

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 782

FINAL READING

Introduced by Howard, 9; Adams, 24; Ashford, 20; Avery, 28; Burling, 33; Dierks, 40; Dubas, 34; Engel, 17; Erdman, 47; Flood, 19; Friend, 10; Gay, 14; Hansen, 42; Hudkins, 21; Janssen, 15; Johnson, 37; Karpisek, 32; Kopplin, 3; Kruse, 13; Langemeier, 23; Lathrop, 12; Louden, 49; McDonald, 41; McGill, 26; Nantkes, 46; Nelson, 6; Pahls, 31; Pankonin, 2; Pedersen, 39; Pirsch, 4; Raikes, 25; Rogert, 16; Schimek, 27; Stuthman, 22; Wallman, 30; at the request of the Governor.

Read first time January 09, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to children; to amend section 28-725,  
2 Revised Statutes Cumulative Supplement, 2006, and section  
3 28-726, Revised Statutes Supplement, 2007; to provide  
4 and eliminate provisions relating to disclosure of child  
5 abuse and neglect information; to repeal the original  
6 sections; to outright repeal section 28-739, Revised  
7 Statutes Cumulative Supplement, 2006, and sections  
8 28-734, 28-735, 28-736, 28-737, and 28-738, Revised

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1                    Statutes Supplement, 2007; and to declare an emergency.

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

1           Section 1. (1) For purposes of this section:

2           (a) Chief executive officer means the chief executive

3 officer of the Department of Health and Human Services;

4           (b) Child abuse or neglect has the same meaning as in

5 section 28-710;

6           (c) Child fatality means the death of a child from

7 suspected abuse, neglect, or maltreatment as determined by the

8 county coroner or county attorney;

9           (d) Department means the Department of Health and Human

10 Services;

11           (e) Director means the Director of Children and Family

12 Services;

13           (f) Division means the Division of Children and Family

14 Services of the Department of Health and Human Services; and

15           (g) Near fatality means a case in which an examining

16 physician determines that a child is in serious or critical

17 condition as the result of sickness or injury caused by suspected

18 abuse, neglect, or maltreatment.

19           (2) Notwithstanding any other provision of state law,

20 the chief executive officer or director may disclose information

21 regarding child abuse or neglect and the investigation of and

22 any services related to the child abuse and neglect if the chief

23 executive officer or director determines that such disclosure is

24 not contrary to the best interests of the child, the child's

25 siblings, or other children in the household, and any one of the

1 following factors is present:

2 (a) The alleged perpetrator of the child abuse or neglect  
3 has been charged with committing a crime related to the report of  
4 child abuse or neglect maintained by the division;

5 (b) A judge, a law enforcement agency official, a  
6 county attorney, or another state or local investigative agency  
7 or official has publicly disclosed the provision of services  
8 related to or the investigation of the child abuse or neglect;

9 (c) An individual who is the parent, custodian, foster  
10 parent, provider, or guardian of the victim or a child victim over  
11 fourteen years of age has made a prior knowing, voluntary, public  
12 disclosure;

13 (d) The information relates to a child fatality or near  
14 fatality;

15 (e) The information is released to confirm, clarify, or  
16 correct information concerning an allegation or actual instance  
17 of child abuse or neglect which has been made public by sources  
18 outside the department; or

19 (f) A child who is in the custody of the department  
20 is missing from his or her placement, in which case the chief  
21 executive officer or director may release the name and physical  
22 description of the child.

23 (3) Information that may be disclosed includes, but is  
24 not limited to, child placement, whether in-home or out-of-home,  
25 terms of contact, hearing dates, the reason for removal from

1 parents or placement, the number of placements and type, permanency  
2 objectives, court-ordered services or other services provided by  
3 the division, and status of the court process. The following  
4 information shall not be released by the chief executive officer  
5 or director absent a court order: Date of birth, social security  
6 number, protected health information, the name of the person who  
7 made the report of child abuse or neglect pursuant to section  
8 28-711, and names of foster parents, unless the foster parent is  
9 the alleged perpetrator.

10 (4) The chief executive officer or director may release  
11 the results of criminal history record checks that have been  
12 completed by the division as authorized by law.

