

## Appendices

LR37

LR37

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE RESOLUTION 37**

Introduced by Health and Human Services Committee: Campbell, 25, Chairperson; Bloomfield, 17; Gloor, 35; Howard, 9; Krist, 10; Wallman, 30; Avery, 28; Coash, 27; Conrad, 46; Dubas, 34; Hadley, 37; Hansen, 42; McGill, 26; Mello, 5; Council, 11.

WHEREAS, in July, 2009, the Department of Health and Human Services began the child welfare reform initiative, known as Families Matter, to address the growing number of children in out-of-home placements. The department selected six separate private agencies as lead agencies to implement the reform initiatives which increased responsibilities of private agencies to provide services to children and families. The private agencies were also subject to a new reimbursement methodology that changed from fee-for-service to risk-based reimbursement. Significant changes ensued regarding how children and families are served by the child welfare and juvenile services system in Nebraska; and

WHEREAS, on October 15, 2010, the Department of Health and Human Services announced that the remaining private agencies would receive greater case management responsibility and that new lead agencies in the remaining service area would be sought. As a result, department staff that provide critical case management services and a last safety net if a private agency is unable to provide services in the future would be greatly reduced; and

WHEREAS, by November 1, 2010, only two lead agencies were still under contract with the Department of Health and Human Services to assist

with implementing the child welfare reform initiative. Departing agencies cited the loss of significant funds as they sought to carry out the terms of the contract. During hearings for Interim Study LR568, the Health and Human Services Committee of the Legislature heard additional concerns regarding lack of documentation in records, failure to pay providers and foster parents fully and promptly, confusion regarding division of responsibilities, quality of care and training, and long-term planning to sustain the child welfare reform initiative and ensure safety and protection of Nebraska's children. These difficulties have resulted in a lack of stability within the child welfare system.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature be designated to review, investigate, and assess the effect of the child welfare reform initiative which the Department of Health and Human Services began implementing July, 2009.

2. That the committee shall consult with the department, service providers currently or formerly under contract to the department, the Supreme Court, the Foster Care Review Board, and stakeholders representing state and local government, provider organizations, consumers, consumer advocates, and other parties as the committee deems helpful.

3. That the committee shall utilize existing studies, reports, and past presentations of information by the department to the Legislature; the Foster Care Review Board; and current and previous lead agencies and their subcontractors for their reports relating to the effort to improve the

child welfare system. The committee shall not be limited to such studies, reports, or legislation.

4. That the committee may hold public hearings on the implementation of child welfare reforms and, pursuant to section 50-406 and the rules of the Nebraska Unicameral Legislature, may exercise its authority to administer oaths, issue subpoenas, compel attendance of witnesses and the production of documents, and cause depositions of witnesses in the manner prescribed by law for taking depositions in civil actions in the district court.

Issues to be considered may include, but shall not be limited to:

(a) The goal formation, delineation of outcome measurements, coordination, and long-term planning of the child welfare reform initiative by the Department of Health and Human Services;

(b) The effectiveness of the public-private partnership in providing services to children and families involved with the department including the number of children attaining permanency through adoption;

(c) The system of accountability, funding, and financial sustainability of the child welfare reform initiative;

(d) The effect of the child welfare reform initiative on meeting the federal Child and Family Service Reviews of outcomes and indicators, permanency and well-being; and

(e) The option of requesting the Legislative Performance Audit Committee and the Auditor of Public Accounts to conduct a joint performance and fiscal audit or separate audits of child welfare reforms.



