

E AND R AMENDMENTS TO LB 821

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. (1) The Legislature finds and declares that:

4 (a) The children in the custody of or receiving services
5 from the Department of Health and Human Services and their families
6 are currently being served through a fragmented, poorly coordinated
7 service delivery model that has the potential for duplication of
8 effort, service gaps, cost shifting, and disagreement about payment
9 responsibilities;

10 (b) Many times this results in a dysfunctional system
11 that does not meet the needs of children and families and is
12 difficult to navigate;

13 (c) State agencies currently are not pooling resources or
14 leveraging financing to provide a coordinated system of behavioral
15 health services to children and families, with the result that
16 often children with the highest level of need are detained in
17 secure or residential settings with the highest cost of services
18 and the poorest outcomes; and

19 (d) It is vital that the legislative, judicial, and
20 executive branches of government communicate to ensure coordination
21 and collaboration for the health and well-being of Nebraska's
22 children.

23 (2) It is the intent of the Legislature in creating the

1 Nebraska Children's Commission to provide a broad restructuring of
2 the goals of the child welfare system and to provide a structure to
3 the commission that maintains the framework of the three branches
4 of government and their respective powers and duties.

5 Sec. 2. (1) The Nebraska Children's Commission is created
6 as a high-level leadership body to (a) create a statewide strategic
7 plan for reform of the system of child welfare programs and
8 services in the State of Nebraska and (b) review the operations of
9 the Department of Health and Human Services regarding child welfare
10 programs and services and recommend, as a part of the statewide
11 strategic plan, options for attaining the legislative intent stated
12 in section 1 of this act, either by the establishment of a new
13 division within the department or the establishment of a new state
14 agency to provide all child welfare programs and services which
15 are the responsibility of the state. The commission shall provide
16 a permanent forum for collaboration among state, local, community,
17 public, and private stakeholders in child welfare programs.

18 (2) The commission shall include the following voting
19 members:

20 (a) The chief executive officer of the Department of
21 Health and Human Services or his or her designee;

22 (b) The Director of Children and Family Services or his
23 or her designee; and

24 (c) Sixteen members appointed by the Governor within
25 thirty days after the effective date of this act. The members
26 appointed pursuant to this subdivision shall represent stakeholders
27 in the child welfare system and shall include: (i) A director

1 of a child advocacy center; (ii) a regional administrator of a
2 behavioral health authority; (iii) a community representative from
3 each of the service areas designated pursuant to section 81-3116;
4 (iv) a prosecuting attorney who practices in juvenile court; (v) a
5 guardian ad litem; (vi) a biological parent currently or previously
6 involved in the child welfare system; (vii) a foster parent; (viii)
7 a court-appointed special advocate volunteer; (ix) a State Foster
8 Care Review Board member or a member of a local foster care review
9 board; (x) a children's services provider; (xi) a youth currently
10 or previously in foster care; and (xii) a representative of a child
11 advocacy organization.

12 (3) The commission shall have the following nonvoting, ex
13 officio members: (a) The chairperson of the Health and Human
14 Services Committee of the Legislature or a committee member
15 designated by the chairperson; (b) the chairperson of the Judiciary
16 Committee of the Legislature or a committee member designated
17 by the chairperson; (c) the chairperson of the Appropriations
18 Committee of the Legislature or a committee member designated by
19 the chairperson; and (d) three persons appointed by the State
20 Court Administrator. The nonvoting, ex officio members may attend
21 commission meetings and participate in the discussions of the
22 commission, provide information to the commission on the policies,
23 programs, and processes of each of their respective bodies, gather
24 information for the commission, and provide information back to
25 their respective bodies from the commission. The nonvoting, ex
26 officio members shall not vote on decisions by the commission or
27 on the direction or development of the strategic plan pursuant to

1 section 4 of this act.

2 (4) The commission shall meet within sixty days after
3 the effective date of this act and shall select from among its
4 members a chairperson and vice-chairperson and conduct any other
5 business necessary to the organization of the commission. The
6 commission shall meet not less often than once every three months,
7 and meetings of the commission may be held at any time on the call
8 of the chairperson.

9 (5) Members of the commission shall be reimbursed for
10 their actual and necessary expenses as members of such commission
11 as provided in sections 81-1174 to 81-1177.

12 Sec. 3. (1) The Nebraska Children's Commission shall work
13 with service area administrators, the teams created pursuant to
14 section 28-728, local foster care review boards, child advocacy
15 centers, the teams created pursuant to the Supreme Court's Through
16 the Eyes of the Child Initiative, community stakeholders, and
17 advocates for child welfare programs and services to establish
18 networks in each service area designated pursuant to section
19 81-3116. Such networks shall permit collaboration to strengthen
20 the continuum of services available to child welfare agencies and
21 to provide resources for children and juveniles outside the child
22 protection system. Each service area shall develop its own unique
23 strategies to be included in the statewide strategic plan. The
24 Department of Health and Human Services shall assist in identifying
25 the needs of each service area.

