



**Ninety-Eighth Legislature - Second Session - 2004**  
**Committee Statement**  
**LB 1005**

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**Hearing Date:** January 21, 2004  
**Committee On:** Health and Human Services

**Introducer(s):** (Health and Human Services Committee)  
**Title:** Change health and human services provisions

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - X Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

7	Yes	Senator Jensen, Byars, Cunningham, Maxwell, Erdman, Johnson and Stuthman
	No	
	Present, not voting	
	Absent	

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**Proponents:**  
 Senator Jensen  
 Roger Keetle

**Representing:**  
 Introducer  
 Nebraska Hospital Association

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

**Summary of purpose and/or changes:** The bill is the annual “cleanup bill” requested by the Nebraska Health and Human Services System. The bill makes the following changes:

Child Care Licensure, Adoption, and Foster Care (sections 1, 2, 31, 32, 40-60, 79-80). The bill refers to sections 71-1908 to 71-1917 and sections 55-60 of the bill as the Child Care Licensing Act (act). References to the newly named act are harmonized in sections relating to the provision of respite care (section 31), the disclosure of immunization information (section 32), and the Medication Aid Act (sections 79-80).

The bill requires a national criminal history record information check of all adoptive parents (section 2). Before a child may be placed in foster care, the bill requires each applicant for or holder of a foster care license, each member of the applicant or licensee’s household, and each staff member of the licensee or applicant to submit a full set of legible fingerprints and

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provide written permission for the submission of such fingerprints for a national criminal history record information check by the Nebraska State Patrol. Such information may only be used to evaluate and confirm information submitted for purposes of the foster care licensure (section 40).

The bill permits a child to be placed in foster care before completion of the required criminal background check in emergency situations as determined by the Department of Health and Human Services Regulation and Licensure (department) for persons operating foster homes providing care only to relatives of the foster care provider. Waivers may only be granted once per case, for up to forty-five days, and may only be granted on a case-by-case basis upon assessment by the department of the appropriateness of the relative foster care placement (section 40).

The bill deletes reference to a probationary child care license and provides for extension of a provisional child care license by the department for up to six months. The department may place a provisional or operating license on voluntary corrective action status for up to six months. The department may take disciplinary action against the license if the written plan of correction submitted by the licensee is not accepted by the department (section 44).

The license, including any applicable status or amendment, must be displayed by the licensee in a prominent place that is clearly visible to parents and others. License record information and inspection reports must be made available by the licensee for public inspection upon request (section 44).

The bill adds new provisions relating to child care licensure. The bill requires licensure of persons providing child care programs, establishes a twenty-five dollar license fee to operate a program for fewer than thirty children, and a license fee of fifty dollars for programs serving thirty children or more (section 46).

The bill changes and adds provisions relating to discipline of child care licenses. The bill requires the department to maintain a complaint tracking system for licensees under the Child Care Licensure Act. The bill permits the department to deny the issuance of or take disciplinary action against a license issued under the act for: (1) failure to meet or violation of any of the requirements of the act or rules and regulations adopted under the act; (2) violation of an order of the Director of Regulation and Licensure under the act; (3) conviction of or substantial evidence that an applicant for or holder of a license under the act, household members who reside at the place where the program is provided, or employees of the applicant or licensee have committed certain unlawful acts or have permitted, aided, or abetted another to commit such acts; (4) conduct or practices detrimental to the health or safety of a person served by or employed at the program; (5) failure to allow an agent or employee of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, or the Department of Health and Human Services Finance and Support access to the program for purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of such departments; (6) failure to allow state or local inspectors, investigators, or law enforcement officers access to the program for purposes of carrying out their duties; (7) failure to meet sanitation, fire safety, or building code requirements; (8) failure to comply with or violation of the Medication Aid Act; (9) failure to file a report of suspected abuse or neglect as required by sections 28-372 and 28-711; (10) violation of any city, village, or county rules, regulations, or ordinances regulating licensees; or (11) failure to pay fees as required under the act (section 56).

The department may impose any one or a combination of the following types of disciplinary action against a license issued under the act: (1) issue a probationary license; (2) suspend or revoke a provisional, probationary, or operating license; (3) impose a civil penalty of

up to five dollars per child, based upon the number of children for which the program is authorized to provide child care on the effective date of the finding of the violation, for each day the program is in violation; (4) restrict new enrollments to the program; (5) establish restrictions or other limitation on the number of children or the age of the children served in the program; or (6) establish other restrictions or limitations on the type of service provided by the program (section 57).

