

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 269

Final Reading

Introduced by Campbell, 25.

Read first time January 16, 2013

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to children and families; to amend section
 2 71-3406, Reissue Revised Statutes of Nebraska, and
 3 sections 43-285, 43-905, 43-1311.03, 43-4101, 43-4202,
 4 43-4203, 43-4208, 68-1207, 71-1904, and 81-3133, Revised
 5 Statutes Cumulative Supplement, 2012; to change
 6 provisions relating to state wards, foster care, the
 7 Nebraska Children's Commission, child welfare services,
 8 the State Child Death Review Team, and reporting
 9 requirements for certain child welfare expenditures; to
 10 require application for federal reimbursement of certain
 11 costs, employment of a policy analyst, foster home
 12 licensing requirements, certain provisions in contracts
 13 for child welfare services, and a formal grievance
 14 process for the child welfare system and the juvenile
 15 justice system; to eliminate obsolete provisions; to
 16 harmonize provisions; to repeal the original sections;

1 and to declare an emergency.

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

1 Section 1. Section 43-285, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 43-285 (1) When the court awards a juvenile to the care
4 of the Department of Health and Human Services, an association, or an
5 individual in accordance with the Nebraska Juvenile Code, the
6 juvenile shall, unless otherwise ordered, become a ward and be
7 subject to the guardianship of the department, association, or
8 individual to whose care he or she is committed. Any such association
9 and the department shall have authority, by and with the assent of
10 the court, to determine the care, placement, medical services,
11 psychiatric services, training, and expenditures on behalf of each
12 juvenile committed to it. Any such association and the department
13 shall be responsible for applying for any health insurance available
14 to the juvenile, including, but not limited to, medical assistance
15 under the Medical Assistance Act. Such guardianship shall not include
16 the guardianship of any estate of the juvenile.

17 (2) Following an adjudication hearing at which a juvenile
18 is adjudged to be under subdivision (3) of section 43-247, the court
19 may order the department to prepare and file with the court a
20 proposed plan for the care, placement, services, and permanency which
21 are to be provided to such juvenile and his or her family. The plan
22 shall include a statement regarding the eligibility of the juvenile
23 for any health insurance, including, but not limited to, medical
24 assistance under the Medical Assistance Act. The health and safety of
25 the juvenile shall be the paramount concern in the proposed plan.

1 When the plan includes the provision of services in order that the
2 juvenile can remain in his or her home and such services are to
3 prevent out-of-home placement, the plan shall be prepared and shall
4 clearly state that the services described in the plan are to prevent
5 placement and that, absent preventive services, foster care is the
6 planned arrangement for the child. The department shall include in
7 the plan for a juvenile who is sixteen years of age or older and
8 subject to the guardianship of the department a written independent
9 living transition proposal which meets the requirements of section
10 43-1311.03. The court may approve the plan, modify the plan, order
11 that an alternative plan be developed, or implement another plan that
12 is in the juvenile's best interests. In its order the court shall
13 include a finding regarding the appropriateness of the programs and
14 services described in the proposal designed to assist the juvenile in
15 acquiring independent living skills. Rules of evidence shall not
16 apply at the dispositional hearing when the court considers the plan
17 that has been presented.

18 (3) Within thirty days after an order awarding a juvenile
19 to the care of the department, an association, or an individual and
20 until the juvenile reaches the age of majority, the department,
21 association, or individual shall file with the court a report stating
22 the location of the juvenile's placement and the needs of the
23 juvenile in order to effectuate the purposes of subdivision (1) of
24 section 43-246. The department, association, or individual shall file
25 a report with the court once every six months or at shorter intervals

1 if ordered by the court or deemed appropriate by the department,
2 association, or individual. Every six months, the report shall
3 provide an updated statement regarding the eligibility of the
4 juvenile for health insurance, including, but not limited to, medical
5 assistance under the Medical Assistance Act. The department,
6 association, or individual shall file a report and notice of
7 placement change with the court and shall send copies of the notice
8 to all interested parties at least seven days before the placement of
9 the juvenile is changed from what the court originally considered to
10 be a suitable family home or institution to some other custodial
11 situation in order to effectuate the purposes of subdivision (1) of
12 section 43-246. The court, on its own motion or upon the filing of an
13 objection to the change by an interested party, may order a hearing
14 to review such a change in placement and may order that the change be
15 stayed until the completion of the hearing. Nothing in this section
16 shall prevent the court on an ex parte basis from approving an
17 immediate change in placement upon good cause shown. The department
18 may make an immediate change in placement without court approval only
19 if the juvenile is in a harmful or dangerous situation or when the
20 foster parents request that the juvenile be removed from their home.
21 Approval of the court shall be sought within twenty-four hours after
22 making the change in placement or as soon thereafter as possible. The
23 department shall provide the juvenile's guardian ad litem with a copy
24 of any report filed with the court by the department pursuant to this
25 subsection.