26 (2) (a) The commission shall create a committee to examine
27 state policy regarding the prescription of psychotropic drugs for

1 children who are wards of the state and the administration of such
2 drugs to such children. Such committee shall review the policy and
3 procedures for prescribing and administering such drugs and make
4 recommendations to the commission for changes in such policy and
5 procedures.

6 (b) The commission may organize other committees as
7 it deems necessary. If the One Hundred Second Legislature,
8 Second Session, 2012, creates the Title IV-E Demonstration Project
9 Committee or the Foster Care Reimbursement Rate Committee, or both,
10 such committees shall be under the jurisdiction of the commission.

11 (3) The commission shall work with the office of the
12 State Court Administrator, as appropriate, and entities which
13 coordinate facilitated conferencing as described in section
14 43-247.01. Facilitated conferencing shall be included in strategic
15 plan discussions by the commission. Facilitated conferencing shall
16 continue to be utilized and maximized, as determined by the
17 court, during the development of the strategic plan. Funding and
18 contracting of facilitated conferencing entities shall continue to
19 be provided by the Department of Health and Human Services to at
20 least the same extent as such funding and contracting are being
21 provided on the effective date of this act.

22 (4) The commission shall gather information and
23 communicate with juvenile justice specialists of the Office of
24 Probation Administration and county officials with respect to any
25 county-operated Crossover Youth Practice Model of the Center for
26 Juvenile Justice Reform at Georgetown University.

27 (5) If the Nebraska Juvenile Service Delivery Project

1 is enacted by the One Hundred Second Legislature, Second Session,
2 2012, the commission shall coordinate and gather information about
3 the progress and outcomes of the project.

4 Sec. 4. (1) The Nebraska Children's Commission shall
5 create a statewide strategic plan for child welfare program and
6 service reform in Nebraska. In developing the statewide strategic
7 plan, the commission shall consider, but not be limited to:

8 (a) The potential of contracting with a private nonprofit
9 entity as a lead agency. Such lead-agency utilization shall be
10 in a manner that maximizes the strengths, experience, skills, and
11 continuum of care of the lead agencies. Any lead-agency contracts
12 entered into or amended after the effective date of this act
13 shall detail how the lead agency will implement community-based
14 care through competitively procuring either the specific components
15 of foster care and related services or comprehensive services
16 for defined eligible populations of children and families from
17 qualified licensed agencies as part of its efforts to develop the
18 local capacity for a community-based system of coordinated care. A
19 lead agency used after the effective date of this act shall:

20 (i) Have a board of directors of which at least fifty-one
21 percent of the membership is comprised of Nebraska residents who
22 are not employed by the lead agency or a subcontractor of the lead
23 agency;

24 (ii) Complete a readiness assessment as developed by
25 the Department of Health and Human Services to determine the
26 lead-agency viability. The readiness assessment shall evaluate
27 organizational, operational, and programmatic capabilities and

1 performance, to include review of: The strength of the board
2 of directors; compliance and oversight; financial risk management;
3 financial liquidity and performance; infrastructure maintenance;
4 funding sources, including state, federal, and external private
5 funding; and operations, including reporting, staffing, evaluation,
6 training, supervision, contract monitoring, and program performance
7 tracking capabilities;

8 (iii) Have the ability to provide directly or by contract
9 through a local network of providers the services required as a
10 lead agency. Such lead agencies shall not directly provide more
11 than thirty-five percent of direct services provided under the
12 contract; and

13 (iv) Provide accountability for meeting the outcomes and
14 performance standards related to child welfare services established
15 by Nebraska child welfare policy and the federal government;

16 (b) Provision of leadership in intentional strategies
17 to support high-quality evidence-based prevention and early
18 intervention services that reduce risk and enhance protection for
19 children;

20 (c) Realignment of service areas designated pursuant to
21 section 81-3116 to be coterminous with the judicial districts
22 described in section 24-301.02;

23 (d) Identification of the type of information needed
24 for a clear and thorough analysis of progress on child welfare
25 indicators; and

26 (e) Such other elements as the commission deems necessary
27 and appropriate.

1 (2) The commission shall review the operations of the
2 Department of Health and Human Services regarding child welfare
3 programs and services and recommend, as a part of the statewide
4 strategic plan, options for attaining the legislative intent stated
5 in section 1 of this act, either by the establishment of a new
6 division within the department or the establishment of a new state
7 agency to provide all child welfare programs and services which are
8 the responsibility of the state.

9 Sec. 5. Within three months after the effective date
10 of this act, the Nebraska Children's Commission shall contract
11 with an independent entity specializing in medicaid analysis to
12 conduct a cross-system analysis of current services and funding
13 sources to (1) identify state general funds being used, in order
14 to better utilize federal funds, (2) identify resources that
15 could be better allocated to more effective services for at-risk
16 children and juveniles transitioning to home-based and school-based
17 interventions, and (3) provide information which will allow the
18 replacement of state general funds for services to at-risk children
19 and juveniles with federal funds, with the goal of expanding the
20 funding base for such services while reducing overall state General
21 Fund expenditures on such services.

