

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 975

Introduced by Geist, 25.

Read first time January 14, 2020

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Department of Health and Human
2 Services; to amend sections 28-377, 28-378, 28-711, 28-716, 28-719,
3 and 28-726, Reissue Revised Statutes of Nebraska, and section
4 28-372, Revised Statutes Cumulative Supplement, 2018; to provide
5 immunity for providing information or assistance in connection with
6 an investigation, a report, or a judicial proceeding resulting from
7 child abuse or neglect; to change provisions relating to abuse
8 reporting; to provide for access to records relating to abuse; to
9 repeal the original sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-372, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 28-372 (1) When any physician, psychologist, physician assistant,
4 nurse, nurse aide, other medical, developmental disability, or mental
5 health professional, law enforcement personnel, caregiver or employee of
6 a caregiver, operator or employee of a sheltered workshop, owner,
7 operator, or employee of any facility licensed by the department, or
8 human services professional or paraprofessional not including a member of
9 the clergy has reasonable cause to believe that a vulnerable adult has
10 been subjected to abuse, neglect, or exploitation or observes such adult
11 being subjected to conditions or circumstances which reasonably would
12 result in abuse, neglect, or exploitation, he or she shall report the
13 incident or cause a report to be made to the appropriate law enforcement
14 agency or to the department. Any other person may report abuse, neglect,
15 or exploitation if such person has reasonable cause to believe that a
16 vulnerable adult has been subjected to abuse, neglect, or exploitation or
17 observes such adult being subjected to conditions or circumstances which
18 reasonably would result in abuse, neglect, or exploitation.

19 (2) Such report may be made by telephone, ~~with the caller giving his~~
20 ~~or her name and address,~~ and, if requested by the department, shall be
21 followed by a written report within forty-eight hours. To the extent
22 available the report shall contain: (a) The name, address, and age of the
23 vulnerable adult; (b) the address of the caregiver or caregivers of the
24 vulnerable adult; (c) the nature and extent of the alleged abuse,
25 neglect, or exploitation or the conditions and circumstances which would
26 reasonably be expected to result in such abuse, neglect, or exploitation;
27 (d) any evidence of previous abuse, neglect, or exploitation, including
28 the nature and extent of the abuse, neglect, or exploitation; and (e) any
29 other information which in the opinion of the person making the report
30 may be helpful in establishing the cause of the alleged abuse, neglect,
31 or exploitation and the identity of the perpetrator or perpetrators.

1 (3) Any law enforcement agency receiving a report of abuse, neglect,
2 or exploitation shall notify the department no later than the next
3 working day by telephone or mail.

4 (4) A report of abuse, neglect, or exploitation made to the
5 department which was not previously made to or by a law enforcement
6 agency shall be communicated to the appropriate law enforcement agency by
7 the department no later than the next working day by telephone or mail.

8 (5) The department shall establish a statewide toll-free number to
9 be used by any person any hour of the day or night and any day of the
10 week to make reports of abuse, neglect, or exploitation.

11 (6) Nothing in this section shall require, and the department shall
12 not require, a person making a report under this section to disclose such
13 person's name or address for purposes of making such report.

14 Sec. 2. Section 28-377, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 28-377 Except as otherwise provided in sections 28-376 to 28-380, no
17 person, official, or agency shall have access to the records relating to
18 abuse unless in furtherance of purposes directly connected with the
19 administration of the Adult Protective Services Act and section 28-726.
20 Persons, officials, and agencies having access to such records shall
21 include, but not be limited to:

22 (1) A law enforcement agency investigating a report of known or
23 suspected abuse;

24 (2) A county attorney in preparation of an abuse petition;

25 (3) A physician who has before him or her a person whom he or she
26 reasonably suspects may be abused;

27 (4) An agency having the legal responsibility or authorization to
28 care for, treat, or supervise an abused vulnerable adult;

29 (5) Defense counsel in preparation of the defense of a person
30 charged with abuse;

31 (6) Any person engaged in bona fide research or auditing, except

1 that no information identifying the subjects of the report shall be made
2 available to the researcher or auditor. The researcher shall be charged
3 for any costs of such research incurred by the department at a rate
4 established by rules and regulations adopted and promulgated by the
5 department;

6 (7) The designated protection and advocacy system authorized
7 pursuant to the Developmental Disabilities Assistance and Bill of Rights
8 Act, 42 U.S.C. 6000, as the act existed on September 1, 2001, and the
9 Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C.
10 10801, as the act existed on September 1, 2001, acting upon a complaint
11 received from or on behalf of a person with developmental disabilities or
12 mental illness; and

13 ~~(8) The For purposes of licensing providers of child care programs,~~
14 ~~the department, in furtherance of the administration of its programs.~~

15 Sec. 3. Section 28-378, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 28-378 The department or appropriate law enforcement agency shall
18 provide requested information to any person legally authorized by
19 sections 28-376 to 28-380 to have access to records relating to abuse
20 when ordered by a court of competent jurisdiction or upon compliance by
21 such person with identification requirements established by rules and
22 regulations of the department or law enforcement agency. Such information
23 shall not include the name and address of the person making the report,
24 except that the department may use the name and address in furtherance of
25 the administration of its programs and the county attorney's office may
26 request and receive the name and address of the person making the report
27 ~~with such person's written consent.~~ The name and other identifying data
28 of any person requesting or receiving information from the registry and
29 the dates and the circumstances under which requests are made or
30 information is released shall be entered in the registry.

