

E AND R AMENDMENTS TO LB 961

Introduced by Larson, 40, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. The Legislature finds and declares that:

4           (1) The State of Nebraska has the legal responsibility  
5 for children in its custody and accordingly should maintain the  
6 decisionmaking authority inherent in direct case management of  
7 child welfare services;

8           (2) Training and longevity of child welfare services case  
9 managers and caseworkers directly impact the safety, permanency,  
10 and well-being of children receiving child welfare services.  
11 Meaningful reform of the system can occur only when competent,  
12 skilled case managers and caseworkers educated in evidence-based  
13 child welfare best practices are making determinations for the  
14 care of, and services to, children and families and providing  
15 first-hand, direct information for decisionmaking and high-quality  
16 evidence to the courts relating to the best interests of the  
17 children. Maintaining quality, well-trained, and experienced case  
18 managers is essential and will be a core component in child  
19 welfare reform strategic planning and implementation. Additional  
20 resources and funds for training, support, and compensation may be  
21 required. Notwithstanding the outsourcing of case management, the  
22 Department of Health and Human Services retains legal custody of  
23 wards of the state and remains responsible for their care. Inherent

1 in privatized case management is the loss of trained, skilled  
2 individuals employed by the state providing the stable workforce  
3 essential to fulfilling the state's responsibilities for children  
4 who are wards of the state, resulting in the risk of loss of a  
5 trained, experienced, and stable workforce;

6 (3) Privatization of case management of child welfare  
7 services can and has resulted in dependence on one or more private  
8 entities for the provision of an essential specialized service  
9 that is extremely difficult to replace. As a result, the risk of  
10 a private entity abandoning the contract, either voluntarily or  
11 involuntarily, creates a very high risk to the entire system of  
12 child welfare services;

13 (4) Privatization of case management of child welfare  
14 services, including responsibilities for both service coordination  
15 and service delivery by private entities, may create conflicts of  
16 interest because the resulting financial incentives can undermine  
17 decisionmaking regarding the appropriate services that would be in  
18 the best interest of the children. Additionally, such privatization  
19 of child welfare case management can result in loss of services  
20 across the spectrum of child welfare by reducing market competition  
21 and driving many providers out of the market;

22 (5) Case management of child welfare services issues  
23 relating to caseloads, placement, turnover, communication, and  
24 stability affect outcomes and permanency for children and families;  
25 and

26 (6) Private lead agency contracts require complex  
27 monitoring capabilities to insure compliance and oversight of

1 performance, including private case managers, to insure improved  
2 child welfare outcomes. Accordingly, increased resources are  
3 expended on administration and oversight of such lead agency  
4 contracts rather than on improvement of the child welfare system,  
5 direct service provision to children and families, and investment  
6 in prevention programs.

7           Sec. 2. By September 1, 2012, for all cases in which  
8 a court has awarded a juvenile to the care of the Department  
9 of Health and Human Services according to subsection (1) of  
10 section 43-285 and for any noncourt and voluntary cases, the  
11 case manager shall be an employee of the department. The child  
12 welfare case manager shall be responsible for and shall directly  
13 oversee: Case planning; service authorization; investigation of  
14 compliance; monitoring and evaluation of the care and services  
15 provided to children and families; and decisionmaking regarding  
16 the determination of visitation and the care, placement, medical  
17 services, psychiatric services, training, and expenditures on  
18 behalf of each juvenile under subsection (1) of section 43-285. The  
19 child welfare case manager shall be responsible for determination,  
20 decisionmaking and direct preparation of the proposed plan for the  
21 care, placement, services, and permanency of the juvenile filed  
22 with the court required under subsection (2) of section 43-285. The  
23 health and safety of the juvenile shall be the paramount concern in  
24 the proposed plan in accordance with such subsection.

25           Sec. 3. Section 68-1207, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           68-1207 (1) The Department of Health and Human Services

1 shall supervise all public child welfare services as described  
2 by law. The department shall establish and maintain caseloads  
3 to carry out child welfare services which provide for adequate,  
4 timely, and indepth investigations and services to children and  
5 families. In establishing the standards for such caseloads, the  
6 department shall ~~(1)~~ (a) include the workload factors that  
7 may differ due to geographic responsibilities, office location,  
8 and the travel required to provide a timely response in the  
9 investigation of abuse and neglect, the protection of children, and  
10 the provision of services to children and families in a uniform  
11 and consistent statewide manner and ~~(2)~~ (b) consider workload  
12 standards recommended by national child welfare organizations and  
13 factors related to the attainment of such standards. The department  
14 shall consult with the appropriate employee representative in  
15 establishing such standards. The average caseload of each case  
16 manager providing child welfare services shall be reduced by  
17 twenty-five percent each year beginning with a twenty-five percent  
18 reduction on or before September 1, 2012, and a twenty-five percent  
19 reduction on or before each September 1 thereafter until each  
20 case manager's caseload and each caseworker's caseload is within  
21 the standards established by the Child Welfare League of America  
22 or its successor. Beginning September 15, 2012, the department  
23 shall include in its annual report required pursuant to section  
24 68-1207.01 a report on the attainment of the increase according  
25 to caseload standards established by the Child Welfare League of  
26 America or its successor. The department's annual report shall also  
27 include changes in the standards of the Child Welfare League of