22 Sec. 6. The Department of Health and Human Services shall
23 fully cooperate with the activities of the Nebraska Children's
24 Commission. The department shall provide to the commission all
25 requested information on children and juveniles in Nebraska,
26 including, but not limited to, departmental reports, data,
27 programs, processes, finances, and policies. The department shall

1 collaborate with the commission regarding the development of a
2 plan for a statewide automated child welfare information system
3 to integrate child welfare information into one system if the
4 One Hundred Second Legislature, Second Session, 2012, enacts
5 legislation to require the development of such a plan. The
6 department shall coordinate and collaborate with the commission
7 regarding engagement of an evaluator to provide an evaluation of
8 the child welfare system if the One Hundred Second Legislature,
9 Second Session, 2012, enacts legislation to require such
10 evaluation.

11 Sec. 7. The Nebraska Children's Commission shall provide
12 a written report to the Health and Human Services Committee of the
13 Legislature on the status of its activities on or before August
14 1, 2012, September 15, 2012, and November 1, 2012. The commission
15 shall complete the strategic plan required pursuant to section 4
16 of this act and provide a written report to the Health and Human
17 Services Committee of the Legislature and the Governor on or before
18 December 15, 2012.

19 Sec. 8. The Nebraska Children's Commission Fund is
20 created. Any money in the fund available for investment shall be
21 invested by the state investment officer pursuant to the Nebraska
22 Capital Expansion Act and the Nebraska State Funds Investment Act.

23 It is the intent of the Legislature to appropriate \$XXX
24 for FY2012-13 from the General Fund to the Nebraska Children's
25 Commission Fund to carry out sections 1 to 7 of this act.

26 Sec. 9. Sections 9 to 39 of this act shall be known and
27 may be cited as the Office of Inspector General of Nebraska Child

1 Welfare Act.

2 Sec. 10. (1) It is the intent of the Legislature to:

3 (a) Establish a full-time program of investigation
4 and performance review to provide increased accountability and
5 oversight of the Nebraska child welfare system;

6 (b) Assist in improving operations of the department and
7 the Nebraska child welfare system;

8 (c) Provide an independent form of inquiry for concerns
9 regarding the actions of individuals and agencies responsible
10 for the care and protection of children in the Nebraska child
11 welfare system. Confusion of the roles, responsibilities, and
12 accountability structures between individuals, private contractors,
13 and agencies in the current system make it difficult to monitor and
14 oversee the Nebraska child welfare system; and

15 (d) Provide a process for investigation and review to
16 determine if individual complaints and issues of investigation and
17 inquiry reveal a problem in the system, not just individual cases,
18 that necessitates legislative action for improved policies and
19 restructuring of the child welfare system.

20 (2) It is not the intent of the Legislature in enacting
21 the Office of Inspector General of Nebraska Child Welfare Act to
22 interfere with the duties of the Legislative Performance Audit
23 Section of the Legislative Performance Audit Committee or the
24 Legislative Fiscal Analyst or to interfere with the statutorily
25 defined investigative responsibilities or prerogatives of any
26 officer, agency, board, bureau, commission, association, society,
27 or institution of the executive branch of state government, except

1 that the act does not preclude an inquiry on the sole basis that
2 another agency has the same responsibility. The act shall not be
3 construed to interfere with or supplant the responsibilities or
4 prerogatives of the Governor to investigate, monitor, and report
5 on the activities of the agencies, boards, bureaus, commissions,
6 associations, societies, and institutions of the executive branch
7 under his or her administrative direction.

8 Sec. 11. For purposes of the Office of Inspector General
9 of Nebraska Child Welfare Act, the definitions found in sections 12
10 to 24 of this act apply.

11 Sec. 12. Administrator means a person charged with
12 administration of a program, an office, or a division of the
13 department or administration of a private agency or licensed child
14 care facility.

15 Sec. 13. Department means the Department of Health and
16 Human Services.

17 Sec. 14. Director means the chief executive officer of
18 the department.

19 Sec. 15. Inspector General means the Inspector General of
20 Nebraska Child Welfare appointed under section 25 of this act.

21 Sec. 16. Licensed child care facility means a facility
22 or program licensed under the Child Care Licensing Act or sections
23 71-1901 to 71-1906.01.

24 Sec. 17. Malfeasance means a wrongful act that the actor
25 has no legal right to do or any wrongful conduct that affects,
26 interrupts, or interferes with performance of an official duty.

27 Sec. 18. Management means supervision of subordinate

1 employees.

2 Sec. 19. Misfeasance means the improper performance of
3 some act that a person may lawfully do.

4 Sec. 20. Obstruction means hindering or preventing from
5 progress, stopping or delaying the progress, or making the progress
6 of an investigation difficult or slow.

7 Sec. 21. Office means the office of Inspector General of
8 Nebraska Child Welfare and includes the Inspector General and other
9 employees of the office.

10 Sec. 22. Private agency means a child welfare agency that
11 contracts with the department or contracts to provide services to
12 another child welfare agency that contracts with the department.

13 Sec. 23. Record means any recording, in written, audio,
14 electronic transmission, or computer storage form, including, but
15 not limited to, a draft, memorandum, note, report, computer
16 printout, notation, or message, and includes, but is not limited
17 to, medical records, mental health records, case files, clinical
18 records, financial records, and administrative records.

