

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 306

Introduced by Hunt, 8.

Read first time January 11, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to infants and juveniles; to define terms; to
- 2 state intent; to create the Nebraska Youth in Care Bill of Rights;
- 3 and to provide powers and duties.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Child means any child placed in a:

3 (i) Foster family home;

4 (ii) Child-care institution through a court proceeding under
5 subdivision (3)(a) of section 43-247; or

6 (iii) Youth rehabilitation and treatment center through a court
7 proceeding under subdivision (1) or (2) of section 43-247;

8 (b) Child-care institution has the same meaning as in 42 U.S.C.
9 672(c), as such section existed on January 1, 2023, and includes a
10 residential child-caring agency as defined in section 71-1926;

11 (c) Department means the Department of Health and Human Services;
12 and

13 (d) Foster family home includes a foster family home as defined in
14 42 U.S.C. 672(c), as such section existed on January 1, 2023, and as
15 defined in section 71-1901.

16 (2) It is the policy of the Legislature to ensure that the quality
17 of care provided to children placed in foster family homes, child-care
18 institutions, or youth rehabilitation and treatment centers is as close
19 as possible to the care a child would receive in a family setting. To
20 carry out such policy, the State of Nebraska shall aspire to treat all
21 children placed in foster family homes, child-care institutions, or youth
22 rehabilitation and treatment centers with dignity and respect, to provide
23 such children with honest and clear communication and information to help
24 them understand the system or systems in which they are involved, to
25 provide consistent opportunities for such children to have their voices
26 heard in their cases, to successfully reunify children with their
27 families or help such children find permanency, to support lifelong
28 family connections for such children, to place such children in an
29 environment accepting of their cultures and beliefs, and to provide such
30 children with the skills, knowledge, and resources they need to become
31 successful adults.

1 (3) The rights and duties set forth in this section shall be known
2 as the Nebraska Youth in Care Bill of Rights.

3 (4) In order to accomplish such goals, the department shall provide
4 developmentally appropriate information and notice that:

5 (a) Each child is permitted to attend religious services and
6 activities of such child's choice, or to choose not to attend, to be
7 balanced with the countervailing rights of the child's biological
8 parents, as provided under the First and Fourteenth Amendments to the
9 Constitution of the United States;

10 (b) Each child is in a placement that shares the child's religious
11 beliefs, when practical;

12 (c) Each child is free from unreasonable search and seizure as
13 provided under the Fourth Amendment to the Constitution of the United
14 States and as defined by state and federal law;

15 (d) Each child is safe and free from exploitation by staff and
16 contractors of the department, foster family members, and other persons
17 affiliated with the department, as provided under the Fourteenth
18 Amendment to the Constitution of the United States;

19 (e) Each child receives support for basic needs as provided under
20 the Fourteenth Amendment to the Constitution of the United States and
21 section 43-290;

22 (f) Each child is free from discrimination on the basis of race,
23 ethnicity, sex, gender, national origin, tribal membership, religion,
24 mental or physical disability, gender identity, or sexual orientation;

25 (g) Each child who is also a parent is able to make decisions for
26 such parent's own child, as any other minor could, as provided under the
27 Fourteenth Amendment to the Constitution of the United States;

28 (h) Each child who is also a parent of a child who is in such
29 parent's custody can provide input on the appropriateness of the
30 placement for such child;

31 (i) As required by section 43-272, each child is appointed a

1 guardian ad litem to advocate for the interests of such child or
2 appointed legal counsel to protect the interests of such child;

3 (j) Each child has the opportunity to participate in age-appropriate
4 and developmentally appropriate extracurricular, enrichment, cultural,
5 and social activities as provided under section 43-4711;

6 (k) As required by federal law, each child, including a child that
7 is pregnant or parenting, receives a free and appropriate public
8 education and attends the same school in which such child was previously
9 enrolled unless it is contrary to the best interests of the child;

10 (l) Each child is provided timely notice of all court hearings in
11 proceedings involving such child and a Youth Court Questionnaire, when
12 applicable, and has the ability to attend or participate in all court
13 hearings unless the court determines it is contrary to the best interests
14 of the child;

15 (m) Each child is provided the information described in this section
16 in such child's primary language and is provided information in such
17 language as required by federal law;

18 (n) Each child with a disability is provided information in a manner
19 consistent with requirements under federal law;

