

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 635

Introduced by Dierks, 40

Read first time January 17, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Disabled Persons and Family Support Act;
2 to amend sections 68-1502, 68-1504, 68-1505, 68-1506,
3 68-1508, 68-1510, 68-1511, 68-1512, 68-1513, 68-1515,
4 68-1516, 68-1518, and 68-1519, Reissue Revised Statutes
5 of Nebraska, and section 68-1509, Revised Statutes
6 Cumulative Supplement, 2006; to provide financial
7 compensation for care given by families at home as
8 prescribed; to harmonize provisions; and to repeal the
9 original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-1502, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 68-1502 The Legislature finds and declares that:

4 (1) The family is vital to the fundamental development of
5 each person in the State of Nebraska;

6 (2) A growing number of families are searching for ways
7 to provide for disabled family members in the home rather than
8 placing them in state or private institutional or residential
9 facilities;

10 (3) Employable disabled persons should be encouraged to
11 engage in employment and ultimately become self-supporting;

12 (4) Necessary services and financial compensation for
13 caregiving should be available to families caring for a disabled
14 family member so that disabled persons may remain in the home,
15 obtain employment if possible, and maintain a more independent form
16 of living;

17 (5) The State of Nebraska should make every effort to
18 preserve the family unit, to insure that decisions of providing for
19 a disabled person are based on the best interests of the disabled
20 person and the family, and to provide services to disabled persons
21 which promote independent living and employability; and

22 (6) The State of Nebraska should promote cost-effective
23 health care alternatives for disabled persons.

24 Sec. 2. Section 68-1504, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 68-1504 The department may provide support to families
2 providing for a disabled member in the home and to disabled
3 persons in independent living situations. Such support may be made
4 available to compensate for present and future expenses, including,
5 but not limited to:

6 (1) The purchase or lease of special equipment or
7 architectural modifications of a home made to improve or facilitate
8 the care, treatment, therapy, general living conditions, or access
9 of the disabled person;

10 (2) Medical, surgical, therapeutic, diagnostic, and other
11 health services related to the disability or disabilities of the
12 disabled person;

13 (3) Counseling or training programs which assist the
14 family in providing proper care for the disabled family member
15 or assist the disabled person in an independent living situation
16 and which provide for the special needs of the family or disabled
17 person;

18 (4) Attendant care, respite care, home health aid
19 services, homemaker services, and chore services which provide
20 assistance with training, routine body functions, dressing,
21 preparation, consumption of food, and ambulation as well as
22 providing respite assistance to the family;

23 (5) Transportation services for the disabled person; and

24 (6) Transportation, room, and board costs incurred by
25 the family or disabled person during evaluations or treatment of

1 the disabled family member which receive prior approval from the
 2 department; and -

3 (7) Financial compensation for care given by families
 4 at home to a disabled family member when eligible under section
 5 68-1505.

6 Sec. 3. Section 68-1505, Reissue Revised Statutes of
 7 Nebraska, is amended to read:

8 68-1505 Families may be eligible to receive support or
 9 financial compensation for caregiving pursuant to sections 68-1501
 10 to 68-1519 the Disabled Persons and Family Support Act if the
 11 family (1) resides in the State of Nebraska, (2) has a family
 12 member who is disabled and is (a) living at home or (b) residing
 13 in a state or private institutional or residential facility but
 14 could return home under sections 68-1501 to 68-1519 the act, and
 15 (3) (a) has insufficient income to provide for the total cost of
 16 care for the disabled family member, (b) an out-of-home placement
 17 has been attempted and failed and care at home is possible, or
 18 (c) the cost of care by the family at home will be less than
 19 the cost to the state for institutional care. The caregiver shall
 20 receive financial compensation at a higher rate than a salaried
 21 state employee receives for similar work done at a state facility.
 22 The caregiver and his or her family shall be eligible for health
 23 insurance as if the caregiver is a full-time state employee.

24 Sec. 4. Section 68-1506, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

1 68-1506 A disabled person in an independent living
2 situation may be eligible to receive support pursuant to ~~sections~~
3 ~~68-1501 to 68-1519~~ the Disabled Persons and Family Support Act if
4 the person (1) is a resident of the State of Nebraska, (2) requires
5 care to remain within an independent living situation, and (3) has
6 insufficient income to provide for the total cost of such care.