19 Sec. 24. Responsible individual means a foster parent, a
20 relative provider of foster care, or an employee of the department,
21 a foster home, a private agency, a licensed child care facility, or
22 another provider of child welfare services responsible for the care
23 or custody of records, documents, and files.

24 Sec. 25. (1) The office of Inspector General of Nebraska
25 Child Welfare is created within the office of Public Counsel for
26 the purpose of conducting investigations, audits, inspections, and
27 other reviews of the Nebraska child welfare system. The Inspector

1 General shall be appointed by the Public Counsel with approval from
2 the chairperson of the Executive Board of the Legislative Council
3 and the chairperson of the Health and Human Services Committee of
4 the Legislature.

5 (2) The Inspector General shall be appointed for a
6 term of five years and may be reappointed. The Inspector General
7 shall be selected without regard to political affiliation and on
8 the basis of integrity, capability for strong leadership, and
9 demonstrated ability in accounting, auditing, financial analysis,
10 law, management analysis, public administration, investigation, or
11 criminal justice administration or other closely related fields.
12 No former or current executive or manager of the department may
13 be appointed Inspector General within five years after such former
14 or current executive's or manager's period of service with the
15 department. Not later than two years after the date of appointment,
16 the Inspector General shall obtain certification as a Certified
17 Inspector General by the Association of Inspectors General,
18 its successor, or another nationally recognized organization
19 that provides and sponsors educational programs and establishes
20 professional qualifications, certifications, and licensing for
21 inspectors general. During his or her employment, the Inspector
22 General shall not be actively involved in partisan affairs.

23 (3) The Inspector General shall employ such investigators
24 and support staff as he or she deems necessary to carry out the
25 duties of the office within the amount available by appropriation
26 through the office of Public Counsel for the office of Inspector
27 General of Nebraska Child Welfare. The Inspector General shall

1 be subject to the control and supervision of the Public Counsel,
2 except that removal of the Inspector General shall require approval
3 of the chairperson of the Executive Board of the Legislative
4 Council and the chairperson of the Health and Human Services
5 Committee of the Legislature.

6 Sec. 26. (1) The office shall investigate:

7 (a) Allegations or incidents of possible misconduct,
8 misfeasance, malfeasance, or violations of statutes or of rules or
9 regulations of the department by an employee of the department, a
10 private agency, a licensed child care facility, a foster parent, or
11 any other provider of child welfare services or which may provide a
12 basis for discipline pursuant to the Uniform Credentialing Act; and

13 (b) Death or serious injury in foster homes, private
14 agencies, child care facilities and programs, and other programs
15 and facilities licensed by the department and death or serious
16 injury in any case in which services are provided by the department
17 to a child or his or her parents or any case involving an
18 investigation under the Child Protection Act, which case has
19 been open for one year or less. The department shall report all
20 cases of death or serious injury of a child in a foster home,
21 private agency, child care facility or program, or other program
22 or facility licensed by the department to the Inspector General
23 as soon as reasonably possible after the department learns of
24 such death or serious injury. For purposes of this subdivision,
25 serious injury means an injury or illness caused by suspected
26 abuse, neglect, or maltreatment which leaves a child in critical or
27 serious condition.

1 (2) Any investigation conducted by the Inspector General
2 shall be independent of and separate from an investigation pursuant
3 to the Child Protection Act. The Inspector General and his or
4 her staff are subject to the reporting requirements of the Child
5 Protection Act.

6 (3) If the Inspector General in conjunction with the
7 Public Counsel determines it appropriate, or upon a request from
8 a law enforcement agency or prosecuting attorney, the Inspector
9 General may suspend an investigation by the office until a criminal
10 investigation or prosecution is completed or has proceeded to a
11 point that reinstatement of the Inspector General investigation
12 will not impede or infringe upon the criminal investigation or
13 prosecution.

14 Sec. 27. (1) The office shall have access to all
15 information and personnel necessary to perform the duties of
16 the office.

17 (2) A full investigation conducted by the office shall
18 consist of retrieval of relevant records through subpoena, request,
19 or voluntary production, review of all relevant records, and
20 interviews of all relevant persons.

21 Sec. 28. (1) Complaints to the office may be made in
22 writing. The office shall also maintain a toll-free telephone line
23 for complaints. A complaint shall be evaluated to determine if it
24 alleges possible misconduct, misfeasance, malfeasance, or violation
25 of a statute or of rules and regulations of the department by
26 an employee of or a person under contract with the department,
27 a private agency, or a licensed child care facility, a foster

1 parent, or any other provider of child welfare services or alleges
2 a basis for discipline pursuant to the Uniform Credentialing Act.
3 All complaints shall be evaluated to determine whether a full
4 investigation is warranted.

5 (2) The office shall not conduct a full investigation of
6 a complaint unless:

7 (a) The complaint alleges misconduct, misfeasance,
8 malfeasance, violation of a statute or of rules and regulations of
9 the department, or a basis for discipline pursuant to the Uniform
10 Credentialing Act;

11 (b) The complaint is against a person within the
12 jurisdiction of the office; and

13 (c) The allegations can be independently verified through
14 investigation.

