

## Chapter 1

### Child Welfare Evolution: Nationally and in Nebraska

*“Injustice and cruelty to children are as old as the world. We have made some progress. We see things more clearly now than in the past; and with clearer vision we can do more, go farther. . . There will, I warn you, be discouragements and disappointments. But the cause of children must triumph ultimately. The important thing is that we should be on our way. Perhaps you may ask, 'Does the road lead uphill all the way?' and I must answer, 'Yes, to the very end.' But if I offer you a long, hard struggle, I can also promise you great rewards. Justice for all children is the high ideal in a democracy.”*

*~ Grace Abbott  
National Child Advocate,  
Chief of the U.S. Children's Bureau,  
Social Work Pioneer,  
Grand Island, Nebraska native*

## ***Child Welfare's Evolution: Nationally and in Nebraska***

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Formal, governmental structures for protecting and providing for vulnerable children are relatively new in the history of the United States. For years, private agencies provided these services and there was no precedent for providing resources to families, removing children from dangerous situations, or prosecuting adults for child abuse or neglect.

It was not until the Great Depression of the 1930s, when many nonprofits went out of business, that the government began to address child safety in a systematic way. In 1935 Douglas Falconer, a social worker, wrote:

“For many years responsibility for child protection was left almost entirely to private agencies. [...] Great sections of child population were untouched by them and in many other places the service rendered was perfunctory and of poor standard. [...] The belief has become increasingly accepted that if children are to be protected from neglect the service must be performed by public agencies.”

With no other entity to step in, the federal government passed the Social Security Act of 1935 and began to provide resources to states to provide for child welfare.

As knowledge of the impact of child abuse and neglect has grown and safety interventions have on children, child welfare policy has been continually evolving to better provide for children's safety, permanency, and well-being. Often federal policy has direct impacts on service provision and state policy although each state has built a unique system of child welfare. The timelines in this document aim to capture the evolution of practice and policy in child welfare both nationally and in Nebraska.

### **Child Welfare Practice and Policy in the United States**

**Early 1700s** – Orphans and children whose parents could not care for them were often indentured to work for other families.

**Early 1800s** – Orphanages were established by private religious and charitable organizations.

**1850 – 1920** – Private agencies began placing children with foster families. The orphan train movement often took children thousands of miles across the country to find a family. Little, if any, screening and monitoring of families occurred.

**1899** – The first juvenile court is established in Chicago, IL. A social services approach for dealing with juvenile crime and delinquency is adopted, and spreads slowly across the United States.

**Early 1900s** – The first federal children’s bureau is established. Some states established laws to prevent child abuse.

**1935** – The **Social Security Act of 1935** authorized the first federal grants for child welfare services (now known as Title IV-B, subpart 1) and incentivized state establishment of child welfare agencies and services. It also created Aid to Dependent Children (ADC) to help states provide financial assistance to needy dependent children.

**1962** –

- **Aid to Dependent Children – Foster Care** established a mechanism where the federal government provided matching funds to children eligible for ADC removed from “unsuitable” homes. States now had to continue payments to children, but could provide the funds for out-of-home care as well. This was the beginning of the IV-E funding stream and created the link found today between eligibility for federal foster care reimbursement and eligibility for AFDC. **The number of children being placed in out-of-home care began to increase as a result.** States were also required to report children who were candidates for removal from their home to the courts.
- **Dr. C. Henry Kempe, a pediatrician published *The Battered-Child Syndrome*** with the American Medical Association in the 1962. The article clearly demonstrated the devastating effects of child abuse. Much of the child welfare policy that followed has been built upon the foundational knowledge of Dr. Kempe, recognizing the importance of keeping children safe from physical, sexual and emotional harm.

**1974** - The **Child Abuse Prevention and Treatment Act (CAPTA, Public Law 93-247)** provided the first requirement for states to establish child abuse reporting procedures and investigation systems. **All states established mandatory reporting legislation around this time.** CAPTA created a significant pendulum swing toward removal of children from their families and created a significant increase in the number of children being placed in foster care.