5. That the committee shall provide the Legislature a final report no later than December 15, 2011.



**One Hundred Second Legislature  
First Session- 2011**

**HEALTH & HUMAN SERVICES COMMITTEE**

## LEGISLATIVE RESOLUTION SUMMARY

### LR 37

*LR 37 (Health and Human Services Committee) Provide the Health and Human Services Committee be designated to review, investigate, and assess the effect of the child welfare reform initiative implemented by the Department of Health and Human Services. To summarize:*

- In July 2009 the department selected six private agencies as lead agencies to implement child welfare reform, recently entitled Families Matter.
- The child welfare reform increased the responsibilities of these private agencies to provide services to children and families.
- The private agencies were subject to a risk-based rather than fee for service reimbursement.
- On October 15, 2010 the department announced the remaining agencies would receive greater case management responsibilities.
- The result of the case management transfer is the reduction of department staff that provides critical case management services and a last safety net if private agencies stop providing services in the future.
- By November 1, 2010 three agencies had ended the contracts with the state citing loss of significant funds and only two lead agencies remain.
- The HHS Committee interim study hearings on LR 568 revealed additional serious concerns about the long term planning and sustainability of the child welfare reform. These included lack of documentation in records; failure to pay foster care parents and service providers; confusion regarding work responsibilities; a lack of training and quality of care to ensure the safety and protection of Nebraska's children.
- The Legislative Resolution resolves that the Health and Human Services Committee:
  - Review, investigate and assess the effect of the child welfare reform initiative.
  - Consult with a broad array of public and private stakeholders.
  - Utilize existing and past studies, reports and information relating to the effort to improve the child welfare system.
  - Hold public hearing on the implementation of child welfare reform utilizing the authority provided by section 50-406 and the rules of the Nebraska Unicameral Legislature.
  - Consider issues surrounding the implementation of the child welfare reform including, but not limited to the goals, outcome measures, coordination, and long-term planning; effectiveness of public-private partnership to provide services; number of children attaining permanency through adoption; accountability, funding, and financial sustainability; fulfillment of the federal Child and Family Service Review outcomes and indicators; and the option of requesting the Legislative Performance Audit Committee and the Auditor of Public Accounts to conduct a joint performance and fiscal audit or separate audits of child welfare reforms.

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*Compiled by Mary Rasmussen, Legislative Research*

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## Nebraska Statutes Relating to Child Welfare

The following is a list of Nebraska statutes relating to child welfare. The list is a result of a Westlaw search of all Nebraska statutes using the query "child /p welfare" and a compilation of selected provisions pertaining to child welfare and juvenile justice compiled by Kathryn A. Olson of the University of Nebraska-Lincoln's Center on Children, Families, and the Law.

Because of the variety of words and phrases which can be used to define and describe "child welfare", this list cannot be considered to be "all inclusive"; however, I tried to identify the majority of applicable provisions, and I attached a copy of Ms. Olson's compilation for your reference.

### *Summary of Relevant Statutes*

#### **1. Chapter 28, Criminal provisions aimed at protecting a child or creating a separate crime classification or enhancing a penalty because the victim is a child**

- a. Neb. Rev. Stat. sec. 28-704—Abandonment of spouse or child
- b. Neb. Rev. Stat. sec. 28-707—Child abuse
- c. Neb. Rev. Stat. sec. 28-709—Contributing to the delinquency of a minor
- d. Neb. Rev. Stat. secs. 28-710 to 28-727—Child Protection Act
- e. Neb. Rev. Stat. secs. 28-728 to 28-733—Child abuse and neglect investigation teams

#### **2. Chapter 29, Criminal procedural protections for children**

- a. Neb. Rev. Stat. sec. 29-121—"Safe haven" statute, leaving a child at a hospital
- b. Neb. Rev. Stat. sec. 29-2204—Indeterminate sentence; court; duties; study of offender; when; costs; defendant under 18 years of age; disposition
- c. Neb. Rev. Stat. sec. 29-2253—Authorize appointment of child juvenile probation officer and necessary deputy juvenile probation officers
- d. Neb. Rev. Stat. secs. 29-2260 and 29-2260.01—Certain juveniles; disposition of certain offenders; juvenile intake services
- e. Neb. Rev. Stat. secs. 29-2246 to 29-2269—Nebraska Probation Administration Act
- f. Neb. Rev. Stat. secs. 29-2270 to 29-2273—Individuals less than 19 years of age; certain probation conditions