1 (4) The court shall also hold a permanency hearing if
2 required under section 43-1312.

3 (5) When the court awards a juvenile to the care of the
4 department, an association, or an individual, then the department,
5 association, or individual shall have standing as a party to file any
6 pleading or motion, to be heard by the court with regard to such
7 filings, and to be granted any review or relief requested in such
8 filings consistent with the Nebraska Juvenile Code.

9 (6) Whenever a juvenile is in a foster care placement as
10 defined in section 43-1301, the Foster Care Review Office or the
11 designated local foster care review board may participate in
12 proceedings concerning the juvenile as provided in section 43-1313
13 and notice shall be given as provided in section 43-1314.

14 (7) Any written findings or recommendations of the Foster
15 Care Review Office or the designated local foster care review board
16 with regard to a juvenile in a foster care placement submitted to a
17 court having jurisdiction over such juvenile shall be admissible in
18 any proceeding concerning such juvenile if such findings or
19 recommendations have been provided to all other parties of record.

20 (8) The executive director and any agent or employee of
21 the Foster Care Review Office or any member of any local foster care
22 review board participating in an investigation or making any report
23 pursuant to the Foster Care Review Act or participating in a judicial
24 proceeding pursuant to this section shall be immune from any civil
25 liability that would otherwise be incurred except for false

1 statements negligently made.

2 Sec. 2. Section 43-905, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 43-905 (1) The Department of Health and Human Services
5 shall be the legal guardian of all children committed to it. The
6 department shall afford temporary care and shall use special
7 diligence to provide suitable homes for such children. The department
8 shall make reasonable efforts to accomplish joint-sibling placement
9 or sibling visitation or ongoing interaction between siblings as
10 provided in section 43-1311.02. The department is authorized to place
11 such children in suitable families for adoption, foster care, or
12 guardianship or, in the discretion of the department, on a written
13 contract.

14 (2) The contract shall provide (a) for the children's
15 education in the public schools or otherwise, (b) for teaching them
16 some useful occupation, and (c) for kind and proper treatment as
17 members of the family in which they are placed.

18 (3) Whenever any child who has been committed to the
19 department becomes self-supporting, the department shall declare that
20 fact and the guardianship of the department shall cease. Thereafter
21 the child shall be entitled to his or her own earnings. Guardianship
22 of and services by the department shall never extend beyond the age
23 of majority, except that (a) services by the department to a child
24 shall continue until the child reaches the age of twenty-one if the
25 child is a student regularly attending a school, college, or

1 university or regularly attending a course of vocational or technical
2 training designed to prepare such child for gainful employment and
3 (b) beginning January 1, 2014, coverage for health care and related
4 services under medical assistance in accordance with section 68-911
5 may be extended as provided under the federal Patient Protection and
6 Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act
7 and section existed on January 1, 2013, for medicaid coverage for
8 individuals under twenty-six years of age as allowed pursuant to such
9 act.

10 (4) Whenever the parents of any ward, whose parental
11 rights have not been terminated, have become able to support and
12 educate their child, the department shall restore the child to his or
13 her parents if the home of such parents would be a suitable home. The
14 guardianship of the department shall then cease.

15 (5) Whenever permanent free homes for the children cannot
16 be obtained, the department shall have the authority to provide and
17 pay for the maintenance of the children in private families, in
18 foster care, in guardianship, in boarding homes, or in institutions
19 for care of children.

20 Sec. 3. Section 43-1311.03, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 43-1311.03 (1) When a child placed in foster care turns
23 sixteen years of age or enters foster care and is at least sixteen
24 years of age, a written independent living transition proposal shall
25 be developed by the Department of Health and Human Services at the

1 direction and involvement of the child to prepare for the transition
2 from foster care to adulthood. The transition proposal shall be
3 personalized based on the child's needs. The transition proposal
4 shall include, but not be limited to, the following needs:

5 (a) Education;

6 (b) Employment services and other workforce support;

7 (c) Health and health care coverage, including the
8 child's potential eligibility for medicaid coverage under the federal
9 Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)
10 (i)(IX), as such act and section existed on January 1, 2013;

11 (d) Financial assistance, including education on credit
12 card financing, banking, and other services;

13 (e) Housing;

14 (f) Relationship development; and

15 (g) Adult services, if the needs assessment indicates
16 that the child is reasonably likely to need or be eligible for
17 services or other support from the adult services system.

