

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 357

Introduced by Hunt, 8.

Read first time January 13, 2021

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to infants and juveniles; to define terms; to
- 2 state intent; to create the Nebraska Youth in Care Bill of Rights;
- 3 and to provide powers and duties.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Child means any child placed in a foster family home, a child-
3 care institution, or a youth rehabilitation and treatment center through
4 a court proceeding under subdivision (3)(a) of section 43-247;

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

6 (c) Child-care institution has the same meaning as in 42 U.S.C.
7 672(c), as such section existed on January 1, 2021, and includes a
8 residential child-caring agency as defined in section 71-1926; and

9 (d) Foster family home includes a foster family home as defined in
10 42 U.S.C. 672(c), as such section existed on January 1, 2021, and as
11 defined in section 71-1901.

12 (2) It is the policy of the Legislature to ensure that the quality
13 of care provided to children placed in foster family homes, child-care
14 institutions, or youth rehabilitation and treatment centers is as close
15 as possible to the care a child would receive in a family setting. To
16 carry out such policy, the State of Nebraska shall aspire to treat all
17 children placed in foster family homes, child-care institutions, or youth
18 rehabilitation and treatment centers with dignity and respect, to provide
19 such children with honest and clear communication and information to help
20 them understand the system or systems in which they are involved, to
21 provide consistent opportunities for such children to have their voices
22 heard in their cases, to successfully reunify children with their
23 families or help such children find permanency, to support lifelong
24 family connections for such children, to place such children in an
25 environment accepting of their cultures and beliefs, and to provide such
26 children with the skills, knowledge, and resources they need to become
27 successful adults.

28 (3) In order to accomplish such goals, the department shall provide
29 developmentally appropriate information and notice to ensure that:

30 (a) Each child is permitted to attend religious services and
31 activities of such child's choice, or to choose not to attend, to be

1 balanced with the countervailing rights of the child's biological
2 parents, as provided under the First and Fourteenth Amendments to the
3 Constitution of the United States;

4 (b) Each child is in a placement that shares the child's religious
5 beliefs, when practical;

6 (c) Each child is free from unreasonable search and seizure as
7 provided under the Fourth Amendment to the Constitution of the United
8 States and as defined by state and federal law;

9 (d) Each child is safe and free from exploitation by staff and
10 contractors of the department, foster family members, attorneys and
11 guardians ad litem, and other persons affiliated with the department, as
12 provided under the Fourteenth Amendment to the Constitution of the United
13 States;

14 (e) Each child receives support for basic needs as provided under
15 the Fourteenth Amendment to the Constitution of the United States and
16 section 43-290;

17 (f) Each child is free from discrimination on the basis of race,
18 ethnicity, sex, gender, national origin, tribal membership, religion,
19 mental or physical disability, gender identity, or sexual orientation;

20 (g) Each child who is also a parent is able to make decisions for
21 such parent's own child, as any other minor could, as provided under the
22 Fourteenth Amendment to the Constitution of the United States;

23 (h) Each child who is also a parent of a child who is in such
24 parent's custody can provide input on the appropriateness of the
25 placement for such child;

26 (i) Each child is appointed a guardian ad litem, to advocate for the
27 expressed interests of such child, as required under section 43-272;

28 (j) Each child has the opportunity to participate in age-appropriate
29 and developmentally appropriate extracurricular, enrichment, cultural,
30 and social activities as provided under section 43-4711;

31 (k) As required by federal law, each child, including a child that

1 is pregnant or parenting, receives a free and appropriate public
2 education and attends the same school in which such child was previously
3 enrolled unless it is contrary to the best interests of the child;

4 (l) Each child is provided timely notice of all court hearings in
5 proceedings involving such child and has the ability to attend or
6 participate in all court hearings unless the court determines it is
7 contrary to the best interests of the child;

8 (m) Each child is provided information in such child's primary
9 language, as required by federal law;

10 (n) Each child with a disability is provided information in a manner
11 consistent with requirements under federal law;

12 (o) Each child has access, as determined by such child's physician,
13 to age-appropriate, developmentally appropriate, trauma-informed, and
14 medically accurate information, medical prevention services, medical
15 treatment, including an examination by a health care provider within two
16 weeks after initial removal from the home, and education on the child's
17 right to refuse or consent to medical treatment balanced with the
18 countervailing rights of the biological parents, unless contrary to the
19 best interests of the child or otherwise ordered by a court;

20 (p) Each child receives medical, dental, vision, and mental health
21 services regularly and as often as needed, while preserving any right of
22 the child to refuse or consent to treatment, unless contrary to the best
23 interests of the child or otherwise ordered by a court;

24 (q) Each child is prescribed and administered medications only as
25 necessary and is provided age-appropriate information about the
26 medications and possible side effects; and

27 (r) Each child has the child's assets protected and is free from
28 financial and identity theft.