**3. Chapter 42, Provisions aimed at protecting the child during divorce and custody proceedings**

a. Neb. Rev. Stat. secs. 42-801 to 42-823—Conciliation Court, purposes of the conciliation court are to protect the rights of children and to promote the public welfare

**4. Chapter 43, Provisions applicable to children**

a. Neb. Rev. Stat. secs. 43-106 to 43-116—Adoption procedures

b. Neb. Rev. Stat. secs. 43-117 to 43-118.01—Wards and children with special needs

c. Neb. Rev. Stat. secs. 43-147 to 43-154—Adoption and medical assistance

d. Neb. Rev. Stat. secs. 43-155 to 43-160—Adoption and exchange of information contracts

e. Neb. Rev. Stat. secs. 43-161-43-165—Communication or contact agreements

f. Neb. Rev. Stat. secs. 43-245 to 43-2,129—Nebraska Juvenile Code

g. Neb. Rev. Stat. secs. 43-401 to 43-423—Health and Human Services, Office of Juvenile Services Act

h. Neb. Rev. Stat. secs. 43-4,124 to 43-4,134—Juvenile detention facilities

i. Neb. Rev. Stat. secs. 43-501 to 43-526—Assistance and services for delinquent, dependent, and medically handicapped children

j. Neb. Rev. Stat. sec. 43-529—Aid to dependent children

k. Neb. Rev. Stat. sec. 43-532 to 43-536—Declaration of family policy

l. Neb. Rev. Stat. secs. 43-701 to 43-709—Placement of a child; duty of department to protect child

m. Neb. Rev. Stat. secs. 43-901 to 43-908—Children committed to the Department of Health and Human Services

n. Neb. Rev. Stat. sec. 43-1011—Interstate Compact for Juveniles

o. Neb. Rev. Stat. sec. 43-1103—Interstate Compact for the Placement of Children

p. Neb. Rev. Stat. secs. 43-1226 to 43-1266—Uniform Child Custody and Jurisdiction and Enforcement Act

q. Neb. Rev. Stat. secs. 43-1301 to 43-1318—Foster Care Review Act

r. Neb. Rev. Stat. secs. 43-1501 to 43-1516—Nebraska Indian Child Welfare Act

s. Neb. Rev. Stat. secs. 43-1701 to 43-1743—Income Withholding for Child Support Act

t. Neb. Rev. Stat. secs. 43-1801 to 43-1803—Grandparent visitation

u. Neb. Rev. Stat. secs. 43-2001 to 43-2012—Missing Children Identification Act

- v. Neb. Rev. Stat. sec. 43-2101—Age of majority
- w. Neb. Rev. Stat. secs. 43-2401 to 43-2413—Juvenile Services Act
- x. Neb. Rev. Stat. secs. 43-2501 to 43-2516—Early Intervention Act
- y. Neb. Rev. Stat. secs. 43-2601 to 43-2625—Quality Child Care Act
- z. Neb. Rev. Stat. secs. 43-2920 to 43-2943—Parenting Act
- aa. Neb. Rev. Stat. sec. 43-3001—Child in state custody; access to information and records
- bb. Neb. Rev. Stat. secs. 43-3401 to 3403—Early Childhood Interagency Coordinating Council
- cc. Neb. Rev. Stat. secs. 43-3501 to 43-3507—County Juvenile Services Plan Act
- dd. Neb. Rev. Stat. secs. 43-3701 to 43-3716—Court Appointed Special Advocate Act
- ee. Neb. Rev. Stat. secs. 43-3801 to 43-3812—Protect foreign national minors having multiple nationalities
- ff. Neb. Rev. Stat. secs. 43-3901 to 43-3912—Uniform Child Abduction Prevention Act