**1978** – The **Indian Child Welfare Act (ICWA, Public Law 95-608)** was enacted in response to the high percentage of the Native American population that was being removed from their families and placed in foster care. ICWA required that all child welfare proceedings involving a Native American child must be heard in tribal courts if possible and that tribes have a right to intervene in state court proceedings. It established a clear priority for placement of Native American children with Native American relatives and families. A relatively small grant program was established for tribes to use for a broad array of services.

**1980** – The **Adoption Assistance and Child Welfare Act (Public Law 96-272)** responded to concern about the increasing number of children in foster care, the length of time they were spending in out-of-home, and the lack of oversight of the foster care system.

Foster care was meant to be a temporary placement, but it was not always functioning this way. **This Act created Title IV-E of the Social Security Act** and transferred AFDC-Foster Care to the new title. Additionally, the Act:

- Required states to develop a state plan for delivering child welfare services;
- Required the court to review all child welfare cases to ensure **reasonable efforts were made to prevent removal from their homes and reunify families**;
- Stressed the importance of permanence by requiring prevention as well as family reunification services in addition to adoption assistance (subsidy) when families couldn't be reunited;
- Required each state to develop and submit a IV-E child welfare plan;
- Required uniform data collection by all states.

**1986** – The **Independent Living Program** was authorized under the Consolidated Omnibus Budget Reconciliation Act (Public Law 99-272) to provide funding for states to assist older foster youth make the transition from foster care to independence.

**1993** – The **Family Preservation and Support Program** was established as part of Public Law 103-66 to provide a response to the almost doubling of the foster care population since 1980 and concerns states were not making reasonable efforts to keep children with their families. This legislation:

- Provided flexible funding for community-based services to prevent child abuse and neglect and help families whose children were at risk of removal; and
- Established the Court Improvement Program (CIP) giving grants to the highest court in each state. This was the first child welfare-related funding for courts and allowed them to identify ways to measure and improve their handling of child welfare cases.

**1994** –

- The Social Security Amendments within Public Law 103-432 gave the Department of Health & Human Services authority **to grant child welfare financing waivers** to up to 10 states to test innovative approaches for a period of up to five years.
- The **Multi-Ethnic Placement Act** (MEPA, Public Law 103-382) prohibited states from delaying adoption and foster care placements on the basis of race in 1994. It did allow them to *consider* race and ethnicity when making placement decisions. This was an effort to counterbalance delays that were being created by the emphasis in the 1980s on placing children with same race families.

**1996** – The **Inter-Ethnic Placement Provisions Act** (IEPPA, Public Law 104-188) repealed the provisions of the MEPA allowing *routine consideration* of race and ethnicity due to continued languishing of children of color in the system.

**1997** - The Adoption & Safe Families Act (ASFA, Public Law 105-89) was passed providing the most significant change since the 1980 passage of PL 96-272. While ASFA did not eliminate the need for reasonable efforts and family preservation, it prioritized three major areas of concern:

- Children continued to remain too long in foster care;
- The child welfare system was biased toward family preservation at the expense of the child's safety and well-being; and
- Inadequate attention and resources were devoted to adoption as a permanent placement option for abuse and neglected children.

Key provisions of ASFA were designed to:

- Ensure that child safety, permanency and well-being are of paramount concern in any child welfare decision;
- Increase attention to sibling placements and family relationships;
- Set clearer timelines for the court to consider permanency decisions for children in foster care;
- Provide authorization and funding for a new adoption incentive payment program to promote and increase the number of adoptions;
- Establish performance standards and a state audit process (Children and Family Service Reviews or CFSR), whereby states face financial penalties for failure to demonstrate improvements; and
- Expand data collection requirements for states.

ASFA also reauthorized **child welfare waivers** and reauthorized dollars for family preservation, reunification, and adoption support with the **Promoting Safe and Stable Families Act**.

**1999** – The Foster Care Independence Act of 1999 (Public Law 106-169) replaced the previous Independent Living Program with the **John H. Chafee Foster Care Independence Program (CFCIP)**. This increased funding and expanded services for former foster youth up to age 21.