18 (2) The transition proposal shall be developed and
19 frequently reviewed by the department in collaboration with the
20 child's transition team. The transition team shall be comprised of
21 the child, the child's caseworker, the child's guardian ad litem,
22 individuals selected by the child, and individuals who have knowledge
23 of services available to the child.

24 (3) The transition proposal shall be considered a working
25 document and shall be, at the least, updated for and reviewed at

1 every permanency or review hearing by the court.

2 (4) The final transition proposal prior to the child's
3 leaving foster care shall specifically identify how the need for
4 housing will be addressed.

5 (5) If the child is interested in pursuing higher
6 education, the transition proposal shall provide for the process in
7 applying for any applicable state, federal, or private aid.

8 (6) On or before the date the child reaches nineteen
9 years of age, the department shall provide the child with (a) a
10 certified copy of the child's birth certificate and facilitate
11 securing a federal social security card when the child is eligible
12 for such card and (b) all documentation required for enrollment in
13 medicaid coverage for former foster care children as available under
14 the federal Patient Protection and Affordable Care Act, 42 U.S.C.
15 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1,
16 2013. All fees associated with securing the certified copy of the
17 child's birth certificate shall be waived by the state.

18 Sec. 4. Section 43-4101, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 43-4101 (1) The Nebraska Juvenile Service Delivery
21 Project shall be established as a pilot program administered by the
22 Office of Probation Administration. The pilot program shall be
23 evaluated by the University of Nebraska Medical Center's College of
24 Public Health. The project may be expanded by the Office of Probation
25 Administration. The purpose of the pilot program is to ~~(1)~~ (a)

1 provide access to services in the community for juveniles placed on
2 probation, ~~(2)-(b)~~ prevent unnecessary commitment of juveniles to the
3 Department of Health and Human Services and to the Office of Juvenile
4 Services, ~~(3)-(c)~~ eliminate barriers preventing juveniles from
5 receiving needed services, ~~(4)-(d)~~ prevent unnecessary penetration of
6 juveniles further into the juvenile justice system, ~~(5)-(e)~~ enable
7 the juvenile's needs to be met in the least intrusive and least
8 restrictive manner while maintaining the safety of the juvenile and
9 the community, ~~(6)-(f)~~ reduce the duplication of resources within the
10 juvenile justice system through intense coordinated case management
11 and supervision, and ~~(7)-(g)~~ use evidence-based practices and
12 responsive case management to improve outcomes for adjudicated
13 juveniles.

14 (2) On or before July 1, 2013, the Department of Health
15 and Human Services shall apply for reimbursement under Title IV-E of
16 the federal Social Security Act, as amended, for reimbursable costs
17 associated with the Nebraska Juvenile Service Delivery Project. The
18 reimbursed funds received by the department shall be remitted to the
19 State Treasurer for credit to the Probation Program Cash Fund for
20 reimbursement of expenses incurred by the Office of Probation
21 Administration pursuant to the Nebraska Juvenile Service Delivery
22 Project.

23 Sec. 5. Section 43-4202, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 43-4202 (1) The Nebraska Children's Commission is created

1 as a high-level leadership body to (a) create a statewide strategic
2 plan for reform of the child welfare system programs and services in
3 the State of Nebraska and (b) review the operations of the Department
4 of Health and Human Services regarding child welfare programs and
5 services and recommend, as a part of the statewide strategic plan,
6 options for attaining the legislative intent stated in section
7 43-4201, either by the establishment of a new division within the
8 department or the establishment of a new state agency to provide all
9 child welfare programs and services which are the responsibility of
10 the state. The commission shall provide a permanent forum for
11 collaboration among state, local, community, public, and private
12 stakeholders in child welfare programs and services.

13 (2) The commission shall include the following voting
14 members:

15 ~~(a) The chief executive officer of the Department of~~
16 ~~Health and Human Services or his or her designee;~~

17 ~~(b) The Director of Children and Family Services or his~~
18 ~~or her designee; and~~

19 (a) The executive director of the Foster Care Review
20 Office; and

21 ~~(c) Sixteen~~ (b) Seventeen members appointed by the
22 Governor. ~~within thirty days after April 12, 2012.~~ The members
23 appointed pursuant to this subdivision shall represent stakeholders
24 in the child welfare system and shall include: (i) A director of a
25 child advocacy center; (ii) an administrator of a behavioral health

