

AMENDMENTS TO LB 177

Introduced by Health and Human Services

1           1. Strike the original sections and insert the following  
2 sections:

3           Section 1. Section 43-285, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

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

16           (2) Following an adjudication hearing at which a juvenile  
17 is adjudged to be under subdivision (3) of section 43-247, the  
18 court may order the department to prepare and file with the court  
19 a proposed plan for the care, placement, services, and permanency  
20 which are to be provided to such juvenile and his or her family.  
21 The health and safety of the juvenile shall be the paramount  
22 concern in the proposed plan. The department shall include in the  
23 plan for a juvenile who is sixteen years of age or older and

1 subject to the guardianship of the department a written ~~proposal~~  
2 ~~describing programs and services designed to assist the juvenile in~~  
3 ~~acquiring independent living skills.~~ independent-living transition  
4 proposal which meets the requirements of section 8 of this act.

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

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

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

22 (5) When the court awards a juvenile to the care of the  
23 department, an association, or an individual, then the department,  
24 association, or individual shall have standing as a party to file  
25 any pleading or motion, to be heard by the court with regard to  
26 such filings, and to be granted any review or relief requested in  
27 such filings consistent with the Nebraska Juvenile Code.

1           (6) Whenever a juvenile is in a foster care placement as  
2 defined in section 43-1301, the State Foster Care Review Board may  
3 participate in proceedings concerning the juvenile as provided in  
4 section 43-1313 and notice shall be given as provided in section  
5 43-1314.

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

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

20           Sec. 2. Section 43-905, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           43-905 (1) The Department of Health and Human Services  
23 shall be the legal guardian of all children committed to  
24 it. The department shall afford temporary care and shall use  
25 special diligence to provide suitable homes for such children.  
26 The department shall make reasonable efforts to accomplish  
27 joint-sibling placement or sibling visitation or ongoing

1 interaction between siblings as provided in section 7 of this act.

2 The department is authorized to place such children in suitable  
3 families for adoption, foster care, or guardianship or, in the  
4 discretion of the department, on a written contract.

5 (2) The contract shall provide (a) for the children's  
6 education in the public schools or otherwise, (b) for teaching them  
7 some useful occupation, and (c) for kind and proper treatment as  
8 members of the family in which they are placed.

9 (3) Whenever any child who has been committed to the  
10 department becomes self-supporting, the department shall declare  
11 that fact and the guardianship of the department shall cease.  
12 Thereafter the child shall be entitled to his or her own earnings.  
13 Guardianship of and services by the department shall never extend  
14 beyond the age of majority, except that services by the department  
15 to a child shall continue until the child reaches the age of  
16 twenty-one if the child is a student regularly attending a  
17 school, college, or university or regularly attending a course  
18 of vocational or technical training designed to prepare such child  
19 for gainful employment.

20 (4) Whenever the parents of any ward, whose parental  
21 rights have not been terminated, have become able to support and  
22 educate their child, the department shall restore the child to his  
23 or her parents if the home of such parents would be a suitable  
24 home. The guardianship of the department shall then cease.

25 (5) Whenever permanent free homes for the children cannot  
26 be obtained, the department shall have the authority to provide and  
27 pay for the maintenance of the children in private families, in

1 foster care, in guardianship, in boarding homes, or in institutions  
2 for care of children.

3 Sec. 3. Section 43-1301, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-1301 For purposes of the Foster Care Review Act,  
6 unless the context otherwise requires:

7 (1) Local board shall mean a local foster care review  
8 board created pursuant to section 43-1304;

9 (2) State board shall mean the State Foster Care Review  
10 Board created pursuant to section 43-1302;

11 (3) Foster care facility shall mean any foster home,  
12 group home, child care facility, public agency, private agency,  
13 or any other person or entity receiving and caring for foster  
14 children;

15 (4) Foster care placements shall mean all placements  
16 of juveniles as described in subdivision (3)(b) of section  
17 43-247, placements of neglected, dependent, or delinquent children,  
18 including those made directly by parents or by third parties,  
19 and placements of children who have been voluntarily relinquished  
20 pursuant to section 43-106.01 to the Department of Health and Human  
21 Services or any child placement agency licensed by the Department  
22 of Health and Human Services;

