the department, and (d) age.
12 Assisting and supervising the passenger shall not necessarily require
13 the person providing transportation services to stay with the
14 passenger after the transportation services have been provided.

15 Sec. 45. Section 79-215, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 79-215 (1) Except as otherwise provided in this section,
18 a student is a resident of the school district where he or she
19 resides and shall be admitted to any such school district upon
20 request without charge.

21 (2) A school board shall admit a student upon request
22 without charge if at least one of the student's parents resides in
23 the school district.

24 (3) A school board shall admit any homeless student upon
25 request without charge.

1 (4) A school board may allow a student whose residency in
2 the district ceases during a school year to continue attending school
3 in such district for the remainder of that school year.

4 (5) A school board may admit nonresident students to the
5 school district pursuant to a contract with the district where the
6 student is a resident and shall collect tuition pursuant to the
7 contract.

8 (6) A school board may admit nonresident students to the
9 school district pursuant to the enrollment option program as
10 authorized by sections 79-232 to 79-246, and such admission shall be
11 without charge.

12 (7) A school board of any school district that is a
13 member of a learning community shall admit nonresident students to
14 the school district pursuant to the open enrollment provisions of a
15 diversity plan in a learning community as authorized by section
16 79-2110, and such admission shall be without charge.

17 (8) A school board may admit a student who is a resident
18 of another state to the school district and collect tuition in
19 advance at a rate determined by the school board.

20 (9) When a student as a ward of the state or as a ward of
21 any court (a) has been placed in a school district other than the
22 district in which he or she resided at the time he or she became a
23 ward and such ward does not reside in a foster family home licensed
24 or approved by the Department of Health and Human Services or a
25 foster home maintained or used pursuant to section 83-108.04 or (b)

1 has been placed in any institution which maintains a special
2 education program which has been approved by the State Department of
3 Education and such institution is not owned or operated by the
4 district in which he or she resided at the time he or she became a
5 ward, the cost of his or her education and the required
6 transportation costs associated with the student's education shall be
7 paid by the state, but not in advance, to the receiving school
8 district or approved institution under rules and regulations
9 prescribed by the Department of Health and Human Services and the
10 student shall remain a resident of the district in which he or she
11 resided at the time he or she became a ward. Any student who is a
12 ward of the state or a ward of any court who resides ~~in a foster~~
13 ~~family home with a foster parent~~ licensed or approved by the
14 Department of Health and Human Services or a foster home maintained
15 or used pursuant to section 83-108.04 shall be deemed a resident of
16 the district in which he or she resided at the time he or she became
17 a foster child, unless it is determined under section 43-1311 or
18 43-1312 that he or she will not attend such district in which case he
19 or she shall be deemed a resident of the district in which the foster
20 family home or foster home is located.

21 (10)(a) When a student is not a ward of the state or a
22 ward of any court and is residing in a residential setting located in
23 Nebraska for reasons other than to receive an education and the
24 residential setting is operated by a service provider which is
25 certified or licensed by the Department of Health and Human Services

1 or is enrolled in the medical assistance program established pursuant
2 to the Medical Assistance Act and Title XIX or XXI of the federal
3 Social Security Act, as amended, the student shall remain a resident
4 of the district in which he or she resided immediately prior to
5 residing in such residential setting. The resident district for a
6 student who is not a ward of the state or a ward of any court does
7 not change when the student moves from one residential setting to
8 another.

9 (b) If a student is residing in a residential setting as
10 described in subdivision (10)(a) of this section and such residential
11 setting does not maintain an interim-program school as defined in
12 section 79-1119.01 or an approved or accredited school, the resident
13 school district shall contract with the district in which such
14 residential setting is located for the provision of all educational
15 services, including all special education services and support
16 services as defined in section 79-1125.01, unless a parent or
17 guardian and the resident school district agree that an appropriate
18 education will be provided by the resident school district while the
19 student is residing in such residential setting. If the resident
20 school district is required to contract, the district in which such
21 residential setting is located shall contract with the resident
22 district and provide all educational services, including all special
23 education services, to the student. If the two districts cannot agree
24 on the amount of the contract, the State Department of Education
25 shall determine the amount to be paid by the resident district to the

1 district in which such residential setting is located based on the
2 needs of the student, approved special education rates, the
3 department's general experience with special education budgets, and
4 the cost per student in the district in which such residential
5 setting is located. Once the contract has been entered into, all
6 legal responsibility for special education and related services shall
7 be transferred to the school district in which the residential
8 setting is located.