13 (5) For purposes of this section, the best interests of  
14 the child, the child's siblings, or other children in the household  
15 does not allow the disclosure of information that would impede  
16 a pending or current criminal investigation by a law enforcement  
17 agency.

18 (6) The division may adopt and promulgate rules and  
19 regulations to carry out this section.

20 Sec. 2. Section 28-725, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 28-725 All information of the department concerning  
23 reports of child abuse or neglect of noninstitutional children,  
24 including information in the tracking system of child protection  
25 cases maintained pursuant to section 28-715 or records in the

1 central register of child protection cases maintained pursuant to  
2 section 28-718, and all information of the department generated as  
3 a result of such reports or records, shall be confidential and  
4 shall not be disclosed except as specifically authorized by the  
5 Child Protection Act and ~~sections 28-734 to 28-739~~ section 1 of  
6 this act or other applicable law. The subject of the report of  
7 child abuse or neglect may authorize any individual or organization  
8 to receive the following information from the central register of  
9 child protection cases maintained pursuant to section 28-718 which  
10 relates or pertains to him or her: (1) The date of the alleged  
11 child abuse or neglect; and (2) the classification of the case  
12 pursuant to section 28-720. Permitting, assisting, or encouraging  
13 the unauthorized release of any information contained in such  
14 reports or records shall be a Class V misdemeanor.

15 Sec. 3. Section 28-726, Revised Statutes Supplement,  
16 2007, is amended to read:

17 28-726 Except as provided in this section, section and  
18 ~~sections 28-722, and 28-734 to 28-739,~~ section 1 of this act, no  
19 person, official, or agency shall have access to information in  
20 the tracking system of child protection cases maintained pursuant  
21 to section 28-715 or in records in the central register of child  
22 protection cases maintained pursuant to section 28-718 unless in  
23 furtherance of purposes directly connected with the administration  
24 of the Child Protection Act. Such persons, officials, and agencies  
25 having access to such information shall include, but not be limited

1 to:

2 (1) A law enforcement agency investigating a report of  
3 known or suspected child abuse or neglect;

4 (2) A county attorney in preparation of a child abuse or  
5 neglect petition or termination of parental rights petition;

6 (3) A physician who has before him or her a child whom he  
7 or she reasonably suspects may be abused or neglected;

8 (4) An agency having the legal responsibility or  
9 authorization to care for, treat, or supervise an abused or  
10 neglected child or a parent, a guardian, or other person  
11 responsible for the abused or neglected child's welfare who is the  
12 subject of the report of child abuse or neglect;

13 (5) Any person engaged in bona fide research or auditing.  
14 No information identifying the subjects of the report of child  
15 abuse or neglect shall be made available to the researcher or  
16 auditor;

17 (6) The State Foster Care Review Board when the  
18 information relates to a child in a foster care placement as  
19 defined in section 43-1301. The information provided to the state  
20 board shall not include the name or identity of any person making a  
21 report of suspected child abuse or neglect;

22 (7) The designated protection and advocacy system  
23 authorized pursuant to the Developmental Disabilities Assistance  
24 and Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act  
25 existed on January 1, 2005, and the Protection and Advocacy for

1 Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed  
2 on September 1, 2001, acting upon a complaint received from or  
3 on behalf of a person with developmental disabilities or mental  
4 illness;

5 (8) The person or persons having custody of the abused or  
6 neglected child in situations of alleged out-of-home child abuse or  
7 neglect; and

8 (9) For purposes of licensing providers of child care  
9 programs, the Department of Health and Human Services.

10 Sec. 4. Original section 28-725, Revised Statutes  
11 Cumulative Supplement, 2006, and section 28-726, Revised Statutes  
12 Supplement, 2007, are repealed.

13 Sec. 5. The following sections are outright repealed:  
14 Section 28-739, Revised Statutes Cumulative Supplement, 2006,  
15 and sections 28-734, 28-735, 28-736, 28-737, and 28-738, Revised  
16 Statutes Supplement, 2007.

17 Sec. 6. Since an emergency exists, this act takes effect  
18 when passed and approved according to law.