15 (3) The Inspector General shall determine within fourteen
16 days after receipt of a complaint whether it will conduct a full
17 investigation. A complaint alleging facts which, if verified, would
18 provide a basis for discipline under the Uniform Credentialing Act
19 shall be referred to the appropriate credentialing board under the
20 act.

21 Sec. 29. All employees of the department, all foster
22 parents, and all owners, operators, managers, supervisors, and
23 employees of private agencies, licensed child care facilities, and
24 other providers of child welfare services shall cooperate with the
25 office. Cooperation includes, but is not limited to, the following:

26 (1) Provision of full access to and production of records
27 and information. Providing access to and producing records and

1 information for the office is not a violation of confidentiality
2 provisions under any law, statute, rule, or regulation if done in
3 good faith for purposes of an investigation under the Office of
4 Inspector General of Nebraska Child Welfare Act;

5 (2) Fair and honest disclosure of records and information
6 reasonably requested by the office in the course of an
7 investigation under the act;

8 (3) Encouraging employees to fully comply with reasonable
9 requests of the office in the course of an investigation under the
10 act;

11 (4) Prohibition of retaliation by owners, operators, or
12 managers against employees for providing records or information or
13 filing or otherwise making a complaint to the office;

14 (5) Not requiring employees to gain supervisory approval
15 prior to filing a complaint with or providing records or
16 information to the office;

17 (6) Provision of complete and truthful answers to
18 questions posed by the office in the course of an investigation;
19 and

20 (7) Not willfully interfering with or obstructing the
21 investigation.

22 Sec. 30. Failure to cooperate with an investigation by
23 the office may result in discipline or other sanctions.

24 Sec. 31. The Inspector General may issue a subpoena,
25 enforceable by action in an appropriate court, to compel any person
26 to appear, give sworn testimony, or produce documentary or other
27 evidence deemed relevant to a matter under his or her inquiry.

1 A person thus required to provide information shall be paid the
2 same fees and travel allowances and shall be accorded the same
3 privileges and immunities as are extended to witnesses in the
4 district courts of this state and shall also be entitled to have
5 counsel present while being questioned.

6 Sec. 32. (1) In conducting investigations, the office
7 shall access all relevant records through subpoena, compliance
8 with a request of the office, and voluntary production. The
9 office may request or subpoena any record necessary for the
10 investigation from the department, a foster parent, a licensed
11 child care facility, or a private agency that is pertinent to an
12 investigation. All case files, licensing files, medical records,
13 financial and administrative records, and records required to be
14 maintained pursuant to applicable licensing rules shall be produced
15 for review by the office in the course of an investigation.

16 (2) Compliance with a request of the office includes:

17 (a) Production of all records requested;

18 (b) A diligent search to ensure that all appropriate
19 records are included; and

20 (c) A continuing obligation to immediately forward to the
21 office any relevant records received, located, or generated after
22 the date of the request.

23 (3) The office shall seek access in a manner that
24 respects the dignity and human rights of all persons involved,
25 maintains the integrity of the investigation, and does not
26 unnecessarily disrupt programs or services. When advance notice
27 to a foster parent or to an administrator or his or her designee

1 is not provided, the office investigator shall, upon arrival at the
2 departmental office, bureau, or division, the private agency, the
3 licensed child care facility, or the location of another provider
4 of child welfare services, request that an onsite employee notify
5 the administrator or his or her designee of the investigator's
6 arrival.

7 (4) When circumstances of an investigation require,
8 the office may make an unannounced visit to a foster home, a
9 departmental office, bureau, or division, a licensed child care
10 facility, a private agency, or another provider to request records
11 relevant to an investigation.

12 (5) A responsible individual or an administrator may be
13 asked to sign a statement of record integrity and security when
14 a record is secured by request as the result of a visit by the
15 office, stating:

16 (a) That the responsible individual or the administrator
17 has made a diligent search of the office, bureau, division, private
18 agency, licensed child care facility, or other provider's location
19 to determine that all appropriate records in existence at the time
20 of the request were produced;

21 (b) That the responsible individual or the administrator
22 agrees to immediately forward to the office any relevant records
23 received, located, or generated after the visit;

24 (c) The persons who have had access to the records since
25 they were secured; and

26 (d) Whether, to the best of the knowledge of the
27 responsible individual or the administrator, any records were

1 removed from or added to the record since it was secured.

2 (6) The office shall permit a responsible individual, an
3 administrator, or an employee of a departmental office, bureau,
4 or division, a private agency, a licensed child care facility, or
5 another provider to make photocopies of the original records within
6 a reasonable time in the presence of the office for purposes of
7 creating a working record in a manner that assures confidentiality.

8 (7) The office shall present to the responsible
9 individual or the administrator or other employee of the
10 departmental office, bureau, or division, private agency, licensed
11 child care facility, or other service provider a copy of the
12 request, stating the date and the titles of the records received.

13 (8) If an original is provided during an investigation,
14 the office shall return the original record as soon as practical
15 but no later than ten working days after the date of the compliance
16 request.