7 Sec. 5. Section 68-1508, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 68-1508 The department may allocate costs for programs
10 and services between the department and the family or the disabled
11 person in an independent living situation. Such cost allocation
12 shall be based on the need for support pursuant to ~~sections 68-1501~~
13 ~~to 68-1519~~ the Disabled Persons and Family Support Act and shall
14 not be based on income guidelines or fee schedules established for
15 other programs administered by the department.

16 Sec. 6. Section 68-1509, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 68-1509 The department, in considering the needs and
19 eligibility criteria of families and disabled persons, shall
20 consider various factors, including, but not limited to:

21 (1) Total family income, except that the amount which
22 the spouse may designate as provided in section 68-922 shall be
23 excluded in determining total family income per month;

24 (2) The cost of providing supplemental services to the
25 family or the disabled person;

1 (3) The need for each program or service received by the
2 family or the disabled person;

3 (4) The eligibility of the family or the disabled person
4 for other support programs;

5 (5) The costs of providing for the family or the disabled
6 person in an independent living situation, notwithstanding the
7 special circumstances of providing for a disabled person;

8 (6) The number of persons in the family; and

9 (7) The availability of insurance to cover the cost of
10 needed programs and services; and -

11 (8) The most economical care that is in the best
12 interests of the disabled person, including financial compensation
13 for care given by families to a disabled family member at home.

14 If assets have been designated for an individual in
15 accordance with section 68-922, such assets shall not be considered
16 in determining the eligibility for support of the individual's
17 disabled spouse.

18 Sec. 7. Section 68-1510, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 68-1510 The support and financial compensation for
21 caregiving available under sections 68-1501 to 68-1519 the Disabled
22 Persons and Family Support Act shall be supplemental to other
23 support programs for which the family or disabled person is
24 eligible and is not intended to reduce the responsibility for the
25 provision of services and support by such other programs. The

1 department shall (1) determine whether any request under ~~sections~~
2 ~~68-1501 to 68-1519~~ the act is appropriate to and available from
3 other support programs, (2) deny any request if the requested
4 assistance is appropriate to and available from other support
5 programs and such assistance is in the best interests of the
6 disabled person, and (3) provide information and referral to all
7 families and disabled persons whose request for assistance was
8 denied pursuant to this section on the procedure for applying for
9 other appropriate and available support programs.

10 Sec. 8. Section 68-1511, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 68-1511 The department may, by agreement with the head of
13 the family or disabled person, provide support pursuant to ~~sections~~
14 ~~68-1501 to 68-1519~~ the Disabled Persons and Family Support Act (1)
15 directly to the family or the disabled person, or (2) directly to
16 qualified programs and services. The department shall assist each
17 family or disabled person receiving support under ~~sections 68-1501~~
18 ~~to 68-1519~~ the act in locating qualified programs and services. The
19 family or the disabled person may be required to be responsible for
20 contracting for those programs and services which the department
21 approves and shall furnish the department a copy of each contract.
22 The family or the disabled person may compensate the providers
23 of such programs and services directly. Providers of programs and
24 services shall be required to comply with all standards established
25 by the department for participation pursuant to ~~sections 68-1501 to~~

1 ~~68-1519.~~ the act.

2 Sec. 9. Section 68-1512, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 68-1512 ~~The~~ (1) Except as provided in subsection (2) of
5 this section, the maximum support allowable under sections 68-1501
6 to 68-1519 the Disabled Persons and Family Support Act shall be ~~(1)~~
7 (a) three hundred dollars per month per disabled person averaged
8 over any one-year period or ~~(2)~~ (b) three hundred dollars per
9 month per family averaged over any one-year period for the first
10 disabled family member plus one hundred fifty dollars per month
11 averaged over any one-year period for each additional disabled
12 family member. The department shall not provide support, pursuant
13 to sections 68-1501 to 68-1519 the act, to any family or disabled
14 person whose gross income less the cost of medical or other care
15 specifically related to the disability exceeds the median family
16 income for a family of four in Nebraska, except that the department
17 shall make adjustments for the actual size of the family.

18 (2) The limitations in subsection (1) of this section do
19 not apply to financial compensation for care given by families at
20 home to a disabled family member eligible under section 68-1505.

21 Sec. 10. Section 68-1513, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 68-1513 The department shall review the needs of each
24 family or disabled person receiving support under ~~sections 68-1501~~
25 ~~to 68-1519~~ the Disabled Persons and Family Support Act on a regular

1 basis, as established by the department, or upon the showing of a
2 change of circumstances by the head of the family.