23 (5) Person or court in charge of the child shall  
24 mean (a) the Department of Health and Human Services, an  
25 association, or an individual who has been made the guardian of  
26 a neglected, dependent, or delinquent child by the court and has  
27 the responsibility of the care of the child and has the authority

1 by and with the assent of the court to place such a child in a  
2 suitable family home or institution or has been entrusted with  
3 the care of the child by a voluntary placement made by a parent  
4 or legal guardian, (b) the court which has jurisdiction over  
5 the child, or (c) the entity having jurisdiction over the child  
6 pursuant to the Nebraska Indian Child Welfare Act;

7 (6) Voluntary placement shall mean the placement by a  
8 parent or legal guardian who relinquishes the possession and care  
9 of a child to a third party, individual, or agency;

10 (7) Family unit shall mean the social unit consisting of  
11 the foster child and the parent or parents or any person in the  
12 relationship of a parent, including a grandparent, and any siblings  
13 with whom the foster child legally resided prior to placement in  
14 foster care;

15 (8) Child-caring agency shall have the definition found  
16 in section 71-1902; ~~and~~

17 (9) Child-placing agency shall have the definition found  
18 in section 71-1902; ~~and-~~

19 (10) Siblings means biologic siblings and legal siblings,  
20 including, but not limited to, half-siblings and stepsiblings.

21 Sec. 4. Section 43-1311, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-1311 Except as otherwise provided in the Nebraska  
24 Indian Child Welfare Act, immediately following removal of a child  
25 from his or her home pursuant to section 43-284, the person or  
26 court in charge of the child shall:

27 (1) Conduct or cause to be conducted an investigation

1 of the child's circumstances designed to establish a safe and  
2 appropriate plan for the rehabilitation of the foster child and  
3 family unit or permanent placement of the child;

4 (2) Require that the child receive a medical examination  
5 within two weeks of his or her removal from his or her home;

6 (3) Subject the child to such further diagnosis and  
7 evaluation as is necessary; ~~and~~

8 (4) Require that the child attend the same school as  
9 prior to the foster care placement unless the person or court in  
10 charge determines that attending such school would not be in the  
11 best interests of the child; and-

12 (5) Notify the Department of Health and Human Services  
13 to identify, locate, and provide written notification to adult  
14 relatives of the child as provided in section 6 of this act.

15 Sec. 5. Section 43-1312, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 43-1312 (1) Following the investigation conducted  
18 pursuant to section 43-1311 and immediately following the initial  
19 placement of the child, the person or court in charge of the child  
20 shall cause to be established a safe and appropriate plan for the  
21 child. The plan shall contain at least the following:

22 (a) The purpose for which the child has been placed in  
23 foster care;

24 (b) The estimated length of time necessary to achieve the  
25 purposes of the foster care placement;

26 (c) A description of the services which are to be  
27 provided in order to accomplish the purposes of the foster care



1 placement;

2 (d) The person or persons who are directly responsible  
3 for the implementation of such plan;

4 (e) A complete record of the previous placements of the  
5 foster child; and

6 (f) The name of the school the child shall attend as  
7 provided in section 43-1311.

8 (2) If the return of the child to his or her parents  
9 is not likely based upon facts developed as a result of the  
10 investigation, the Department of Health and Human Services shall  
11 recommend termination of parental rights and referral for adoption,  
12 guardianship, placement with a relative, or, as a last resort,  
13 another planned permanent living arrangement. If the child is  
14 removed from his or her home, the department shall make reasonable  
15 efforts to accomplish joint-sibling placement or sibling visitation  
16 or ongoing interaction between the siblings as provided in section  
17 7 of this act.

18 (3) Each child in foster care under the supervision of  
19 the state shall have a permanency hearing by a court, no later  
20 than twelve months after the date the child enters foster care  
21 and annually thereafter during the continuation of foster care. The  
22 court's order shall include a finding regarding the appropriateness  
23 of the permanency plan determined for the child and shall include  
24 whether, and if applicable when, the child will be:

25 (a) Returned to the parent;

26 (b) Referred to the state for filing of a petition for  
27 termination of parental rights;

- 1 (c) Placed for adoption;
- 2 (d) Referred for guardianship; or
- 3 (e) In cases where the state agency has documented to the
- 4 court a compelling reason for determining that it would not be in
- 5 the best interests of the child to return home, (i) referred for
- 6 termination of parental rights, (ii) placed for adoption with a fit
- 7 and willing relative, or (iii) placed with a kinship guardian or
- 8 guardian.