A person who has had a license revoked for any cause other than nonpayment of fees is not permitted to reapply for a license for two years. Any fine imposed and unpaid under the act constitutes a debt to the State of Nebraska which may be collected by means of a lien foreclosure or other appropriate action filed in the name of the state in the district court of the county where the program is located (section 57)

In determining what type of disciplinary action to impose, the department must consider: (1) the gravity of the violation; (2) the diligence exercised by the program in identifying or correcting the violation; (3) the degree of cooperation exhibited by the licensee in the identification, disclosure, and correction of the violation; (4) any previous violations committed by the program; and (5) the financial benefit to the program of committing or continuing the violation. If the licensee fails to correct a violation or to comply with a disciplinary action imposed, the department may take additional disciplinary action against the license (section 58).

If the department determines to deny the issuance of or take disciplinary action against a license under the act, the department must send to the applicant or licensee, by certified mail to the address of the applicant or licensee, a notice setting forth the determination, the reasons for it, and the department's pending disciplinary action based on such determination. The denial or disciplinary action becomes final fifteen days after the mailing of the notice unless the applicant or licensee requests a hearing (section 59).

A child care licensee may voluntarily surrender their license at any time, but the department may refuse to accept the surrender if the licensee is under investigation or if the department has initiated disciplinary action against the licensee (section 60).

Child Support (sections 3, 4, and 83). The bill deletes obsolete provisions relating to reimbursement of counties for unrecovered costs associated with processing and disbursing child support payments based on insufficient fund checks and a requirement that counties disburse support order payments within two business days of receipt. The bill exempts support order payments placed in the Title IV-D Support Payment Distributive Fund from the Uniform Disposition of Unclaimed Property Act. If the Title IV-D Division is unable to disburse support order payments and to return the collected payments to the noncustodial parent within three years after receipt, such payments will be considered abandoned property and must be used by the state for child support enforcement activities of the division. The bill deletes obsolete language relating to an already-completed transfer of funds from the Title IV-D Support Payment Cash Fund to the Title IV-D Support Payment Distributive Fund (section 3). The bill outright repeals section 43-3342.07 (to establish an operative date for provisions of LB 972, 2000) and section 43-3343 (to require a legislative study) (section 83).

Medicaid Estate Recovery (section 5). The bill amends section 68-1036.02 relating to Medicaid estate recoveries, to conform with applicable federal law. The bill provides that the debt accruing for payment of medical assistance benefits to a recipient may not be recovered until after the death of the recipient's spouse, if any, and only if the deceased recipient is not

survived by a child who is under the age of twenty-one years or who is blind or totally or permanently disabled.

Veterinary Technicians (section 7). The bill provides an exception to the Nebraska Veterinary Practice Act for veterinary technician students performing duties or actions assigned by their instructors or working under the direct supervision of a licensed veterinarian during a school vacation period.

Schools of Electrology (sections 6, 8-29, 83). The bill amends the Nebraska Cosmetology Act to delete all references to schools of electrology. No such schools exist in Nebraska.

Critical Access Hospitals (section 30). The bill increases from fifteen to twenty-five the maximum number of acute inpatient beds permitted in a critical access hospital under the Health Care Facility Licensure Act and thereby expands the number of hospitals in the state who could potentially qualify for such designation.

Respite Care (section 31). The bill amends the definition of “respite care service” in section 71-428, which excludes “a person or any legal entity which is licensed under the Health Care Facility Licensure Act,” to clarify that the exclusion only applies to respite services provided by such person or entity at the licensed location.

Vital Statistics (sections 33-39, 83). The bill changes and clarifies various provisions relating to the collection of filing fees for certain records maintained by the Bureau of Vital Statistics of the Department of Health and Human Services Finance and Support, and fees for the issuance of certified copies of such records.

Tuberculosis (sections 61-71). The bill refers to sections 71-3601 to 71-3614 as the Tuberculosis Detection and Prevention Act and transfers activities under such sections from the Department of Health and Human Services to the Department of Health and Human Services Regulation and Licensure.

Safe Drinking Water (section 72). The bill amends the definition of “lead-free” under the Nebraska Safe Drinking Water Act to comply with applicable federal law.

Rural Health and Medical Education (sections 73-78, 81). The bill changes various provisions of the Rural Health Systems and Professional Incentive Act to clarify that the term “mental health professionals” as used in the act includes licensed mental health practitioners and psychologists. The bill creates the University of Nebraska Medical Center Medical Education Revolving Fund to be administered by the Department of Health and Human Services Finance and Support for the funding of medical education.

**Explanation of amendments, if any:** The committee amendment (AM 2347) strikes section 30 from the bill relating to critical access hospitals.

