

AMENDMENTS TO LB298

Introduced by Health and Human Services.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 43-2,108, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 43-2,108 (1) The juvenile court judge shall keep a minute book in
6 which he or she shall enter minutes of all proceedings of the court in
7 each case, including appearances, findings, orders, decrees, and
8 judgments, and any evidence which he or she feels it is necessary and
9 proper to record. Juvenile court legal records shall be deposited in
10 files and shall include the petition, summons, notice, certificates or
11 receipts of mailing, minutes of the court, findings, orders, decrees,
12 judgments, and motions.

13 (2) Except as provided in subsections (3) and (4) of this section,
14 the medical, psychological, psychiatric, and social welfare reports and
15 the records of juvenile probation officers as they relate to individual
16 proceedings in the juvenile court shall not be open to inspection,
17 without order of the court. Such records shall be made available to a
18 district court of this state or the District Court of the United States
19 on the order of a judge thereof for the confidential use of such judge or
20 his or her probation officer as to matters pending before such court but
21 shall not be made available to parties or their counsel; and such
22 district court records shall be made available to a county court or
23 separate juvenile court upon request of the county judge or separate
24 juvenile judge for the confidential use of such judge and his or her
25 probation officer as to matters pending before such court, but shall not
26 be made available by such judge to the parties or their counsel.

27 (3) As used in this section, confidential record information means

1 all docket records, other than the pleadings, orders, decrees, and
2 judgments; case files and records; reports and records of probation
3 officers; and information supplied to the court of jurisdiction in such
4 cases by any individual or any public or private institution, agency,
5 facility, or clinic, which is compiled by, produced by, and in the
6 possession of any court. In all cases under subdivision (3)(a) of section
7 43-247, access to all confidential record information in such cases shall
8 be granted only as follows: (a) The court of jurisdiction may, subject to
9 applicable federal and state regulations, disseminate such confidential
10 record information to any individual, or public or private agency,
11 institution, facility, or clinic which is providing services directly to
12 the juvenile and such juvenile's parents or guardian and his or her
13 immediate family who are the subject of such record information; (b) the
14 court of jurisdiction may disseminate such confidential record
15 information, with the consent of persons who are subjects of such
16 information, or by order of such court after showing of good cause, to
17 any law enforcement agency upon such agency's specific request for such
18 agency's exclusive use in the investigation of any protective service
19 case or investigation of allegations under subdivision (3)(a) of section
20 43-247, regarding the juvenile or such juvenile's immediate family, who
21 are the subject of such investigation; and (c) the court of jurisdiction
22 may disseminate such confidential record information to any court, which
23 has jurisdiction of the juvenile who is the subject of such information
24 upon such court's request.

25 (4) The court shall provide copies of predispositional reports and
26 evaluations of the juvenile to the juvenile's attorney and the county
27 attorney or city attorney prior to any hearing in which the report or
28 evaluation will be relied upon.

29 (5) In all cases under sections 43-246.01 and 43-247, the office of
30 Inspector General of Nebraska Child Welfare may submit a written request
31 to the probation administrator for access to the records of juvenile

1 probation officers in a specific case. Upon a juvenile court order, the
2 records shall be provided to the Inspector General within five days for
3 the exclusive use in an investigation pursuant to the Office of Inspector
4 General of Nebraska Child Welfare Act. Nothing in this subsection shall
5 prevent the notification of death or serious injury of a juvenile to the
6 Inspector General of Nebraska Child Welfare pursuant to section 43-4318
7 as soon as reasonably possible after the Office of Probation
8 Administration learns of such death or serious injury.

9 (6) In all cases under sections 43-246.01 and 43-247, the juvenile
10 court shall disseminate confidential record information to the Foster
11 Care Review Office pursuant to the Foster Care Review Act.

