

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 961

Introduced by Health and Human Services Committee: Campbell, 25,
Chairperson; Bloomfield, 17; Cook, 13; Gloor, 35;
Howard, 9; Krist, 10; Lambert, 2.

Read first time January 11, 2012

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections
2 68-1207 and 81-3116, Reissue Revised Statutes of
3 Nebraska; to state intent; to change provisions relating
4 to case management of child welfare services and
5 designation of service areas; to provide limits on
6 contracts and extensions as prescribed; to repeal the
7 original sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds and declares:

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

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

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

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

17 (5) Case management of child welfare services issues
18 relating to caseloads, placement, turnover, communication, and
19 stability affect outcomes and permanency for children and families;

20 (6) Private lead agency contracts require complex
21 monitoring capabilities to insure compliance and oversight of
22 performance, including private case managers, to insure improved
23 child welfare outcomes. Accordingly, increased resources are expended
24 on administration and oversight of such lead agency contracts rather
25 than on improvement of the child welfare system, direct service

1 provision to children and families, and investment in prevention
2 programs; and

3 (7) Child welfare reform should include strategic
4 planning to address:

5 (a) The utilization of lead agencies for targeted youth
6 populations within child welfare (i) to provide evidence-based child
7 welfare programs and direct services to such children or (ii) to
8 function as brokers for coordination of evidence-based child welfare
9 programs and specific, specialized services to such children; and

10 (b) The utilization of community networks to encourage
11 each service area to collaborate with a wide range of stakeholders to
12 foster strong, stable networks of child welfare community-based
13 services. Each service area's network shall identify its unique needs
14 and resources, strategies for addressing those needs, utilization of
15 resources, and development of additional services and resources to
16 expand the continuum of services and strengthen community-based
17 services to attain positive outcomes for children.

18 Sec. 2. By September 1, 2012, for all cases in which a
19 court has awarded a juvenile to the care of the Department of Health
20 and Human Services according to subsection (1) of section 43-285 and
21 for any noncourt and voluntary cases, the case manager shall be an
22 employee of the department. The child welfare case manager shall be
23 responsible for and shall directly oversee: Case planning; service
24 authorization; investigation of compliance; monitoring and evaluation
25 of the care and services provided to children and families; and

1 decisionmaking regarding the determination of visitation and the
2 care, placement, medical services, psychiatric services, training,
3 and expenditures on behalf of each juvenile under subsection (1) of
4 section 43-285. The child welfare case manager shall be responsible
5 for determination, decisionmaking and direct preparation of the
6 proposed plan for the care, placement, services, and permanency of
7 the juvenile filed with the court required under subsection (2) of
8 section 43-285. The health and safety of the juvenile shall be the
9 paramount concern in the proposed plan in accordance with such
10 subsection.

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

13 68-1207 The Department of Health and Human Services shall
14 supervise all public child welfare services as described by law. The
15 department shall establish and maintain caseloads to carry out child
16 welfare services which provide for adequate, timely, and indepth
17 investigations and services to children and families. In establishing
18 the standards for such caseloads, the department shall (1) include
19 the workload factors that may differ due to geographic
20 responsibilities, office location, and the travel required to provide
21 a timely response in the investigation of abuse and neglect, the
22 protection of children, and the provision of services to children and
23 families in a uniform and consistent statewide manner and (2)
24 consider workload standards recommended by national child welfare
25 organizations and factors related to the attainment of such

1 standards. The department shall consult with the appropriate employee
2 representative in establishing such standards. The average caseload
3 of each case manager providing child welfare services shall be
4 reduced by ten percent each year until each case manager's and each
5 caseworker's caseload is within the standards established by the
6 Child Welfare League of America or its successor.

7 To insure appropriate oversight of noncourt and voluntary
8 cases when any services are provided as a result of a child safety
9 assessment, the department shall develop a case plan that specifies
10 the services to be provided and the actions to be taken by the
11 department and the family in each such case.

12 To carry out the provisions of this section, the
13 Legislature shall provide funds for additional staff.

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

16 81-3116 The responsibilities of the divisions created in
17 section 81-3113 include, but are not limited to, the following:

18 (1) The Division of Behavioral Health shall administer
19 (a) the state hospitals for the mentally ill designated in section
20 83-305 and (b) publicly funded community-based behavioral health
21 services;

22 (2) The Division of Children and Family Services shall
23 administer (a) protection and safety programs and services, including
24 child welfare programs and services and the Office of Juvenile
25 Services, (b) economic and family support programs and services, and

1 (c) service areas as may be designated by the chief executive officer
2 or by the Director of Children and Family Services under authority of
3 the chief executive officer, except that on and after September 1,
4 2012, the western, central, and northern service areas shall align
5 with the district court judicial districts described in section
6 24-301.02 in a manner that no district court judicial district is
7 included in more than one service area;

8 (3) The Division of Developmental Disabilities shall
9 administer (a) the Beatrice State Developmental Center and (b)
10 publicly funded community-based developmental disabilities services;

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

14 (5) The Division of Public Health shall administer (a)
15 preventive and community health programs and services, (b) the
16 regulation and licensure of health-related professions and
17 occupations, and (c) the regulation and licensure of health care
18 facilities and health care services; and

19 (6) The Division of Veterans' Homes shall administer (a)
20 the Eastern Nebraska Veterans' Home, (b) the Grand Island Veterans'
21 Home, (c) the Norfolk Veterans' Home, and (d) the Western Nebraska
22 Veterans' Home.

23 Sec. 5. (1) On and after the effective date of this act,
24 the Department of Health and Human Services shall not reinstate a
25 lead agency in the central, western, or northern service areas of

1 Nebraska as such service areas are designated pursuant to section
2 81-3116.

3 (2) The department shall not extend past July 1, 2013,
4 the contracts with lead agencies in existence on the effective date
5 of this act in the eastern or southeastern service areas of Nebraska
6 as such service areas are designated pursuant to section 81-3116.

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

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