

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB1061

Hearing Date: Friday January 31, 2020
Committee On: Health and Human Services
Introducer: Crawford
One Liner: Change provisions relating to alternative response to reports of child abuse or neglect

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

Vote Results:

Aye: 7 Senators Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Sue Crawford
Steven Greene
Juliet Summers
Ivy Svoboda
Katherine Bass
Sarah Helvey
Cindy Kwiatkowski

Representing:

Introducer
Department of Health and Human Services
Voices for Children in Nebraska
Nebraska Alliance of Child Advocacy Centers
Foster Care Review Office
Nebraska Appleseed
Self

Opponents:

Christopher Turner

Representing:

Nebraska County Attorneys Association

Neutral:

Representing:

Summary of purpose and/or changes:

LB 1061 amends the Child Protection and Family Safety Act which delineates the procedures used in response to a report of child abuse or neglect, including alternative response, and the rights and responsibilities of the parties involved in those reports.

Section 1 of LB 1061 amends Neb. Rev. Stat. 28-710 to add several definitions and amends others including:

- Child advocacy center which is defined as a community based organization that provides an appropriate site for conducting forensic interviews and assists county attorneys in facilitating the 1184 review teams. (Sec. 1(2) (c), pg. 2, line 31 and pg. 3, lines 1-8.)

- Kin caregiver which is defined as a person with whom a child in foster care has been placed or with whom a child in a non-court involved case is living temporarily and with whom the child had previously lived or who is a trusted adult that has a preexisting, significant relationship with the child or a sibling of the child. (Sec. 1(2)(g), pg. 3, lines 23-28,)

- Non-court-involved case which is defined as an on-going case opened by the Department of Health and Human Services ("DHHS" or "the department") following a report of abuse and neglect which the department determines will require on-going services to maintain the safety of the child or alleviate the risk of abuse and neglect and the family voluntarily agrees to engage in those services without a court filing. (Sec. 1(2)(i) p. 4, lines 1-6.)

- Relative caregiver which is defined as a person with whom a child is placed who is related to the child or a sibling of the child by blood, marriage, adoption or an extended family member in the case of an Indian child. (Sec. 1(2)(k), p. 4, lines 15-19.)

- Report which is defined as any communication received by DHHS or a law enforcement agency that describes child abuse or neglect and contains information to identify the child who is the alleged victim. (Sec. 1(2)(l), p. 4, lines 20-24.)

In addition, the definition of "comprehensive assessment" is amended to require that the assessment utilized by DHHS in child safety cases be an "evidence-informed and verified tool." (Sec. 1(2)(d), p. 3, lines 11-12.) Similarly, the definition of "investigation" is amended to require that the fact gathering process by DHHS be done using an "evidence-informed and validated tool." (Sec. 1(2)(f), p. 3, lines 18-19.)

Response to abuse and neglect reports; Advisory Committee; Elimination of Sunset

Section 3 amends Neb. Rev. Stat. 28-712 and delineates four responses DHHS may take in response to a report of abuse or neglect. DHHS may (1) accept the report for traditional response and investigation; (2) accept the report for alternative response pursuant to Neb. Rev. Stat. 28-712.01; (3) accept the report for the Review, Evaluate, and Decide team to determine if the case can be sent to alternative response; and (4) classify the report as requiring no further action. (Sec. 3(1), p. 6, lines 1-7.)

That same section also creates an advisory committee within the Nebraska Children's Commission to examine DHHS's use of alternative response and to make recommendations to DHHS, the Legislature, and the Commission. (Sec. 3, p. 7, lines 1-10.) Section 3(b) details the membership of the advisory committee. (Sec. 3(b), p. 7, lines 13-24.)

Section 3 also removes the sunset for alternative response which is presently December 31, 2020. (Sec. 3(b), p. 6, lines 8-30.)