1 region established pursuant to section 71-807; (iii) a community
2 representative from each of the service areas designated pursuant to
3 section 81-3116. In the eastern service area designated pursuant to
4 such section, the representative may be from a lead agency of a pilot
5 project established under ~~Legislative Bill 961, One Hundred Second~~
6 ~~Legislature, Second Session, 2012, section 68-1212~~ or a collaborative
7 member; (iv) a prosecuting attorney who practices in juvenile court;
8 (v) a guardian ad litem; (vi) a biological parent currently or
9 previously involved in the child welfare system; (vii) a foster
10 parent; (viii) a court appointed special advocate volunteer; (ix) a
11 member of ~~the State Foster Care Review Board or any entity that~~
12 ~~succeeds to the powers and duties of the board or a member of a local~~
13 foster care review board; (x) a child welfare service agency that
14 directly provides a wide range of child welfare services and is not a
15 member of a lead agency collaborative; (xi) a young adult previously
16 in foster care; ~~and~~ (xii) a representative of a child advocacy
17 organization that deals with legal and policy issues that include
18 child welfare; ~~and~~ (xiii) a representative of a federally recognized
19 Indian tribe residing within the State of Nebraska and appointed
20 within thirty days after the effective date of this act from a list
21 of three nominees submitted by the Commission on Indian Affairs.

22 (3) The ~~commission~~ Nebraska Children's Commission shall
23 have the following nonvoting, ex officio members: (a) The chairperson
24 of the Health and Human Services Committee of the Legislature or a
25 committee member designated by the chairperson; (b) the chairperson

1 of the Judiciary Committee of the Legislature or a committee member
2 designated by the chairperson; (c) the chairperson of the
3 Appropriations Committee of the Legislature or a committee member
4 designated by the chairperson; ~~and~~ (d) three persons appointed by the
5 State Court Administrator; (e) the chief executive officer of the
6 Department of Health and Human Services or his or her designee; (f)
7 the Director of Children and Family Services of the Division of
8 Children and Family Services of the Department of Health and Human
9 Services or his or her designee; and (g) the Inspector General of
10 Nebraska Child Welfare. The nonvoting, ex officio members may attend
11 commission meetings and participate in the discussions of the
12 commission, provide information to the commission on the policies,
13 programs, and processes of each of their respective bodies, gather
14 information for the commission, and provide information back to their
15 respective bodies from the commission. The nonvoting, ex officio
16 members shall not vote on decisions by the commission or on the
17 direction or development of the statewide strategic plan pursuant to
18 section 43-4204.

19 (4) The commission shall meet within sixty days after
20 April 12, 2012, and shall select from among its members a chairperson
21 and vice-chairperson and conduct any other business necessary to the
22 organization of the commission. The commission shall meet not less
23 often than once every three months, and meetings of the commission
24 may be held at any time on the call of the chairperson. ~~The~~
25 ~~commission shall be within the office of the chief executive officer~~

1 ~~of the Department of Health and Human Services.~~ The commission may
2 hire staff to carry out the responsibilities of the commission. For
3 administrative purposes, the offices of the staff of the commission
4 shall be located in the Foster Care Review Office. The commission
5 shall hire a consultant with experience in facilitating strategic
6 planning to provide neutral, independent assistance in developing the
7 statewide strategic plan. The commission shall terminate on June 30,
8 2014, unless continued by the Legislature.

9 (5) The commission, with assistance from the executive
10 director of the Foster Care Review Office, shall employ a policy
11 analyst to provide research and expertise to the commission relating
12 to the child welfare system. The policy analyst shall work in
13 conjunction with the staff of the commission. His or her
14 responsibilities may include, but are not limited to: (a) Monitoring
15 the Nebraska child welfare system and juvenile justice system to
16 provide information to the commission; (b) analyzing child welfare
17 and juvenile justice public policy through research and literature
18 reviews and drafting policy reports when requested; (c) managing or
19 leading projects or tasks and providing resource support to
20 commission members and committees as determined by the chairperson of
21 the commission; (d) serving as liaison among child welfare and
22 juvenile justice stakeholders and the public and responding to
23 information inquiries as required; and (e) other duties as assigned
24 by the commission.

25 ~~(5)-(6)~~ Members of the commission shall be reimbursed for

1 their actual and necessary expenses as members of such commission as
2 provided in sections 81-1174 to 81-1177.

3 Sec. 6. Section 43-4203, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 43-4203 (1) The Nebraska Children's Commission shall work
6 with administrators from each of the service areas designated
7 pursuant to section 81-3116, the teams created pursuant to section
8 28-728, local foster care review boards, child advocacy centers, the
9 teams created pursuant to the Supreme Court's Through the Eyes of the
10 Child Initiative, community stakeholders, and advocates for child
11 welfare programs and services to establish networks in each of such
12 service areas. Such networks shall permit collaboration to strengthen
13 the continuum of services available to child welfare agencies and to
14 provide resources for children and juveniles outside the child
15 protection system. Each service area shall develop its own unique
16 strategies to be included in the statewide strategic plan. The
17 Department of Health and Human Services shall assist in identifying
18 the needs of each service area.

