

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB269

Hearing Date: Thursday January 31, 2013
Committee On: Health and Human Services
Introducer: Campbell
One Liner: Change provisions relating to children and families

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Campbell, Cook, Crawford, Gloor, Howard, Krist, Watermeier
Nay:
Absent:
Present Not Voting:

Proponents: Senator Kathy Campbell Melanie Williams-Smotherman Georgie Scurfield Sarah Helvey Tom McBride	Representing: District #25 Family Advocacy Movement Self Nebraska Appleseed Epworth Village, Inc.
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Opponents:	Representing:
Neutral: Karen Authier Vicky Weisz Kim Hawekotte Julie Rogers David Newell	Representing: Nebraska Children's Commission Self Foster Care Review Office Inspector General of Nebraska Child Welfare Nebraska Families Collaborative (NFC)

Summary of purpose and/or changes:

The intent of LB 269 is to address child welfare issues revealed by reports and studies completed as a result of child welfare legislation enacted last session and the LR 37 study conducted by the Health and Human Services Committee. LB 269 makes changes to the membership of the Nebraska Children's Commission providing that the CEO of the Department of Health and Human Services and the Director of Children and Family Services become non-voting members; and adds the Inspector General of Nebraska Child Welfare and the executive director of the Foster Care Review Office to the membership.

LB 269 moves the office of the Commission from within the chief executive of the Department of Health and Human Services to the the Foster Care Review Office. Additionally, the bill provides for the hiring of a policy analyst to assist the Commission with information; child welfare and juvenile justice public policy research and analysis; managing or leading projects for the Commission; and assisting as a liaison for the Commission with various stakeholders and the public.

In response to reports and the child welfare evaluations conducted, as a result of legislation enacted last session, LB

269 takes actions to increase Nebraska's Title IV-E funding. It is important to note, that for most of the Title IV-E revenue maximization recommendation, CFS can claim retroactively eight quarters. The bill:

First, it increases reimbursement for Title IV-E administrative costs for foster care "candidates," children who are still in their homes but who are receiving services to prevent placement. This issue was suggested in both the Child Welfare Evaluation conducted under LB 1160 (2012) and the Medicaid Analysis under LB 821 (2012). If the State claims administrative costs for case management for candidate children, fifty percent of the administrative claims could be eligible for Title IV-E funding. Administration for Children and Families (ACF) allows for reimbursement of administrative costs the department incurs for a candidate for foster care if the State is providing reasonable efforts to keep the child in his or her home and re-determines, at least every six months, that the child remains at imminent risk of removal from the home. This may be done through including in case plans of voluntary, non-court involved children and children who are wards of the state but in their own home, when appropriate, that in home services are being provided to prevent children from being in out of home, foster placement. Accordingly, LB 269 amends Nebr. Rev. Stat. 43-285, a statute relating to juveniles who are wards of the department. A case plan for the care, placement, services, and permanency for the juvenile and his or her family is developed by the department and reviewed by the court at least every six months. The bill adds language to the statute that when the plan includes the provision of services in order that the juvenile can remain in his or her home and such services are to prevent out-of-home placement, the plan shall be prepared and shall clearly state that the services described in the plan are to prevent placement and that absent preventative services, foster care is the planned arrangement. Additionally, the bill amends Nebr. Rev. Stat. 68-1207 that requires in noncourt and voluntary cases, when any child welfare services are provided as a result of a child safety assessment, that the department shall develop a case plan. LB 269 adds that the case plan shall clearly indicate, when appropriate, that children are receiving services to prevent out-of-home placement and that, absent preventive services, foster care is the planned arrangement for the child.

Second, in order to receive Title IV-E reimbursement, children must be placed in a licensed placement in accordance with ACF regulations. The LB 820 Final Title IV-E Report (2012) stated that the majority, approximately 52% of children in Nebraska, are ineligible for Title IV-E reimbursement due to the child's placement in an unlicensed home. The cross-system Medicaid Analysis report that was completed as a result of LB 821 (2012) recommended that the department should work with child specific and relative providers to understand barriers to licensure and assist with removing those barriers. Additionally, the report stated that new foster care licensing regulations would allow for more relatives to be licensed. Accordingly, LB 269 requires the department to adopt and promulgate rules and regs for new foster home licensing requirements that ensure children's safety, health, and well-being but minimize the use of licensing mandates for non-safety issues. The rules are to provide alternatives to address non-safety issues regarding housing and provide assistance to families in overcoming licensing barriers, especially in child-specific, relative and kinship placements. This change will also increase the option of claiming Title IV-E revenue through the Guardianship Assistance Program (GAP). In order to be eligible for GAP subsidy a child must have been Title IV-E eligible for the six months leading up to guardianship. Because of current licensing guidelines most relatives are not licensed foster care providers thus most youth who would be candidate for this subsidy are ineligible. (As a result of a request of the Department the deadline for complinace with these rules and regs change will be extended.)

Third, the cross system Medicaid Analysis also found that the department was not capturing all possible maintenance costs on Title IV-E maintenance claims. The report recommends that Nebraska submit allowable maintenance costs for reimbursement that would include 1) personal incidental: personal hygiene; cosmetics; over-the-counter medications and special dietary foods; infant and toddler supplies, including high chairs and diapers; fees related to activities, such as Boy/Girl Scouts; special lessons, including horseback riding; graduation fees; and miscellaneous items such as stamps, envelopes, writing paper, film etc.; 2) school supplies; 3) clothing; 4) transportation, allowable for reasonable travel to child's home for visitation and for a child to remain in the school in which he or she was enrolled at the time of placement; and 5) respite care- short term care provided by a licensed foster care provider. The bill requires that on or before July 1, 2013 the department shall develop a policy for reimbursement of all allowable foster care maintenance costs.