Alternative Response Criteria

Section 4 inserts into Neb. Rev. Stat. 28-712.01 exclusionary criteria for alternative response. Reports of child abuse and neglect may not be assigned to alternative response and must be immediately forwarded to law enforcement or the county attorney if the report involves the following:

- Murder in the first or second degree or manslaughter;
- Assault in the first, second, or third degree or assault by strangulation or suffocation;
- Sexual abuse or sexual exploitation;
- Abandonment of the child for six months or more immediately prior to the report;
- Labor trafficking of a minor;
- Neglect of a minor that results in serious bodily injury, requires hospitalization of the child or results in an injury that requires ongoing medical care, behavioral health therapy or physical or occupational therapy, including failure to thrive which has been diagnosed by a physician;
- Physical abuse to the head or torso of a child or physical abuse that results in bodily injury;
- An allegation that requires a forensic interview at a child advocacy center;

- Out-of-home child abuse or neglect; or
- An allegation being investigated by a law enforcement agency at the time of the assignment.

(Sec. 4(b), p. 8, lines 17-31, and p. 9, lines 1-14.)

Section 4 also amends Neb. Rev. Stat. 28-712.01 to require a review by the Review, Evaluate, and Decide Team (RED Team) in the following circumstances: a report that includes allegations of domestic assault or domestic violence in the home; use of alcohol or controlled substances by a caregiver that impairs the caregiver's ability to care and provide safety for the child; or a family member residing in the home or a caregiver have been the subject of a report accepted for traditional response and investigation or assigned to alternative response in the past six months. (Sec. 4(d), p. 9, lines 19-29.)

Section 4(3) adds language requiring that a report assigned to alternative response, must be transferred to traditional response if the concern for the child's safety is the result of a temporary living arrangement. (Sec. 4(3), p. 10, lines 15-16.)

Traditional response to reports of abuse and neglect

Section 5 amends Neb. Rev. Stat. 28-713 and outlines the response of law enforcement and DHHS when a report receives a traditional response and investigation, including the requirement that DHHS utilize an "evidence-informed and validated tool" when assessing the report. (Sec. 5(2)(a), p. 12, lines 29-31 and p. 13, lines 1-6.) If the department finds a child is seriously endangered and immediate removal is necessary, the department shall seek an immediate request for the county attorney to institute legal proceedings. (Sec. 5(3), p. 13, lines 7-11.)

Rights of parents and caregivers

Sec. 6 inserts language regarding the rights and responsibilities of parents, kin caregivers, and relative caregivers. Under section 6, when a child lives temporarily with a kin caregiver or a relative caregiver, the parent has the right to have the child returned to their home on demand unless the child is seriously endangered and removal is necessary. (Sec. 6(1)(a), p. 15, lines 17-20.) The kin or relative caregiver shall have temporary parental authority to exercise powers regarding the care, custody, and property of the child except the power to consent to marriage or adoption or any other limitations placed on the authority of the kin or relative caregiver. (Sec. 6(1)(b), p. 15, lines 21-26.)

If a child is seriously endangered and removal is necessary, the department must inform the parents that he or she may be referred for a court-involved case and a petition may be filed. (Sec. 6(2), p. 15, lines 27-30.)

Kin and relative caregivers may be reimbursed by DHHS for facilitating services and must notify the caregiver if the child is eligible for child-only Temporary Assistance for Needy Families or other public benefits. (Sec. 6(3), p. 15, line 31 and p. 16, lines 1-6.)

In non-court-involved cases DHHS must provide written notice of rights to the parents and any kin or relative caregiver which shall include (1) the factual basis for the department's involvement, (2) the possibility that a petition could be filed with the court in the future if the safety of the child cannot be ensured, and (3) notice that the participation of the parent, kin caregiver, or relative caregiver in voluntarily services could be relevant evidence in any future proceedings. (Sec. 6(4), p. 16, lines 7-15.)

Several sections require DHHS to adopt relevant rules and regulations. (Sec. 3(3), p. 7; Sec. 7, p. 16-17.)

Explanation of amendments:

AM 2417 inserts a new section to amend Neb. Rev. Stat. 43-4203 related to the Nebraska Children's Commission. The new section strikes section (1) from 43-4203 to remove the committee of the Children's Commission that examined state policy regarding the prescription of psychotropic drugs for children. The goals of this committee have been accomplished.

AM 2417 also amends section 4 of the green copy to add a parent's history of termination of parental rights as an additional exclusionary criteria for alternative response.

Sara Howard, Chairperson