

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 411

Introduced by Bolz, 29.

Read first time January 13, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to amend
2 sections 43-285, 43-2,106.01, and 43-1311.02, Reissue Revised
3 Statutes of Nebraska; to change provisions relating to joint-sibling
4 placement; to provide duties for the Department of Health and Human
5 Services; to change provisions relating to appeals; to harmonize
6 provisions; and to repeal the original sections.

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

1 Section 1. Section 43-285, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

16 (2)(a) Following an adjudication hearing at which a juvenile is
17 adjudged to be under subdivision (3)(a) or (c) of section 43-247, the
18 court may order the department to prepare and file with the court a
19 proposed plan for the care, placement, services, and permanency which are
20 to be provided to such juvenile and his or her family. The health and
21 safety of the juvenile shall be the paramount concern in the proposed
22 plan.

23 (b) The department shall provide opportunities for the child, in an
24 age or developmentally appropriate manner, to be consulted in the
25 development of his or her plan as provided in the Nebraska Strengthening
26 Families Act.

27 (c) The department shall include in the plan for a child who is
28 fourteen years of age or older and subject to the legal care and custody
29 of the department a written independent living transition proposal which
30 meets the requirements of section 43-1311.03 and, for eligible children,
31 the Young Adult Bridge to Independence Act. The juvenile court shall

1 provide a copy of the plan to all interested parties before the hearing.
2 The court may approve the plan, modify the plan, order that an
3 alternative plan be developed, or implement another plan that is in the
4 child's best interests. In its order the court shall include a finding
5 regarding the appropriateness of the programs and services described in
6 the proposal designed to help the child prepare for the transition from
7 foster care to a successful adulthood. The court shall also ask the
8 child, in an age or developmentally appropriate manner, if he or she
9 participated in the development of his or her plan and make a finding
10 regarding the child's participation in the development of his or her plan
11 as provided in the Nebraska Strengthening Families Act. Rules of evidence
12 shall not apply at the dispositional hearing when the court considers the
13 plan that has been presented.

14 (d) The last court hearing before jurisdiction pursuant to
15 subdivision (3)(a) of section 43-247 is terminated for a child who is
16 sixteen years of age or older shall be called the independence hearing.
17 In addition to other matters and requirements to be addressed at this
18 hearing, the independence hearing shall address the child's future goals
19 and plans and access to services and support for the transition from
20 foster care to adulthood consistent with section 43-1311.03 and the Young
21 Adult Bridge to Independence Act. The child shall not be required to
22 attend the independence hearing, but efforts shall be made to encourage
23 and enable the child's attendance if the child wishes to attend,
24 including scheduling the hearing at a time that permits the child's
25 attendance. An independence coordinator as provided in section 43-4506
26 shall attend the hearing if reasonably practicable, but the department is
27 not required to have legal counsel present. At the independence hearing,
28 the court shall advise the child about the bridge to independence
29 program, including, if applicable, the right of young adults in the
30 bridge to independence program to request a court-appointed, client-
31 directed attorney under subsection (1) of section 43-4510 and the

1 benefits and role of such attorney and to request additional permanency
2 review hearings in the bridge to independence program under subsection
3 (5) of section 43-4508 and how to request such a hearing. The court shall
4 also advise the child, if applicable, of the rights he or she is giving
5 up if he or she chooses not to participate in the bridge to independence
6 program and the option to enter such program at any time between nineteen
7 and twenty-one years of age if the child meets the eligibility
8 requirements of section 43-4504. The department shall present information
9 to the court regarding other community resources that may benefit the
10 child, specifically information regarding state programs established
11 pursuant to 42 U.S.C. 677. The court shall also make a finding as to
12 whether the child has received the documents as required by subsection
13 (9) of section 43-1311.03.

