

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 530

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 eliminate a committee; to harmonize provisions; to repeal
8 the original sections; to outright repeal section
9 43-4212, Revised Statutes Cumulative Supplement, 2012;
10 and to declare an emergency.

11 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) It is the intent of the Legislature:

9 (a) To ensure that fair rates continue into the future to
10 stem attrition of foster parents, to recruit, support, and maintain
11 high quality foster parents;

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

14 (c) To ensure that contracted foster care service
15 provider agencies do not pay increased rates out of budgets
16 determined in contracts with the department prior to any change in
17 rates;

18 (d) To maintain comparable foster care reimbursement
19 rates to ensure retention and recruitment of quality foster parents
20 and to ensure that foster children's best interests are served; and

21 (e) To appropriate funds to permanently replace the
22 bridge funding described in subsection (1) of this section and
23 provide the necessary additional funds to bring foster care
24 reimbursement rates in compliance with the recommendations of
25 the research and study completed by the Foster Care Reimbursement

1 Rate Committee as required pursuant to section 43-4212 as such
2 section existed before the effective date of this act.

3 Sec. 2. (1) On or before July 1, 2013, the Division of
4 Children and Family Services of the Department of Health and Human
5 Services shall implement the reimbursement rate recommendations of
6 the Foster Care Reimbursement Rate Committee as reported to the
7 Legislature pursuant to section 43-4212 as such section existed
8 before the effective date of this act.

9 (2)(a) The Division of Children and Family Services of
10 the Department of Health and Human Services shall develop a pilot
11 project as provided in this subsection to implement the standardized
12 level of care assessment tools recommended by the Foster Care
13 Reimbursement Rate Committee as reported to the Legislature pursuant
14 to section 43-4212 as such section existed before the effective date
15 of this act.

16 (b)(i) The pilot project shall comprise two groups, one
17 in an urban area, one in a rural area. The size of each group shall
18 be determined by the division to ensure an accurate estimate of the
19 effectiveness and cost of implementing such tools statewide.

20 (ii) Prior to April 1, 2014, the department shall review
21 the pilot project and provide to the department and the Health and
22 Human Services Committee of the Legislature recommendations and any
23 legislation necessary, including appropriations, to adopt the
24 recommendations, regarding the adaptation or continuation of the
25 implementation of a statewide standardized level of care assessment.

1 (c) The department shall provide the full reimbursement
2 rate to contracted provider agencies in the pilot program.

3 Sec. 3. (1) On or before January 1, 2016, the Nebraska
4 Children's Commission shall appoint a Foster Care Reimbursement Rate
5 Committee to make recommendations to the Health and Human Services
6 Committee of the Legislature for a standard statewide foster care
7 reimbursement rate structure for children in foster care in Nebraska.
8 Such structure shall include a statewide standardized level of care
9 assessment and shall tie performance with payments to
10 achieve permanency outcomes for children and families. The commission
11 shall reconvene the committee every four years thereafter for the
12 same purpose.

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

15 (a) The following voting members: (i) Representatives
16 from a child welfare agency that contracts directly with foster
17 parents, from each of the service areas designated pursuant to
18 section 81-3116; (ii) a representative from an advocacy organization
19 which deals with legal and policy issues that include child welfare;
20 (iii) a representative from an advocacy organization the singular
21 focus of which is issues impacting children; (iv) a representative
22 from a foster and adoptive parent association; (v) a representative
23 from a lead agency; (vi) a representative from a child advocacy
24 organization that supports young adults who were in foster care as
25 children; (vii) a foster parent who contracts directly with the

1 Department of Health and Human Services; and (viii) a foster parent
2 who contracts with a child welfare agency; and

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

18 (3) Members of the committee shall serve for terms of
19 four years and until their successors are appointed and qualified.
20 The Nebraska Children's Commission shall appoint the chairperson of
21 the committee and may fill vacancies on the committee as they occur.

22 Sec. 4. (1) The Foster Care Reimbursement Rate Committee
23 shall review and make recommendations in the following areas: Foster
24 care reimbursement rates, the statewide standardized level of care
25 assessment, and adoption assistance payments as required by section

1 43-117. In making recommendations to the Legislature, the committee
2 shall use the then-current foster care reimbursement rates as the
3 beginning standard for setting reimbursement rates. The committee
4 shall adjust the standard to reflect the reasonable cost of achieving
5 measurable outcomes for all children in foster care in Nebraska. The
6 committee shall (a) analyze current consumer expenditure data
7 reflecting the costs of caring for a child in Nebraska, (b) identify
8 and account for additional costs specific to children in foster care,
9 and (c) apply a geographic cost-of-living adjustment for Nebraska.
10 The reimbursement rate structure shall comply with funding
11 requirements related to Title IV-E of the federal Social Security
12 Act, as amended, and other federal programs as appropriate to
13 maximize the utilization of federal funds to support foster care.