19 (2)(a) The commission shall create a committee to examine
20 state policy regarding the prescription of psychotropic drugs for
21 children who are wards of the state and the administration of such
22 drugs to such children. Such committee shall review the policy and
23 procedures for prescribing and administering such drugs and make
24 recommendations to the commission for changes in such policy and
25 procedures.

1 (b) The commission shall create a committee to examine
2 the structure and responsibilities of the Office of Juvenile Services
3 as they exist on April 12, 2012. Such committee shall review the role
4 and effectiveness of the youth rehabilitation and treatment centers
5 in the juvenile justice system and make recommendations to the
6 commission on the future role of the youth rehabilitation and
7 treatment centers in the juvenile justice continuum of care. Such
8 committee shall also review the responsibilities of the Administrator
9 of the Office of Juvenile Services, including oversight of the youth
10 rehabilitation and treatment centers and juvenile parole, and make
11 recommendations to the commission relating to the future
12 responsibilities of the administrator.

13 (c) The commission may organize committees as it deems
14 necessary. Members of the committees may be members of the commission
15 or may be appointed, with the approval of the majority of the
16 commission, from individuals with knowledge of the committee's
17 subject matter, professional expertise to assist the committee in
18 completing its assigned responsibilities, and the ability to
19 collaborate within the committee and with the commission to carry out
20 the powers and duties of the commission.

21 (d) ~~If the One Hundred Second Legislature, Second~~
22 ~~Session, 2012, creates the~~ The Title IV-E Demonstration Project
23 ~~Committee or~~ created pursuant to section 43-4208 and the Foster Care
24 Reimbursement Rate Committee, or both, such committees created
25 pursuant to section 43-4212 shall be under the jurisdiction of the

1 commission.

2 (3) The commission shall work with the office of the
3 State Court Administrator, as appropriate, and entities which
4 coordinate facilitated conferencing as described in section
5 43-247.01. Facilitated conferencing shall be included in statewide
6 strategic plan discussions by the commission. Facilitated
7 conferencing shall continue to be utilized and maximized, as
8 determined by the court of jurisdiction, during the development of
9 the statewide strategic plan. Funding and contracting of facilitated
10 conferencing entities shall continue to be provided by the Department
11 of Health and Human Services to at least the same extent as such
12 funding and contracting are being provided on April 12, 2012.

13 (4) The commission shall gather information and
14 communicate with juvenile justice specialists of the Office of
15 Probation Administration and county officials with respect to any
16 county-operated practice model participating in the Crossover Youth
17 Program of the Center for Juvenile Justice Reform at Georgetown
18 University.

19 (5) The commission shall coordinate and gather
20 information about the progress and outcomes of the Nebraska Juvenile
21 Service Delivery Project established pursuant to section 43-4101.

22 ~~(5) If the Nebraska Juvenile Service Delivery Project is~~
23 ~~enacted by the One Hundred Second Legislature, Second Session, 2012,~~
24 ~~the commission shall coordinate and gather information about the~~
25 ~~progress and outcomes of the project.~~

1 Sec. 7. Section 43-4208, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 43-4208 (1)(a) The Title IV-E Demonstration Project
4 Committee is created. The members of the committee shall be appointed
5 by the Director of Children and Family Services or his or her
6 designee and shall include representatives of the Department of
7 Health and Human Services and representatives of child welfare
8 stakeholder entities, including one advocacy organization which deals
9 with legal and policy issues that include child welfare, one advocacy
10 organization the singular focus of which is issues impacting
11 children, two child welfare service agencies that provide a wide
12 range of child welfare services, and one entity which is a lead
13 agency as of March 1, 2012. Members of the committee shall have
14 experience or knowledge in the area of child welfare that involves
15 Title IV-E eligibility criteria and activities. In addition, there
16 shall be at least one ex officio member of the committee, appointed
17 by the State Court Administrator. The ex officio member or members
18 shall not be involved in decisionmaking, implementation plans, or
19 reporting but may attend committee meetings, provide information to
20 the committee about the processes and programs of the court system
21 involving children and juveniles, and inform the State Court
22 Administrator of the committee's activities. The committee shall be
23 convened by the director within thirty days after April 12, 2012.

24 (b) The committee shall review, report, and provide
25 recommendations regarding the application of the Department of Health

1 and Human Services for a demonstration project pursuant to 42 U.S.C.
2 1320a-9 to obtain a waiver as provided in 42 U.S.C. 1320a-9(b), as
3 such section existed on January 1, 2012. The committee may engage a
4 consultant with expertise in Title IV-E demonstration project
5 applications and requirements.

