

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 177

Introduced by Campbell, 25; Hansen, 42.

Read first time January 07, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to foster care; to amend sections 43-905,
2 43-1301, 43-1311, 43-1312, 43-1318, 68-1202, 68-1204,
3 71-1901, 71-1902, 71-1903, and 71-1904, Reissue Revised
4 Statutes of Nebraska, and section 43-285, Revised
5 Statutes Cumulative Supplement, 2010, to provide for
6 kinship guardianships; to provide for notification of
7 relatives when a child is removed from his or her home;
8 to require reasonable efforts for joint-sibling placement
9 or sibling visitation or ongoing interactions; to provide
10 for a written independent living transition proposal from
11 foster care; to harmonize provisions; and to repeal the
12 original sections.

13 Be it enacted by the people of the State of Nebraska,

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

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

14 (2) Following an adjudication hearing at which a juvenile
15 is adjudged to be under subdivision (3) of section 43-247, the court
16 may order the department to prepare and file with the court a
17 proposed plan for the care, placement, services, and permanency which
18 are to be provided to such juvenile and his or her family. The health
19 and safety of the juvenile shall be the paramount concern in the
20 proposed plan. The department shall include in the plan for a
21 juvenile who is sixteen years of age or older and subject to the
22 guardianship of the department a written ~~proposal describing programs~~
23 ~~and services designed to assist the juvenile in acquiring independent~~
24 ~~living skills.~~ independent-living transition proposal which meets the
25 requirements of section 8 of this act. If any other party, including,

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

12 (3) Within thirty days after an order awarding a juvenile
13 to the care of the department, an association, or an individual and
14 until the juvenile reaches the age of majority, the department,
15 association, or individual shall file with the court a report stating
16 the location of the juvenile's placement and the needs of the
17 juvenile in order to effectuate the purposes of subdivision (1) of
18 section 43-246. The department, association, or individual shall file
19 a report with the court once every six months or at shorter intervals
20 if ordered by the court or deemed appropriate by the department,
21 association, or individual. The department, association, or
22 individual shall file a report and notice of placement change with
23 the court and shall send copies of the notice to all interested
24 parties at least seven days before the placement of the juvenile is
25 changed from what the court originally considered to be a suitable

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

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

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

24 (6) Whenever a juvenile is in a foster care placement as
25 defined in section 43-1301, the State Foster Care Review Board may

1 participate in proceedings concerning the juvenile as provided in
2 section 43-1313 and notice shall be given as provided in section
3 43-1314.

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

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

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

19 43-905 (1) The Department of Health and Human Services
20 shall be the legal guardian of all children committed to it. The
21 department shall afford temporary care and shall use special
22 diligence to provide suitable homes for such children. The department
23 shall make reasonable efforts to accomplish joint-sibling placement
24 or sibling visitation or ongoing interaction between siblings as
25 provided in section 7 of this act. The department is authorized to

1 place such children in suitable families for adoption, foster care,
2 guardianship, or kinship guardianship, as defined in section 71-1901,
3 or, in the discretion of the department, on a written contract.

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

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

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

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

1 foster care, in guardianship, or in kinship guardianship, in boarding
2 homes, or in institutions 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, or
13 any other person or entity receiving and caring for foster children;

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

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

1 care of the child and has the authority by and with the assent of the
2 court to place such a child in a suitable family home or institution
3 or has been entrusted with the care of the child by a voluntary
4 placement made by a parent or legal guardian, (b) the court which has
5 jurisdiction over the child, or (c) the entity having jurisdiction
6 over the child 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 of
9 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; -

19 (10) Kinship guardianship has the same meaning as in
20 section 71-1901; and

21 (11) Siblings means biologic siblings and legal siblings.

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

24 43-1311 Except as otherwise provided in the Nebraska
25 Indian Child Welfare Act, immediately following removal of a child

1 from his or her home pursuant to section 43-284, the person or court
2 in charge of the child shall:

3 (1) Conduct or cause to be conducted an investigation of
4 the child's circumstances designed to establish a safe and
5 appropriate plan for the rehabilitation of the foster child and
6 family unit or permanent placement of the child;

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

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

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

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

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

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

25 (a) The purpose for which the child has been placed in

1 foster care;

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

4 (c) A description of the services which are to be
5 provided in order to accomplish the purposes of the foster care
6 placement;

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

9 (e) A complete record of the previous placements of the
10 foster child; and

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

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

23 (3) Each child in foster care under the supervision of
24 the state shall have a permanency hearing by a court, no later than
25 twelve months after the date the child enters foster care and

1 annually thereafter during the continuation of foster care. The
2 court's order shall include a finding regarding the appropriateness
3 of the permanency plan determined for the child and shall include
4 whether, and if applicable when, the child will be:

5 (a) Returned to the parent;

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

8 (c) Placed for adoption;

9 (d) Referred for kinship guardianship or guardianship; or

10 (e) In cases where the state agency has documented to the
11 court a compelling reason for determining that it would not be in the
12 best interests of the child to return home, (i) referred for
13 termination of parental rights, (ii) placed for adoption with a fit
14 and willing relative, or (iii) placed with a kinship guardian or
15 guardian.