3 Sec. 11. Section 68-1515, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 68-1515 The department shall adopt and promulgate rules
6 and regulations, as necessary, to implement ~~sections 68-1501 to~~
7 ~~68-1519~~ the Disabled Persons and Family Support Act, including:

8 (1) Standards and procedures for determining approval
9 of qualified programs and services to participate under ~~sections~~
10 ~~68-1501 to 68-1519;~~ the act;

11 (2) Identification of the need for programs and services
12 of families providing for a disabled family member in the home or
13 of disabled persons in an independent living situation;

14 (3) Identification of the need for support to families
15 and disabled persons or for financial compensation for care given
16 by families at home to a disabled family member and procedures
17 for the provision of such support or financial compensation under
18 ~~sections 68-1501 to 68-1519;~~ the act;

19 (4) Procedures for review of each family or disabled
20 person receiving support under ~~sections 68-1501 to 68-1519;~~ the
21 act;

22 (5) Procedures and guidelines for determining priorities,
23 eligibility standards, and eligibility criteria for the selection
24 of families and disabled persons to participate in programs
25 pursuant to ~~sections 68-1501 to 68-1519;~~ the act;

1 (6) Procedures and guidelines for determining when
2 support pursuant to ~~sections 68-1501 to 68-1519~~ the act would be a
3 duplication of support from other support programs or would result
4 in excessive support to a family or disabled person; and

5 (7) ~~An~~ When applicable, an annual determination of the
6 family income guidelines necessary to carry out the provisions
7 of section 68-1512. Such guidelines shall be based on population,
8 per capita income, and other data provided by the United States
9 Department of Commerce, Bureau of the Census.

10 Sec. 12. Section 68-1516, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 68-1516 ~~The department shall begin providing support~~
13 ~~pursuant to sections 68-1501 to 68-1519 on July 1, 1982. From July~~
14 ~~1, 1982, to July 1, 1986, the department shall provide support on a~~
15 ~~priority basis to families and disabled persons eligible to receive~~
16 ~~support pursuant to sections 68-1501 to 68-1519. The department~~
17 ~~shall give priority to those families providing for a severely~~
18 ~~or multiple disabled family member and to severely or multiple~~
19 ~~disabled persons in independent living situations. Priority shall~~
20 ~~also be given to those families and disabled persons (1) with~~
21 ~~the greatest need for support and financial compensation for~~
22 ~~caregiving to maintain the disabled person in the family home or~~
23 ~~independent living situation, (2) who have the greatest possibility~~
24 ~~of maintaining the disabled person in the home or independent~~
25 ~~living situation on a continual basis, and (3) who demonstrate~~

1 that support pursuant to ~~sections 68-1501 to 68-1519~~ the Disabled
2 Persons and Family Support Act will provide the most cost-effective
3 form of care for the disabled person.

4 Sec. 13. Section 68-1518, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 68-1518 The department shall file an annual report with
7 the Governor and the Clerk of the Legislature on or before January
8 1 of each year beginning January 1, 1983. Such report shall
9 include:

10 (1) The number of families and disabled persons applying
11 for support, including financial compensation for caregiving,
12 pursuant to ~~sections 68-1501 to 68-1519~~ the Disabled Persons
13 and Family Support Act and the number of families and disabled
14 persons receiving support pursuant to ~~sections 68-1501 to 68-1519~~
15 the act;

16 (2) The types of services and programs being applied for
17 and those being provided through ~~sections 68-1501 to 68-1519;~~ the
18 act;

19 (3) The effects of the support, including financial
20 compensation for caregiving, provided under ~~sections 68-1501 to~~
21 ~~68-1519~~ the act on the disabled and their families; and

22 (4) Any proposals for amendment of ~~sections 68-1501 to~~
23 ~~68-1519.~~ the act.

24 Sec. 14. Section 68-1519, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 68-1519 Any person who by means of a willfully false
2 statement or representation, or by impersonation or other device,
3 obtains or attempts to obtain, or who aids or abets any other
4 person in obtaining support under ~~sections 68-1501 to 68-1519~~ the
5 Disabled Persons and Family Support Act shall, upon conviction
6 thereof, be punished pursuant to section 68-1017.

7 Sec. 15. Original sections 68-1502, 68-1504, 68-1505,
8 68-1506, 68-1508, 68-1510, 68-1511, 68-1512, 68-1513, 68-1515,
9 68-1516, 68-1518, and 68-1519, Reissue Revised Statutes of
10 Nebraska, and section 68-1509, Revised Statutes Cumulative
11 Supplement, 2006, are repealed.