9 (c) If a student is residing in a residential setting as
10 described in subdivision (10)(a) of this section and such residential
11 setting maintains an interim-program school as defined in section
12 79-1119.01 or an approved or accredited school, the department shall
13 reimburse such residential setting for the provision of all
14 educational services, including all special education services and
15 support services, with the amount of payment for all educational
16 services determined pursuant to the average per pupil cost of the
17 service agency as defined in section 79-1116. The resident school
18 district shall retain responsibility for such student's
19 individualized education plan, if any. The educational services may
20 be provided through (i) such interim-program school or approved or
21 accredited school, (ii) a contract between the residential setting
22 and the school district in which such residential setting is located,
23 (iii) a contract between the residential setting and another service
24 agency as defined in section 79-1124, or (iv) a combination of such
25 educational service providers.

1 (d) If a school district pays a school district in which
2 a residential setting is located for educational services provided
3 pursuant to subdivision (10)(b) of this section and it is later
4 determined that a different school district was the resident school
5 district for such student at the time such educational services were
6 provided, the school district that was later determined to be the
7 resident school district shall reimburse the school district that
8 initially paid for the educational services one hundred ten percent
9 of the amount paid.

10 (e) A student residing in a residential setting described
11 in this subsection shall be defined as a student with a handicap
12 pursuant to Article VII, section 11, of the Constitution of Nebraska,
13 and as such the state and any political subdivision may contract with
14 institutions not wholly owned or controlled by the state or any
15 political subdivision to provide the educational services to the
16 student if such educational services are nonsectarian in nature.

17 (11) In the case of any individual eighteen years of age
18 or younger who is a ward of the state or any court and who is placed
19 in a county detention home established under section 43-2,110, the
20 cost of his or her education shall be paid by the state, regardless
21 of the district in which he or she resided at the time he or she
22 became a ward, to the agency or institution which: (a) Is selected by
23 the county board with jurisdiction over such detention home; (b) has
24 agreed or contracted with such county board to provide educational
25 services; and (c) has been approved by the State Department of

1 Education pursuant to rules and regulations prescribed by the State
2 Board of Education.

3 (12) No tuition shall be charged for students who may be
4 by law allowed to attend the school without charge.

5 (13) On a form prescribed by the State Department of
6 Education, an adult with legal or actual charge or control of a
7 student shall provide the name of the student, the name of the adult
8 with legal or actual charge or control of the student, the address
9 where the student is residing, and the telephone number and address
10 where the adult may generally be reached during the school day. If
11 the student is homeless or if the adult does not have a telephone
12 number and address where he or she may generally be reached during
13 the school day, those parts of the form may be left blank and a box
14 may be marked acknowledging that these are the reasons these parts of
15 the form were left blank. The adult with legal or actual charge or
16 control of the student shall also sign the form.

17 (14) The department may adopt and promulgate rules and
18 regulations to carry out the department's responsibilities under this
19 section.

20 Sec. 46. Section 81-502, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-502 (1) It shall be the duty of the State Fire
23 Marshal, under authority of the Governor:

24 (a) To enforce all laws of the state relating to the
25 suppression of arson and investigation of the cause, origin, and

1 circumstances of fires;

2 (b) To promote safety and reduce loss by fire;

3 (c) To make an investigation for fire safety of the
4 premises and facilities of:

5 (i) Liquor establishments for which a license or renewal
6 of a license is sought, upon request of the Nebraska Liquor Control
7 Commission, pursuant to section 53-119.01;

8 (ii) Licensed foster care facilities or applicants for
9 licenses for foster care facilities, upon request by the Department
10 of Health and Human Services, pursuant to section 71-1903;

11 ~~(iii) Licensed providers of programs or applicants for~~
12 ~~licenses to provide such programs, upon~~ Upon request of the
13 Department of Health and Human Services, licensed providers of
14 programs or applicants for licenses to provide such programs pursuant
15 to section 71-1913 and licensed residential child-caring agencies or
16 applicants for such licensure pursuant to section 10 of this act. The
17 State Fire Marshal shall report the results of the investigation to
18 the department within thirty days after receipt of the request from
19 the department;

20 (iv) Licensed hospitals, skilled nursing facilities,
21 intermediate care facilities, or other health care facilities which
22 are licensed under the Health Care Facility Licensure Act or
23 applicants for licenses for such facilities or institutions, upon
24 request by the Department of Health and Human Services, pursuant to
25 section 71-441; and

1 (v) Mobile home parks for which a license or renewal of a
2 license is sought, upon request of the Department of Health and Human
3 Services, pursuant to section 71-4635; and

4 (d) After a careful study and investigation of relevant
5 data, to adopt, promulgate, alter, and enforce, through inspections
6 and code compliance, orders, rules, and regulations covering:

7 (i) The prevention of fires;

