

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 530

Final Reading

Introduced by Dubas, 34.

Read first time January 23, 2013

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to foster care; to amend sections 43-4202,
 2 43-4203, and 43-4213, Revised Statutes Cumulative
 3 Supplement, 2012; to state intent; to provide duties for
 4 the Division of Children and Family Services of the
 5 Department of Health and Human Services and the Nebraska
 6 Children's Commission; to change a termination date; to
 7 create the Foster Care Reimbursement Rate Committee; to
 8 provide powers and duties; to change provisions relating
 9 to stipends for foster parents; to eliminate a committee;
 10 to harmonize provisions; to repeal the original sections;
 11 to outright repeal section 43-4212, Revised Statutes
 12 Cumulative Supplement, 2012; and to declare an emergency.

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

1 Section 1. (1) The Legislature (a) finds that it was the
2 intent of sections 43-4208 to 43-4213 to provide bridge funding to
3 bring Nebraska's foster care reimbursement rates in line with foster
4 care reimbursement rates in the rest of the country and (b)
5 recognizes the importance of a stable payment to foster parents to
6 ensure that families are able to budget for needs while caring for
7 foster children.

8 (2) The Legislature further finds that Nebraska's foster
9 care system has begun to stabilize. In recognition of the essential
10 contributions of foster parents and foster care providers to foster
11 children in Nebraska, it is the intent of the Legislature to continue
12 existing contractual arrangements for payment to ensure the continued
13 stabilization of the foster care system in Nebraska.

14 (3) It is the intent of the Legislature:

15 (a) To ensure that fair rates continue into the future to
16 stem attrition of foster parents and to recruit, support, and
17 maintain high-quality foster parents;

18 (b) That foster care reimbursement rates accurately
19 reflect the cost of raising the child in the care of the state;

20 (c) To ensure that contracted foster care service
21 provider agencies do not pay increased rates out of budgets
22 determined in contracts with the Department of Health and Human
23 Services prior to any change in rates;

24 (d) To maintain comparable foster care reimbursement
25 rates to ensure retention and recruitment of high-quality foster

1 parents and to ensure that foster children's best interests are
2 served; and

3 (e) To appropriate funds to permanently replace the
4 bridge funding described in subsection (1) of this section and
5 provide the necessary additional funds to bring foster care
6 reimbursement rates in compliance with the recommendations of the
7 research and study completed by the Foster Care Reimbursement Rate
8 Committee as required pursuant to section 43-4212 as such section
9 existed before the effective date of this act.

10 Sec. 2. (1) On or before July 1, 2014, the Division of
11 Children and Family Services of the Department of Health and Human
12 Services shall implement the reimbursement rate recommendations of
13 the Foster Care Reimbursement Rate Committee as reported to the
14 Legislature pursuant to section 43-4212 as such section existed
15 before the effective date of this act.

16 (2)(a) On or before July 1, 2013, the Division of
17 Children and Family Services of the Department of Health and Human
18 Services shall develop a pilot project as provided in this subsection
19 to implement the standardized level of care assessment tools
20 recommended by the Foster Care Reimbursement Rate Committee as
21 reported to the Legislature pursuant to section 43-4212 as such
22 section existed before the effective date of this act.

23 (b)(i) The pilot project shall comprise two groups: One
24 in an urban area and one in a rural area. The size of each group
25 shall be determined by the division to ensure an accurate estimate of

1 the effectiveness and cost of implementing such tools statewide.

2 (ii) The Nebraska Children's Commission shall review and
3 provide a progress report on the pilot project by October 1, 2013, to
4 the department and electronically to the Health and Human Services
5 Committee of the Legislature; shall provide to the department and
6 electronically to the committee by December 1, 2013, a report
7 including recommendations and any legislation necessary, including
8 appropriations, to adopt the recommendations, regarding the
9 adaptation or continuation of the implementation of a statewide
10 standardized level of care assessment; and shall provide to the
11 department and electronically to the committee by February 1, 2014, a
12 final report and final recommendations of the commission.

13 Sec. 3. (1) On or before January 1, 2016, the Nebraska
14 Children's Commission shall appoint a Foster Care Reimbursement Rate
15 Committee. The commission shall reconvene the Foster Care
16 Reimbursement Rate Committee every four years thereafter.