17 (9) All investigations conducted by the office shall
18 be conducted in a manner designed to ensure the preservation of
19 evidence for possible use in a criminal prosecution.

20 Sec. 33. (1) Reports of investigations conducted by the
21 office shall not be distributed beyond the entity that is the
22 subject of the report without the consent of the Inspector General.

23 (2) Except when a report is provided to parties in
24 juvenile court pursuant to subsection (2) of section 35 of
25 this act, the office shall redact confidential information before
26 distributing a report of an investigation.

27 (3) Reports of investigations conducted by the office are

1 not public records for purposes of sections 84-712 to 84-712.09.

2 (4) The office may withhold the identity of sources of
3 information to protect from retaliation any person who files a
4 complaint or provides information in good faith pursuant to the
5 Office of Inspector General of Nebraska Child Welfare Act.

6 Sec. 34. The department shall provide the Public Counsel
7 and the Inspector General with direct computer access to all
8 computerized records, reports, and documents maintained by the
9 department in connection with administration of the Nebraska child
10 welfare system.

11 Sec. 35. (1) The Inspector General's report of an
12 investigation shall be in writing to the Public Counsel and
13 shall contain recommendations. The report may recommend systemic
14 reform or case-specific action, including a recommendation for
15 discharge or discipline of employees or for sanctions against a
16 foster parent, private agency, licensed child care facility, or
17 other provider of child welfare services. All recommendations to
18 pursue discipline shall be in writing and signed by the Inspector
19 General. A report of an investigation shall be presented to the
20 director within fifteen days after the report is presented to the
21 Public Counsel.

22 (2) Any person receiving a report under this section
23 shall not further distribute the report or any confidential
24 information contained in the report. The Inspector General, upon
25 notifying the Public Counsel and the director, may distribute the
26 report, to the extent that it is relevant to a child's welfare,
27 to the guardian ad litem and attorneys in the juvenile court in

1 which a case is pending involving the child or family who is the
2 subject of the report. The report shall not be distributed beyond
3 the parties except through the appropriate court procedures to the
4 judge.

5 (3) A report that identifies misconduct, misfeasance,
6 malfeasance, or violation of statute, rules, or regulations by an
7 employee of the department, a private agency, a licensed child
8 care facility, or another provider that is relevant to providing
9 appropriate supervision of an employee may be shared with the
10 employer of such employee. The employer may not further distribute
11 the report or any confidential information contained in the report.

12 Sec. 36. (1) Within fifteen days after a report is
13 presented to the director under section 35 of this act, he or she
14 shall determine whether to accept, reject, or request in writing
15 modification of the recommendations contained in the report. The
16 Inspector General, with input from the Public Counsel, may consider
17 the director's request for modifications but is not obligated
18 to accept such request. Such report shall become final upon the
19 decision of the director to accept or reject the recommendations
20 in the report or, if the director requests modifications, within
21 fifteen days after such request or after the Inspector General
22 incorporates such modifications, whichever occurs earlier.

23 (2) Within fifteen days after the report is presented to
24 the director, the report shall be presented to the foster parent,
25 private agency, licensed child care facility, or other provider of
26 child welfare services that is the subject of the report and with
27 persons involved in the implementation of the recommendations in

1 the report. Within forty-five days after receipt of the report,
2 the foster parent, private agency, licensed child care facility,
3 or other provider may submit a written response to the office to
4 correct any factual errors in the report. The Inspector General,
5 with input from the Public Counsel, shall consider all materials
6 submitted under this subsection to determine whether a corrected
7 report shall be issued. If the Inspector General determines that a
8 corrected report is necessary, the corrected report shall be issued
9 within fifteen days after receipt of the written response.

10 (3) If the Inspector General does not issue a corrected
11 report pursuant to subsection (2) of this section, or if the
12 corrected report does not address all issues raised in the written
13 response, the foster parent, private agency, licensed child care
14 facility, or other provider may request that its written response,
15 or portions of the response, be appended to the report or corrected
16 report.

17 (4) A report which raises issues related to credentialing
18 under the Uniform Credentialing Act shall be submitted to the
19 appropriate credentialing board under the act.

20 Sec. 37. No report or other work product of an
21 investigation by the Inspector General shall be reviewable in any
22 court. Neither the Inspector General nor any member of his or her
23 staff shall be required to testify or produce evidence in any
24 judicial or administrative proceeding concerning matters within
25 his or her official cognizance except in a proceeding brought to
26 enforce the Office of Inspector General of Nebraska Child Welfare
27 Act.

1 Sec. 38. The Office of Inspector General of Nebraska
2 Child Welfare Act does not require the Inspector General to
3 investigate all complaints. The Inspector General, with input from
4 the Public Counsel, shall prioritize and select investigations
5 and inquiries that further the intent of the act and assist in
6 legislative oversight of the Nebraska child welfare system. If the
7 Inspector General determines that he or she will not investigate
8 a complaint, the Inspector General may recommend to the parties
9 alternative means of resolution of the issues in the complaint.

