

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1078**

Introduced by Crawford, 45.

Read first time January 17, 2018

Committee: Executive Board

- 1 A BILL FOR AN ACT relating to the office of Inspector General of Nebraska
- 2 Child Welfare; to amend sections 43-4318 and 43-4406, Revised
- 3 Statutes Supplement, 2017; to require reporting of allegations of
- 4 sexual abuse as prescribed; to eliminate obsolete provisions; to
- 5 harmonize provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-4318, Revised Statutes Supplement, 2017, is  
2 amended to read:

3 43-4318 (1) The office shall investigate:

4 (a) Allegations or incidents of possible misconduct, misfeasance,  
5 malfeasance, or violations of statutes or of rules or regulations of:

6 (i) The department by an employee of or person under contract with  
7 the department, a private agency, a licensed child care facility, a  
8 foster parent, or any other provider of child welfare services or which  
9 may provide a basis for discipline pursuant to the Uniform Credentialing  
10 Act;

11 (ii) Subject to subsection (3) ~~(2)~~ of this section, the juvenile  
12 services division by an employee of or person under contract with the  
13 juvenile services division, a private agency, a licensed facility, a  
14 foster parent, or any other provider of juvenile justice services;

15 (iii) The commission by an employee of or person under contract with  
16 the commission related to programs and services supported by the Nebraska  
17 County Juvenile Services Plan Act, the Community-based Juvenile Services  
18 Aid Program, juvenile pretrial diversion programs, or inspections of  
19 juvenile facilities; and

20 (iv) A juvenile detention facility and staff secure juvenile  
21 facility by an employee of or person under contract with such facilities;

22 (b) Death or serious injury in foster homes, private agencies, child  
23 care facilities, juvenile detention facilities, staff secure juvenile  
24 facilities, and other programs and facilities licensed by or under  
25 contract with the department or the juvenile services division when the  
26 office, upon review, determines the death or serious injury did not occur  
27 by chance; and

28 (c) Death or serious injury in any case in which services are  
29 provided by the department or the juvenile services division to a child  
30 or his or her parents or any case involving an investigation under the  
31 Child Protection and Family Safety Act, which case has been open for one

1 year or less and upon review determines the death or serious injury did  
2 not occur by chance.

3 (2) The department, the juvenile services division, each juvenile  
4 detention facility, and each staff secure juvenile facility shall report  
5 to the office (a) all cases of death or serious injury of a child in a  
6 foster home, private agency, child care facility or program, or other  
7 program or facility licensed by the department or inspected through the  
8 commission to the Inspector General as soon as reasonably possible after  
9 the department or the Office of Probation Administration learns of such  
10 death or serious injury and (b) all allegations of sexual abuse of a  
11 state ward, juvenile on probation, juvenile in a detention facility, and  
12 juvenile in a residential child-caring agency. For purposes of this  
13 subsection, serious injury means an injury or illness caused by suspected  
14 abuse, neglect, or maltreatment which leaves a child in critical or  
15 serious condition.

16 (3) ~~(2)~~ With respect to any investigation conducted by the Inspector  
17 General pursuant to subdivision (1)(a) of this section that involves  
18 possible misconduct by an employee of the juvenile services division, the  
19 Inspector General shall immediately notify the probation administrator  
20 and provide the information pertaining to potential personnel matters to  
21 the Office of Probation Administration.

22 (4) ~~(3)~~ Any investigation conducted by the Inspector General shall  
23 be independent of and separate from an investigation pursuant to the  
24 Child Protection and Family Safety Act. The Inspector General and his or  
25 her staff are subject to the reporting requirements of the Child  
26 Protection and Family Safety Act.

27 (5) ~~(4)~~ Notwithstanding the fact that a criminal investigation, a  
28 criminal prosecution, or both are in progress, all law enforcement  
29 agencies and prosecuting attorneys shall cooperate with any investigation  
30 conducted by the Inspector General and shall, immediately upon request by  
31 the Inspector General, provide the Inspector General with copies of all

1 law enforcement reports which are relevant to the Inspector General's  
2 investigation. All law enforcement reports which have been provided to  
3 the Inspector General pursuant to this section are not public records for  
4 purposes of sections 84-712 to 84-712.09 and shall not be subject to  
5 discovery by any other person or entity. Except to the extent that  
6 disclosure of information is otherwise provided for in the Office of  
7 Inspector General of Nebraska Child Welfare Act, the Inspector General  
8 shall maintain the confidentiality of all law enforcement reports  
9 received pursuant to its request under this section. Law enforcement  
10 agencies and prosecuting attorneys shall, when requested by the Inspector  
11 General, collaborate with the Inspector General regarding all other  
12 information relevant to the Inspector General's investigation. If the  
13 Inspector General in conjunction with the Public Counsel determines it  
14 appropriate, the Inspector General may, when requested to do so by a law  
15 enforcement agency or prosecuting attorney, suspend an investigation by  
16 the office until a criminal investigation or prosecution is completed or  
17 has proceeded to a point that, in the judgment of the Inspector General,  
18 reinstatement of the Inspector General's investigation will not impede or  
19 infringe upon the criminal investigation or prosecution. Under no  
20 circumstance shall the Inspector General interview any minor who has  
21 already been interviewed by a law enforcement agency, personnel of the  
22 Division of Children and Family Services of the department, or staff of a  
23 child advocacy center in connection with a relevant ongoing investigation  
24 of a law enforcement agency.

