

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 647

Introduced by Nordquist, 7; Campbell, 25; Howard, 9; Morfeld, 46; Pansing
Brooks, 28.

Read first time January 21, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to children; to amend sections 43-2,129,
- 2 43-1311.01, and 71-1902, Revised Statutes Cumulative Supplement,
- 3 2014; to prohibit discrimination relating to placement of children
- 4 as prescribed; to harmonize provisions; and to repeal the original
- 5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-2,129, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 43-2,129 Sections 43-245 to 43-2,129 and section 2 of this act shall
4 be known and may be cited as the Nebraska Juvenile Code.

5 Sec. 2. When determining the suitability of any out-of-home
6 placement of a juvenile pursuant to the Nebraska Juvenile Code, the
7 Department of Health and Human Services shall not discriminate on the
8 basis of race, color, religion, sex, sexual orientation, gender identity,
9 disability, marital status, or national origin. Placement decisions shall
10 be made based upon the health, safety, and well-being of the child,
11 taking into consideration the requirements of the federal Fostering
12 Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C.
13 1305 et seq., and the federal Howard M. Metzenbaum MultiEthnic Placement
14 Act of 1994, Public Law 103-382, as such acts, sections, and law existed
15 on January 1, 2015, and the Nebraska Indian Child Welfare Act.

16 Sec. 3. Section 43-1311.01, Revised Statutes Cumulative Supplement,
17 2014, is amended to read:

18 43-1311.01 (1) When notified pursuant to section 43-1311 or upon
19 voluntary placement of a child, the Department of Health and Human
20 Services shall, as provided in this section, identify, locate, and
21 provide written notification of the removal of the child from his or her
22 home, within thirty days after removal, to any noncustodial parent and to
23 all grandparents, adult siblings, adult aunts, adult uncles, adult
24 cousins, and adult relatives suggested by the child or the child's
25 parents, except when that relative's history of family or domestic
26 violence makes notification inappropriate. If the child is an Indian
27 child as defined in section 43-1503, the child's extended family members
28 as defined in such section shall be notified. Such notification shall
29 include all of the following information:

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

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

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

9 (d) Information concerning the option to apply for guardianship
10 assistance payments.

11 (2) The department shall investigate the names and locations of the
12 relatives, including, but not limited to, asking the child in an age-
13 appropriate manner about relatives important to the child and obtaining
14 information regarding the location of the relatives.

15 (3) The department shall provide to the court, within thirty
16 calendar days after removal of the child, the names and relationship to
17 the child of all relatives contacted, the method of contact, and the
18 responses received from the relatives.

19 (4) When determining the suitability of a relative to participate in
20 the care and placement of the child, the department shall not
21 discriminate on the basis of race, color, religion, sex, sexual
22 orientation, gender identity, disability, marital status, or national
23 origin. Placement decisions shall be made based upon the health, safety,
24 and well-being of the child, taking into consideration the requirements
25 of the federal Fostering Connections to Success and Increasing Adoptions
26 Act of 2008, 42 U.S.C. 1305 et seq., and the federal Howard M. Metzenbaum
27 MultiEthnic Placement Act of 1994, Public Law 103-382, as such acts,
28 sections, and law existed on January 1, 2015, and the Nebraska Indian
29 Child Welfare Act.

30 Sec. 4. Section 71-1902, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 71-1902 (1) The department shall adopt and promulgate rules and
2 regulations on requirements for licenses, waivers, variances, and
3 approval of foster family homes taking into consideration the health,
4 safety, well-being, and best interests of the child. An initial
5 assessment of a foster family home shall be completed and shall focus on
6 the safety, protection, and immediate health, educational, developmental,
7 and emotional needs of the child and the willingness and ability of the
8 foster home, relative home, or kinship home to provide a safe, stable,
9 and nurturing environment for a child for whom the department or child-
10 placing agency has assumed responsibility.