16 Sec. 6. (1) When notified pursuant to section 43-1311 or
17 upon voluntary placement of a child, the Department of Health and
18 Human Services shall, as provided in this section, identify, locate,
19 and provide written notification of the removal of the child from his
20 or her home, within thirty days after removal, to any non-custodial
21 parent and to all grandparents, adult siblings, adult aunts, adult
22 uncles, adult cousins, and adult relatives suggested by the child or
23 the child's parents, except when that relative's history of family or
24 domestic violence makes notification inappropriate. If the child is
25 Native American, the child's extended family members as defined in

1 section 43-1503 shall be notified. Such notification shall include
2 all of the following information:

3 (a) The child has been or is being removed from the
4 custody of the parent or parents of the child;

5 (b) An explanation of the options the relative has under
6 federal, state, and local law to participate in the care and
7 placement of the child, including any options that may be lost by
8 failing to respond to the notice;

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

13 (d) Information concerning the option to apply for
14 kinship guardianship assistance payments.

15 (2) The department shall investigate the names and
16 locations of the relatives, including, but not limited to, asking the
17 child in an age-appropriate manner about relatives important to the
18 child and obtaining information regarding the location of the
19 relatives.

20 (3) The department shall provide to the court, within
21 thirty calendar days after removal of the child, the names and
22 relationship to the child of all relatives contacted, the method of
23 contact, and the responses received from the relatives.

24 Sec. 7. (1)(a) Reasonable efforts shall be made to place
25 a child and siblings who have been removed from their home together

1 in the same foster care placement, kinship guardianship, or adoptive
2 placement, unless such placement is contrary to the safety or well-
3 being of any of the siblings. This requirement applies even if the
4 custody orders of the siblings are made at separate times.

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

9 (2) When siblings are not placed together in a joint-
10 sibling placement, the department shall make a reasonable effort to
11 provide for frequent sibling visitation or ongoing interaction
12 between the child and the child's siblings unless the department
13 provides the siblings and the court with reasons why such sibling
14 visitation or ongoing interaction would be contrary to the safety or
15 well-being of any of the siblings. The court shall determine the type
16 and frequency of sibling visitation or ongoing interaction to be
17 implemented by the department.

18 (3) Joint-sibling placement and frequency and type of
19 sibling visitation or ongoing interaction shall be determined by
20 considering the following factors: (a) The nature of the relationship
21 between the child and siblings, including (i) whether the siblings
22 were raised together in the same home, (ii) whether the siblings have
23 shared significant common experiences or have existing close and
24 strong bonds, and (iii) whether either sibling expresses a desire to
25 live or have contact with the other sibling; and (b) the

1 appropriateness of developing or maintaining the sibling
2 relationships, including whether placement together or sibling time
3 would be contrary to the safety or well-being of any of the siblings.

4 (4) For children in foster care, a child, sibling,
5 parent, legal guardian, or the department may file a petition for
6 joint-sibling placement, sibling visitation, or ongoing interaction
7 between siblings.

8 (5) The court shall periodically review and evaluate the
9 effectiveness and appropriateness of the joint-sibling placement,
10 sibling visitation, or ongoing interaction between siblings.

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

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

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

17 (a) Education;

18 (b) Employment services and other workforce support;

19 (c) Health and health care coverage;

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

22 (e) Housing;

23 (f) Relationship development; and

24 (g) If the needs assessment indicates the child is
25 reasonably likely to need or be eligible for services or other

1 support from the adult service system upon reaching age eighteen, an
2 application for adult services.

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

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

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

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

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

1 of this act shall be known and may be cited as the Foster Care Review
2 Act.