**2008** - The **Fostering Connections to Success and Increasing Adoptions Act** aimed to improve out-of-home care, and expedite permanency through reforms in six key areas:

- support for kinship care and family connections;
- support for older youth;
- coordinated health services;
- improved educational stability and opportunities;
- incentives and assistance for adoption; and
- direct access to federal resources for Indian Tribes.

States are still implementing aspects of fostering connections and have the flexibility to choose whether or not to adopt some of these federal provisions.

**2010** - The reauthorization of the **Child Abuse Prevention and Treatment Act** promoted family involvement, collaboration, and the use of differential response when responding to allegations of child maltreatment.

**2011** - The **Child and Family Services Improvement and Innovation Act** reauthorized the use of Title IV-E waivers, funding for family preservation, and clarified the educational stability aspect of Fostering Connections.

### ***The Evolution of Child Welfare and Juvenile Justice in Nebraska***

Similar to the rest of the United States, the first efforts to provide for vulnerable children and youth in Nebraska were led by private charitable entities. Child Saving Institute (1892), Nebraska Children's Home Society (1893), and Boys Town (1917) were some of the first. It was not until Nebraska opted into the federal Aid to Dependent Children (ADC) program in 1935 that the state government itself began to provide support to children, but there was still no coordinated and comprehensive effort to address child safety.

During the 1970s awareness of the effects of child abuse and neglect grew nationally and in Nebraska. State statute began to address specific concerns about the safety, well-being, and permanency of abused and neglected children. Concern about delinquent youth also grew from this period onward. The following time line contains both statutory and prominent regulatory developments, as well as information on research and task forces that have attempted to address the needs of Nebraska's vulnerable children and youth.

**1977- LB 38** mandates every citizen report suspected child abuse and neglect.

**1982-** Responsibility for administering child welfare services transfers from individual counties to the state Department of Social Services (DSS) in **LB 522**.

**1982 – 1984 - LB 714** created the **State Foster Care Review Board** to track and maintain information about all children in out-of-home care. For the first time the Courts and any child placing agency was required to report information about any child in their care 3 days or longer. The bill also created a mechanism for volunteers to review cases every six months to determine if there was a permanency plan and that services were in place to implement that plan.

**1985 - LB 255** enacted **Nebraska's Indian Child Welfare Act**. This act put the federal ICWA into state statute for greater clarity.

**1986-** LB 333 created the Child Abuse Prevention Fund with revenues from the filing fees for birth certificates.

**Late 1980s** – The Legislature created a **Children’s Select Committee** through a number of resolutions introduced by Senator Scofield. This committee led the effort to accomplish child welfare and juvenile justice changes.

**1987 - LB 637, the Family Policy Act (§43-532), stressed the importance of family for children** and required reports to the Legislature by agencies serving children including budget needs, children served and outcomes from services provided.

**1988 - LB 90** allowed the use of video-taped testimony of child-victims of sexual abuse in court proceedings.

**1989 -**

- **LB 330 adjusted the Family Policy Act by stating that child safety was of paramount concern in child welfare cases:** “objectives prescribed in 43.532 – 534 shall not be construed to mean that a child shall be left in the home when it is shown that continued residence in the home places the child in danger.”
- **LB 211** extended the statute of limitations for sexual abuse cases in 1989.

**1989 – 1992 -** Attempts to pass several bills appropriating prevention funds for Family Services Incentive Act fail.

**1990 –**

- **LB 1070 created Nebraska’s Adoption Subsidy Program**, providing funds for families who adopt state wards to help provide for their child’s ongoing needs.
- **LB 720 added child welfare caseworkers** over a 4 year period and required DHHS to establish caseload limits in 1990. Child outcomes have been linked to caseloads in national studies.

**1992 -**

- **LB 1184 required the Department of Social Services to work with law enforcement officials to investigate reports of child abuse** and to develop treatment plans in child abuse cases. The bill also authorized county attorneys to establish child abuse and neglect investigation and treatment teams in each county or group of counties. The bill also dealt with termination of parental rights and added juvenile detention facilities to the list of correctional facilities subject to jail standards.
- **LB 16** required a pre-placement home study completed by a licensed child placing agency prior to any adoptive placement.