14 (3)(a) ~~(3)~~ Within thirty days after an order awarding a juvenile to
15 the care of the department, an association, or an individual and until
16 the juvenile reaches the age of majority, the department, association, or
17 individual shall file with the court a report stating the location of the
18 juvenile's placement and the needs of the juvenile in order to effectuate
19 the purposes of subdivision (1) of section 43-246. The department,
20 association, or individual shall file a report with the court once every
21 six months or at shorter intervals if ordered by the court or deemed
22 appropriate by the department, association, or individual. Every six
23 months, the report shall provide an updated statement regarding the
24 eligibility of the juvenile for health insurance, including, but not
25 limited to, medical assistance under the Medical Assistance Act. The
26 department shall also concurrently file a written sibling placement
27 report as described in subsection (3) of section 43-1311.02 at these
28 times.

29 (b) The department, association, or individual shall file a report
30 and notice of placement change with the court and shall send copies of
31 the notice to all interested parties, including all of the child's

1 siblings that are known to the department, at least seven days before the
2 placement of the juvenile is changed from what the court originally
3 considered to be a suitable family home or institution to some other
4 custodial situation in order to effectuate the purposes of subdivision
5 (1) of section 43-246. The court, on its own motion or upon the filing of
6 an objection to the change by an interested party, may order a hearing to
7 review such a change in placement and may order that the change be stayed
8 until the completion of the hearing. Nothing in this section shall
9 prevent the court on an ex parte basis from approving an immediate change
10 in placement upon good cause shown. The department may make an immediate
11 change in placement without court approval only if the juvenile is in a
12 harmful or dangerous situation or when the foster parents request that
13 the juvenile be removed from their home. Approval of the court shall be
14 sought within twenty-four hours after making the change in placement or
15 as soon thereafter as possible.

16 (c) The department shall provide the juvenile's guardian ad litem
17 with a copy of any report filed with the court by the department pursuant
18 to this subsection.

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

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

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

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

7 (8) The executive director and any agent or employee of the Foster
8 Care Review Office or any member of any local foster care review board
9 participating in an investigation or making any report pursuant to the
10 Foster Care Review Act or participating in a judicial proceeding pursuant
11 to this section shall be immune from any civil liability that would
12 otherwise be incurred except for false statements negligently made.

13 Sec. 2. Section 43-2,106.01, Reissue Revised Statutes of Nebraska,
14 is amended to read:

15 43-2,106.01 (1) Any final order or judgment entered by a juvenile
16 court may be appealed to the Court of Appeals in the same manner as an
17 appeal from district court to the Court of Appeals. The appellate court
18 shall conduct its review in an expedited manner and shall render the
19 judgment and write its opinion, if any, as speedily as possible.

20 (2) An appeal may be taken by:

21 (a) The juvenile;

22 (b) The guardian ad litem;

23 (c) The juvenile's parent, custodian, or guardian. For purposes of
24 this subdivision, custodian or guardian shall include, but not be limited
25 to, the Department of Health and Human Services, an association, or an
26 individual to whose care the juvenile has been awarded pursuant to the
27 Nebraska Juvenile Code;~~or~~

28 (d) The county attorney or petitioner, except that in any case
29 determining delinquency issues in which the juvenile has been placed
30 legally in jeopardy, an appeal of such issues may only be taken by
31 exception proceedings pursuant to sections 29-2317 to 29-2319; or -

1 (e) Any other party that has properly intervened and whose
2 substantial rights have been affected by a final order issued by a
3 juvenile court.

4 (3) In all appeals from the county court sitting as a juvenile
5 court, the judgment of the appellate court shall be certified without
6 cost to the juvenile court for further proceedings consistent with the
7 determination of the appellate court.

8 Sec. 3. Section 43-1311.02, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 43-1311.02 (1)(a) Reasonable efforts shall be made to place a child
11 and the child's siblings in the same foster care placement or adoptive
12 placement, unless such placement is contrary to the safety or well-being
13 of any of the siblings. This requirement applies even if the custody
14 orders of the siblings are made at separate times and even if the
15 children have no preexisting relationship.