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

5 68-1202 Social services may be provided on behalf of
6 recipients with payments for such social services made directly to
7 vendors. Social services shall include those mandatory and optional
8 services to former, present, or potential social services recipients
9 provided for under the federal Social Security Act, as ~~such act~~
10 ~~existed on September 4, 2005, amended,~~ and described by the State of
11 Nebraska in the approved State Plan for Services. Such services may
12 include, but shall not be limited to, foster care for children,
13 kinship guardianship as defined in section 71-1901, child care,
14 family planning, treatment for alcoholism and drug addiction,
15 treatment for persons with mental retardation, health-related
16 services, protective services for children, homemaker services,
17 employment services, foster care for adults, protective services for
18 adults, transportation services, home management and other functional
19 education services, housing improvement services, legal services,
20 adult day services, home delivered or congregate meals, educational
21 services, and secondary prevention services, including, but not
22 limited to, home visitation, child screening and early intervention,
23 and parenting education programs.

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

1 68-1204 (1) For the purpose of providing or purchasing
2 social services described in section 68-1202, the state hereby
3 accepts and assents to all applicable provisions of the federal
4 Social Security Act, as ~~such act existed on July 1, 2006.~~ amended.
5 The Department of Health and Human Services may adopt and promulgate
6 rules and regulations, enter into agreements, and adopt fee schedules
7 with regard to social services described in section 68-1202.

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

12 Sec. 12. Section 71-1901, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-1901 For purposes of sections 71-1901 to 71-1906.01:

15 (1) Person includes a partnership, limited liability
16 company, firm, agency, association, or corporation;

17 (2) Child means an unemancipated minor;

18 (3) Department means the Division of Public Health of the
19 Department of Health and Human Services;

20 (4) Foster care means engaged in the service of
21 exercising twenty-four-hour daily care, supervision, custody, or
22 control over children, for compensation or hire, in lieu of the care
23 or supervision normally exercised by parents in their own home.
24 Foster care includes care under a kinship guardianship. Foster care
25 does not include casual care at irregular intervals or programs as

1 defined in section 71-1910; ~~and~~

2 (5) Kinship guardianship means a guardianship pursuant to
3 a kinship guardianship assistance agreement, as described in 42
4 U.S.C. 673(d) and state rule and regulation, by a relative guardian
5 of a child; and

6 ~~(5)-(6)~~ (6) Native American means a person who is a member of
7 an Indian tribe or eligible for membership in an Indian tribe.

8 Sec. 13. Section 71-1902, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1902 Except as otherwise provided in this section, no
11 person shall furnish or offer to furnish foster care for two or more
12 children from different families without having in full force and
13 effect a written license issued by the department upon such terms and
14 conditions as may be prescribed by general rules and regulations
15 adopted and promulgated by the department. The department may issue a
16 time-limited, nonrenewable provisional license to an applicant who is
17 unable to comply with all licensure requirements and standards, is
18 making a good faith effort to comply, and is capable of compliance
19 within the time period stated in the license. The department may
20 issue a time-limited, nonrenewable probationary license to a licensee
21 who agrees to establish compliance with rules and regulations that,
22 when violated, do not present an unreasonable risk to the health,
23 safety, or well-being of the foster children in the care of the
24 applicant. No license shall be issued pursuant to this section unless
25 the applicant has completed the required hours of training in foster

1 care as prescribed by the department.

2 A kinship guardianship shall obtain a foster care license
3 as other foster care providers, except that licensure standards for
4 non safety standards may be waived on a case-by-case basis.

5 All nonprovisional and nonprobationary licenses issued
6 under sections 71-1901 to 71-1906.01 shall expire two years from the
7 date of issuance and shall be subject to renewal under the same terms
8 and conditions as the original license, except that if a licensee
9 submits a completed renewal application thirty days or more before
10 the license's expiration date, the license shall remain in effect
11 until the department either renews the license or denies the renewal
12 application. No license issued pursuant to this section shall be
13 renewed unless the licensee has completed the required hours of
14 training in foster care in the preceding twelve months as prescribed
15 by the department. For the issuance or renewal of each nonprovisional
16 and nonprobationary license, the department shall charge a fee of
17 fifty dollars for a group home, fifty dollars for a child-caring
18 agency, and fifty dollars for a child-placing agency. For the
19 issuance of each provisional license and each probationary license,
20 the department shall charge a fee of twenty-five dollars for a group
21 home, twenty-five dollars for a child-caring agency, and twenty-five
22 dollars for a child-placing agency. A license may be revoked for
23 cause, after notice and hearing, in accordance with rules and
24 regulations adopted and promulgated by the department.

25 For purposes of this section:

1 (1) Foster family home means any home which provides
2 twenty-four-hour care to children who are not ~~related to the foster~~
3 ~~parent by blood or adoption;~~ part of the foster parent's nuclear or
4 step-family;

5 (2) Group home means a home which is operated under the
6 auspices of an organization which is responsible for providing social
7 services, administration, direction, and control for the home and
8 which is designed to provide twenty-four-hour care for children and
9 youth in a residential setting;

10 (3) Child-caring agency means an organization which is
11 incorporated for the purpose of providing care for children in
12 buildings maintained by the organization for that purpose; and

13 (4) Child-placing agency means an organization which is
14 authorized by its articles of incorporation and by its license to
15 place children in foster family homes.

