

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 456

Introduced by Briese, 41.

Read first time January 17, 2017

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to children; to state findings and intent; to
- 2 define terms; to provide for supportive services for disabled
- 3 parents or disabled prospective parents with respect to adoption,
- 4 custody, visitation, foster care, child welfare, and family law as
- 5 prescribed.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds that:

2 (1) Disabled individuals continue to face unfair, preconceived, and
3 unnecessary societal biases as well as antiquated attitudes regarding
4 their ability to successfully parent their children;

5 (2) Disabled individuals face these biases and preconceived
6 attitudes in family and dependency law proceedings where custody and
7 visitation are at stake and in public and private adoption, guardianship,
8 and foster care proceedings;

9 (3) Because of these societal biases and antiquated attitudes,
10 children of disabled parents are unnecessarily being removed from their
11 parents' care or being restricted from enjoying meaningful time with
12 their parents; and

13 (4) Children are being denied the opportunity to enjoy the
14 experience of living in loving homes with disabled parents or other
15 disabled caretakers.

16 Sec. 2. It is the intent of the Legislature to protect the best
17 interests of children parented by disabled individuals or children who
18 could be parented by disabled individuals through the establishment of
19 procedural safeguards that require adherence to the federal Americans
20 with Disabilities Act of 1990 and respect for the due process and equal
21 protection rights of disabled parents or prospective disabled parents in
22 the context of child welfare, foster care, family law, dependency, and
23 adoption.

24 Sec. 3. For purposes of sections 1 to 4 of this act:

25 (1) Disabled means blind, visually impaired, deaf, hard of hearing,
26 or handicapped as defined in section 20-313; and

27 (2) Supportive parenting services means services that may assist a
28 disabled parent or disabled prospective parent in the effective use of
29 alternative methods to enable the parent or prospective parent to
30 discharge parental responsibilities as successfully as a parent who is
31 not disabled.

1 Sec. 4. (1) A parent's disability shall not serve as a basis for
2 denial or restriction of visitation or custody in family law or
3 dependency law cases when the visitation or custody is determined to be
4 otherwise in the best interests of the child.

5 (2) A prospective parent's disability shall not serve as a basis for
6 denial of his or her participation in a public or private adoption when
7 the adoption is determined to be otherwise in the best interests of the
8 child.

9 (3) An individual's disability shall not serve as a basis for denial
10 of foster parenting status or guardianship when the appointment is
11 determined to be otherwise in the best interests of the child.

12 (4) When in a court proceeding relating to custody, visitation,
13 foster care, guardianship, or adoption a parent's or prospective parent's
14 disability is alleged to have a detrimental impact on a child, the party
15 raising the allegation bears the burden of proving by clear and
16 convincing evidence that the behaviors are endangering or will likely
17 endanger the health, safety, or welfare of the child. If this burden is
18 met, the disabled parent or disabled prospective parent shall have the
19 opportunity to demonstrate how the implementation of supportive parenting
20 services will alleviate any concerns that have been raised. The court may
21 require that such supportive parenting services be put in place, with an
22 opportunity to review the need for continuation of such services within a
23 reasonable period of time.

24 (5) If a court determines that a disabled parent's right to custody
25 or visitation, his or her suitability to provide foster care, or his or
26 her petition for guardianship or adoption should be denied or limited in
27 any manner, the court shall make specific written findings stating the
28 basis for such a determination and why supportive parenting services is
29 not a reasonable accommodation to prevent such denial or limitation.