

LEGISLATIVE BILL 165

Approved by the Governor March 17, 1988

Introduced by Baack, 47

AN ACT relating to infants; to authorize appointment of a surrogate parent as prescribed; to provide powers and duties; and to limit liability of surrogate parents.

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

Section 1. (1) A surrogate parent shall be appointed by a school district to protect the rights of a handicapped child if the district determines that (a) the parents of the child cannot be identified, (b) the parents of the child are unknown or unavailable, or (c) the child is a ward of the state.

(2) The surrogate parent shall (a) have no interest which conflicts with the interest of the child, (b) have knowledge and skills that insure adequate representation, and (c) not be an employee of any agency involved in the care or education of the child. The surrogate parent appointed under this section may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(3) The services of the surrogate parent shall be terminated when (a) the child is no longer eligible under subsection (1) of this section, (b) a conflict of interest develops between the interest of the child and the interest of the surrogate parent, or (c) the surrogate parent fails to fulfill his or her duties as a surrogate parent. Issues arising from the selection, appointment, or removal of a surrogate parent shall be resolved through hearings established under sections 79-3349 to 79-3354. The surrogate parent and the school district which appointed the surrogate parent shall not be liable in civil actions for damages for acts of the surrogate parent unless such acts constitute willful and wanton misconduct.

(4) The State Department of Education shall adopt and promulgate rules and regulations necessary to carry out the provisions of this section.