17 (2) The Foster Care Reimbursement Rate Committee shall
18 consist of no fewer than nine members, including:

19 (a) The following voting members: (i) Representatives
20 from a child welfare agency that contracts directly with foster
21 parents, from each of the service areas designated pursuant to
22 section 81-3116; (ii) a representative from an advocacy organization
23 which deals with legal and policy issues that include child welfare;
24 (iii) a representative from an advocacy organization, the singular
25 focus of which is issues impacting children; (iv) a representative

1 from a foster and adoptive parent association; (v) a representative
2 from a lead agency; (vi) a representative from a child advocacy
3 organization that supports young adults who were in foster care as
4 children; (vii) a foster parent who contracts directly with the
5 Department of Health and Human Services; and (viii) a foster parent
6 who contracts with a child welfare agency; and

7 (b) The following nonvoting, ex officio members: (i) The
8 chief executive officer of the Department of Health and Human
9 Services or his or her designee and (ii) representatives from the
10 Division of Children and Family Services of the department from each
11 service area designated pursuant to section 81-3116, including at
12 least one division employee with a thorough understanding of the
13 current foster care payment system and at least one division employee
14 with a thorough understanding of the N-FOCUS electronic data
15 collection system. The nonvoting, ex officio members of the committee
16 may attend committee meetings and participate in discussions of the
17 committee and shall gather and provide information to the committee
18 on the policies, programs, and processes of each of their respective
19 bodies. The nonvoting, ex officio members shall not vote on decisions
20 or recommendations by the committee.

21 (3) Members of the committee shall serve for terms of
22 four years and until their successors are appointed and qualified.
23 The Nebraska Children's Commission shall appoint the chairperson of
24 the committee and may fill vacancies on the committee as they occur.
25 If the Nebraska Children's Commission has terminated, such

1 appointments shall be made and vacancies filled by the Governor with
2 the approval of a majority of the Legislature.

3 Sec. 4. (1) The Foster Care Reimbursement Rate Committee
4 appointed pursuant to section 3 of this act shall review and make
5 recommendations in the following areas: Foster care reimbursement
6 rates, the statewide standardized level of care assessment, and
7 adoption assistance payments as required by section 43-117. In making
8 recommendations to the Legislature, the committee shall use the then-
9 current foster care reimbursement rates as the beginning standard for
10 setting reimbursement rates. The committee shall adjust the standard
11 to reflect the reasonable cost of achieving measurable outcomes for
12 all children in foster care in Nebraska. The committee shall (a)
13 analyze then-current consumer expenditure data reflecting the costs
14 of caring for a child in Nebraska, (b) identify and account for
15 additional costs specific to children in foster care, and (c) apply a
16 geographic cost-of-living adjustment for Nebraska. The reimbursement
17 rate structure shall comply with funding requirements related to
18 Title IV-E of the federal Social Security Act, as amended, and other
19 federal programs as appropriate to maximize the utilization of
20 federal funds to support foster care.

21 (2) The committee shall review the role and effectiveness
22 of and make recommendations on the statewide standardized level of
23 care assessment containing standardized criteria to determine a
24 foster child's placement needs and to identify the appropriate foster
25 care reimbursement rate. The committee shall review other states'

1 assessment models and foster care reimbursement rate structures in
2 completing the statewide standardized level of care assessment review
3 and the standard statewide foster care reimbursement rate structure.
4 The committee shall ensure the statewide standardized level of care
5 assessment and the standard statewide foster care reimbursement rate
6 structure provide incentives to tie performance in achieving the
7 goals of safety, maintaining family connection, permanency,
8 stability, and well-being to reimbursements received. The committee
9 shall review and make recommendations on assistance payments to
10 adoptive parents as required by section 43-117. The committee shall
11 make recommendations to ensure that changes in foster care
12 reimbursement rates do not become a disincentive to permanency.

13 (3) The committee may organize subcommittees as it deems
14 necessary. Members of the subcommittees may be members of the
15 committee or may be appointed, with the approval of the majority of
16 the committee, from individuals with knowledge of the subcommittee's
17 subject matter, professional expertise to assist the subcommittee in
18 completing its assigned responsibilities, and the ability to
19 collaborate within the subcommittee.

20 (4) The Foster Care Reimbursement Rate Committee shall
21 provide electronic reports with its recommendation to the Health and
22 Human Services Committee of the Legislature on July 1, 2016, and
23 every four years thereafter.

