

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 961**

Final Reading

Introduced by Health and Human Services Committee: Campbell, 25,  
Chairperson; Bloomfield, 17; Cook, 13; Gloor, 35;  
Howard, 9; Krist, 10; Lambert, 2.

Read first time January 11, 2012

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections  
2 68-1207 and 81-3116, Reissue Revised Statutes of  
3 Nebraska; to state intent; to change provisions relating  
4 to case management of child welfare services and  
5 designation of service areas; to provide limits on  
6 caseloads, contracts, and contract extensions as  
7 prescribed; to repeal the original sections; and to  
8 declare an emergency.

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

1           Section 1. The Legislature finds and declares that:

2           (1) The State of Nebraska has the legal responsibility  
3 for children in its custody and accordingly should maintain the  
4 decisionmaking authority inherent in direct case management of child  
5 welfare services;

6           (2) Training and longevity of child welfare case managers  
7 directly impact the safety, permanency, and well-being of children  
8 receiving child welfare services;

9           (3) Meaningful reform of the child welfare system can  
10 occur only when competent, skilled case managers educated in  
11 evidence-based child welfare best practices are making determinations  
12 for the care of, and services to, children and families and providing  
13 first-hand, direct information for decisionmaking and high-quality  
14 evidence to the courts relating to the best interests of the  
15 children;

16           (4) Maintaining quality, well-trained, and experienced  
17 case managers is essential and will be a core component in child  
18 welfare reform, including statewide strategic planning and  
19 implementation. Additional resources and funds for training, support,  
20 and compensation may be required;

21           (5) Notwithstanding the outsourcing of case management,  
22 the Department of Health and Human Services retains legal custody of  
23 wards of the state and remains responsible for their care. Inherent  
24 in privatized case management is the loss of trained, skilled  
25 individuals employed by the state providing the stable workforce

1 essential to fulfilling the state's responsibilities for children who  
2 are wards of the state, resulting in the risk of loss of a trained,  
3 experienced, and stable workforce;

4 (6) Privatization of case management of child welfare  
5 services can and has resulted in dependence on one or more private  
6 entities for the provision of an essential specialized service that  
7 is extremely difficult to replace. As a result, the risk of a private  
8 entity abandoning the contract, either voluntarily or involuntarily,  
9 creates a very high risk to the entire child welfare system,  
10 including essential child welfare services;

11 (7) Privatization of case management and child welfare  
12 services, including responsibilities for both service coordination  
13 and service delivery by private entities, may create conflicts of  
14 interest because the resulting financial incentives can undermine  
15 decisionmaking regarding the appropriate services that would be in  
16 the best interests of the children. Additionally, such privatization  
17 of child welfare services, including case management, can result in  
18 loss of services across the spectrum of child welfare services by  
19 reducing market competition and driving many providers out of the  
20 market;

21 (8) Privatization of case management and of child welfare  
22 services has resulted in issues relating to caseloads, placement,  
23 turnover, communication, and stability within the child welfare  
24 system that adversely affect outcomes and permanency for children and  
25 families; and

1           (9) Private lead agency contracts require complex  
2 monitoring capabilities to insure compliance and oversight of  
3 performance, including private case managers, to insure improved  
4 child welfare outcomes.

5           Sec. 2. (1) Except as provided in subsection (2) of this  
6 section, by April 1, 2012, for all cases in which a court has awarded  
7 a juvenile to the care of the Department of Health and Human Services  
8 according to subsection (1) of section 43-285 and for any noncourt  
9 and voluntary cases, the case manager shall be an employee of the  
10 department. Such case manager shall be responsible for and shall  
11 directly oversee: Case planning; service authorization; investigation  
12 of compliance; monitoring and evaluation of the care and services  
13 provided to children and families; and decisionmaking regarding the  
14 determination of visitation and the care, placement, medical  
15 services, psychiatric services, training, and expenditures on behalf  
16 of each juvenile under subsection (1) of section 43-285. Such case  
17 manager shall be responsible for decisionmaking and direct  
18 preparation regarding the proposed plan for the care, placement,  
19 services, and permanency of the juvenile filed with the court  
20 required under subsection (2) of section 43-285. The health and  
21 safety of the juvenile shall be the paramount concern in the proposed  
22 plan in accordance with such subsection.

23           (2) The department may contract with a lead agency for a  
24 case management lead agency model pilot project in the department's  
25 eastern service area as designated pursuant to section 81-3116. The

1 department shall include in the pilot project the appropriate  
2 conditions, performance outcomes, and oversight for the lead agency,  
3 including, but not be limited to:

4 (a) The reporting and survey requirements of lead  
5 agencies described in sections 6 and 7, Legislative Bill 1160, One  
6 Hundred Second Legislature, Second Session, 2012;

7 (b) Departmental monitoring and functional capacities of  
8 lead agencies described in section 8, Legislative Bill 1160, One  
9 Hundred Second Legislature, Second Session, 2012;

10 (c) The key areas of evaluation specified in subsection  
11 (3) of section 9, Legislative Bill 1160, One Hundred Second  
12 Legislature, Second Session, 2012;

13 (d) Compliance and coordination with the development of  
14 the statewide strategic plan for child welfare program and service  
15 reform pursuant to Legislative Bill 821, One Hundred Second  
16 Legislature, Second Session, 2012; and

17 (e) Assurance of financial accountability and reporting  
18 by the lead agency.