11 (2)(a) Except as otherwise provided in this section, no person shall
12 furnish or offer to furnish foster care for one or more children without
13 having in full force and effect a written license issued by the
14 department upon such terms and conditions as may be prescribed by general
15 rules and regulations adopted and promulgated by the department. The
16 terms and conditions for licensure may allow foster family homes to meet
17 licensing standards through variances equivalent to the established
18 standards.

19 (b) The department may issue a time-limited, nonrenewable
20 provisional license to an applicant who is unable to comply with all
21 licensure requirements and standards, is making a good faith effort to
22 comply, and is capable of compliance within the time period stated in the
23 license. The department may issue a time-limited, nonrenewable
24 probationary license to a licensee who agrees to establish compliance
25 with rules and regulations that, when violated, do not present an
26 unreasonable risk to the health, safety, or well-being of the foster
27 children in the care of the applicant.

28 (3) Kinship homes and relative homes are exempt from licensure,
29 however, such homes should make efforts to be licensed if such license
30 will facilitate the permanency plan of the child. The department and
31 child-placing agencies shall, when requested or as part of the child's

1 permanency plan, provide resources for and assistance with licensure,
2 including, but not limited to, information on licensure, waivers for
3 relative homes, kinship-specific and relative-specific foster care
4 training, referral to local service providers and support groups, and
5 funding and resources available to address home safety or other barriers
6 to licensure.

7 (4) Prior to placement in a nonlicensed relative home or kinship
8 home, approval shall be obtained from the department. Requirements for
9 initial approval shall include, but not be limited to, the initial
10 assessment provided for in subsection (1) of this section, a home visit
11 to assure adequate and safe housing, and a criminal background check of
12 all adult residents. Final approval shall include, but not be limited to,
13 requirements as appropriate under section 71-1903. The department or
14 child-placing agency shall provide assistance to an approved relative
15 home or kinship home to support the care, protection, and nurturing of
16 the child. Support may include, but not be limited to, information on
17 licensure, waivers, and variances, kinship-specific and relative-specific
18 foster care training, mental and physical health care, options for
19 funding for needs of the child, and service providers and support groups
20 to address the needs of relative and kinship parents, families, and
21 children.

22 (5) When issuing a license pursuant to sections 71-1901 to
23 71-1906.01, the department shall not discriminate on the basis of race,
24 color, religion, sex, sexual orientation, gender identity, disability,
25 marital status, or national origin. Placement decisions shall be made
26 based upon the health, safety, and well-being of the child, taking into
27 consideration the requirements of the federal Fostering Connections to
28 Success and Increasing Adoptions Act of 2008, 42 U.S.C. 1305 et seq., and
29 the federal Howard M. Metzenbaum MultiEthnic Placement Act of 1994,
30 Public Law 103-382, as such acts, sections, and law existed on January 1,
31 2015, and the Nebraska Indian Child Welfare Act.

1 (6 ~~5~~) All nonprovisional and nonprobationary licenses issued under
2 sections 71-1901 to 71-1906.01 shall expire two years from the date of
3 issuance and shall be subject to renewal under the same terms and
4 conditions as the original license, except that if a licensee submits a
5 completed renewal application thirty days or more before the license's
6 expiration date, the license shall remain in effect until the department
7 either renews the license or denies the renewal application. No license
8 issued pursuant to this section shall be renewed unless the licensee has
9 completed the required hours of training in foster care in the preceding
10 twelve months as prescribed by the department. A license may be revoked
11 for cause, after notice and hearing, in accordance with rules and
12 regulations adopted and promulgated by the department.

13 (7 ~~6~~) A young adult continuing to reside in a foster family home as
14 provided in subdivision (2) of section 43-4505 does not constitute an
15 unrelated adult for the purpose of determining eligibility of the family
16 to be licensed as a foster family home.

17 Sec. 5. Original sections 43-2,129, 43-1311.01, and 71-1902,
18 Revised Statutes Cumulative Supplement, 2014, are repealed.