14 (2) The committee shall review the role and effectiveness
15 of and make recommendations on the statewide standardized level of
16 care assessment containing standardized criteria to determine a
17 foster child's placement needs and to identify the appropriate foster
18 care reimbursement rate. The committee shall review other
19 states' assessment models and foster care reimbursement rate
20 structures in completing the statewide standard level of care
21 assessment review and the standard statewide foster care
22 reimbursement rate structure. The committee shall ensure the
23 statewide standardized level of care assessment and the standard
24 statewide foster care reimbursement rate structure provide incentives
25 to tie performance in achieving the goals of safety, maintaining

1 family connection, permanency, stability, and well-being to
2 reimbursements received. The committee shall review and make
3 recommendations on assistance payments to adoptive parents as
4 required by section 43-117. The committee shall make recommendations
5 to ensure that changes in foster care reimbursement rates do not
6 become a disincentive to permanency.

7 (3) The committee may organize subcommittees as it deems
8 necessary. Members of the subcommittees may be members of the
9 committee or may be appointed, with the approval of the majority of
10 the committee, from individuals with knowledge of the subcommittee's
11 subject matter, professional expertise to assist the subcommittee
12 in completing its assigned responsibilities, and the ability
13 to collaborate within the subcommittee.

14 (4) The Foster Care Reimbursement Rate Committee shall
15 provide written reports with its recommendation to the Health and
16 Human Services Committee of the Legislature on July 1, 2016, and
17 every four years thereafter.

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

20 43-4202 (1) The Nebraska Children's Commission is created
21 as a high-level leadership body to (a) create a statewide strategic
22 plan for reform of the child welfare system programs and services in
23 the State of Nebraska and (b) review the operations of the Department
24 of Health and Human Services regarding child welfare programs and
25 services and recommend, as a part of the statewide strategic plan,

1 options for attaining the legislative intent stated in section
2 43-4201, either by the establishment of a new division within the
3 department or the establishment of a new state agency to provide all
4 child welfare programs and services which are the responsibility of
5 the state. The commission shall provide a permanent forum for
6 collaboration among state, local, community, public, and private
7 stakeholders in child welfare programs and services.

8 (2) The commission shall include the following voting
9 members:

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

12 (b) The Director of Children and Family Services or his
13 or her designee; and

14 (c) Sixteen members appointed by the Governor within
15 thirty days after April 12, 2012. The members appointed pursuant to
16 this subdivision shall represent stakeholders in the child welfare
17 system and shall include: (i) A director of a child advocacy center;
18 (ii) an administrator of a behavioral health region established
19 pursuant to section 71-807; (iii) a community representative from
20 each of the service areas designated pursuant to section 81-3116. In
21 the eastern service area designated pursuant to such section, the
22 representative may be from a lead agency of a pilot project
23 established under Legislative Bill 961, One Hundred Second
24 Legislature, Second Session, 2012, or a collaborative member; (iv) a
25 prosecuting attorney who practices in juvenile court; (v) a guardian

1 ad litem; (vi) a biological parent currently or previously involved
2 in the child welfare system; (vii) a foster parent; (viii) a court-
3 appointed special advocate volunteer; (ix) a member of the State
4 Foster Care Review Board or any entity that succeeds to the powers
5 and duties of the board or a member of a local foster care review
6 board; (x) a child welfare service agency that directly provides a
7 wide range of child welfare services and is not a member of a lead
8 agency collaborative; (xi) a young adult previously in foster care;
9 and (xii) a representative of a child advocacy organization that
10 deals with legal and policy issues that include child welfare.

11 (3) The commission shall have the following nonvoting, ex
12 officio members: (a) The chairperson of the Health and Human Services
13 Committee of the Legislature or a committee member designated by the
14 chairperson; (b) the chairperson of the Judiciary Committee of the
15 Legislature or a committee member designated by the chairperson; (c)
16 the chairperson of the Appropriations Committee of the Legislature or
17 a committee member designated by the chairperson; and (d) three
18 persons appointed by the State Court Administrator. The nonvoting, ex
19 officio members may attend commission meetings and participate in the
20 discussions of the commission, provide information to the commission
21 on the policies, programs, and processes of each of their respective
22 bodies, gather information for the commission, and provide
23 information back to their respective bodies from the commission. The
24 nonvoting, ex officio members shall not vote on decisions by the
25 commission or on the direction or development of the statewide

1 strategic plan pursuant to section 43-4204.