## **5. Chapter 68, Public Assistance**

- a. Neb. Rev. Stat. secs. 68-901 to 68-969—Medical Assistance Act
- b. Neb. Rev. Stat. secs. 68-1202 to 68-1210—Provision of social services, including child welfare services
- c. Neb. Rev. Stat. secs. 68-1401 to 68-1406—Genetically Handicapped Persons Act
- d. Neb. Rev. Stat. secs. 68-1727 to 68-1734—Family resource centers and services for children and families under the Welfare Reform Act (Neb. Rev. Stat. secs. 68-1701 to 68-1735)

## **7. Chapter 71, Public Health and Welfare**

- a. Neb. Rev. Stat. secs. 71-801 to 71-818—Behavioral Health Services Act
- b. Neb. Rev. Stat. secs. 71-1901 to 71-1906.01—Foster care licensure
- c. Neb. Rev. Stat. secs. 71-1908 to 71-1923—Child care licensure
- d. Neb. Rev. Stat. secs. 71-2201 to 71-2208—Maternal and Child Health and Public Health Work Fund
- e. Neb. Rev. Stat. secs. 71-2225 to 71-2230—State CSF and State WIC programs

## **8. Chapter 79, Schools and School Districts**

- a. Neb. Rev. Stat. secs. 79-201 to 79-210—Compulsory school attendance

- a. Neb. Rev. Stat. secs. 79-10,137 to 79-10,139—School breakfast program
- b. Neb. Rev. Stat. secs. 79-1101 to 79-1104—Early childhood education
- c. Neb. Rev. Stat. secs. 79-1110 to 79-1178—Special Education Act
- d. Neb. Rev. Stat. secs. 79-11,121 to 79-11,132—Rehabilitation services
- e. Neb. Rev. Stat. secs. 79-2111 to 79-2114—Elementary learning centers

**9. Chapter 81, State Administrative Departments**

- a. Neb. Rev. Stat. sec. 81-1326—Disclosure of information relating to certain children

**10. Chapter 83, State Institutions**

- a. Neb. Rev. Stat. secs. 83-101.06 to 83-116—Management of state institutions, including youth rehabilitation centers (Neb. Rev. Stat. sec. 83-107.01)
- b. Neb. Rev. Stat. secs. 83-305 to 83-357—Regional centers
- c. Neb. Rev. Stat. secs. 83-363 to 83-380.01—Cost of patient care in state institutions
- d. Neb. Rev. Stat. sec. 83-905—Secure youth confinement facility

## Child Welfare Reports

### Reports to be completed by Department of Health and Human Services (HHS):

- 43-405(6), OJS/costs;
- 68-1207.01, caseloads;
- 71-1904, waiver of foster care training requirements;
- 71-3407, child death review;
- 71-825, children and family support hotline;

### Reports required by statute:

- 43-296, requires entities receiving juveniles under the Nebraska Juvenile Code to report information to HHS;
- 43-543, Family policy; annual statement required as part of annual budget request
- 43-1303, requires Foster Care Review Board to maintain a statewide register of all foster care placements and report this information monthly to HHS;
- 71-827, requires the Children's Behavioral Health Oversight Committee of the Legislature to annually report to Governor and Legislature.

### Federal Children and Family Services Division:

- The Child and Family Services Plan (CFSP)
- The Annual Progress and Services Report (APSR)
- Child Abuse Prevention and Treatment Act (CAPTA)
- Children's Justice Act (CJA)
- IV-E Pre-Print
- Case Worker Visitation Report
- Family Violence and Prevention Services Act Report
- Runaway and Homeless Youth Report (SSRHY)
- The Adoption and Foster Care Analysis and Reporting System (AFCARS)
- The National Child Abuse and Neglect Data System (NCANDS)
- National Youth in Transition Database (NYTD)
- AFCARS Improvement Plan Quarterly Report (AIP)
- Program Improvement Plan Quarterly Report (PIP)

