

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 385

Introduced by Nordquist, 7.

Read first time January 18, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to children; to amend sections 43-2,129,
2 43-1311.01, and 71-1902, Revised Statutes Cumulative
3 Supplement, 2012; to prohibit certain bases for
4 discrimination relating to placement; to provide
5 placement standards; to harmonize provisions; and to
6 repeal the original sections.

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

1 Section 1. Section 43-2,129, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 43-2,129 Sections 43-245 to 43-2,129 and section 2 of
4 this act shall be known and may be cited as the Nebraska Juvenile
5 Code.

6 Sec. 2. When determining the suitability of any out-of-
7 home placement of a juvenile pursuant to the Nebraska Juvenile Code,
8 the Department of Health and Human Services shall not discriminate on
9 the basis of race, color, religion, sex, sexual orientation, gender
10 identity, disability, marital status, or national origin. Placement
11 decisions shall be made based upon the health, safety, and well-being
12 of the child, taking into consideration the requirements of the
13 federal Fostering Connections to Success and Increasing Adoptions Act
14 of 2008, 42 U.S.C. 1305 et seq., and the federal Howard M. Metzenbaum
15 MultiEthnic Placement Act of 1994, Pub.L. 103-382, as such acts,
16 sections, and law existed on January 1, 2013, and the Nebraska Indian
17 Child Welfare Act.

18 Sec. 3. Section 43-1311.01, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 43-1311.01 (1) When notified pursuant to section 43-1311
21 or upon voluntary placement of a child, the Department of Health and
22 Human Services shall, as provided in this section, identify, locate,
23 and provide written notification of the removal of the child from his
24 or her home, within thirty days after removal, to any noncustodial
25 parent and to all grandparents, adult siblings, adult aunts, adult

1 uncles, adult cousins, and adult relatives suggested by the child or
2 the child's parents, except when that relative's history of family or
3 domestic violence makes notification inappropriate. If the child is
4 an Indian child as defined in section 43-1503, the child's extended
5 family members as defined in such section shall be notified. Such
6 notification shall include all of the following information:

7 (a) The child has been or is being removed from the
8 custody of the parent or parents of the child;

9 (b) An explanation of the options the relative has under
10 federal, state, and local law to participate in the care and
11 placement of the child, including any options that may be lost by
12 failing to respond to the notice;

13 (c) A description of the requirements for the relative to
14 serve as a foster care provider or other type of care provider for
15 the child and the additional services, training, and other support
16 available for children receiving such care; and

17 (d) Information concerning the option to apply for
18 guardianship assistance payments.

19 (2) The department shall investigate the names and
20 locations of the relatives, including, but not limited to, asking the
21 child in an age-appropriate manner about relatives important to the
22 child and obtaining information regarding the location of the
23 relatives.

24 (3) The department shall provide to the court, within
25 thirty calendar days after removal of the child, the names and

1 relationship to the child of all relatives contacted, the method of
2 contact, and the responses received from the relatives.

3 (4) When determining the suitability of a relative to
4 participate in the care and placement of the child, the department
5 shall not discriminate on the basis of race, color, religion, sex,
6 sexual orientation, gender identity, disability, marital status, or
7 national origin. Placement decisions shall be made based upon the
8 health, safety, and well-being of the child, taking into
9 consideration the requirements of the federal Fostering Connections
10 to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 1305 et
11 seq., and the federal Howard M. Metzenbaum MultiEthnic Placement Act
12 of 1994, Pub.L. 103-382, as such acts, sections, and law existed on
13 January 1, 2013, and the Nebraska Indian Child Welfare Act.

14 Sec. 4. Section 71-1902, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 71-1902 (1) Except as otherwise provided in this section,
17 no person shall furnish or offer to furnish foster care for one or
18 more children not related to such person by blood, marriage, or
19 adoption without having in full force and effect a written license
20 issued by the department upon such terms and conditions as may be
21 prescribed by general rules and regulations adopted and promulgated
22 by the department. The department may issue a time-limited,
23 nonrenewable provisional license to an applicant who is unable to
24 comply with all licensure requirements and standards, is making a
25 good faith effort to comply, and is capable of compliance within the

1 time period stated in the license. The department may issue a time-
2 limited, nonrenewable probationary license to a licensee who agrees
3 to establish compliance with rules and regulations that, when
4 violated, do not present an unreasonable risk to the health, safety,
5 or well-being of the foster children in the care of the applicant. No
6 license shall be issued pursuant to this section unless the applicant
7 has completed the required hours of training in foster care as
8 prescribed by the department.

9 (2) All nonprovisional and nonprobationary licenses
10 issued under sections 71-1901 to 71-1906.01 shall expire two years
11 from the date of issuance and shall be subject to renewal under the
12 same terms and conditions as the original license, except that if a
13 licensee submits a completed renewal application thirty days or more
14 before the license's expiration date, the license shall remain in
15 effect until the department either renews the license or denies the
16 renewal application. No license issued pursuant to this section shall
17 be renewed unless the licensee has completed the required hours of
18 training in foster care in the preceding twelve months as prescribed
19 by the department. For the issuance or renewal of each nonprovisional
20 and nonprobationary license, the department shall charge a fee of
21 fifty dollars for a group home, fifty dollars for a child-caring
22 agency, and fifty dollars for a child-placing agency. For the
23 issuance of each provisional license and each probationary license,
24 the department shall charge a fee of twenty-five dollars for a group
25 home, twenty-five dollars for a child-caring agency, and twenty-five

1 dollars for a child-placing agency. A license may be revoked for
2 cause, after notice and hearing, in accordance with rules and
3 regulations adopted and promulgated by the department.

4 (3) When issuing a license pursuant to sections 71-1901
5 to 71-1906.01, the department shall not discriminate on the basis of
6 race, color, religion, sex, sexual orientation, gender identity,
7 disability, marital status, or national origin. Placement decisions
8 shall be made based upon the health, safety, and well-being of the
9 child, taking into consideration the requirements of the federal
10 Fostering Connections to Success and Increasing Adoptions Act of
11 2008, 42 U.S.C. 1305 et seq., and the federal Howard M. Metzenbaum
12 MultiEthnic Placement Act of 1994, Pub.L. 103-382, as such acts,
13 sections, and law existed on January 1, 2013, and the Nebraska Indian
14 Child Welfare Act.

15 (4) For purposes of this section:

16 (a) Foster family home means any home which provides
17 twenty-four-hour care to children who are not related to the foster
18 parent by blood, marriage, or adoption;

19 (b) Group home means a home which is operated under the
20 auspices of an organization which is responsible for providing social
21 services, administration, direction, and control for the home and
22 which is designed to provide twenty-four-hour care for children and
23 youth in a residential setting;

24 (c) Child-caring agency means an organization which is
25 organized as a corporation or a limited liability company for the

1 purpose of providing care for children in buildings maintained by the
2 organization for that purpose; and

3 (d) Child-placing agency means an organization which is
4 authorized by its articles of incorporation and by its license to
5 place children in foster family homes.

6 Sec. 5. Original sections 43-2,129, 43-1311.01, and
7 71-1902, Revised Statutes Cumulative Supplement, 2012, are repealed.