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

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

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

21 43-4203 (1) The Nebraska Children's Commission shall work
22 with administrators from each of the service areas designated
23 pursuant to section 81-3116, the teams created pursuant to section
24 28-728, local foster care review boards, child advocacy centers, the
25 teams created pursuant to the Supreme Court's Through the Eyes of the

1 Child Initiative, community stakeholders, and advocates for child
2 welfare programs and services to establish networks in each of such
3 service areas. Such networks shall permit collaboration to strengthen
4 the continuum of services available to child welfare agencies and to
5 provide resources for children and juveniles outside the child
6 protection system. Each service area shall develop its own unique
7 strategies to be included in the statewide strategic plan. The
8 Department of Health and Human Services shall assist in identifying
9 the needs of each service area.

10 (2)(a) The commission shall create a committee to examine
11 state policy regarding the prescription of psychotropic drugs for
12 children who are wards of the state and the administration of such
13 drugs to such children. Such committee shall review the policy and
14 procedures for prescribing and administering such drugs and make
15 recommendations to the commission for changes in such policy and
16 procedures.

17 (b) The commission shall create a committee to examine
18 the structure and responsibilities of the Office of Juvenile Services
19 as they exist on April 12, 2012. Such committee shall review the role
20 and effectiveness of the youth rehabilitation and treatment centers
21 in the juvenile justice system and make recommendations to the
22 commission on the future role of the youth rehabilitation and
23 treatment centers in the juvenile justice continuum of care. Such
24 committee shall also review the responsibilities of the Administrator
25 of the Office of Juvenile Services, including oversight of the youth

1 rehabilitation and treatment centers and juvenile parole, and make
2 recommendations to the commission relating to the future
3 responsibilities of the administrator.

4 (c) The commission may organize committees as it deems
5 necessary. Members of the committees may be members of the commission
6 or may be appointed, with the approval of the majority of the
7 commission, from individuals with knowledge of the committee's
8 subject matter, professional expertise to assist the committee in
9 completing its assigned responsibilities, and the ability to
10 collaborate within the committee and with the commission to carry out
11 the powers and duties of the commission.

12 (d) ~~If the One Hundred Second Legislature, Second~~
13 ~~Session, 2012, creates the The Title IV-E Demonstration Project~~
14 ~~Committee or and the Foster Care Reimbursement Rate Committee, or~~
15 ~~both, such committees shall be under the jurisdiction of the~~
16 commission.

17 (3) The commission shall work with the office of the
18 State Court Administrator, as appropriate, and entities which
19 coordinate facilitated conferencing as described in section
20 43-247.01. Facilitated conferencing shall be included in statewide
21 strategic plan discussions by the commission. Facilitated
22 conferencing shall continue to be utilized and maximized, as
23 determined by the court of jurisdiction, during the development of
24 the statewide strategic plan. Funding and contracting of facilitated
25 conferencing entities shall continue to be provided by the Department

1 of Health and Human Services to at least the same extent as such
2 funding and contracting are being provided on April 12, 2012.

3 (4) The commission shall gather information and
4 communicate with juvenile justice specialists of the Office of
5 Probation Administration and county officials with respect to any
6 county-operated practice model participating in the Crossover Youth
7 Program of the Center for Juvenile Justice Reform at Georgetown
8 University.

9 (5) ~~If the Nebraska Juvenile Service Delivery Project is~~
10 ~~enacted by the One Hundred Second Legislature, Second Session, 2012,~~
11 ~~the~~The commission shall coordinate and gather information about the
12 progress and outcomes of the ~~project~~ Nebraska Juvenile Service
13 Delivery Project.

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

16 43-4213 In recognition of Nebraska foster parents'
17 essential contribution to the safety and well being of Nebraska's
18 foster children and the need for additional compensation for the
19 services provided by Nebraska foster parents, ~~while the Foster Care~~
20 ~~Reimbursement Rate Committee completes its duties under section~~
21 ~~43-4212~~, beginning July 1, 2012, through June 30, 2013, all foster
22 parents providing foster care in Nebraska, including traditional,
23 agency-based, licensed, approved, relative placement, and child-
24 specific foster care, shall receive an additional stipend of three
25 dollars and ten cents per day per child. The stipend shall be in

1 addition to the current foster care reimbursement rates for relatives
2 and foster parents contracting with the Department of Health and
3 Human Services and in addition to the relative and tiered rate paid
4 to a contractor for agency-based foster parents. The additional
5 stipend shall be paid monthly through the agency that is contracting
6 with the foster parent or, in the case of a foster parent contracting
7 with the department, directly from the department. The contracting
8 agency shall receive an administrative fee of twenty-five cents per
9 child per day for processing the payments for the benefit of the
10 foster parents and the state, which administrative fee shall be paid
11 monthly by the state. The administrative fee shall not reduce the
12 stipend of three dollars and ten cents provided by this section.

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

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

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