9 Sec. 6. (1) When notified pursuant to section 43-1311

10 or upon voluntary placement of a child, the Department of Health

11 and Human Services shall, as provided in this section, identify,

12 locate, and provide written notification of the removal of the

13 child from his or her home, within thirty days after removal, to

14 any non-custodial parent and to all grandparents, adult siblings,

15 adult aunts, adult uncles, adult cousins, and adult relatives

16 suggested by the child or the child's parents, except when

17 that relative's history of family or domestic violence makes

18 notification inappropriate. If the child is Native American, the

19 child's extended family members as defined in section 43-1503 shall

20 be notified. Such notification shall include all of the following

21 information:

22 (a) The child has been or is being removed from the

23 custody of the parent or parents of the child;

24 (b) An explanation of the options the relative has under

25 federal, state, and local law to participate in the care and

26 placement of the child, including any options that may be lost by

27 failing to respond to the notice;

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

5           (d) Information concerning the option to apply for  
6 kinship guardianship assistance payments.

7           (2) The department shall investigate the names and  
8 locations of the relatives, including, but not limited to, asking  
9 the child in an age-appropriate manner about relatives important to  
10 the child and obtaining information regarding the location of the  
11 relatives.

12           (3) The department shall provide to the court, within  
13 thirty calendar days after removal of the child, the names and  
14 relationship to the child of all relatives contacted, the method of  
15 contact, and the responses received from the relatives.

16           Sec. 7. (1)(a) Reasonable efforts shall be made to place  
17 a child and the child's siblings in the same foster care placement  
18 or adoptive placement, unless such placement is contrary to the  
19 safety or well-being of any of the siblings. This requirement  
20 applies even if the custody orders of the siblings are made at  
21 separate times.

22           (b) If the siblings are not placed together in a  
23 joint-sibling placement, the department shall provide the siblings  
24 and the court with the reasons why a joint-sibling placement would  
25 be contrary to the safety or well-being of any of the siblings.

26           (2) When siblings are not placed together in a  
27 joint-sibling placement, the department shall make a reasonable

1 effort to provide for frequent sibling visitation or ongoing  
2 interaction between the child and the child's siblings unless the  
3 department provides the siblings and the court with reasons why  
4 such sibling visitation or ongoing interaction would be contrary to  
5 the safety or well-being of any of the siblings. The court shall  
6 determine the type and frequency of sibling visitation or ongoing  
7 interaction to be implemented by the department.

8 (3) Parties to the case may file a motion for  
9 joint-sibling placement, sibling visitation, or ongoing interaction  
10 between siblings.

11 (4) The court shall periodically review and evaluate the  
12 effectiveness and appropriateness of the joint-sibling placement,  
13 sibling visitation, or ongoing interaction between siblings.

14 (5) If an order is entered for termination of parental  
15 rights of siblings who are subject to this section, unless  
16 the court has suspended or terminated joint-sibling placement,  
17 sibling visitation, or ongoing interaction between siblings, the  
18 department shall make reasonable efforts to make a joint-sibling  
19 placement or do all of the following to facilitate frequent  
20 sibling visitation or ongoing interaction between the child and the  
21 child's siblings when the child is adopted or enters a permanent  
22 placement: (a) Include in the training provided to prospective  
23 adoptive parents information regarding the importance of sibling  
24 relationships to an adopted child and counseling methods for  
25 maintaining sibling relationships; (b) provide prospective adoptive  
26 parents with information regarding the child's siblings; and (c)  
27 encourage prospective adoptive parents to plan for facilitating

1 post-adoption contact between the child and the child's siblings.

2 (6) Any information regarding court-ordered or authorized  
3 joint-sibling placement, sibling visitation, or ongoing interaction  
4 between siblings shall be provided by the department to the parent  
5 or parents if parental rights have not been terminated unless the  
6 court determines that doing so would be contrary to the safety  
7 or well-being of the child and to the foster parent, relative  
8 caretaker, guardian, prospective adoptive parent, and child as soon  
9 as reasonably possible following the entry of the court order or  
10 authorization as necessary to facilitate the sibling time.