20 (o) Each child has access, as determined by such child's physician,
21 to age-appropriate, developmentally appropriate, trauma-informed, and
22 medically accurate information, medical prevention services, medical
23 treatment, including an examination by a health care provider within two
24 weeks after initial removal from the home, and education on the child's
25 right to refuse or consent to medical treatment balanced with the
26 countervailing rights of the biological parents, unless contrary to the
27 best interests of the child or otherwise ordered by a court;

28 (p) Each child receives medical, dental, vision, and mental health
29 services regularly and as often as needed, while preserving any right of
30 the child to refuse or consent to treatment, unless contrary to the best
31 interests of the child or otherwise ordered by a court;

1 (q) Each child is prescribed and administered medications only as
2 necessary and is provided age-appropriate information about the
3 medications and possible side effects; and

4 (r) Each child has the child's assets protected and is free from
5 financial and identity theft.

6 (5) For a child involved in a proceeding under subdivision (3)(a) of
7 section 43-247, if applicable, the department shall:

8 (a) Facilitate a joint-sibling placement, unless it is contrary to
9 the safety or well-being of any of the siblings, as required by section
10 43-1311.02;

11 (b) Facilitate sibling visitation, if joint-sibling placement is not
12 possible, unless it is contrary to the safety or well-being of any of the
13 siblings, as required by section 43-1311.02;

14 (c) Inform the child of the child's right to joint-sibling placement
15 and visitation with siblings, including biological siblings, legal
16 siblings, half-siblings, and stepsiblings;

17 (d) Facilitate reunification with the child's biological parents as
18 required by state and federal law, unless contrary to the best interests
19 of the child or otherwise ordered by a court;

20 (e) Facilitate reasonable visitation with the child's biological
21 family and other significant individuals in the child's life as required
22 by state and federal law;

23 (f) Inform the child of the reasons for preventing any visitation or
24 placement;

25 (g) Inform a child who is adopted from foster care about post-
26 adoption services;

27 (h) Provide the child, including a child who is pregnant or
28 parenting, with an adequate plan to transition out of foster care and all
29 related services as required by section 43-1311.03;

30 (i) Not assign a caseworker that is handling cases in excess of the
31 standards established as of January 1, 2012, pursuant to section 68-1207;

1 (j) Ensure information related to the child's foster care case is
2 kept confidential in a manner consistent with state and federal law; and

3 (k) Ensure the child has access to the child's birth certificate,
4 social security card, proof of health care coverage, medical and
5 educational records, and any other information or documents as provided
6 in section 43-1311.03 and to any power of attorney documents.

7 (6) In order to ensure that each child is aware of the rights stated
8 in this section and is able to express a grievance related to any
9 infringement of such rights without penalty:

10 (a) Each caseworker shall be trained on the rights stated in this
11 section and how to discuss such rights in an age-appropriate and
12 developmentally appropriate manner with children;

13 (b) Each caseworker shall provide a paper copy of the rights stated
14 in this section and shall discuss the rights stated in this section with
15 each child who is at least fourteen years of age. Such discussion shall
16 occur (i) in the placement of the child within seventy-two hours after
17 initial placement and within two weeks after such placement and (ii)
18 quarterly at team meetings or at-home visits. The caseworker shall
19 request that the child sign an acknowledgment that such discussion has
20 occurred as required by section 43-4713;

21 (c) As part of the consultations required by subdivision (2)(d) of
22 section 43-272.01, each guardian ad litem appointed pursuant to section
23 43-272.01 shall discuss the rights stated in this section with each child
24 represented within two weeks after appointment and once every six months
25 thereafter. The guardian ad litem shall discuss such rights with the
26 child again if a child discloses that the child believes such rights have
27 been infringed. The guardian ad litem shall raise such infringement with
28 the court unless it is determined by the guardian ad litem to be without
29 merit;

30 (d) A child may raise a grievance regarding the infringement of
31 rights stated in this section by filing a grievance with the department;

1 (e) Within three business days after receipt of a grievance, the
2 department shall provide acknowledgment of receipt, including contact
3 information, information on the grievance process, and information on
4 obtaining review under the Administrative Procedure Act; and

5 (f) The caseworker shall explain how to file a grievance and the
6 grievance process to the child in an age-appropriate manner. The
7 caseworker shall provide the child opportunities to privately discuss
8 such rights and the grievance process regularly, at intervals as
9 determined by the department.

10 (7) The rights stated in this section shall be discussed at every
11 dispositional, review, and permanency planning hearing at which the child
12 is present as provided in section 43-4713.

13 (8) The Nebraska Strengthening Families Act Committee created
14 pursuant to section 43-4716 shall monitor the implementation of the
15 Nebraska Youth in Care Bill of Rights.