**1993 –**

- Nebraska received a second Child and Adolescent Services System Program (CASSP) Grant to promote **interagency collaboration at the state and local levels for children with mental health challenges.**

- **LB431 created a Child Death Review Process** under the Department of Social Services in 1993.

**1994 –**

- Governor Nelson convened the Child and Family Mental Health Search Conference, involving 70 stakeholders. The conference identified needs such as Professional Partners (early intervention specialists housed within behavioral health Regions), local interagency collaboration, coordination of funding streams, single points of entry, and comprehensive array of services.
- **LB 988 created the Office of Juvenile Services (OJS)**, as a separate office within the Department of Corrections. It had a direct gubernatorial appointee as director and had independent budgeting authority. OJS managed both children made wards of the state for law violations and Nebraska’s two youth prisons – the Youth Residential Treatment Centers at Kearney and Geneva.

**1995** - The Nebraska State Court Improvement Project begins and is charged with assessing the functioning of Nebraska courts regarding abused and neglected children.

**1996 –**

- **LB 1044 merged four agencies into one new Department of Health and Human Services.** The Departments of Public Institutions, Health, Social Services, and Aging along with the **Office of Juvenile Services** from the Department of Corrections became were combined into three divisions with no one defined agency head: Finance and Support; Services; and Regulations and Licensure.
- **The Foster Care Review Board was given authority to conduct federally required reviews of children in foster care under the provisions of LB 642.**

**1997 –**

- **LB 882 transferred control of the Secure Youth Facility then being built in Omaha from the Office of Juvenile Services to the Department of Correctional Services.**
- Region 3 received a Substance Abuse and Mental Health Services Administration (SAMHSA) System of Care grant to develop local systems of care focusing on family-centered care, evidence-based practices, interagency collaboration, family involvement, and data-based decision making.

**1998 -**

- The Nebraska Legislature enacts provisions of the **federal Adoption and Safe Families Act of 1997 (LB 1041)**, placing the health and safety of foster children above the goal of keeping families intact.



- **The Nebraska Juvenile Justice Task Force was created in 1998 with passage of LB 1073.** The purpose of the Task Force was to determine the “future legislative and executive actions necessary to address gaps in the organization and delivery of juvenile services.” The Task Force presented numerous recommendations in the “Nebraska Juvenile Justice Task Force Report” to the Legislature and the Governor in December, 1998.
- **LB 1063 enacted Kids Connection,** providing comprehensive health insurance coverage to an additional 24,000 low-income Nebraska children (up to 185% of poverty) through an expansion of the state’s Medicaid program. Kids Connection provides insurance to state wards and former state wards who have been adopted or placed in permanent guardianship.
- Lancaster County in Region 5 received the second of Nebraska’s System of Care grants from SAMSHA focusing on addressing the mental health needs of youth in the juvenile justice system.

#### **1999 –**

- **LB 594 allowed child abuse investigation teams to develop protocols for working with delinquent youth** who have multiple problems and also responded to issues within the juvenile justice system, including recognizing the importance of meeting the educational needs of juvenile offenders. It also changed intent language in §43-402 **to require the juvenile justice system promote prevention efforts** that are community-based, stress offender responsibility to victims and the community and recognized the importance of meeting the educational needs of juvenile offenders.
- The introduction of **LB 878** ultimately led to the development of the “**Nebraska Juvenile Services Master Plan**”, prepared by Chinn Planning. This report released in December, 1999 made 23 recommendations calling for mental health and substance abuse screening, evaluation, and services for juvenile offenders. **LB 878 had also allocated \$2.5 million** for fiscal year 1999-2000 and **\$2.2 million** for fiscal year 2000-2001 to address building concerns at the YRTC’s and develop a facility master plan. **A veto by Governor Johanns vetoes more than half of the money for the first year** but left in place funding to complete the Master Plan.
- The Justice Behavioral Health Committee (formerly, Justice Substance Abuse Team) of the Community Corrections Council was formed and helped develop a standardized model for substance abuse screening and assessment.

