

LEGISLATIVE BILL 451

Approved by the Governor May 3, 1995

Introduced by Engel, 17; Dierks, 40; Robinson, 16

AN ACT relating to foster care; to amend sections 71-1902 and 71-1905, Reissue Revised Statutes of Nebraska, sections 71-1901, 71-1903, and 71-1910, Revised Statutes Supplement, 1994, and section 71-1904, Reissue Revised Statutes of Nebraska, as amended by section 2, Legislative Bill 402, Ninety-fourth Legislature, First Session, 1995; to provide for licensure standards for Native American foster homes; to harmonize provisions; and to repeal the original sections. Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-1901, Revised Statutes Supplement, 1994, is amended to read:

71-1901. ~~As used in~~ For purposes of sections 71-1901 to 71-1905 and sections 6 to 8 of this act:

- (1) Person shall include a partnership, limited liability company, firm, agency, association, or corporation;
- (2) Child shall mean an unemancipated minor;
- (3) ~~Child Department shall mean the Department of Social Services;~~
- (4) ~~Foster care shall mean engaged in the business service of exercising~~ foster care shall mean engaged in the business service of exercising twenty-four-hour daily care, supervision, custody, or control over children, for compensation or hire, in lieu of the care or supervision normally exercised by parents in their own home. ~~Foster care but~~ shall not include casual care at irregular intervals or ~~early childhood programs~~; as defined in section 71-1910; and
- (4) ~~Department shall mean the Department of Social Services of the State of Nebraska~~

(5) Native American shall mean a person who is a member of an Indian tribe or eligible for membership in an Indian tribe.

Sec. 2. Section 71-1902, Reissue Revised Statutes of Nebraska, is amended to read:

71-1902. No person shall furnish or offer to furnish ~~child foster~~ care for two or more children from different families without having in full force and effect a written license issued by the department upon such terms and conditions as may be prescribed by general rules and regulations adopted and promulgated by the department. ~~After July 10, 1990, no~~ ~~No~~ license shall be issued pursuant to this section unless the applicant has completed the required hours of training in foster care as prescribed by the department. All licenses issued under sections 71-1901 to 71-1905 and sections 6 to 8 of this act shall expire one year from the date of issuance and shall be subject to renewal under the same terms and conditions as the original license. ~~After July 10, 1990, no~~ ~~No~~ license issued pursuant to this section shall be renewed unless the licensee has completed the required hours of training in foster care in the preceding twelve months as prescribed by the department. For the issuance or renewal of each license, the department shall charge a fee of twenty-five dollars for ~~group homes~~ a ~~group home~~, twenty-five dollars for a child-caring ~~agencies~~ agency, and twenty-five dollars for a child-placing ~~agencies~~ agency. A license may be revoked for cause, after notice and hearing, in accordance with rules and regulations prescribed by the department.

For purposes of this section:

- (1) Foster family home shall mean any home which provides twenty-four-hour care to children who are not related to the foster parent by blood or adoption;
- (2) Group home shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home and which is designed to provide twenty-four-hour care for individuals in a residential setting;
- (3) Child-caring agency shall mean an organization which is incorporated for the purpose of providing care for children in buildings maintained by the organization for that purpose; and
- (4) Child-placing agency shall mean an organization which is authorized by its articles of incorporation and by its license to place children in foster family homes.

Sec. 3. Section 71-1903, Revised Statutes Supplement, 1994, is amended to read:

71-1903. Before issuance of a license under sections 71-1901 to 71-1905 and sections 6 to 8 of this act, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the business service and the place where the child foster care is to be furnished are such as to ensure the proper care and treatment of children. The department may investigate the character of prospective or existing licensees, any member of such licensee's household, and the staff and employees of child foster care facilities by making a national criminal records check. The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and payable by the licensee or applicant for a license, except that the department may pay the fee for inspection for fire safety of foster family homes as defined in section 71-1902. The department may request the Department of Health to inspect such places to determine if they meet sanitation and health standards set by the Department of Social Services for the care and protection of such children. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the Department of Health. The Department of Social Services may also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing child foster care to see that such business service is being properly conducted.

Sec. 4. Section 71-1904, Reissue Revised Statutes of Nebraska, as amended by section 2, Legislative Bill 402, Ninety-fourth Legislature, First Session, 1995, is amended to read:

71-1904. The department shall adopt and promulgate rules and regulations pursuant to sections 71-1901 to 71-1905 and sections 6 to 8 of this act for (1) the proper care and protection of children by licensees under such sections, (2) the issuance, suspension, and revocation of licenses to provide foster child care, (3) the issuance, suspension, and revocation of probationary licenses to provide child foster care, (4) the issuance, suspension, and revocation of provisional licenses to provide child foster care, (5) the provision of training in foster care, which training shall be directly related to the skills necessary to care for children in need of out-of-home care, including, but not limited to, abused, neglected, dependent, and delinquent children, and (6) the proper administration of such sections. The training required by subdivision (5) of this section shall be between twelve and twenty-four hours as determined by the department.

Sec. 5. Section 71-1905, Reissue Revised Statutes of Nebraska, is amended to read:

71-1905. Any person who shall violate violates any of the provisions of sections 71-1901 to 71-1904 and sections 6 to 8 of this act shall be deemed guilty of a Class III misdemeanor.

Sec. 6. In order to achieve the goals and further the purposes of the Federal Indian Child Welfare Act and the Nebraska Indian Child Welfare Act, it is the intent of the Legislature that Native American families have the option to meet separate licensing standards for Native American foster homes located outside the boundaries of any Indian reservation.

Sec. 7. The department may adopt and promulgate rules and regulations establishing separate licensing standards for Native American foster homes located outside the boundaries of any Indian reservation. The department shall, in consultation with the Commission on Indian Affairs, develop appropriate standards for the licensing of such foster homes. Such standards shall comply with the Federal Indian Child Welfare Act, 25 U.S.C. 1901 et seq., the Nebraska Indian Child Welfare Act, and all other applicable federal and state laws.

Sec. 8. An advisory committee is established which shall be made up of Native Americans knowledgeable in Indian child welfare matters jointly appointed by the executive director of the Commission on Indian Affairs and the Director of Social Services. The advisory committee shall advise the department and the commission on the development of the appropriate standards for the licensing of Native American foster homes located outside the boundaries of any Indian reservation.

Sec. 9. Section 71-1910, Revised Statutes Supplement, 1994, is amended to read:

71-1910. For purposes of sections 71-1908 to 71-1918, unless the context otherwise requires:

- (1) Department shall mean the Department of Social Services;
- (2) Director shall mean the Director of Social Services; and
- (3) Early childhood program or program shall mean the provision of

services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored day care, family day care home, day care center, before-and-after-school day care program, before-and-after-school services pursuant to section 79-444, or preschool or nursery school but shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than day care or preschool or nursery schools, a preschool program conducted in a school approved pursuant to section 79-328, or child foster care as defined in section 71-1901.

Sec. 10. Original sections 71-1902 and 71-1905, Reissue Revised Statutes of Nebraska, sections 71-1901, 71-1903, and 71-1910, Revised Statutes Supplement, 1994, and section 71-1904, Reissue Revised Statutes of Nebraska, as amended by section 2, Legislative Bill 402, Ninety-fourth Legislature, First Session, 1995, are repealed.