19 (3) Prior to April 1, 2013, the Health and Human Services  
20 Committee of the Legislature shall review the pilot project and  
21 provide to the department and the Legislature recommendations, and  
22 any legislation necessary to adopt the recommendations, regarding the  
23 adaptation or continuation of the pilot project. In making the  
24 recommendations, the committee shall utilize: (a) The evaluation  
25 completed pursuant to Legislative Bill 1160, One Hundred Second

1 Legislature, Second Session, 2012; (b) the recommendations of the  
2 statewide strategic plan pursuant to Legislative Bill 821, One  
3 Hundred Second Legislature, Second Session, 2012; (c) the  
4 department's assessment of the pilot project; and (d) any additional  
5 reports, surveys, information, and data provided to and requested by  
6 the committee. If the pilot project continues past April 1, 2013, the  
7 lead agency shall comply with the requirements of section 4,  
8 Legislative Bill 821, One Hundred Second Legislature, Second Session,  
9 2012.

10           Sec. 3. Section 68-1207, Reissue Revised Statutes of  
11 Nebraska, 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 2 of  
15 this act shall establish and maintain caseloads to carry out child  
16 welfare services which provide for adequate, timely, and indepth  
17 investigations and services to children and families. Caseloads shall  
18 range between twelve and seventeen cases as determined pursuant to  
19 subsection (2) of this section. In establishing the standards for  
20 such specific caseloads within such range, the department and the  
21 pilot project shall (1)-(a) include the workload factors that may  
22 differ due to geographic responsibilities, office location, and the  
23 travel required to provide a timely response in the investigation of  
24 abuse and neglect, the protection of children, and the provision of  
25 services to children and families in a uniform and consistent

1 ~~statewide manner and (2) consider workload standards recommended by~~  
2 ~~national child welfare organizations and factors related to the~~  
3 ~~attainment of such standards. The department shall consult with the~~  
4 ~~appropriate employee representative in establishing such standards.~~  
5 (b) utilize the workload criteria of the standards established as of  
6 January 1, 2012, by the Child Welfare League of America. The average  
7 caseload shall be reduced by the department in all service areas as  
8 designated pursuant to section 81-3116 and by the pilot project to  
9 comply with the caseload range described in this subsection by  
10 September 1, 2012. Beginning September 15, 2012, the department shall  
11 include in its annual report required pursuant to section 68-1207.01  
12 a report on the attainment of the decrease according to such caseload  
13 standards. The department's annual report shall also include changes  
14 in the standards of the Child Welfare League of America or its  
15 successor.

16 (2) Caseload size shall be determined in the following  
17 manner: (a) If children are placed in the home, the family shall  
18 count as one case regardless of how many children are placed in the  
19 home; (b) if a child is placed out of the home, the child shall count  
20 as one case; (c) if, within one family, one or more children are  
21 placed in the home and one or more children are placed out of the  
22 home, the children placed in the home shall count as one case and  
23 each child placed out of the home shall count as one case; and (d)  
24 any child receiving services from the department or a private entity  
25 under contract with the department shall be counted as provided in

1 subdivisions (a) through (c) of this subsection whether or not such  
2 child is a ward of the state. For purposes of this subsection, a  
3 child is considered to be placed in the home if the child is placed  
4 with his or her biological or adoptive parent or a legal guardian and  
5 a child is considered to be placed out of the home if the child is  
6 placed in foster care, group home care, or any other setting which is  
7 not the child's planned permanent home.

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

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

17 Sec. 4. Section 81-3116, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 81-3116 The responsibilities of the divisions created in  
20 section 81-3113 include, but are not limited to, the following:

21 (1) The Division of Behavioral Health shall administer  
22 (a) the state hospitals for the mentally ill designated in section  
23 83-305 and (b) publicly funded community-based behavioral health  
24 services;

25 (2) The Division of Children and Family Services shall

1 administer (a) protection and safety programs and services, including  
2 child welfare programs and services and the Office of Juvenile  
3 Services, (b) economic and family support programs and services, and  
4 (c) service areas as may be designated by the chief executive officer  
5 or by the Director of Children and Family Services under authority of  
6 the chief executive officer, except that on and after September 1,  
7 2012, the western, central, and northern service areas shall be  
8 aligned to be coterminous with the district court judicial districts  
9 described in section 24-301.02;

10 (3) The Division of Developmental Disabilities shall  
11 administer (a) the Beatrice State Developmental Center and (b)  
12 publicly funded community-based developmental disabilities services;

13 (4) The Division of Medicaid and Long-Term Care shall  
14 administer (a) the medical assistance program also known as medicaid,  
15 (b) aging services, and (c) other related programs and services;

16 (5) The Division of Public Health shall administer (a)  
17 preventive and community health programs and services, (b) the  
18 regulation and licensure of health-related professions and  
19 occupations, and (c) the regulation and licensure of health care  
20 facilities and health care services; and

21 (6) The Division of Veterans' Homes shall administer (a)  
22 the Eastern Nebraska Veterans' Home, (b) the Grand Island Veterans'  
23 Home, (c) the Norfolk Veterans' Home, and (d) the Western Nebraska  
24 Veterans' Home.

25 Sec. 5. On and after the effective date of this act, the

1 Department of Health and Human Services shall not reinstate a lead  
2 agency in the southeast, central, western, or northern service areas  
3 of Nebraska as such service areas are designated pursuant to section  
4 81-3116.

5           Sec. 6. Original sections 68-1207 and 81-3116, Reissue  
6 Revised Statutes of Nebraska, are repealed.

7           Sec. 7. Since an emergency exists, this act takes effect  
8 when passed and approved according to law.