#### **2000 –**

- **LB 1167 created the Juvenile Diversion, Detention, and Probation Services Implementation Team** to study juvenile detention practices and plan for the development of regional, secure juvenile detention facilities. The **Coalition for**

**Juvenile Justice** was created, merging two existing grant committees of the Nebraska Commission on Law Enforcement and Criminal Justice. The bill also adopted the **Court Appointed Special Advocate Act** and the **County Juvenile Services Plan Act**.

- **The Nebraska Family Portrait devised a strategic action plan** for Protection and Safety to improve the safety, permanence, and well-being of children in Nebraska. It included a focus on addressing the behavioral health needs of children who are state wards.

#### **2001 –**

- **LB 640 enacted the County Juvenile Services Aid Program within the Office of Juvenile Services** to help counties pay for implementing and operating community-based programs or services.
- **LB 451 enacted provisions pertaining to juvenile probation intake officers** that were recommendations of the Juvenile Diversion, Detention and Probation Services Implementation Team.
- **LB 598** was introduced on behalf of the Governor and passed in order to **clarify the role of the Court and the Office of Juvenile Services when determining treatment for juveniles committed to the state**. After substantial debate, the final bill requires the court to commit the juvenile to the state and determine the initial level of treatment. The state will then make a placement for the juvenile based on the recommendation but could change it in the future, giving notification of said change to the court
- The Governor’s Early Childhood Mental Health Symposium discussed design of a **comprehensive, integrated and coordinated system of care to meet the mental health needs of young children**. It promoted interagency collaboration, coordination of funding, and led to a pilot project for early childhood mental health system of care.
- The Governor’s Juvenile Justice Reform Plan supported the **“expansion and development of substance abuse and mental health programming”** for juvenile offenders.

#### **2002 –**

- The work of the Juvenile Diversion, Detention, and Probation Services Implementation Team culminated with the Nebraska Association of County Officials release of the **“Juvenile Detention and Probation Services Implementation Team Final Report.”** This report was also prepared by Chinn Planning.

- **LB 642** established guidelines for child autopsies.
- The first federal Child and Family Services Review (CFSR) reported that Nebraska met only two of the six CFSR data measures.
- Herz & Poland study of **Mental Health Needs of Juvenile Offenders identified need for a coordinated response for juvenile offenders**, continuum of services, standard process for assessing needs, funding that follows the child, system evaluation, training, and the development of effective services such as Multisystemic Therapy.
- Nebraska receives NEBHANDS grant to help build the capacity of small faith- and community-based organizations to participate in systems of care for mental health and substance abuse.
- The budget bill passed including an amendment from **LB 272 which created the Juvenile Justice Institute within the Department of Criminal Justice at the University of Nebraska at Omaha**. This institute is charged with communication and coordination between state and local juvenile justice agencies, as well as addressing and monitoring overrepresentation of minorities, making recommendations based on applied research and training professionals.

**2003- LB 43** authorized the creation of **pretrial diversion programs for juveniles and to clarify custody issues of juveniles during intake decision making.**

**2004 –**

- **Nebraska Behavioral Health Services Act (LB 1083) passed.** The bill called for the closing of Nebraska's outdated Regional Centers and the development of a full array of community-based behavioral health services. While the bill encompassed both children's and adults' services, the Behavioral Health Oversight Committee created to monitor implementation prioritized adult service.
- **LB 943** eliminated the statute of limitations for child sexual abuse.
- **LB 1089 provided staff for Child Advocacy Centers** who would serve as coordinators for LB 1184 teams.

**2005 –**

- **LB 264** addressed caseloads, requiring that the DHHS director annually report the status of the state's child protective service workers. It also authorized **Home Visiting Programs**, as a means to prevent child abuse and neglect. The Legislature appropriated **\$600,000 for Early Home Visiting Pilot Programs.**

- **LB259** required the Nebraska Coalition for Juvenile Justice to create a work group to develop recommendations for the **training of youth services workers** employed by entities licensed by the DHHS for the care or treatment of youth in out-of-home placements.
- **LB 193 moved the County Juvenile Services Aid Program** (created in LB 640 in 2001) under the control of the Nebraska Commission on Law Enforcement and Criminal Justice.
- The Drug Endangered Children’s Committee (comprised of HHS, Attorney General, State Patrol, Crime Commission) is formed to address meth labs and other substance abuse to which children could be exposed.
- **An Ad Hoc Committee on the Education of Children and Youth in Out-of-Home Placements** is formed to develop and implement educational opportunities for children in out-of-home placements.