12 (7) Nothing in subsections (3), (5), and (6) of this section shall
13 be construed to restrict the dissemination of confidential record
14 information between any individual or public or private agency,
15 institute, facility, or clinic, except any such confidential record
16 information disseminated by the court of jurisdiction pursuant to this
17 section shall be for the exclusive and private use of those to whom it
18 was released and shall not be disseminated further without order of such
19 court.

20 (8)(a) Any records concerning a juvenile court petition filed
21 pursuant to subdivision (3)(c) of section 43-247 shall remain
22 confidential except as may be provided otherwise by law. Such records
23 shall be accessible to (i) the juvenile except as provided in subdivision
24 (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's
25 parent or guardian, and (iv) persons authorized by an order of a judge or
26 court.

27 (b) Upon application by the county attorney or by the director of
28 the facility where the juvenile is placed and upon a showing of good
29 cause therefor, a judge of the juvenile court having jurisdiction over
30 the juvenile or of the county where the facility is located may order
31 that the records shall not be made available to the juvenile if, in the

1 judgment of the court, the availability of such records to the juvenile
2 will adversely affect the juvenile's mental state and the treatment
3 thereof.

4 (9) Nothing in subsection (3), (5), or (6) of this section shall be
5 construed to restrict the immediate dissemination of a current picture
6 and information about a child who is missing from a foster care or out-
7 of-home placement. Such dissemination by the Office of Probation
8 Administration shall be authorized by an order of a judge or court. Such
9 information shall be subject to state and federal confidentiality laws
10 and shall not include that the child is in the care, custody, or control
11 of the Department of Health and Human Services or under the supervision
12 of the Office of Probation Administration.

13 Sec. 2. Section 43-4218, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 43-4218 (1)(a) ~~(1)~~ The Normalcy Task Force is created. On July 1,
16 2017, the Normalcy Task Force shall become the Nebraska Strengthening
17 Families Act Committee.

18 (b)(i) Beginning July 1, 2016, until July 1, 2017, the Normalcy Task
19 Force shall monitor and make recommendations regarding the implementation
20 in Nebraska of the federal Preventing Sex Trafficking and Strengthening
21 Families Act, Public Law 113-183, as such act existed on January 1, 2016.

22 (ii) On and after July 1, 2017, the Nebraska Strengthening Families
23 Act Committee shall monitor and make recommendations regarding the
24 implementation in Nebraska of the federal Preventing Sex Trafficking and
25 Strengthening Families Act, Public Law 113-183, as such act existed on
26 January 1, 2017, and the Nebraska Strengthening Families Act.

27 (2) Until July 1, 2017, the The members of the task force, and on
28 and after July 1, 2017, the members of the committee shall include, but
29 not be limited to, (a) representatives from the legislative, executive,
30 and judicial branches of government. The representatives from the
31 legislative and judicial branches shall be nonvoting, ex officio members,

1 (b) no fewer than three young adults currently or previously in foster
2 care which may be filled on a rotating basis by members of Project
3 Everlast or a similar youth support or advocacy group, (c) a
4 representative from the juvenile probation system, (d) the executive
5 director of the Foster Care Review Office, (e) one or more
6 representatives from a child welfare advocacy organization, (f) one or
7 more representatives from a child welfare service agency, (g) one or more
8 representatives from an agency providing independent living services, (h)
9 one or more representatives of a child-care institution as defined in
10 section 43-4703, (i) one or more current or former foster parents, (j)
11 one or more parents who have experience in the foster care system, (k)
12 one or more professionals who have relevant practical experience such as
13 a caseworker, and (l) one or more guardians ad litem who practice in
14 juvenile court.

15 (3) On or before July 1, 2016, the Nebraska Children's Commission
16 shall appoint the members of the task force. On July 1, 2017, the members
17 of the task force shall become members of the committee, shall serve the
18 amount of time remaining on their initial terms of office, and are
19 eligible for reappointment by the Nebraska Children's Commission. Members
20 ~~of the task force~~ shall be appointed for terms of two years. The
21 commission shall appoint a chairperson or chairpersons of the committee
22 ~~task force~~ and may fill vacancies on the committee ~~task force~~ as such
23 vacancies occur.