1 America.

2 (2) Caseload size shall be determined in the following  
3 manner: (a) If children are placed in the home, the family shall  
4 count as one case regardless of how many children are placed in the  
5 home; (b) if a child is placed out of his or her home, the child  
6 shall count as one case; (c) if, within one family, one or more  
7 children are placed in the home and one or more children are placed  
8 out of the home, the children placed in the home shall count as  
9 one case and each child placed out of the home shall count as one  
10 case; and (d) any child receiving services from the department or a  
11 private entity under contract with the department shall be counted  
12 as provided in subdivisions (a) through (c) of this subsection  
13 whether or not such child is a ward of the state. For purposes of  
14 this subsection, a child is considered to be placed in the home if  
15 the child is placed with his or her biological or adoptive parent  
16 or a legal guardian and a child is considered to be placed out of  
17 the home if the child is placed in foster care, group home care, or  
18 any other setting which is not the child's planned permanent home.

19 (3) To insure appropriate oversight of noncourt and  
20 voluntary cases when any services are provided as a result of a  
21 child safety assessment, the department shall develop a case plan  
22 that specifies the services to be provided and the actions to be  
23 taken by the department and the family in each such case.

24 (4) To carry out the provisions of this section, the  
25 Legislature shall provide funds for additional staff.

26 Sec. 4. Section 81-3116, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           81-3116 The responsibilities of the divisions created in  
2 section 81-3113 include, but are not limited to, the following:

3           (1) The Division of Behavioral Health shall administer  
4 (a) the state hospitals for the mentally ill designated in section  
5 83-305 and (b) publicly funded community-based behavioral health  
6 services;

7           (2) The Division of Children and Family Services shall  
8 administer (a) protection and safety programs and services,  
9 including child welfare programs and services and the Office of  
10 Juvenile Services, (b) economic and family support programs and  
11 services, and (c) service areas as may be designated by the  
12 chief executive officer or by the Director of Children and Family  
13 Services under authority of the chief executive officer, except  
14 that on and after September 1, 2012, the western, central, and  
15 northern service areas shall align with the district court judicial  
16 districts described in section 24-301.02 in a manner that no  
17 district court judicial district is included in more than one  
18 service area;

19           (3) The Division of Developmental Disabilities shall  
20 administer (a) the Beatrice State Developmental Center and  
21 (b) publicly funded community-based developmental disabilities  
22 services;

23           (4) The Division of Medicaid and Long-Term Care shall  
24 administer (a) the medical assistance program also known as  
25 medicaid, (b) aging services, and (c) other related programs  
26 and services;

27           (5) The Division of Public Health shall administer

1 (a) preventive and community health programs and services, (b)  
2 the regulation and licensure of health-related professions and  
3 occupations, and (c) the regulation and licensure of health care  
4 facilities and health care services; and

5 (6) The Division of Veterans' Homes shall administer (a)  
6 the Eastern Nebraska Veterans' Home, (b) the Grand Island Veterans'  
7 Home, (c) the Norfolk Veterans' Home, and (d) the Western Nebraska  
8 Veterans' Home.

9 Sec. 5. (1) On and after the effective date of this act,  
10 the Department of Health and Human Services shall not reinstate a  
11 lead agency in the central, western, or northern service areas of  
12 Nebraska as such service areas are designated pursuant to section  
13 81-3116.

14 (2) The department shall not extend past July 1, 2014,  
15 the contracts with lead agencies in existence on the effective  
16 date of this act in the eastern or southeastern service areas of  
17 Nebraska as such service areas are designated pursuant to section  
18 81-3116.

19 Sec. 6. Original sections 68-1207 and 81-3116, Reissue  
20 Revised Statutes of Nebraska, are repealed.

21 Sec. 7. Since an emergency exists, this act takes effect  
22 when passed and approved according to law.

23 2. On page 1, line 6, strike "contracts and" and insert  
24 "caseloads, contracts, and contract".