**2006 –**

- The Nebraska Supreme Court establishes the Commission on Children in the Courts and Through the Eyes of the Child Initiative to improve the court process in child protection cases.
- Changes were made to decrease unnecessary detention times for juveniles with passage of **LB1113** (including amendments from LB1181).
- The budget bill included funding for updating the 1999 “**Nebraska Juvenile Services Master Plan**”.

**2007 –**

- DHHS’ Division of Children and Family Services (CFS) selects the Nebraska Safety Intervention System (NSIS) model to assess child safety.
- A preliminary draft of the updated “**Nebraska Juvenile Services Master Plan**” was circulated and LR 196 called for a review of the findings. A final report was written but never publicized or utilized.
- DHHS announces Governor’s priorities to accelerate reform of Nebraska’s child welfare system and improve Nebraska’s performance in the federal government’s Child and Family Services Review in 2008.
- **LB 542 created the Children’s Behavioral Health Task Force** and charged it with developing plans for a statewide integrated system of care for children’s mental health and develop a process to assure juvenile facility compliance with Title IX and Title IV-E.

**2008 –**

- **LB 296 reorganized the HHS System created in 1996 into six service divisions**, still with no defined agency head. The divisions are: Behavioral Health; Children & Family Services; Medicaid & Long Term Care; Public Health; Veterans Homes; and Developmental Disabilities.
- **Nebraska’s Safe Haven bill (LB 157) passed allowing parents to drop a child off at any age** at a hospital without penalty. More than 30 children were abandoned by parents over a couple of months, and most had mental health problems.
- A Children’s Behavioral Health Plan was issued by HHS divisions of Children and Family Services and Behavioral Health.
- The federal CFSR reported Nebraska met only one of the six data measures. (Based on slightly different data measures than were used in 2002, Nebraska was not alone in having a poorer performance.)
- HHS issued a RFB for **enhanced safety and in-home services** and, in July, implemented new safety and in-home services contracts.
- **HHS released the out-of-home reform framework, including intentions to expand lead contractors**, to take a performance-based approach to contracting for services, and to require lead contractors to also provide limited coordination of services CFS clients receive.
- **LB 782** allowed HHS to correct damaging and incorrect information in the media regarding high-profile cases of child abuse and neglect involving state wards, if officials determine the release of additional information is in the best interest of the child.
- **LB 1**, passed during a special session, reduced the permissible age for abandonment to no older than 30 days.

**2009 –**

- HHS signed out-of-home service contracts in November with five organizations.
- **LB 603 adopted the Children and Family Behavioral Health Support Act** to address gaps revealed in the state’s behavioral health system for children and youth after the Legislature passed a safe haven law in 2008 with no age restrictions. This bill increased eligibility for Kids Connection to 200% of poverty, funded additional behavioral health services, created a Hotline and family navigators and created the Children’s Behavioral Health Oversight Committee of the Legislature.

- **LB 288** further revised the DHHS System by giving full leadership responsibility to a CEO

**2009 - LB 122** changed the Child Abuse Hotline category from “unfounded” to “agency substantiated.”

**2010 –**

- HHS fully implemented child welfare/juvenile services reform changes on April 1. By October, three of the five contractors had pulled out and service coordination in the Western, Central, and Northern Service Areas returned to HHS.
- **LB 800 made significant changes to the state’s juvenile justice system**, including addressing the impact of truancy on juvenile delinquency.

**2011 –**

- DHHS turns over full case management responsibility in the Southeastern and Eastern Service Area to lead agencies (except for the 1/3 of cases still managed by DHHS in the ESA).
- **LR 37** designated the Legislature’s Health and Services Committee to review the effect of the privatization of the state’s child welfare system.
- **LB 177 brings Nebraska law into compliance with the federal Fostering Connections to Success and Increasing Adoptions Act of 2008.**
- **LB 463 further addresses juvenile truancy and delinquency prevention** begun with legislation in 2010.

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