16 (b) If the siblings are not placed together in a joint-sibling
17 placement, the Department of Health and Human Services shall provide the
18 siblings and the court with the reasons why a joint-sibling placement
19 would be contrary to the safety or well-being of any of the siblings.

20 (2) When siblings are not placed together in a joint-sibling
21 placement, the department shall make a reasonable effort to provide for
22 frequent sibling visitation or ongoing interaction between the child and
23 the child's siblings unless the department provides the siblings and the
24 court with reasons why such sibling visitation or ongoing interaction
25 would be contrary to the safety or well-being of any of the siblings. The
26 court shall determine the type and frequency of sibling visitation or
27 ongoing interaction to be implemented by the department.

28 (3) The department shall file a written sibling placement report as
29 required by subsection (3) of section 43-285. Such a report shall include
30 the reasonable efforts of the department to locate the child's siblings
31 and, if a joint-sibling placement is made, whether such placement

1 continues to be consistent with the safety and well-being of the
2 children. If joint-sibling placement is not possible, the report shall
3 include the reasons why a joint-sibling placement is and continues to be
4 contrary to the safety or well-being of any of the siblings, the
5 department's continuing reasonable efforts to place a child with a
6 sibling in the same foster care or adoptive placement, and the
7 department's continuing reasonable efforts to facilitate sibling
8 visitation.

9 (4) Parties to the case, including a child's sibling, may file a
10 motion for joint-sibling placement, sibling visitation, or ongoing
11 interaction between siblings.

12 (5) (4) The court shall periodically review and evaluate the
13 effectiveness and appropriateness of the joint-sibling placement, sibling
14 visitation, or ongoing interaction between siblings.

15 (6) (5) If an order is entered for termination of parental rights of
16 siblings who are subject to this section, unless the court has suspended
17 or terminated joint-sibling placement, sibling visitation, or ongoing
18 interaction between siblings, the department shall make reasonable
19 efforts to make a joint-sibling placement or do all of the following to
20 facilitate frequent sibling visitation or ongoing interaction between the
21 child and the child's siblings when the child is adopted or enters a
22 permanent placement: (a) Include in the training provided to prospective
23 adoptive parents information regarding the importance of sibling
24 relationships to an adopted child and counseling methods for maintaining
25 sibling relationships; (b) provide prospective adoptive parents with
26 information regarding the child's siblings; and (c) encourage prospective
27 adoptive parents to plan for facilitating post-adoption contact between
28 the child and the child's siblings.

29 (7) (6) Any information regarding court-ordered or authorized joint-
30 sibling placement, sibling visitation, or ongoing interaction between
31 siblings shall be provided by the department to the parent or parents if

1 parental rights have not been terminated unless the court determines that
2 doing so would be contrary to the safety or well-being of the child and
3 to the foster parent, relative caretaker, guardian, prospective adoptive
4 parent, and child as soon as reasonably possible following the entry of
5 the court order or authorization as necessary to facilitate the sibling
6 time.

7 (8) ~~(7)~~ For purposes relative to the administration of the federal
8 foster care program and the state plans pursuant to Title IV-B and Title
9 IV-E of the federal Social Security Act, as such act existed on January
10 1, 2015, the term sibling means an individual considered to be a sibling
11 under Nebraska law or an individual who would have been considered a
12 sibling but for a termination of parental rights or other disruption of
13 parental rights such as death of a parent.

14 (9) A sibling of a child under the jurisdiction of the court shall
15 have the right to intervene at any point in the proceedings for the
16 limited purpose of seeking joint-sibling placement, sibling visitation,
17 or ongoing interaction with their sibling.

18 (10) This section shall not be construed to subordinate the rights
19 of foster or adoptive parents of a child to the rights of the parents of
20 a sibling of that child or to subordinate the rights of an adoptive,
21 foster, or biological parent to the rights of a child seeking sibling
22 placement or visitation.

23 Sec. 4. Original sections 43-285, 43-2,106.01, and 43-1311.02,
24 Reissue Revised Statutes of Nebraska, are repealed.