10 Sec. 39. On or before September 15 of each year, the
11 Inspector General shall provide to the Health and Human Services
12 Committee of the Legislature and the Governor a summary of reports
13 and investigations made under the Office of Inspector General of
14 Nebraska Child Welfare Act for the preceding year. The summaries
15 shall detail recommendations and the status of implementation
16 of recommendations and may also include recommendations to the
17 committee regarding issues discovered through investigation,
18 audits, inspections, and reviews by the office that will increase
19 accountability and legislative oversight of the Nebraska child
20 welfare system, improve operations of the department and the
21 Nebraska child welfare system, or deter and identify fraud, abuse,
22 and illegal acts. The summaries shall not contain any confidential
23 or identifying information concerning the subjects of the reports
24 and investigations.

25 Sec. 40. Section 28-711, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 28-711 (1) When any physician, any medical institution,

1 any nurse, any school employee, any social worker, the Inspector
2 General appointed under section 25 of this act, or any other person
3 has reasonable cause to believe that a child has been subjected to
4 child abuse or neglect or observes such child being subjected to
5 conditions or circumstances which reasonably would result in child
6 abuse or neglect, he or she shall report such incident or cause
7 a report of child abuse or neglect to be made to the proper law
8 enforcement agency or to the department on the toll-free number
9 established by subsection (2) of this section. Such report may be
10 made orally by telephone with the caller giving his or her name
11 and address, shall be followed by a written report, and to the
12 extent available shall contain the address and age of the abused
13 or neglected child, the address of the person or persons having
14 custody of the abused or neglected child, the nature and extent
15 of the child abuse or neglect or the conditions and circumstances
16 which would reasonably result in such child abuse or neglect, any
17 evidence of previous child abuse or neglect including the nature
18 and extent, and any other information which in the opinion of the
19 person may be helpful in establishing the cause of such child abuse
20 or neglect and the identity of the perpetrator or perpetrators.
21 Law enforcement agencies receiving any reports of child abuse or
22 neglect under this subsection shall notify the department pursuant
23 to section 28-718 on the next working day by telephone or mail.

24 (2) The department shall establish a statewide toll-free
25 number to be used by any person any hour of the day or night,
26 any day of the week, to make reports of child abuse or neglect.
27 Reports of child abuse or neglect not previously made to or by a

1 law enforcement agency shall be made immediately to such agency by
2 the department.

3 Sec. 41. Section 73-401, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 73-401 Except for long-term care facilities subject to
6 the jurisdiction of the state long-term care ombudsman pursuant
7 to the Long-Term Care Ombudsman Act, the contracting agency shall
8 ensure that any contract which a state agency enters into or
9 renews which agrees that a corporation, partnership, business,
10 firm, governmental entity, or person shall provide health and human
11 services to individuals or service delivery, service coordination,
12 or case management on behalf of the State of Nebraska shall contain
13 a clause requiring the corporation, partnership, business, firm,
14 governmental entity, or person to submit to the jurisdiction of the
15 Public Counsel under sections 81-8,240 to 81-8,254 with respect to
16 the provision of services under the contract.

17 Sec. 42. Section 81-8,240, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-8,240 As used in sections 81-8,240 to 81-8,254, unless
20 the context otherwise requires:

21 (1) Administrative agency shall mean any department,
22 board, commission, or other governmental unit, any official,
23 any employee of the State of Nebraska acting or purporting to
24 act by reason of connection with the State of Nebraska, any
25 corporation, partnership, business, firm, governmental entity, or
26 person who is providing health and human services to individuals
27 or service delivery, service coordination, or case management

1 under contract with the State of Nebraska and who is subject
2 to the jurisdiction of the office of Public Counsel as required
3 by section 73-401, any regional behavioral health authority, any
4 community-based behavioral health services provider that contracts
5 with a regional behavioral health authority, and any county or
6 municipal correctional or jail facility and employee thereof acting
7 or purporting to act by reason of connection with the county or
8 municipal correctional or jail facility; but shall not include (a)
9 any court, (b) any member or employee of the Legislature or the
10 Legislative Council, (c) the Governor or his or her personal staff,
11 (d) any political subdivision or entity thereof except a county or
12 municipal correctional or jail facility or a regional behavioral
13 health authority, (e) any instrumentality formed pursuant to an
14 interstate compact and answerable to more than one state, or (f)
15 any entity of the federal government; and

16 (2) Administrative act shall include every action, rule,
17 regulation, order, omission, decision, recommendation, practice, or
18 procedure of an administrative agency.

19 Sec. 43. Section 81-8,241, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-8,241 The office of Public Counsel is hereby
22 established to exercise the authority and perform the duties
23 provided by sections 81-8,240 to 81-8,254 and the Office of
24 Inspector General of Nebraska Child Welfare Act. The Public Counsel
25 shall be appointed by the Legislature, with the vote of two-thirds
26 of the members required for approval of such appointment from
27 nominations submitted by the Executive Board of the Legislative

1 Council.

2 Sec. 44. Section 81-8,244, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 81-8,244 (1)(a) The Public Counsel may select, appoint,
5 and compensate as he or she sees fit, within the amount available
6 by appropriation, such assistants and employees as he or she deems
7 necessary to discharge the responsibilities under sections 81-8,240
8 to 81-8,254. He or she shall appoint and designate one assistant
9 to be a deputy public counsel, one assistant to be a deputy
10 public counsel for corrections, one assistant to be a deputy public
11 counsel for institutions, and one assistant to be a deputy public
12 counsel for welfare services.

