

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 971

Introduced by Campbell, 25; Hansen, 42.

Read first time January 19, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to foster care; to amend sections 43-285
2 and 43-1318, Reissue Revised Statutes of Nebraska; to
3 provide notice to relatives of removal of a neglected
4 child from the home; to require reasonable efforts to
5 place siblings together; to provide for sibling time
6 as prescribed; to provide for a transition plan for
7 older youth; to harmonize provisions; and to repeal the
8 original sections.
9 Be it enacted by the people of the State of Nebraska,

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

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

14 (2) Following an adjudication hearing at which a juvenile
15 is adjudged to be under subdivision (3) of section 43-247, the
16 court may order the department to prepare and file with the court
17 a proposed plan for the care, placement, services, and permanency
18 which are to be provided to such juvenile and his or her family.
19 The health and safety of the juvenile shall be the paramount
20 concern in the proposed plan. The department shall include in
21 the plan for a juvenile who is sixteen years of age or older
22 and subject to the guardianship of the department a written
23 ~~proposal describing programs and services designed to assist~~
24 ~~the juvenile in acquiring independent living skills.~~ transition
25 plan which meets the requirements of section 4 of this act. If

1 any other party, including, but not limited to, the guardian
2 ad litem, parents, county attorney, or custodian, proves by a
3 preponderance of the evidence that the department's plan is not
4 in the juvenile's best interests, the court shall disapprove the
5 department's plan. The court may modify the plan, order that an
6 alternative plan be developed, or implement another plan that is
7 in the juvenile's best interests. In its order the court shall
8 include a finding regarding the appropriateness of the programs and
9 services described in the proposal designed to assist the juvenile
10 in acquiring independent living skills. Rules of evidence shall not
11 apply at the dispositional hearing when the court considers the
12 plan that has been presented. The department or any other party
13 may request a review of the court's order concerning the plan by a
14 juvenile review panel as provided in section 43-287.04.

15 (3) Within thirty days after an order awarding a juvenile
16 to the care of the department, an association, or an individual
17 and until the juvenile reaches the age of majority, the department,
18 association, or individual shall file with the court a report
19 stating the location of the juvenile's placement and the needs of
20 the juvenile in order to effectuate the purposes of subdivision
21 (1) of section 43-246. The department, association, or individual
22 shall file a report with the court once every six months or at
23 shorter intervals if ordered by the court or deemed appropriate
24 by the department, association, or individual. The department,
25 association, or individual shall file a report and notice of

1 placement change with the court and shall send copies of the
2 notice to all interested parties at least seven days before the
3 placement of the juvenile is changed from what the court originally
4 considered to be a suitable family home or institution to some
5 other custodial situation in order to effectuate the purposes of
6 subdivision (1) of section 43-246. The court, on its own motion
7 or upon the filing of an objection to the change by an interested
8 party, may order a hearing to review such a change in placement
9 and may order that the change be stayed until the completion of
10 the hearing. Nothing in this section shall prevent the court on
11 an ex parte basis from approving an immediate change in placement
12 upon good cause shown. The department may make an immediate change
13 in placement without court approval only if the juvenile is in a
14 harmful or dangerous situation or when the foster parents request
15 that the juvenile be removed from their home. Approval of the court
16 shall be sought within twenty-four hours after making the change in
17 placement or as soon thereafter as possible. The department or any
18 other party may request a review of the change in placement by a
19 juvenile review panel in the manner set out in section 43-287.04.
20 The department shall provide the juvenile's guardian ad litem with
21 a copy of any report filed with the court by the department
22 pursuant to this subsection.

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

25 (5) When the court awards a juvenile to the care of the

1 department, an association, or an individual, then the department,
2 association, or individual shall have standing as a party to file
3 any pleading or motion, to be heard by the court with regard to
4 such filings, and to be granted any review or relief requested in
5 such filings consistent with the Nebraska Juvenile Code.

6 (6) Whenever a juvenile is in a foster care placement as
7 defined in section 43-1301, the State Foster Care Review Board may
8 participate in proceedings concerning the juvenile as provided in
9 section 43-1313 and notice shall be given as provided in section
10 43-1314.

11 (7) Any written findings or recommendations of the State
12 Foster Care Review Board or any designated local foster care
13 review board with regard to a juvenile in a foster care placement
14 submitted to a court having jurisdiction over such juvenile shall
15 be admissible in any proceeding concerning such juvenile if such
16 findings or recommendations have been provided to all other parties
17 of record.

18 (8) Any member of the State Foster Care Review Board,
19 any of its agents or employees, or any member of any local foster
20 care review board participating in an investigation or making any
21 report pursuant to the Foster Care Review Act or participating in a
22 judicial proceeding pursuant to this section shall be immune from
23 any civil liability that would otherwise be incurred except for
24 false statements negligently made.

25 Sec. 2. (1) If a child is removed from the home pursuant

1 to subdivision (3)(a) of section 43-247, the Department of Health
2 and Human Services shall provide written notification, within
3 fifteen days of removal, to any non-custodial parent and to all
4 grandparents, adult siblings, aunts, uncles, and adult relatives
5 suggested by the child or the child's parents, except when
6 that relative's history of family or domestic violence makes
7 notification inappropriate. Such notification shall include all of
8 the following information:

9 (a) The child has been removed from the custody of his or
10 her parent or parents or guardians;

11 (b) An explanation of the various options to participate
12 in the care and placement of the child and support for the child
13 on a temporary or permanent basis, including any options that may
14 be lost by failing to respond, participation in legal proceedings,
15 and any services and support available in out-of-home placements.
16 The notice shall include specific information regarding, as
17 appropriate, adoption, adoption assistance, and relative caregiver
18 assistance;

19 (c) A description of the requirements for the relative to
20 serve as a foster care provider or other type of care provider for
21 the child and the additional services, training, and other support
22 available for children receiving such care; and

23 (d) Information concerning the option to apply for
24 kinship guardianship assistance payments.

