

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018
COMMITTEE STATEMENT
LB845

Hearing Date: Friday February 02, 2018
Committee On: Judiciary
Introducer: Briese
One Liner: Provide for supportive services relating to child custody

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

Vote Results:

Aye:	7	Senators Baker, Ebke, Chambers, Halloran, Hansen, Krist, Pansing Brooks
Nay:		
Absent:	1	Senator Morfeld
Present Not Voting:		

Verbal Testimony:

Proponents:

Senator Tom Briese
Jennifer James
Amy Buresh
Jamie Richey
Edison McDonald
Deanna Henke
Kathy Hoell
Brad Muerrens
Christine Boone

Representing:

Introducer
self
National Federation of the Blind
National Federation of the Blind
The Arc of Nebraska
self
Nebraska Statewide Independent Living Council
Disability Rights Nebraska
National Federation of the Blind

Opponents:

Representing:

Neutral:

Bub Windle

Representing:

Nebraska State Bar Association

Summary of purpose and/or changes:

Section 1 of the bill outlines legislative findings and denotes the Legislature's recognition that because of certain societal biases and antiquated attitudes, children are being denied the opportunity to enjoy the experience of living in loving homes with parents.

Section 2 notes that it is the intent of the Legislature to protect the best interest of children parented by individuals with disabilities.

Section 3 provides definitions for the application of the bill. It defines an individual with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activities, who has a history or record of such an impairment, or who is perceived by others to have an impairment. Supportive parenting services is defined as services that may assist a parent with a disability in the effective use of alternative methods to enable the parent to

discharge parental responsibility as successfully as a parent who does not have a disability.

Section 4 of the bill outlines the process by which child custody determinations should be made when a parent suffers from a disability. The bill would declare that a parent's disability shall not serve as a basis for denial or restriction of custody in family law matters when the custody is determined to be otherwise in the best interests of the child. The bill would further establish that a parent alleging that a disability will have a detrimental impact on a child bears the burden of proving by clear and convincing evidence that the disability is endangering or will likely endanger the health, safety, or welfare of the child. Finally, the bill would require a court to make specific findings stating why an order was made that denies or limits the rights of a parent with a disability.

Explanation of amendments:

AM 2353 to LB 845 is a white copy amendment that replaces the bill. The amendment restructures the bill as originally introduced to ensure the bill's intent is effectuated.

The legislative findings included in the bill are re-authored in Section 1 of the amendment.

Section 2 of the amendment adds language to Neb. Rev. Stat. 42-364(2), which deals with a court's determination of legal or physical custody of a minor child, by inserting the words "or disability" after sex. Adding this language ensures that, in determining custody, a court cannot give preference to either parent based on the disability of the parent.

Section 3 of the bill ensures that for purposes of applying the changes made in Section 2, disability has the same meaning as that supplied under the federal Americans with Disabilities Act.

Laura Ebke, Chairperson