6 (c) The committee shall (i) review Nebraska's current
7 status of Title IV-E participation and penetration rates, (ii) review
8 strategies and solutions for raising Nebraska's participation rate
9 and reimbursement for Title IV-E in child placement, case management,
10 replacement, training, adoption, court findings, and proceedings, and
11 (iii) recommend specific actions for addressing barriers to
12 participation and reimbursement.

13 (d) The committee shall provide an implementation plan
14 and a timeline for making application for a Title IV-E waiver. The
15 implementation plan shall support and align with the goals of the
16 statewide strategic plan required pursuant to ~~Legislative Bill 821,~~
17 ~~One Hundred Second Legislature, Second Session, 2012, section~~
18 43-4204, including, but not limited to, maximizing federal funding to
19 be able to utilize state and federal funding for a broad array of
20 services for children, including prevention, intervention, and
21 community-based, in-home, and out-of-home services to attain positive
22 outcomes for the safety and well-being of and to expedite permanency
23 for children. The committee shall report on its activities to the
24 Health and Human Services Committee of the Legislature on or before
25 July 1, 2012, September 1, 2012, and November 1, 2012, and shall

1 provide a final written report to the department, the Health and
2 Human Services Committee of the Legislature, and the Governor by
3 December 15, 2012.

4 (e) ~~If the Nebraska Children's Commission is created by~~
5 ~~the One Hundred Second Legislature, Second Session, 2012, the The~~
6 ~~Title IV-E Demonstration Project Committee shall thereupon come under~~
7 ~~the commission's jurisdiction. is under the jurisdiction of the~~
8 ~~Nebraska Children's Commission created pursuant to section 43-4202.~~
9 The commission may make changes it deems necessary to comply with
10 this subsection to facilitate the application for such demonstration
11 project.

12 (2) The committee's implementation plan shall address the
13 demonstration project designed to meet the requirements of 42 U.S.C.
14 1320a-9, including, but not limited to, the following:

15 (a) Increasing permanency for children by reducing the
16 time in foster care placements when possible and promoting a
17 successful transition to adulthood for older youth;

18 (b) Increasing positive outcomes for children and
19 families in their homes and communities, including tribal
20 communities, and improving the safety and well-being of children;

21 (c) Preventing child abuse and neglect and the reentry of
22 children into foster care; and

23 (d) Considering the options of developing a program to
24 (i) permit foster care maintenance payments to be made under Title
25 IV-E of the federal Social Security Act, as such act existed on

1 January 1, 2012, to a long-term therapeutic family treatment center
2 on behalf of children residing in such a center or (ii) identify and
3 address domestic violence that endangers children and results in the
4 placement of children in foster care.

5 (3) The implementation plan for the demonstration project
6 shall include information showing:

7 (a) The ability and capacity of the department to
8 effectively use the authority to conduct a demonstration project
9 under this section by identifying changes the department has made or
10 plans to make in policies, procedures, or other elements of the
11 state's child welfare program that will enable the state to
12 successfully achieve the goal or goals of the project; and

13 (b) That the department has implemented, or plans to
14 implement within three years after the date of submission of its
15 application under this section or within two years after the date on
16 which the United States Secretary of Health and Human Services
17 approves such application, whichever is later, at least two of the
18 child welfare program improvement policies described in 42 U.S.C.
19 1320a-9(a)(7), as such section existed on January 1, 2012.

20 (4) At least one of the child welfare program improvement
21 policies to be implemented by the Department of Health and Human
22 Services under the demonstration project shall be a policy that the
23 state has not previously implemented as of the date of submission of
24 its application under this section.

25 (5) On or before July 1, 2013, the Department of Health

1 and Human Services, in conjunction with the Office of Probation
2 Administration, shall develop a policy for reimbursement of all
3 allowable foster care maintenance costs as provided under Title IV-E
4 of the federal Social Security Act, 42 U.S.C. 672, as such act and
5 section existed on January 1, 2013.

6 ~~(5)~~—(6) For purposes of this section, long-term
7 therapeutic family treatment center has the definition found in 42
8 U.S.C. 1320a-9(a)(8), as such section existed on January 1, 2012.