24 (4) The committee ~~task force~~ shall provide a written report with
25 recommendations regarding the initial and ongoing implementation of the
26 federal Preventing Sex Trafficking and Strengthening Families Act, as
27 such act existed on January 1, 2017, and the Nebraska Strengthening
28 Families Act 2016, and related efforts to improve normalcy for children
29 in foster care and related populations to the Nebraska Children's
30 Commission, the Health and Human Services Committee of the Legislature,
31 the Department of Health and Human Services, and the Governor by December

1 15 of each year. The report to the Health and Human Services Committee of
2 the Legislature shall be submitted electronically.

3 Sec. 3. Section 43-4701, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 43-4701 Sections 43-4701 to 43-4714 and section 10 of this act shall
6 be known and may be cited as the Nebraska Strengthening Families Act.

7 Sec. 4. Section 43-4702, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 43-4702 The Legislature finds that every day a parent makes
10 important decisions about his or her child's participation in activities
11 and that a caregiver for a child in out-of-home care is faced with making
12 the same decisions for a child in his or her care.

13 The Legislature also finds that, when a caregiver makes decisions,
14 he or she must consider applicable laws, rules, and regulations to
15 safeguard the health and safety of a child in out-of-home care and that
16 those laws, rules, and regulations have commonly been interpreted to
17 prohibit children in out-of-home care from participating in
18 extracurricular, enrichment, cultural, and social activities.

19 The Legislature further finds that participation in these types of
20 activities is important to a child's well-being, not only emotionally,
21 but in developing valuable life skills.

22 It is the intent of the Legislature to recognize the importance of
23 parental rights and the different rights that exist dependent on a
24 variety of factors, including the age and maturity of the child, the
25 status of the case, and the child's placement.

26 It is the intent of the Legislature to recognize the importance of
27 race, culture, and identity for children in out-of-home care.

28 It is the intent of the Legislature to recognize the importance of
29 making every effort to normalize the lives of children in out-of-home
30 care and to empower a caregiver to approve or disapprove a child's
31 participation in activities based on the caregiver's own assessment using

1 a reasonable and prudent parent standard.

2 It is the intent of the Legislature to implement the federal
3 Preventing Sex Trafficking and Strengthening Families Act, Public Law
4 113-183, as such act existed on January 1, 2016.

5 Sec. 5. Section 43-4703, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 43-4703 For purposes of the Nebraska Strengthening Families Act:

8 (1) Age or developmentally appropriate means activities or items
9 that are generally accepted as suitable for a child of the same
10 chronological age or level of maturity or that are determined to be
11 developmentally appropriate for a child, based on the development of
12 cognitive, emotional, physical, and behavioral capacities that are
13 typical for an age or age group and, in the case of a specific child,
14 activities or items that are suitable for the child based on the
15 developmental stages attained by the child with respect to the cognitive,
16 emotional, physical, and behavioral capacities of the child;

17 (2) Caregiver means a foster parent with whom a child in foster care
18 has been placed or a designated official for a child-care institution in
19 which a child in foster care has been placed;

20 (3) Child-care institution has the definition found in 42 U.S.C.
21 672(c), as such section existed on January 1, 2016, and also includes the
22 definition of residential child-caring agency as found in section
23 71-1926;

24 (4) Department means the Department of Health and Human Services;

25 (5) Foster family home has the definition found in 42 U.S.C. 672(c),
26 as such section existed on January 1, 2017 ~~2016~~, and also includes the
27 definition as found in section 71-1901; ~~and~~

28 (6) Probation means the Office of Probation Administration; and

29 (7) (6) Reasonable and prudent parent standard means the standard
30 characterized by careful and sensible parental decisions that maintain
31 the health, safety, and best interest of a child while at the same time

1 encouraging the emotional and developmental growth of the child that a
2 caregiver shall use when determining whether to allow a child in foster
3 care under the responsibility of the state to participate in
4 extracurricular, enrichment, cultural, and social activities.