31 Sec. 4. Section 28-711, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 28-711 (1) When any physician, any medical institution, any nurse,
3 any school employee, any social worker, the Inspector General appointed
4 under section 43-4317, or any other person has reasonable cause to
5 believe that a child has been subjected to child abuse or neglect or
6 observes such child being subjected to conditions or circumstances which
7 reasonably would result in child abuse or neglect, he or she shall report
8 such incident or cause a report of child abuse or neglect to be made to
9 the proper law enforcement agency or to the department on the toll-free
10 number established by subsection (2) of this section. Such report may be
11 made orally by telephone ~~with the caller giving his or her name and~~
12 ~~address~~, shall be followed by a written report, and to the extent
13 available shall contain the address and age of the abused or neglected
14 child, the address of the person or persons having custody of the abused
15 or neglected child, the nature and extent of the child abuse or neglect
16 or the conditions and circumstances which would reasonably result in such
17 child abuse or neglect, any evidence of previous child abuse or neglect
18 including the nature and extent, and any other information which in the
19 opinion of the person may be helpful in establishing the cause of such
20 child abuse or neglect and the identity of the perpetrator or
21 perpetrators. Law enforcement agencies receiving any reports of child
22 abuse or neglect under this subsection shall notify the department
23 pursuant to section 28-718 on the next working day by telephone or mail.

24 (2) The department shall establish a statewide toll-free number to
25 be used by any person any hour of the day or night, any day of the week,
26 to make reports of child abuse or neglect. Reports of child abuse or
27 neglect not previously made to or by a law enforcement agency shall be
28 made immediately to such agency by the department.

29 (3) Nothing in this section shall require, and the department shall
30 not require, a person making a report under this section to disclose such
31 person's name or address for purposes of making such report.

1 Sec. 5. Section 28-716, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-716 Any person participating in an investigation or the making of
4 a report of child abuse or neglect required by section 28-711 pursuant to
5 or participating in a judicial proceeding resulting therefrom shall be
6 immune from any liability, civil or criminal, that might otherwise be
7 incurred or imposed, except for maliciously false statements. Immunity
8 from civil or criminal liability shall extend to any person providing
9 information or assistance, including a medical evaluation or
10 consultation, in connection with an investigation, a report, or a
11 judicial proceeding pursuant to a report of child abuse or neglect.

12 Sec. 6. Section 28-719, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 28-719 Upon complying with identification requirements established
15 by regulation of the department, or when ordered by a court of competent
16 jurisdiction, any person legally authorized by section 28-722, 28-726, or
17 28-727 to have access to records relating to child abuse and neglect may
18 request and shall be immediately provided the information requested in
19 accordance with the requirements of the Child Protection and Family
20 Safety Act. Except for such information provided to department personnel
21 and county attorneys, such ~~Such~~ information shall not include the name
22 and address of the person making the report of child abuse or neglect.
23 The names and other identifying data and the dates and the circumstances
24 of any persons requesting or receiving information from the central
25 registry of child protection cases maintained pursuant to section 28-718
26 shall be entered in the central registry record.

27 Sec. 7. Section 28-726, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 28-726 Except as provided in this section and sections 28-722 and
30 81-3126, no person, official, or agency shall have access to information
31 in the tracking system of child protection cases maintained pursuant to

1 section 28-715 or in records in the central registry of child protection
2 cases maintained pursuant to section 28-718 unless in furtherance of
3 purposes directly connected with the administration of the Child
4 Protection and Family Safety Act. Such persons, officials, and agencies
5 having access to such information shall include, but not be limited to:

6 (1) A law enforcement agency investigating a report of known or
7 suspected child abuse or neglect;

8 (2) A county attorney in preparation of a child abuse or neglect
9 petition or termination of parental rights petition;

10 (3) A physician who has before him or her a child whom he or she
11 reasonably suspects may be abused or neglected;

12 (4) An agency having the legal responsibility or authorization to
13 care for, treat, or supervise an abused or neglected child or a parent, a
14 guardian, or other person responsible for the abused or neglected child's
15 welfare who is the subject of the report of child abuse or neglect;

16 (5) Any person engaged in bona fide research or auditing. No
17 information identifying the subjects of the report of child abuse or
18 neglect shall be made available to the researcher or auditor;

19 (6) The Foster Care Review Office and the designated local foster
20 care review board when the information relates to a child in a foster
21 care placement as defined in section 43-1301. The information provided to
22 the office and local board shall not include the name or identity of any
23 person making a report of suspected child abuse or neglect;

24 (7) The designated protection and advocacy system authorized
25 pursuant to the Developmental Disabilities Assistance and Bill of Rights
26 Act of 2000, 42 U.S.C. 15001, as the act existed on January 1, 2005, and
27 the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C.
28 10801, as the act existed on September 1, 2001, acting upon a complaint
29 received from or on behalf of a person with developmental disabilities or
30 mental illness;

31 (8) The person or persons having custody of the abused or neglected

1 child in situations of alleged out-of-home child abuse or neglect;

2 (9) ~~The department, in furtherance of the administration of its For~~
3 ~~purposes of licensing providers of child care programs, the Department of~~
4 ~~Health and Human Services; and~~

5 (10) A probation officer administering juvenile intake services
6 pursuant to section 29-2260.01, conducting court-ordered predispositional
7 investigations prior to disposition, or supervising a juvenile upon
8 disposition.

9 Sec. 8. Original sections 28-377, 28-378, 28-711, 28-716, 28-719,
10 and 28-726, Reissue Revised Statutes of Nebraska, and section 28-372,
11 Revised Statutes Cumulative Supplement, 2018, are repealed.

12 Sec. 9. Since an emergency exists, this act takes effect when
13 passed and approved according to law.