9 Sec. 8. Section 68-1207, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 68-1207 (1) The Department of Health and Human Services
12 shall supervise all public child welfare services as described by
13 law. The department and the pilot project described in section
14 68-1212 shall maintain caseloads to carry out child welfare services
15 which provide for adequate, timely, and indepth investigations and
16 services to children and families. Caseloads shall range between
17 twelve and seventeen cases as determined pursuant to subsection (2)
18 of this section. In establishing the specific caseloads within such
19 range, the department and the pilot project shall (a) include the
20 workload factors that may differ due to geographic responsibilities,
21 office location, and the travel required to provide a timely response
22 in the investigation of abuse and neglect, the protection of
23 children, and the provision of services to children and families in a
24 uniform and consistent statewide manner and (b) utilize the workload
25 criteria of the standards established as of January 1, 2012, by the

1 Child Welfare League of America. The average caseload shall be
2 reduced by the department in all service areas as designated pursuant
3 to section 81-3116 and by the pilot project to comply with the
4 caseload range described in this subsection by September 1, 2012.
5 Beginning September 15, 2012, the department shall include in its
6 annual report required pursuant to section 68-1207.01 a report on the
7 attainment of the decrease according to such caseload standards. The
8 department's annual report shall also include changes in the
9 standards of the Child Welfare League of America or its successor.

10 (2) Caseload size shall be determined in the following
11 manner: (a) If children are placed in the home, the family shall
12 count as one case regardless of how many children are placed in the
13 home; (b) if a child is placed out of the home, the child shall count
14 as one case; (c) if, within one family, one or more children are
15 placed in the home and one or more children are placed out of the
16 home, the children placed in the home shall count as one case and
17 each child placed out of the home shall count as one case; and (d)
18 any child receiving services from the department or a private entity
19 under contract with the department shall be counted as provided in
20 subdivisions (a) through (c) of this subsection whether or not such
21 child is a ward of the state. For purposes of this subsection, a
22 child is considered to be placed in the home if the child is placed
23 with his or her biological or adoptive parent or a legal guardian and
24 a child is considered to be placed out of the home if the child is
25 placed in foster care, group home care, or any other setting which is

1 not the child's planned permanent home.

2 (3) To insure appropriate oversight of noncourt and
3 voluntary cases when any child welfare services are provided, either
4 by the department or by a lead agency participating in the pilot
5 project, as a result of a child safety assessment, the department or
6 lead agency shall develop a case plan that specifies the services to
7 be provided and the actions to be taken by the department or lead
8 agency and the family in each such case. Such case plan shall clearly
9 indicate, when appropriate, that children are receiving services to
10 prevent out-of-home placement and that, absent preventive services,
11 foster care is the planned arrangement for the child.

12 (4) To carry out the provisions of this section, the
13 Legislature shall provide funds for additional staff.

14 Sec. 9. Section 71-1904, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 71-1904 (1) The department shall adopt and promulgate
17 rules and regulations pursuant to sections 71-1901 to 71-1906.01 for
18 (a) the proper care and protection of children by licensees under
19 such sections, (b) the issuance, suspension, and revocation of
20 licenses to provide foster care, (c) the issuance, suspension, and
21 revocation of probationary licenses to provide foster care, (d) the
22 issuance, suspension, and revocation of provisional licenses to
23 provide foster care, (e) the provision of training in foster care,
24 which training shall be directly related to the skills necessary to
25 care for children in need of out-of-home care, including, but not

1 limited to, abused, neglected, dependent, and delinquent children,
2 and (f) the proper administration of sections 71-1901 to 71-1906.01.

3 (2) The training required by subdivision (1)(e) of this
4 section may be waived in whole or in part by the department for
5 persons operating foster homes providing care only to relatives of
6 the foster care provider. Such waivers shall be granted on a case-by-
7 case basis upon assessment by the department of the appropriateness
8 of the relative foster care placement. The department shall submit
9 electronically an annual report to the Health and Human Services
10 Committee of the Legislature on the number of waivers granted under
11 this subsection and the total number of children placed in relative
12 foster homes. For ~~2012, 2013,~~ 2013 and 2014, the department shall
13 provide the report to the Health and Human Services Committee of the
14 Legislature on or before September 15.

15 (3) The department shall adopt and promulgate rules and
16 regulations establishing new foster home licensing requirements that
17 ensure children's safety, health, and well-being but minimize the use
18 of licensing mandates for nonsafety issues. Such rules and
19 regulations shall provide alternatives to address nonsafety issues
20 regarding housing and provide assistance to families in overcoming
21 licensing barriers, especially in child-specific relative and kinship
22 placements, to maximize appropriate reimbursement under Title IV-E of
23 the federal Social Security Act, as amended, including expanding the
24 use of kinship guardianship assistance payments under 42 U.S.C.
25 673(d), as such act and section existed on January 1, 2013.

1 Sec. 10. (1) Any entity seeking to enter into a contract
2 with the Department of Health and Human Services to provide child
3 welfare services shall provide evidence of financial stability and
4 liquidity prior to executing such contract.

5 (2) An entity contracting with the department to provide
6 child welfare services shall not require any subcontractor or
7 employee of such contractor or subcontractor to sign an agreement not
8 to compete with such contractor as a condition of subcontracting or
9 employment.