5 Sec. 6. Section 43-4704, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 43-4704 Every child placed by the department in a foster family home
8 or child-care institution shall be entitled to access to reasonable
9 opportunities to participate in age or developmentally appropriate
10 extracurricular, enrichment, cultural, and social activities.

11 Sec. 7. Section 43-4706, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 43-4706 (1) The department shall ensure that each foster family home
14 and child-care institution has policies consistent with this section and
15 that such foster family home and child-care institution promote and
16 protect the ability of children to participate in age or developmentally
17 appropriate extracurricular, enrichment, cultural, and social activities.

18 (2) A caregiver shall use a reasonable and prudent parent standard
19 in determining whether to give permission for a child to participate in
20 extracurricular, enrichment, cultural, and social activities. The
21 caregiver shall take reasonable steps to determine the appropriateness of
22 the activity in consideration of the child's age, maturity, and
23 developmental level.

24 (3) The department shall require, as a condition of each contract or
25 other placement agreement entered into by a child-care institution to
26 provide foster care, the presence onsite of at least one official who,
27 with respect to any child placed at the child-care institution, is
28 designated to be the caregiver who is (a) authorized to apply the
29 reasonable and prudent parent standard to decisions involving the
30 participation of the child in age or developmentally appropriate
31 activities, (b) provided with training in how to use and apply the

1 reasonable and prudent parent standard in the same manner as foster
2 parents are provided training in section 43-4707, and (c) required to
3 consult whenever possible with the child and staff members identified by
4 the child in applying the reasonable and prudent parent standard.

5 (4) The department shall also require, as a condition of each
6 contract or other placement agreement entered into by a child-care
7 institution to provide foster care, that all children placed at the
8 child-care institution be notified verbally and in writing, in an age or
9 developmentally appropriate manner, of the process for making a request
10 to participate in age or developmentally appropriate activities and that
11 a written notice of this process be posted in an accessible, public place
12 in the child-care institution.

13 (5)(a) The department shall also require, as a condition of each
14 contract or other placement agreement entered into by a child-care
15 institution to provide foster care, a written normalcy plan describing
16 how the child-care institution will ensure that all children have access
17 to age or developmentally appropriate activities to be filed with the
18 department and a normalcy report regarding the implementation of the
19 normalcy plan to be filed with the department annually by June 30.

20 (b) The normalcy plan shall specifically address:

21 (i) Efforts to address barriers to normalcy that are inherent in a
22 child-care institution setting;

23 (ii) Normalcy efforts for all children placed at the child-care
24 institution, including, but not limited to, relationships with family,
25 age or developmentally appropriate access to technology and technological
26 skills, education and school stability, access to healthcare and
27 information, and access to a sustainable and durable routine;

28 (iii) Procedures for developing goals and action steps in the child-
29 care institution's case plan and case planning process related to
30 participation in age or developmentally appropriate activities for each
31 child placed at the child-care institution;

1 (iv) Policies on staffing, supervision, permission, and consent to
2 age or developmentally appropriate activities consistent with the
3 reasonable and prudent parent standard;

4 (v) A list of activities that the child-care institution provides on
5 site and a list of activities in the community regarding which the child-
6 care institution will make children aware, promote, and support access;

7 (vi) Identified accommodations and support services so that children
8 with disabilities and special needs can participate in age or
9 developmentally appropriate activities to the same extent as their peers;

10 (vii) The individualized needs of all children involved in the
11 system;

12 (viii) Efforts to reduce disproportionate impact of the system and
13 services on families and children of color and other populations; and

14 (ix) Efforts to develop a youth board to assist in implementing the
15 reasonable and prudent parent standard in the child-care institution and
16 promoting and supporting normalcy.

17 (c) The normalcy report shall specifically address:

18 (i) Compliance with each of the plan requirements set forth in
19 subdivisions (b)(i) through (ix) of this subsection; and

20 (ii) Compliance with subsections (3) and (4) of this section.