11 Sec. 8. (1) When a child placed in foster care turns  
12 sixteen years of age or enters foster care and is at least sixteen  
13 years of age, a written independent-living transition proposal  
14 shall be developed by the Department of Health and Human Services  
15 at the direction and involvement of the child to prepare for the  
16 transition from foster care to adulthood. The transition proposal  
17 shall be personalized based on the child's needs. The transition  
18 proposal shall include, but is not limited to, the following needs:

19 (a) Education;

20 (b) Employment services and other workforce support;

21 (c) Health and health care coverage;

22 (d) Financial assistance, including education on credit  
23 card financing, banking, and other services;

24 (e) Housing;

25 (f) Relationship development; and

26 (g) Adult services, if the needs assessment indicates  
27 that the child is reasonably likely to need or be eligible for

1 services or other support from the adult services system.

2 (2) The transition proposal shall be developed and  
3 frequently reviewed by the department in collaboration with the  
4 child's transition team. The transition team shall be comprised  
5 of the child, the child's caseworker, the child's guardian ad  
6 litem, individuals selected by the child, and individuals who have  
7 knowledge of services available to the child.

8 (3) The transition proposal shall be considered a working  
9 document and shall be, at the least, updated for and reviewed at  
10 every permanency or review hearing by the court.

11 (4) The final transition proposal prior to the child's  
12 leaving foster care shall specifically identify how the need for  
13 housing will be addressed.

14 (5) If the child is interested in pursuing higher  
15 education, the transition proposal shall provide for the process in  
16 applying for any applicable state, federal, or private aid.

17 (6) On or before the date the child reaches nineteen  
18 years of age, the department shall provide the child a certified  
19 copy of the child's birth certificate and facilitate securing a  
20 federal social security card when the child is eligible for such  
21 card. All fees associated for securing the certified copy shall be  
22 waived by the state.

23 Sec. 9. Section 43-1318, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 43-1318 Sections 43-1301 to 43-1318 and sections 6 to 8  
26 of this act shall be known and may be cited as the Foster Care  
27 Review Act.

1           Sec. 10. Section 68-1202, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           68-1202 Social services may be provided on behalf of  
4 recipients with payments for such social services made directly  
5 to vendors. Social services shall include those mandatory and  
6 optional services to former, present, or potential social services  
7 recipients provided for under the federal Social Security Act,  
8 as ~~such act existed on September 4, 2005,~~ amended, and described  
9 by the State of Nebraska in the approved State Plan for  
10 Services. Such services may include, but shall not be limited to,  
11 foster care for children, child care, family planning, treatment  
12 for alcoholism and drug addiction, treatment for persons with  
13 mental retardation, health-related services, protective services  
14 for children, homemaker services, employment services, foster  
15 care for adults, protective services for adults, transportation  
16 services, home management and other functional education services,  
17 housing improvement services, legal services, adult day services,  
18 home delivered or congregate meals, educational services, and  
19 secondary prevention services, including, but not limited to, home  
20 visitation, child screening and early intervention, and parenting  
21 education programs.

22           Sec. 11. Section 68-1204, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           68-1204 (1) For the purpose of providing or purchasing  
25 social services described in section 68-1202, the state hereby  
26 accepts and assents to all applicable provisions of the federal  
27 Social Security Act, as ~~such act existed on July 1, 2006.~~

1 amended. The Department of Health and Human Services may adopt  
2 and promulgate rules and regulations, enter into agreements, and  
3 adopt fee schedules with regard to social services described in  
4 section 68-1202.

5 (2) The department shall adopt and promulgate rules  
6 and regulations to administer funds under Title XX of the  
7 federal Social Security Act, as ~~such title existed on July 1,~~  
8 ~~2006,~~ amended, designated for specialized developmental disability  
9 services.

10 Sec. 12. Original sections 43-905, 43-1301, 43-1311,  
11 43-1312, 43-1318, 68-1202, and 68-1204, Reissue Revised Statutes  
12 of Nebraska, and section 43-285, Revised Statutes Cumulative  
13 Supplement, 2010, are repealed.