10 Sec. 11. The Department of Health and Human Services
11 shall implement a formal grievance process for families involved in
12 the child welfare system or juvenile justice system. Such grievance
13 process shall ensure that families are not dissuaded from utilizing
14 the grievance process for fear of reprisal from the department,
15 providers, or foster parents. A report of each grievance allegation
16 and the determination of and any action to be taken by the department
17 shall be provided to the Inspector General for Nebraska Child Welfare
18 within ten days after such determination is made.

19 Sec. 12. Section 71-3406, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-3406 (1) The chief executive officer of the Department
22 of Health and Human Services shall appoint a minimum of eight and a
23 maximum of twelve members to the State Child Death Review Team. The
24 core members shall be (a) a physician employed by the department, who
25 shall be a permanent member and shall serve as the chairperson of the

1 team, (b) a senior staff member with child protective services of the
2 department, (c) a forensic pathologist, (d) a law enforcement
3 representative, ~~and~~—(e) the Inspector General of Nebraska Child
4 Welfare, and (f) an attorney. The remaining members appointed may be,
5 but shall not be limited to, the following: A county attorney; a
6 Federal Bureau of Investigation agent responsible for investigations
7 on Native American reservations; a social worker; and members of
8 organizations which represent hospitals or physicians.

9 (2) Members shall serve four-year terms with the
10 exception of the chairperson. In the absence of the chairperson, the
11 chief executive officer may appoint another member of the core team
12 to serve as chairperson.

13 (3) The team shall not be considered a public body for
14 purposes of the Open Meetings Act. The team shall meet a minimum of
15 four times a year. Members of the team shall be reimbursed for their
16 actual and necessary expenses as provided in sections 81-1174 to
17 81-1177.

18 Sec. 13. Section 81-3133, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 81-3133 (1)(a) On or before July 30, 2012, the Division
21 of Children and Family Services of the Department of Health and Human
22 Services shall report in writing its expenditures between January 1,
23 2012, and June 30, 2012, and the outcomes relating to such
24 expenditures to the Appropriations Committee of the Legislature and
25 the Health and Human Services Committee of the Legislature. Such

1 report shall identify any changes or movement of funds in excess of
2 two hundred fifty thousand dollars relating to child welfare between
3 subprograms within Budget Program 347 and Budget Program 354.

4 (b) Beginning with the third calendar quarter of 2012,
5 the division shall report in writing its expenditures for each
6 quarter and the outcomes relating to such expenditures within thirty
7 days after the end of the quarter to the Appropriations Committee of
8 the Legislature and the Health and Human Services Committee of the
9 Legislature. Such report shall identify any changes or movement of
10 funds in excess of two hundred fifty thousand dollars relating to
11 child welfare between subprograms within Budget Program 347 and
12 Budget Program 354.

13 (2)(a) For the biennium ending June 30, 2015, and the
14 biennium ending June 30, 2017, the Division of Children and Family
15 Services of the Department of Health and Human Services shall, as
16 part of the appropriations request process pursuant to section
17 81-132, include a strategic plan that identifies the main purpose or
18 purposes of each program, verifiable and auditable key goals that the
19 division believes are fair measures of its progress in meeting each
20 program's main purpose or purposes, and benchmarks for improving
21 performance on the key goals for the state as a whole and for each
22 Department of Health and Human Services service area designated
23 pursuant to section 81-3116. The division shall also report whether
24 the benchmarks are being met and, if not, the expected timeframes for
25 meeting them. Such key goals and benchmarks shall be developed by the

1 Division of Children and Family Services with the assistance of the
2 budget division of the Department of Administrative Services pursuant
3 to subdivision (2) of section 81-1113.

4 (b) Not later than September 15, 2013, and not later than
5 September 15, 2015, the Division of Children and Family Services of
6 the Department of Health and Human Services shall report to the
7 Health and Human Services Committee of the Legislature and the
8 Appropriations Committee of the Legislature on the progress towards
9 the key goals identified pursuant to this subsection that occurred in
10 the previous twelve months.

11 ~~(3) It is the intent of the Legislature that~~
12 ~~appropriations of funds for child welfare aid be designated as a~~
13 ~~separate budget program beginning July 1, 2012.~~

14 Sec. 14. Original section 71-3406, Reissue Revised
15 Statutes of Nebraska, and sections 43-285, 43-905, 43-1311.03,
16 43-4101, 43-4202, 43-4203, 43-4208, 68-1207, 71-1904, and 81-3133,
17 Revised Statutes Cumulative Supplement, 2012, are repealed.

18 Sec. 15. Since an emergency exists, this act takes effect
19 when passed and approved according to law.