21 (6) The requirements of subsections (3) through (5) of this section
22 shall also be incorporated into licensing requirements for all child-care
23 institutions.

24 (7) The department shall make normalcy plans and reports received
25 from contracting and licensed child-care institutions and juvenile
26 facilities pursuant to subsection (5) of this section available upon
27 request to the Nebraska Strengthening Families Act Committee, the
28 Nebraska Children's Commission, probation, the Governor, and
29 electronically to the Health and Human Services Committee of the
30 Legislature, by September 1 of each year.

31 (8) All youth rehabilitation and treatment centers shall meet the

1 requirements of subsections (1), (3), (4), and (5) of this section and
2 shall provide the required assurances, plans, and reports annually to the
3 Office of Juvenile Services by June 30 of each year.

4 (9) The Department of Health and Human Services shall adopt and
5 promulgate rules and regulations regarding contracting and licensure
6 consistent with this section and shall revoke any rules or regulations
7 inconsistent with this section on or before October 15, 2017.

8 Sec. 8. Section 43-4707, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 43-4707 The department shall adopt and promulgate rules and
11 regulations regarding training for foster parents so that foster parents
12 will be prepared adequately with the appropriate knowledge and skills
13 relating to the reasonable and prudent parent standard for the
14 participation of the child in age or developmentally appropriate
15 activities, including knowledge and skills relating to the developmental
16 stages of the cognitive, emotional, physical, and behavioral capacities
17 of the child and knowledge and skills related to applying the standard to
18 decisions such as whether to allow the child to engage in
19 extracurricular, enrichment, cultural, and social activities, including
20 sports, field trips, and overnight activities lasting one or more days
21 and to decisions involving the signing of permission slips and arranging
22 of transportation for the child to and from extracurricular, enrichment,
23 cultural, and social activities. The department shall also adopt and
24 promulgate rules and regulations regarding training for foster parents on
25 recognizing human trafficking, including both sex trafficking and labor
26 trafficking.

27 Sec. 9. Section 43-4709, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 43-4709 (1) Nothing in the Nebraska Strengthening Families Act or
30 the application of the reasonable and prudent parent standard shall
31 affect the parental rights of a parent whose parental rights have not

1 been terminated pursuant to section 43-292 with respect to his or her
2 child.

3 (2) To the extent possible, a parent shall be consulted about ~~his or~~
4 ~~her views on~~ the child's participation in age or developmentally
5 appropriate activities in the planning process. The department shall
6 document such consultation in the report filed pursuant to subsection (3)
7 of section 43-285.

8 (3) The child's participation in extracurricular, enrichment,
9 cultural, and social activities shall be considered at any family team
10 meeting.

11 Sec. 10. The department and probation shall establish procedures
12 for the immediate dissemination of a current picture and information
13 about a child who is missing from a foster care or out-of-home placement
14 to appropriate third parties, which may include law enforcement agencies
15 or persons engaged in procuring, gathering, writing, editing, or
16 disseminating news or other information to the public. Any information
17 released to a third party under this section shall be subject to state
18 and federal confidentiality laws and shall not include that the child is
19 under the care, custody, or supervision of the department or under the
20 supervision of probation. Such dissemination by probation shall be
21 authorized by an order of a judge or court.

22 Sec. 11. Section 43-4714, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 43-4714 The department shall adopt and promulgate rules and
25 regulations to carry out the Nebraska Strengthening Families Act and
26 shall revoke any rules or regulations inconsistent with the act by
27 October 15, 2017 ~~2016~~.

28 Sec. 12. Original sections 43-2,108, 43-4218, 43-4701, 43-4702,
29 43-4703, 43-4704, 43-4706, 43-4707, 43-4709, and 43-4714, Reissue Revised
30 Statutes of Nebraska, are repealed.

31 Sec. 13. Since an emergency exists, this act takes effect when

1 passed and approved according to law.