29 (4) For a child involved in a proceeding under subdivision (3)(a) of
30 section 43-247, if applicable, the department shall:

31 (a) Facilitate a joint-sibling placement, unless it is contrary to

1 the safety or well-being of any of the siblings, as required by section
2 43-1311.02;

3 (b) Facilitate sibling visitation, if joint-sibling placement is not
4 possible, unless it is contrary to the safety or well-being of any of the
5 siblings, as required by section 43-1311.02;

6 (c) Inform the child of the child's right to joint-sibling placement
7 and visitation with siblings, including biological siblings, legal
8 siblings, half-siblings, and stepsiblings;

9 (d) Facilitate reunification with the child's biological parents as
10 required by state and federal law, unless contrary to the best interests
11 of the child or otherwise ordered by a court;

12 (e) Facilitate reasonable visitation with the child's biological
13 family and other significant individuals in the child's life as required
14 by state and federal law;

15 (f) Inform the child of the reasons for preventing any visitation or
16 placement;

17 (g) Inform the child who is adopted from foster care about post-
18 adoption services;

19 (h) Provide the child, including a child who is pregnant or
20 parenting, with an adequate plan to transition out of foster care and all
21 related services as required by section 43-1311.03;

22 (i) Not assign a caseworker that is handling cases in excess of the
23 standards established as of January 1, 2012, pursuant to section 68-1207;

24 (j) Ensure information related to the child's foster care case is
25 kept confidential in a manner consistent with state and federal law; and

26 (k) Ensure a child has access to the child's birth certificate,
27 social security card, proof of health care coverage, medical and
28 educational records, and any other information or documents as provided
29 in section 43-1311.03 and to any power of attorney documents.

30 (5) In order to ensure that each child is aware of the rights stated
31 in this section and is able to express a grievance related to any

1 infringement of such rights without penalty:

2 (a) Each caseworker shall be trained on the rights stated in this
3 section and how to discuss such rights in an age-appropriate and
4 developmentally appropriate manner with children;

5 (b) Each caseworker shall provide a paper copy of the rights stated
6 in this section and shall discuss the rights stated in this section with
7 each child who is at least fourteen years of age. Such discussion shall
8 occur (i) in the placement of the child within seventy-two hours after
9 initial placement and within two weeks after such placement and (ii)
10 quarterly at team meetings. The caseworker shall request that the child
11 sign an acknowledgment that such discussion has occurred as required by
12 section 43-4713;

13 (c) As part of the consultations required by subdivision (2)(d) of
14 section 43-272.01, each guardian ad litem appointed pursuant to section
15 43-272.01 shall discuss the rights stated in this section with each child
16 represented within two weeks after appointment and once every six months
17 thereafter. The guardian ad litem shall discuss such rights with the
18 child again if a child discloses that the child believes such rights have
19 been infringed. The guardian ad litem shall raise such infringement with
20 the court unless it is determined by the guardian ad litem to be without
21 merit;

22 (d) A child may raise a grievance regarding the infringement of
23 rights stated in this section by filing a grievance with the department;

24 (e) Within three business days after receipt of a grievance, the
25 department shall provide acknowledgment of receipt, including contact
26 information, information on the grievance process, and information on
27 obtaining review under the Administrative Procedure Act; and

28 (f) Each child shall have access to a paper copy of grievance forms
29 and online access to such forms. The caseworker shall explain how to file
30 a grievance and the grievance process to the child in an age-appropriate
31 manner when the caseworker provides such copy. The caseworker shall

1 provide the child opportunities to privately discuss such rights and the
2 grievance process regularly, at intervals as determined by the
3 department.

4 (6) The rights stated in this section shall be discussed at every
5 dispositional, review, and permanency planning hearing as provided in
6 section 43-4713.

7 (7) The Nebraska Strengthening Families Act Committee created
8 pursuant to section 43-4716 shall monitor the implementation of the
9 Nebraska Youth in Care Bill of Rights.