### DHHS Finance Division federal child welfare reports:

- CFS-101-Child Welfare
- ACF (Administration of Children & Families)-800-Child Care (caseloads)
- Pooling Factor Report-Child Care
- ACF-696: Quarterly Child Care Report/Financial; done by NFOCUS
- ACF-4125: Children in Foster Homes, Ages 5 to 17; done by NFOCUS

**Listing of Research Library Documents Relating to Child Welfare/Juvenile Justice**

Dealing With the Broken Human Spirit: Students With Behavioral Disorders in Nebraska – An Action Plan Report (1993)

Early Childhood Mental Health: A Report to Nebraska (2002)

Juvenile Court Report: Juvenile Cases Processed by County Courts (1988)

Juvenile Detention and Probation Services Implementation Team Final Report and Recommendations (2000)

Kids Connection: Study Committee Report (2000)

LB 1073: Nebraska Juvenile Justice Task Force Report (1998)

LR 446: A Study of Issues Relevant to the Procedure of Investigating Reports of Neglected and Abused Children (1994)

Nebraska Coalition for Juvenile Justice and the Juvenile Services Grant Committee Annual Report to the Governor and the Nebraska Legislature (various years)

Nebraska Department of Correctional Services: Juvenile Statistical Report (various years)

Nebraska Juvenile Correctional Facilities Master Plan & Update (Final Report) (1999 & 2007)

Report to Nebraska Child Support Commission: Updating Nebraska's Child Support Guidelines (2001)

Governor's Children's Task Force: A Roadmap to Safety for Nebraska's Children (2003)

Kids Count Data Book: State Profiles of Child Well-Being (various years)

Governor's Children's Task Force: A Roadmap to Safety for Nebraska's Children (2003)

A Coordination Challenge for States: A Snapshot of Major Federal Programs for Children (2001)

Nebraska State Senators' Rural Caucus for Children (1993)

Nebraska's Programs for Children and Their Families: A Guide for Legislators  
Select Committee on Children and Families (1988)

History of Legislation Relating to the Level of Benefits Paid to Dependent  
Children (1986)

LR 367: Pertaining to Child Abuse and Neglect in the State of Nebraska (1990)

LB 1073: Nebraska Juvenile Justice Task Force Report (1998)

Case Reviews of Children in Foster Care: A Comparison of Nebraska's Systems  
(1994)

Nebraska Foster Care Review Board Annual Report (various years)

Nebraska's Foster Care Conundrum: Federal Reimbursements Hinders Reform  
(2009)

Children's Behavioral Health Plan (2007)

LR 513: Nebraska Behavioral Health Services Act (2010)

Behavioral Health Implementation Plan: LB 1083 (2004)

Juvenile Statistical Report: Fiscal Year 2000

Choices and Challenges: Report of the Study Commission on Programs and  
Services for Dependent Youth and Youth Offenders in Nebraska (1984)

State Foster Care Review Board: Compliance with Federal Case-Review  
Requirements – Final Committee Report (1999)

Nebraska's Foster Care Conundrum: Federal Reimbursement Hinders Reform  
(2009)

Juvenile Offenders in Nebraska (1995)  
LB 1073: Nebraska Juvenile Justice Task Force Report (1998)

Assessing Disproportionate Minority Confinement in the Nebraska Juvenile  
Justice System: Executive Summary (1999)

Disproportionate Confinement of Minority Youth in Nebraska (Summary Report –  
1999)



Nebraska Juvenile Services Master Plan: Volume 1 – Final Report (1999)

LR 405: A Study to Examine the Placement of Juvenile Offenders (1996)

Assessing the Need for and Availability of Mental Health Services for Juvenile Offenders (2002)

Juvenile Detention and Probation Services Implementation Team Final Report and Recommendations (2002)

LR 440: A Study to Examine the Use of Mediation for Juvenile Offenders (1996)

Nebraska Department of Correctional Services: Juvenile Statistical Report (1995)