24 Sec. 5. Section 43-4202, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

1 43-4202 (1) The Nebraska Children's Commission is created
2 as a high-level leadership body to (a) create a statewide strategic
3 plan for reform of the child welfare system programs and services in
4 the State of Nebraska and (b) review the operations of the Department
5 of Health and Human Services regarding child welfare programs and
6 services and recommend, as a part of the statewide strategic plan,
7 options for attaining the legislative intent stated in section
8 43-4201, either by the establishment of a new division within the
9 department or the establishment of a new state agency to provide all
10 child welfare programs and services which are the responsibility of
11 the state. The commission shall provide a permanent forum for
12 collaboration among state, local, community, public, and private
13 stakeholders in child welfare programs and services.

14 (2) The commission shall include the following voting
15 members:

16 (a) The chief executive officer of the Department of
17 Health and Human Services or his or her designee;

18 (b) The Director of Children and Family Services or his
19 or her designee; and

20 (c) Sixteen members appointed by the Governor within
21 thirty days after April 12, 2012. The members appointed pursuant to
22 this subdivision shall represent stakeholders in the child welfare
23 system and shall include: (i) A director of a child advocacy center;
24 (ii) an administrator of a behavioral health region established
25 pursuant to section 71-807; (iii) a community representative from

1 each of the service areas designated pursuant to section 81-3116. In
2 the eastern service area designated pursuant to such section, the
3 representative may be from a lead agency of a pilot project
4 established under ~~Legislative Bill 961, One Hundred Second~~
5 ~~Legislature, Second Session, 2012, section 68-1212~~ or a collaborative
6 member; (iv) a prosecuting attorney who practices in juvenile court;
7 (v) a guardian ad litem; (vi) a biological parent currently or
8 previously involved in the child welfare system; (vii) a foster
9 parent; (viii) a court-appointed special advocate volunteer; (ix) a
10 member of the State Foster Care Review Board or any entity that
11 succeeds to the powers and duties of the board or a member of a local
12 foster care review board; (x) a child welfare service agency that
13 directly provides a wide range of child welfare services and is not a
14 member of a lead agency collaborative; (xi) a young adult previously
15 in foster care; and (xii) a representative of a child advocacy
16 organization that deals with legal and policy issues that include
17 child welfare.

18 (3) The commission shall have the following nonvoting, ex
19 officio members: (a) The chairperson of the Health and Human Services
20 Committee of the Legislature or a committee member designated by the
21 chairperson; (b) the chairperson of the Judiciary Committee of the
22 Legislature or a committee member designated by the chairperson; (c)
23 the chairperson of the Appropriations Committee of the Legislature or
24 a committee member designated by the chairperson; and (d) three
25 persons appointed by the State Court Administrator. The nonvoting, ex

1 officio members may attend commission meetings and participate in the
2 discussions of the commission, provide information to the commission
3 on the policies, programs, and processes of each of their respective
4 bodies, gather information for the commission, and provide
5 information back to their respective bodies from the commission. The
6 nonvoting, ex officio members shall not vote on decisions by the
7 commission or on the direction or development of the statewide
8 strategic plan pursuant to section 43-4204.

9 (4) The commission shall meet within sixty days after
10 April 12, 2012, and shall select from among its members a chairperson
11 and vice-chairperson and conduct any other business necessary to the
12 organization of the commission. The commission shall meet not less
13 often than once every three months, and meetings of the commission
14 may be held at any time on the call of the chairperson. The
15 commission shall be within the office of the chief executive officer
16 of the Department of Health and Human Services. The commission may
17 hire staff to carry out the responsibilities of the commission. The
18 commission shall hire a consultant with experience in facilitating
19 strategic planning to provide neutral, independent assistance in
20 developing the statewide strategic plan. The commission shall
21 terminate on June 30, ~~2014~~, 2016, unless continued by the
22 Legislature.

23 (5) Members of the commission shall be reimbursed for
24 their actual and necessary expenses as members of such commission as
25 provided in sections 81-1174 to 81-1177.

1 Sec. 6. Section 43-4203, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 43-4203 (1) The Nebraska Children's Commission shall work
4 with administrators from each of the service areas designated
5 pursuant to section 81-3116, the teams created pursuant to section
6 28-728, local foster care review boards, child advocacy centers, the
7 teams created pursuant to the Supreme Court's Through the Eyes of the
8 Child Initiative, community stakeholders, and advocates for child
9 welfare programs and services to establish networks in each of such
10 service areas. Such networks shall permit collaboration to strengthen
11 the continuum of services available to child welfare agencies and to
12 provide resources for children and juveniles outside the child
13 protection system. Each service area shall develop its own unique
14 strategies to be included in the statewide strategic plan. The
15 Department of Health and Human Services shall assist in identifying
16 the needs of each service area.