Fourth, the Medicaid Analysis report recommended that Nebraska pursue Title IV-E claiming for services provided through the Nebraska Juvenile Service Delivery Project (NJSDP). Currently the pilot is only funded through general funds. While not a large number of youth participating in the pilot will be eligible for IV-E, it would be advantageous for

the state to maximize federal reimbursement where possible. LB 269 requires on or before July 1, 2012 the department to apply for reimbursement under Title IV-E for costs associated with the NJSDP and those funds to be provided to probation for reimbursement of expenses incurred by the NJSDP.

Fifth, currently training costs under the NFC Lead Agency Pilot Program are not eligible for federal reimbursement. For funding to become available, training would have to be provided by the department, or a contractor. Accordingly, in order to capture Title IV-E funds and to facilitate consistency in training of all case managers, LB 269 requires the same program for initial training of case managers to be provided by the same entity, either the department or a contractor, to all case managers, whether public or private. The national consultant who completed the Child Welfare Evaluation required by LB 1160 (2012), identified concerns regarding NFC's quality of training, supervised field experience, lack of experience, and lack of follow through regarding Family Team Meetings, notification of court dates, review of files and, additionally, the high level of staff turnover. Also, issues were raised in the same report regarding the department's lack of accountability or quality assurance of training, and a lack of a requirement that new caseworkers pass an examination demonstrating the knowledge needed to take on a caseload. LB 269, in addition to using the same entity and same program for all state training requires that if a contractor is utilized for initial training of case managers the department shall create a formal system for measuring the quality of training. All case managers shall complete a formal assessment process after initial training to demonstrate competency prior to assuming responsibilities as a case manager. The LB 1160 (2012) Child Welfare Evaluation indicates that very few of the outcomes achieved either privately or publicly approach what they should be...families are often not provided the casework visits, the services, or the involvement in their own case planning that are necessary for successful outcomes...family-centered services are needed as a permanent standard which reflects an ongoing commitment to preserve families whenever that can be done safely. The Evaluation stated that becoming family-centered will require an approach that views the job of casework as making families better capable of protecting their own children rather than one of replacing those families with the child welfare system. LB 269 focuses on the necessity to train caseworkers with the same program and by the same entity in a training curriculum that includes: an understanding of the benefits of utilizing evidence-based and promising casework practices; guaranteeing service providers' fidelity to evidence-based, family-centered casework practices; and a commitment to evidence-based, family-centered casework practices that utilize a least restrictive approach for children and families.

Finally, LR 269 makes some basic requirements regarding child welfare contracting. The LR 37 Report completed by the Health and Human Service Committee in 2011 indicated repeatedly that the lack of financial readiness of the lead agencies to enable them to complete their contracts had a devastating impact on Nebraska's child welfare system, the results of which are continuing today, including in the number of foster care homes and child welfare services. This finding of lack of financial stability and the cost to the system, especially children, families and foster parents, was specified by the Nebraska Auditor of Public Accounts Report, the Legislative Fiscal Office Report and the Legislative Performance Audit Report, which were reviewed and included in the LR 37 report. Additionally, both the Child Welfare Evaluation and the Medicaid Analysis indicated continuing issues with the department regarding child welfare provider contracts. The Child Welfare Evaluation found a lack of verification of services provided under contracts, limited to no quality assurance requirement or outcome measures built into contracts, and no unannounced site visits. Additionally the Evaluation stated that, in regards to the Lead Agency Pilot, without a resolution to financial stability question, the question of whether outcomes can improve may be moot. The Medicaid Analysis recommended that the department implement increased level of provider management including: 1) service outcomes in provider contracts, 2) monitoring procedures (not only providing services but tracking if families improve after receiving services and if the service needs of children are fully addressed); 3) accountability measures, including requirement of evidence base practice for each core service offering and provider "scorecards" to help measure the effectiveness of service providers. Scorecards would rate providers based on efficiency, outcomes, costs and client satisfaction. LB 269 begins with the contract basics in response to LR 37, the Evaluation and Report, of requiring that child welfare providers show financial stability prior to contracting for services; do not inhibit service development by prohibiting "non-compete clauses" in contracts; and requires the department to complete unannounced site visits.

Explanation of amendments:

The Committee Amendment makes technical changes to LB 269 and addresses additional child welfare issues.

Technical changes include: correcting the title of the Probation Program Cash Fund; adds that the department will work in conjunction with the Administrative Office of Probation to develop policy for Title IV-E administration reimbursement; removes the October 1, 2013 deadline for development of rules and regulations regarding the policy determination for foster care home licensing; and removes the ability for the Inspector General or the Foster Care Review Office Director to name a designee to the Children's Commission.

The Committee Amendment adds a tribal representative to the Nebraska Children's Commission.

It, also, provides that the Inspector General for Nebraska Child Welfare: is an ex-officio non-voting member to the Children's Commission; is added as a member to the Child Death Review Team; and is provided information regarding the resolution of grievances filed by parents against the Division of Child and Family Services.

Additionally, the Committee Amendment removes the requirement for joint training of caseworkers and on site unannounced verification of child welfare services provided by private contractors.

Finally, the Committee Amendment requires determination regarding eligibility for Medicaid coverage for children who are state wards. These determination will be made: in the court report at the initial development of the plan and at six month reviews; and as a part of the transition plan for youth who age out from foster care to adulthood. Additionally, the department is required to provide youth with written documentation regarding eligibility for Medicaid coverage upon exiting the system. These actions will insure children in the child welfare system do not inadvertently lose Medicaid coverage and will assist in ensuring youth who exit the system have had the appropriate determination and information necessary to obtain the Medicaid coverage available to former foster care youth until the age of 26 under the Affordable Care Act.

Kathy Campbell, Chairperson