25 (2) The department shall use due diligence in

1 investigating the names and locations of the relatives, including,
2 but not limited to, asking the child in an age-appropriate manner
3 about relatives important to the child and obtaining information
4 regarding the location of the relative.

5 (3) The department shall provide to the court, within
6 thirty days, the names and relationship to the child of all
7 relatives contacted, the method of contact, and the response
8 received from the relative.

9 Sec. 3. (1) (a) If the court orders emergency custody of a
10 child and siblings to the Department of Health and Human Services
11 for placement pursuant to subdivision (3) (a) of section 43-247, the
12 department shall make a reasonable effort to place the child and
13 siblings together in the same placement. This requirement applies
14 even if the custody orders of the siblings are made at separate
15 times.

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

20 (2) When siblings are not placed together in the same
21 placement, the department shall make a reasonable effort to provide
22 for frequent and meaningful sibling time as a type of visitation to
23 further ongoing contact and interaction between the child and the
24 child's siblings from the time of the child's out-of-home placement
25 until the child returns home or is in a permanent placement, unless

1 the department provides the siblings and the court with reasons why
2 such sibling time would be contrary to the safety or well-being
3 of any of the siblings. The court shall determine the type and
4 frequency of sibling time to be implemented by the department.

5 (3) Placement and frequency and type of sibling time
6 shall be determined by considering the following factors: (a)
7 The nature of the relationship between the child and siblings,
8 including (i) whether the siblings were raised together in the
9 same home, (ii) whether the siblings have shared significant
10 common experiences or have existing close and strong bonds, and
11 (iii) whether either sibling expresses a desire to live or have
12 contact with the other sibling; and (b) the appropriateness of
13 developing or maintaining the sibling relationships, including
14 whether placement together or sibling time would be contrary to the
15 safety or well-being of any of the siblings.

16 (4) For children in foster care pursuant to subdivision
17 (3) (a) of section 43-247, a child, sibling, parent, legal guardian,
18 or the department may file a petition for sibling time in the court
19 committing the child to the custody of the department.

20 (5) The court shall periodically review and evaluate the
21 effectiveness and appropriateness of the sibling time.

22 (6) If an order is entered for termination of parental
23 rights of a child who is subject to this section, unless the court
24 has suspended or terminated sibling time in accordance with this
25 section, the department shall do all of the following to facilitate

1 frequent sibling time between the child and siblings when the
2 child is adopted or enters a permanent placement: (a) Include in
3 the training provided to prospective adoptive parents information
4 regarding the importance of sibling relationships to an adopted
5 child and counseling methods for maintaining sibling relationships;
6 (b) provide prospective adoptive parents with information regarding
7 the child's siblings; and (c) encourage prospective adoptive
8 parents to plan for facilitating post-adoption contact between
9 the child and the child's siblings.

10 (7) Any information regarding court-ordered or authorized
11 sibling time shall be provided by the department to the foster
12 parent, relative caretaker, guardian, prospective adoptive parent,
13 and child as soon as reasonably possible following the entry of the
14 court order or authorization as necessary to facilitate the sibling
15 time.

16 Sec. 4. (1) When a child placed in foster care turns
17 sixteen years of age or enters foster care and is at least
18 sixteen years of age, a written transition plan of services shall
19 be developed by the Department of Health and Human Services at
20 the direction and involvement of the child to prepare for the
21 transition from foster care to adulthood. The transition plan shall
22 be personalized based on the child's needs. The transition plan
23 shall include, but is not limited to, the following needs:

24 (a) Education;

25 (b) Employment services and other workforce support;

- 1 (c) Health and health care coverage;
2 (d) Financial assistance, including education on credit
3 card financing, banking, and other services;
4 (e) Housing;
5 (f) Relationship development; and
6 (g) If the needs assessment indicates the child is
7 reasonably likely to need or be eligible for services or other
8 support from the adult service system upon reaching age eighteen,
9 an application for adult services.
- 10 (2) The transition plan shall be considered a working
11 document and shall be, at the least, updated for and reviewed at
12 every permanency or review hearing by the court.
- 13 (3) The transition plan shall be developed and frequently
14 reviewed by the department in collaboration with the child's
15 transition team. The transition team shall be comprised of the
16 child's caseworker, the child's guardian ad litem, individuals
17 selected by the child, and individuals who have knowledge of
18 services available to the child.
- 19 (4) The final transition plan shall specifically identify
20 how the need for housing will be addressed.
- 21 (5) If the child is interested in pursuing higher
22 education, the transition plan shall provide for the process
23 in applying for any applicable state, federal, or private aid.
- 24 (6) On or before the date the child reaches nineteen
25 years of age, the department shall provide the child a certified

1 copy of the child's birth certificate and facilitate securing a
2 federal social security card. All fees associated for securing the
3 certified copy shall be waived by the state.

4 Sec. 5. Section 43-1318, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-1318 Sections 43-1301 to 43-1318 and sections 2, 3,
7 and 4 of this act shall be known and may be cited as the Foster
8 Care Review Act.

9 Sec. 6. Original sections 43-285 and 43-1318, Reissue
10 Revised Statutes of Nebraska, are repealed.