17 (2)(a) The commission shall create a committee to examine
18 state policy regarding the prescription of psychotropic drugs for
19 children who are wards of the state and the administration of such
20 drugs to such children. Such committee shall review the policy and
21 procedures for prescribing and administering such drugs and make
22 recommendations to the commission for changes in such policy and
23 procedures.

24 (b) The commission shall create a committee to examine
25 the structure and responsibilities of the Office of Juvenile Services

1 as they exist on April 12, 2012. Such committee shall review the role
2 and effectiveness of the youth rehabilitation and treatment centers
3 in the juvenile justice system and make recommendations to the
4 commission on the future role of the youth rehabilitation and
5 treatment centers in the juvenile justice continuum of care. Such
6 committee shall also review the responsibilities of the Administrator
7 of the Office of Juvenile Services, including oversight of the youth
8 rehabilitation and treatment centers and juvenile parole, and make
9 recommendations to the commission relating to the future
10 responsibilities of the administrator.

11 (c) The commission may organize committees as it deems
12 necessary. Members of the committees may be members of the commission
13 or may be appointed, with the approval of the majority of the
14 commission, from individuals with knowledge of the committee's
15 subject matter, professional expertise to assist the committee in
16 completing its assigned responsibilities, and the ability to
17 collaborate within the committee and with the commission to carry out
18 the powers and duties of the commission.

19 (d) ~~If the One Hundred Second Legislature, Second~~
20 ~~Session, 2012, creates the~~ The Title IV-E Demonstration Project
21 Committee ~~or~~ and the Foster Care Reimbursement Rate Committee, ~~or~~
22 ~~both, such committees~~ shall be under the jurisdiction of the
23 commission.

24 (3) The commission shall work with the office of the
25 State Court Administrator, as appropriate, and entities which

1 coordinate facilitated conferencing as described in section
2 43-247.01. Facilitated conferencing shall be included in statewide
3 strategic plan discussions by the commission. Facilitated
4 conferencing shall continue to be utilized and maximized, as
5 determined by the court of jurisdiction, during the development of
6 the statewide strategic plan. Funding and contracting of facilitated
7 conferencing entities shall continue to be provided by the Department
8 of Health and Human Services to at least the same extent as such
9 funding and contracting are being provided on April 12, 2012.

10 (4) The commission shall gather information and
11 communicate with juvenile justice specialists of the Office of
12 Probation Administration and county officials with respect to any
13 county-operated practice model participating in the Crossover Youth
14 Program of the Center for Juvenile Justice Reform at Georgetown
15 University.

16 (5) ~~If the Nebraska Juvenile Service Delivery Project is~~
17 ~~enacted by the One Hundred Second Legislature, Second Session, 2012,~~
18 ~~the~~ The commission shall coordinate and gather information about the
19 progress and outcomes of the ~~project.~~ Nebraska Juvenile Service
20 Delivery Project.

21 Sec. 7. Section 43-4213, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 43-4213 In recognition of Nebraska foster parents'
24 essential contribution to the safety and well-being of Nebraska's
25 foster children and the need for additional compensation for the

1 services provided by Nebraska foster parents, ~~while the Foster Care~~
2 ~~Reimbursement Rate Committee completes its duties under section~~
3 ~~43-4212,~~ beginning July 1, 2012, through June 30, ~~2013,~~ 2014, all
4 foster parents providing foster care in Nebraska, including
5 traditional, agency-based, licensed, approved, relative placement,
6 and child-specific foster care, shall receive an additional stipend
7 of three dollars and ten cents per day per child. The stipend shall
8 be in addition to the current foster care reimbursement rates for
9 relatives and foster parents contracting with the Department of
10 Health and Human Services and in addition to the relative and tiered
11 rate paid to a contractor for agency-based foster parents. The
12 additional stipend shall be paid monthly through the agency that is
13 contracting with the foster parent or, in the case of a foster parent
14 contracting with the department, directly from the department. The
15 contracting agency shall receive an administrative fee of twenty-five
16 cents per child per day for processing the payments for the benefit
17 of the foster parents and the state, which administrative fee shall
18 be paid monthly by the state. The administrative fee shall not reduce
19 the stipend of three dollars and ten cents provided by this section.

20 Sec. 8. Original sections 43-4202, 43-4203, and 43-4213,
21 Revised Statutes Cumulative Supplement, 2012, are repealed.

22 Sec. 9. The following section is outright repealed:
23 Section 43-4212, Revised Statutes Cumulative Supplement, 2012.

24 Sec. 10. Since an emergency exists, this act takes effect
25 when passed and approved according to law.