16 Sec. 14. Section 71-1903, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-1903 (1) Before issuance of a license under sections
19 71-1901 to 71-1906.01, the department shall cause such investigation
20 to be made as it deems necessary to determine if the character of the
21 applicant, any member of the applicant's household, or the person in
22 charge of the service and the place where the foster care is to be
23 furnished are such as to ensure the proper care and treatment of
24 children. The department may request the State Fire Marshal to
25 inspect such places for fire safety pursuant to section 81-502. The

1 State Fire Marshal shall assess a fee for such inspection pursuant to
2 section 81-505.01, payable by the licensee or applicant for a
3 license, except that the department may pay the fee for inspection
4 for fire safety of foster family homes as defined in section 71-1902.
5 The department may conduct sanitation and health standards
6 investigations pursuant to subsection (2) of this section. The
7 department may also, at any time it sees fit, cause an inspection to
8 be made of the place where any licensee is furnishing foster care to
9 see that such service is being properly conducted.

10 (2) The department shall make an investigation and report
11 of all facilities and programs of licensed providers of foster care
12 programs subject to this section or applicants for licenses to
13 provide such programs to determine if the place or places to be
14 covered by such licenses meet standards of health and sanitation set
15 by the department for the care and protection of the child or
16 children who may be placed in such facilities and programs. The
17 department may delegate the investigation authority to qualified
18 local environmental health personnel.

19 (3) Before the foster care or kinship guardianship
20 placement of any child in Nebraska by the department, the department
21 shall require a national criminal history record information check of
22 the prospective foster parent or kinship guardian of such child and
23 each member of such prospective foster parent's or kinship guardian's
24 household who is eighteen years of age or older. The department shall
25 provide two sets of legible fingerprints for such persons to the

1 Nebraska State Patrol for submission to the Federal Bureau of
2 Investigation. The Nebraska State Patrol shall conduct a criminal
3 history record information check of such persons and shall submit
4 such fingerprints to the Federal Bureau of Investigation for a
5 national criminal history record information check. The criminal
6 history record information check shall include information from
7 federal repositories of such information and repositories of such
8 information in other states if authorized by federal law. The
9 Nebraska State Patrol shall issue a report of the results of such
10 criminal history record information check to the department. The
11 department shall pay a fee to the Nebraska State Patrol for
12 conducting such check. Information received from the criminal history
13 record information check required under this subsection shall be used
14 solely for the purpose of evaluating and confirming information
15 provided by such persons for providing foster care or kinship
16 guardianship or for the finalization of an adoption. A child may be
17 placed in foster care by the department prior to the completion of a
18 criminal history record information check under this subsection in
19 emergency situations as determined by the department. Satisfactory
20 completion of a criminal history record information check under this
21 subsection is required before kinship guardian assistance payments
22 may be received.

23 Sec. 15. Section 71-1904, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-1904 (1) The department shall adopt and promulgate

1 rules and regulations pursuant to sections 71-1901 to 71-1906.01 for
2 (a) the proper care and protection of children by licensees under
3 such sections, (b) the issuance, suspension, and revocation of
4 licenses to provide foster care, (c) the issuance, suspension, and
5 revocation of probationary licenses to provide foster care, (d) the
6 issuance, suspension, and revocation of provisional licenses to
7 provide foster care, (e) the provision of training in foster care and
8 kinship guardianship, which training shall be directly related to the
9 skills necessary to care for children in need of out-of-home care,
10 including, but not limited to, abused, neglected, dependent, and
11 delinquent children, and (f) the proper administration of sections
12 71-1901 to 71-1906.01.

13 (2) The training required by subdivision (1)(e) of this
14 section may be waived in whole or in part by the department for
15 persons operating foster homes providing care only to relatives of
16 the foster care provider. Such waivers shall be granted on a case-by-
17 case basis upon assessment by the department of the appropriateness
18 of the relative foster care placement. The department shall report
19 annually to the Health and Human Services Committee of the
20 Legislature the number of waivers granted under this subsection and
21 the total number of children placed in relative foster homes.

22 Sec. 16. Original sections 43-905, 43-1301, 43-1311,
23 43-1312, 43-1318, 68-1202, 68-1204, 71-1901, 71-1902, 71-1903, and
24 71-1904, Reissue Revised Statutes of Nebraska, and section 43-285,
25 Revised Statutes Cumulative Supplement, 2010, are repealed.