25 Sec. 2. Section 43-4406, Revised Statutes Supplement, 2017, is  
26 amended to read:

27 43-4406 On or before ~~September 15, 2012,~~ and each September 15  
28 thereafter, the department shall report electronically to the Health and  
29 Human Services Committee of the Legislature the following information  
30 regarding child welfare services, with respect to children served by any  
31 lead agency or the pilot project and children served by the department:

1 (1) The percentage of children served and the allocation of the  
2 child welfare budget, categorized by service area and by lead agency or  
3 the pilot project, including:

4 (a) The percentage of children served, by service area and the  
5 corresponding budget allocation; and

6 (b) The percentage of children served who are wards of the state and  
7 the corresponding budget allocation;

8 (2) The number of siblings in out-of-home care placed with siblings  
9 as of the June 30th immediately preceding the date of the report,  
10 categorized by service area and by lead agency or the pilot project;

11 (3) The number of waivers granted under subsection (2) of section  
12 71-1904;

13 (4) An update of the information in the report of the Children's  
14 Behavioral Health Task Force pursuant to sections 43-4001 to 43-4003,  
15 including:

16 (a) The number of children receiving mental health and substance  
17 abuse services annually by the Division of Behavioral Health of the  
18 department;

19 (b) The number of children receiving behavioral health services  
20 annually at the Hastings Regional Center;

21 (c) The number of state wards receiving behavioral health services  
22 as of September 1 immediately preceding the date of the report;

23 (d) Funding sources for children's behavioral health services for  
24 the fiscal year ending on the immediately preceding June 30;

25 (e) Expenditures in the immediately preceding fiscal year by the  
26 division, categorized by category of behavioral health service and by  
27 behavioral health region; and

28 (f) Expenditures in the immediately preceding fiscal year from the  
29 medical assistance program and CHIP as defined in section 68-969 for  
30 mental health and substance abuse services, for all children and for  
31 wards of the state;

1 (5) The following information as obtained for each service area and  
2 lead agency or the pilot project:

3 (a) Case manager education, including college degree, major, and  
4 level of education beyond a baccalaureate degree;

5 (b) Average caseload per case manager;

6 (c) Average number of case managers per child during the preceding  
7 twelve months;

8 (d) Average number of case managers per child for children who have  
9 been in the child welfare system for three months, for six months, for  
10 twelve months, and for eighteen months and the consecutive yearly average  
11 for children until the age of majority or permanency is attained;

12 (e) Monthly case manager turnover;

13 (f) Monthly face-to-face contacts between each case manager and the  
14 children on his or her caseload;

15 (g) Monthly face-to-face contacts between each case manager and the  
16 parent or parents of the children on his or her caseload;

17 (h) Case documentation of monthly consecutive team meetings per  
18 quarter;

19 (i) Case documentation of monthly consecutive parent contacts per  
20 quarter;

21 (j) Case documentation of monthly consecutive child contacts with  
22 case manager per quarter;

23 (k) Case documentation of monthly consecutive contacts between child  
24 welfare service providers and case managers per quarter;

25 (l) Timeliness of court reports; and

26 (m) Non-court-involved children, including the number of children  
27 served, the types of services requested, the specific services provided,  
28 the cost of the services provided, and the funding source;

29 (6) All placements in residential treatment settings made or paid  
30 for by the child welfare system, the Office of Juvenile Services, the  
31 State Department of Education or local education agencies, any lead

1 agency or the pilot project through letters of agreement, and the medical  
2 assistance program, including, but not limited to:

3 (a) Child variables;

4 (b) Reasons for placement;

5 (c) The percentage of children denied medicaid-reimbursed services  
6 and denied the level of placement requested;

7 (d) With respect to each child in a residential treatment setting:

8 (i) If there was a denial of initial placement request, the length  
9 and level of each placement subsequent to denial of initial placement  
10 request and the status of each child before and immediately after, six  
11 months after, and twelve months after placement;

12 (ii) Funds expended and length of placements;

13 (iii) Number and level of placements;

14 (iv) Facility variables; and

15 (v) Identification of specific child welfare services unavailable in  
16 the child's community that, if available, could have prevented the need  
17 for residential treatment; and

18 (e) Identification of child welfare services unavailable in the  
19 state that, if available, could prevent out-of-state placements;

20 (7) From any lead agency or the pilot project, the percentage of its  
21 accounts payable to subcontracted child welfare service providers that  
22 are thirty days overdue, sixty days overdue, and ninety days overdue; ~~and~~

23 (8) For any individual involved in the child welfare system  
24 receiving a service or a placement through the department or its agent  
25 for which referral is necessary, the date when such referral was made by  
26 the department or its agent and the date and the method by which the  
27 individual receiving the services was notified of such referral. To the  
28 extent the department becomes aware of the date when the individual  
29 receiving the referral began receiving such services, the department or  
30 its agent shall document such date; and -

31 (9) The number of sexual abuse allegations that occurred for

1 children being served by the Division of Children and Family Services of  
2 the Department of Health and Human Services and placed at a residential  
3 child-caring agency and the number of corresponding (a) screening  
4 decision occurrences by category, (b) open investigations by category,  
5 and (c) agency substantiations, court substantiations, and court-pending  
6 status cases.

7       Sec. 3. Original sections 43-4318 and 43-4406, Revised Statutes  
8 Supplement, 2017, are repealed.