

E AND R AMENDMENTS TO LB 648

Introduced by Larson, 40, Chairperson Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new 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
19 court a proposed plan for the care, placement, services, and
20 permanency which are to be provided to such juvenile and his
21 or her family. The health and safety of the juvenile shall be
22 the paramount concern in the proposed plan. The department shall
23 include in the plan for a juvenile who is sixteen years of

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

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

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

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

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

27 (6) Whenever a juvenile is in a foster care placement as

1 defined in section 43-1301, the State Foster Care Review Board may
2 participate in proceedings concerning the juvenile as provided in
3 section 43-1313 and notice shall be given as provided in section
4 43-1314.

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

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

19 Sec. 2. Section 43-1314, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-1314 (1) Except as otherwise provided in the Nebraska
22 Indian Child Welfare Act, notice of the court review or hearing
23 and the right of participation in all court reviews and hearings
24 pertaining to a child in a foster care placement shall be provided
25 by the court having jurisdiction over such child for the purposes
26 of foster care placement. The Department of Health and Human
27 Services or contract agency shall have the contact information for

1 all child placements available for all courts to comply with the
2 notification requirements found in this section. The department
3 or contract agency shall each have one telephone number by which
4 any court seeking to provide notice may obtain up-to-date contact
5 information of all persons listed in subdivisions (2)(a) through
6 (h) of this section. All contact information shall be up-to-date
7 within seventy-two hours of any placement change. either in court,
8 by mail, or in such other manner as the court may direct. Such
9 notice

10 (2) Notice shall be provided to all of the following
11 parties that are applicable to the case: ~~(1)~~ (a) The person
12 charged with the care of such child; ~~(2)~~ (b) the child's parents
13 or guardian unless the parental rights of the parents have been
14 terminated by court action as provided in section 43-292 or 43-297;
15 ~~(3)~~ (c) the foster child if age fourteen or over; ~~(4)~~ (d) the
16 foster parent or parents of the foster child; ~~(5)~~ (e) the guardian
17 ad litem of the foster child; ~~(6)~~ (f) the state board; ~~(7)~~ (g) the
18 preadoptive parent; and ~~(8)~~ (h) the relative providing care for the
19 child. Notice of all court reviews and hearings shall be mailed
20 or personally delivered to the counsel or party, if the party is
21 not represented by counsel, five full days prior to the review
22 or hearing. The use of ordinary mail shall constitute sufficient
23 compliance. Notice to the foster parent, preadoptive parent, or
24 relative providing care shall not be construed to require that such
25 foster parent, preadoptive parent, or relative is a necessary party
26 to the review or hearing.

27 (3) The court may shall inquire into the well-being of

1 the foster child by asking questions, if present at the hearing,
2 of ~~the~~ any willing foster parent, preadoptive parent, or relative
3 providing care for the child.

4 Sec. 3. Original section 43-1314, Reissue Revised
5 Statutes of Nebraska, and section 43-285, Revised Statutes
6 Cumulative Supplement, 2010, are repealed.

7 2. On page 1, strike beginning with "foster" in line 1
8 through line 4 and insert "juveniles; to amend section 43-1314,
9 Reissue Revised Statutes of Nebraska, and section 43-285, Revised
10 Statutes Cumulative Supplement, 2010; to change provisions relating
11 to juvenile care and placement plans and foster care placement; and
12 to repeal the original sections."