8 (ii) The storage, sale, and use of flammable liquids,
9 combustibles, and fireworks;

10 (iii) Electric wiring and heating, protection equipment
11 devices, materials, furnishings, and other safeguards within the
12 structure necessary to promote safety and reduce loss by fire, and
13 the means and adequacy of exits, in case of fire, in assembly,
14 educational, institutional, residential, mercantile, office, storage,
15 and industrial-type occupancies as such structures are defined in the
16 National Fire Protection Association, Pamphlet Number 101, and
17 associated pamphlets, and all other buildings, structures, and
18 enclosures in which numbers of persons congregate from time to time
19 for any purpose whether privately or publicly owned;

20 (iv) Design, construction, location, installation, and
21 operation of equipment for storing, handling, and utilization of
22 liquefied petroleum gases, specifying the odorization of such gases
23 and the degree thereof;

24 (v) Chemicals, prozylin plastics, X-ray nitrocellulose
25 films, or any other hazardous material that may now or hereafter

1 exist;

2 (vi) Tanks used for the storage of regulated substances
3 pursuant to the Petroleum Products and Hazardous Substances Storage
4 and Handling Act; and

5 (vii) Accessibility standards and specifications adopted
6 pursuant to section 81-5,147.

7 (2) The State Fire Marshal may enter into contracts with
8 private individuals or other agencies, boards, commissions, or
9 governmental bodies for the purpose of carrying out his or her duties
10 and responsibilities pursuant to the Arson Reporting Immunity Act,
11 the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections
12 81-502 to 81-541.01, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

13 (3) The State Fire Marshal may delegate the authority set
14 forth in this section to qualified local fire prevention personnel.
15 The State Fire Marshal may overrule a decision, act, or policy of the
16 local fire prevention personnel. When the State Fire Marshal
17 overrules the local personnel, such local personnel may follow the
18 appeals procedure established by sections 81-502.01 to 81-502.03.
19 Such delegation of authority may be revoked by the State Fire Marshal
20 for cause upon thirty days' notice after a hearing.

21 (4) The State Fire Marshal, first assistant fire marshal,
22 and deputies shall have such other powers and perform such other
23 duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151
24 to 81-5,157 and as may be conferred and imposed by law.

25 (5) The rules and regulations adopted and promulgated

1 pursuant to subdivision (1)(d) of this section may conform generally
2 to the standards recommended by the National Fire Protection
3 Association, Pamphlet Number 101, known as the Life Safety Code, and
4 associated pamphlets, but not when doing so would impose an unduly
5 severe or costly burden without substantially contributing to the
6 safety of persons or property. This section and the rules and
7 regulations adopted and promulgated pursuant to subdivision (1)(d) of
8 this section shall apply to existing as well as new buildings,
9 structures, and enclosures. Such rules and regulations shall also
10 apply to sites or structures in public ownership listed on the
11 National Register of Historic Places but without destroying the
12 historic quality thereof.

13 (6) Plans for compliance with the rules and regulations
14 adopted and promulgated pursuant to subdivision (1)(d) of this
15 section shall be reviewed by the State Fire Marshal. Plans submitted
16 after remodeling or construction has begun shall be accompanied by a
17 penalty of fifty dollars in addition to the plan review fee set out
18 in subdivision (4)(a) of section 81-505.01.

19 Sec. 47. Section 83-108.04, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 83-108.04 (1) In addition to the institutions established
22 by law, the Department of Health and Human Services may maintain or
23 use the following facilities for the care of children in its legal
24 custody who have been adjudged to be as described in subdivision (1),
25 (2), (3)(b), or (4) of section 43-247: (a) Receiving homes to be used

1 for the temporary care of children; (b) foster homes; (c) ~~group~~
2 ~~homes;~~ residential child-caring agencies as defined in section 2 of
3 this act; and (d) other facilities and services, including forestry
4 or conservation camps for the training and treatment of children.

5 (2) The Department of Health and Human Services also may
6 use other public facilities or contract for the use of private
7 facilities for the care and treatment of children in its legal
8 custody. Placement of children in private or public facilities not
9 under its jurisdiction shall not terminate the legal custody of the
10 department. No state funds may be paid for care of a child in the
11 home of a parent.

12 Sec. 48. Original sections 28-710, 68-1006.01, 71-428,
13 71-1901, 71-1903, 71-1907, 81-502, and 83-108.04, Reissue Revised
14 Statutes of Nebraska, and sections 29-2264, 43-2,108.05, 43-1301,
15 43-1302, 43-1304, 43-4308, 68-1207, 71-1902, 71-1904, 75-302, and
16 79-215, Revised Statutes Cumulative Supplement, 2012, are repealed.