13 (b) Such deputy public counsels shall be subject to the
14 control and supervision of the Public Counsel.

15 (c) The authority of the deputy public counsel for
16 corrections shall extend to all facilities and parts of facilities,
17 offices, houses of confinement, and institutions which are operated
18 by the Department of Correctional Services and all county or
19 municipal correctional or jail facilities.

20 (d) The authority of the deputy public counsel for
21 institutions shall extend to all mental health and veterans
22 institutions and facilities operated by the Department of
23 Health and Human Services and to all regional behavioral
24 health authorities that provide services and all community-based
25 behavioral health services providers that contract with a regional
26 behavioral health authority to provide services, for any individual
27 who was a patient within the prior twelve months of a state-owned

1 and state-operated regional center, and to all complaints
2 pertaining to administrative acts of the department, authority,
3 or provider when those acts are concerned with the rights and
4 interests of individuals placed within those institutions and
5 facilities or receiving community-based behavioral health services.

6 (e) The authority of the deputy public counsel for
7 welfare services shall extend to all complaints pertaining to
8 administrative acts of administrative agencies when those acts are
9 concerned with the rights and interests of individuals involved in
10 the welfare services system of the State of Nebraska.

11 (f) The Public Counsel may delegate to members of the
12 staff any authority or duty under sections 81-8,240 to 81-8,254
13 except the power of delegation and the duty of formally making
14 recommendations to administrative agencies or reports to the
15 Governor or the Legislature.

16 (2) The Public Counsel shall appoint the Inspector
17 General of Nebraska Child Welfare as provided in section 25 of
18 this act. The Inspector General of Nebraska Child Welfare shall
19 have the powers and duties provided in the Office of Inspector
20 General of Nebraska Child Welfare Act.

21 Sec. 45. Section 81-8,245, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-8,245 The Public Counsel shall have the power to:

24 (1) Investigate, on complaint or on his or her own
25 motion, any administrative act of any administrative agency;

26 (2) Prescribe the methods by which complaints are to be
27 made, received, and acted upon; determine the scope and manner

1 of investigations to be made; and, subject to the requirements
2 of sections 81-8,240 to 81-8,254, determine the form, frequency,
3 and distribution of his or her conclusions, recommendations, and
4 proposals;

5 (3) Conduct inspections of the premises, or any parts
6 thereof, of any administrative agency or any property owned,
7 leased, or operated by any administrative agency as frequently as
8 is necessary, in his or her opinion, to carry out duties prescribed
9 under sections 81-8,240 to 81-8,254;

10 (4) Request and receive from each administrative agency,
11 and such agency shall provide, the assistance and information
12 the counsel deems necessary for the discharge of his or her
13 responsibilities; inspect and examine the records and documents
14 of all administrative agencies notwithstanding any other provision
15 of law; and enter and inspect premises within any administrative
16 agency's control;

17 (5) Issue a subpoena, enforceable by action in an
18 appropriate court, to compel any person to appear, give sworn
19 testimony, or produce documentary or other evidence deemed relevant
20 to a matter under his or her inquiry. A person thus required
21 to provide information shall be paid the same fees and travel
22 allowances and shall be accorded the same privileges and immunities
23 as are extended to witnesses in the district courts of this state
24 and shall also be entitled to have counsel present while being
25 questioned;

26 (6) Undertake, participate in, or cooperate with general
27 studies or inquiries, whether or not related to any particular

1 administrative agency or any particular administrative act, if he
2 or she believes that they may enhance knowledge about or lead to
3 improvements in the functioning of administrative agencies; ~~and~~

4 (7) Make investigations, reports, and recommendations
5 necessary to carry out his or her duties under the State Government
6 Effectiveness Act; ~~and-~~

7 (8) Carry out his or her duties under the Office of
8 Inspector General of Nebraska Child Welfare Act. If any of
9 the provisions of sections 81-8,240 to 81-8,254 conflict with
10 provisions of the Office of Inspector General of Nebraska Child
11 Welfare Act, the provisions of such act shall control.

12 Sec. 46. Original sections 28-711, 73-401, 81-8,240,
13 81-8,241, 81-8,244, and 81-8,245, Reissue Revised Statutes of
14 Nebraska, are repealed.

15 Sec. 47. Since an emergency exists, this act takes effect
16 when passed and approved according to law.

17 2. On page 1, strike beginning with "state" in line 1
18 through line 7 and insert "amend sections 28-711, 73-401, 81-8,240,
19 81-8,241, 81-8,244, and 81-8,245, Reissue Revised Statutes of
20 Nebraska; to state intent; to create the Nebraska Children's
21 Commission; to provide powers and duties; to create a fund; to
22 adopt the Office of Inspector General of Nebraska Child Welfare
23 Act; to change provisions relating to the Public Counsel; to
24 harmonize provisions; to repeal the original sections; and to
25 declare an emergency."