

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 801

Introduced by Stinner, 48.

Read first time January 04, 2018

Committee: Education

- 1 A BILL FOR AN ACT relating to children; to adopt the Panhandle Beginnings
- 2 Act; to state intent relating to appropriations; and to declare an
- 3 emergency.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known and may be
2 cited as the Panhandle Beginnings Act.

3 Sec. 2. (1) The Legislature recognizes that:

4 (a) The Panhandle of Nebraska has limited resources to detect and
5 treat mental illness in school-age children;

6 (b) Many school-age children suffer from bipolar disorder,
7 disruptive behavior impulse control disorder, schizophrenia, and violent,
8 irrational behavior;

9 (c) Many school-age children have had adverse childhood experiences
10 and at least one major depressive episode;

11 (d) All such conditions, without intervention, have been linked to
12 long-term, significantly negative impacts on an individual's developing
13 brain, altering neural systems that result in enduring emotional,
14 behavioral, cognitive, mental, social, and physical health problems; and

15 (e) In addition, many of the school-age children who suffer from
16 such conditions are more likely to engage in illicit drug use, to binge
17 alcohol consumption, and to become addicted to opioids. Additional
18 stressors include conditions under poverty, including experiencing food
19 insecurity.

20 (2) The conditions and stressors recognized in subsection (1) of
21 this section, in combination with a lack of sufficient resources in the
22 Panhandle of Nebraska result in a number of school-age children needing
23 publicly funded therapeutic day treatment, day school, and intensive
24 outpatient services. The Legislature recognizes a need to place the
25 school-age children described in subsection (1) of this section into
26 close proximity to their families, making reintegration into home
27 communities more effective.

28 (3) The Legislature also affirms that effective therapy for the
29 conditions mentioned in subsection (1) of this section includes
30 comprehensive treatment based on the principles of neurodevelopment and
31 neurobiology with the assumption that an individual's behavior and self-

1 regulation includes emotional, behavioral, social motor, and
2 neurophysiological functioning driven by neural integration.

3 Sec. 3. The intent of the Legislature is to develop a pilot project
4 named Panhandle Beginnings establishing a collaborative therapeutic
5 facility in the Panhandle of Nebraska. Panhandle Beginnings shall fulfill
6 the need for therapeutic day treatment, day school, and intensive
7 outpatient services for school-age children described in section 2 of
8 this act. The Legislature hereby affirms its intent to fund Panhandle
9 Beginnings for fiscal years 2018-19 through 2022-23 with the expectation
10 that it will reach self-sufficiency and be replicated in other areas of
11 Nebraska where similar service deficits exist.

12 Sec. 4. For purposes of the Panhandle Beginnings Act:

13 (1) Board means the Panhandle Beginnings Advisory Board established
14 pursuant to section 8 of this act;

15 (2) Day school means a self-contained special education program
16 which provides services to students with intensive needs that cannot be
17 met by the education program of students' resident school districts;

18 (3) Day treatment means a community-based, coordinated set of
19 individualized treatment services to individuals with psychiatric
20 disorders who are not able to function full time in a normal school,
21 work, or home environment and need additional structured activities,
22 including, but not limited to: Diagnostic, medical, psychiatric,
23 psychosocial, and adjunctive treatment modalities;

24 (4) Department means the State Department of Education;

25 (5) Educational staff member means an employee of Panhandle
26 Beginnings hired as an instructor who (a) holds a valid certificate
27 issued by the Commission of Education pursuant to section 79-802, (b) is
28 endorsed to teach in the assigned area, and (c) meets the criteria of a
29 teacher under the federal Individuals with Disabilities in Education Act
30 of 2004 as set out in rules and regulations adopted and promulgated by
31 the department;

1 (6) Enrollee means an individual who meets the requirements under
2 subdivision (2), (3), or (4) of section 6 of this act;

3 (7) Intensive outpatient services means nonresidential, intensive,
4 structured interventions consisting of counseling and education to
5 improve the mental health, sexually harmful behavior, substance use
6 disorder, or eating disorder symptoms that may significantly interfere
7 with functioning in familial, social, occupational, or educational
8 domains, including, but not limited to, ongoing assessment, individual,
9 group, and family psychotherapy, and other treatment modalities
10 determined effective for each individual;

11 (8) Least restrictive environment means a setting in which, to the
12 maximum extent appropriate, children with disabilities are educated with
13 children who are not disabled and that special classes, separate
14 schooling, or other removal of children with disabilities from the
15 regular educational environment occurs only when the nature or severity
16 of the disability is such that education in regular classes with the use
17 of supplementary aids and services cannot be achieved satisfactorily;

18 (9) Multidisciplinary evaluation means the analysis, assessment, and
19 documentation of educational and developmental abilities and needs of
20 each child referred for the purpose of individual evaluation;

21 (10) Panhandle of Nebraska means the counties of Banner, Box Butte,
22 Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Sioux, Scotts Bluff,
23 and Sheridan;

24 (11) Positive behavioral interventions and supports means a
25 framework or approach for assisting school personnel in adopting and
26 organizing evidence-based behavioral interventions into an integrated
27 continuum that enhances academic and social behavior outcomes for all
28 students;

29 (12) Resident school district means the school district in which the
30 enrollee was originally enrolled and in which the enrollee resides;

31 (13) Therapeutic staff member means an employee of Panhandle

1 Beginnings hired specifically to address the therapeutic needs of the
2 enrollees and their parents or legal guardians, including, but not
3 limited to, independent mental health practitioners, mental health
4 practitioners, psychologists, or social workers holding a valid
5 credential issued pursuant to the Uniform Credentialing Act; and

6 (14) Trauma-informed care means a program that is a developmentally
7 sensitive, neurobiology-informed approach to clinical problem solving
8 which (a) integrates core principles of neurodevelopment and
9 traumatology, realizes the widespread impact of trauma, and understands
10 potential paths for recovery, (b) recognizes the signs and symptoms of
11 trauma in clients, families, staff, and others involved with the system,
12 (c) responds by fully integrating knowledge about trauma into policies,
13 procedures, and practices, and (d) seeks to actively resist re-
14 traumatization.

15 Sec. 5. Panhandle Beginnings is created as a day school, day
16 treatment, and intensive outpatient services therapeutic and educational
17 program for the following purposes:

18 (1) Panhandle Beginnings shall be a therapeutic treatment and
19 educational setting that adheres to the principles set forth in section 2
20 of this act. Panhandle Beginnings shall provide day treatment, day
21 school, and intensive outpatient services to enrollees through the end of
22 the school year in which they become twenty-one years of age with
23 preference given to those who reside within Region I Behavioral Health
24 Authority or Educational Service Unit No. 13 service areas and respecting
25 all contractual obligations and memoranda of understanding with other
26 regional behavioral health authorities and educational service units.
27 Enrollees shall fulfill requirements for entry as set forth in
28 subsections (2), (3), and (4) of section 6 of this act;

29 (2) Panhandle Beginnings shall be designed with support of mental or
30 behavioral health professionals to help enrollees develop the social and
31 emotional skills in an intensive setting necessary to become successful

1 in academic and social environments and to facilitate movement of acute
2 mental health and behavioral needs by stabilizing the precipitating
3 condition and relapse potential;

4 (3) Panhandle Beginnings shall be a collaborative effort of case
5 management and coordinated services cooperating with other governmental
6 agencies, private mental and behavioral health practitioners, and parents
7 or legal guardians of enrollees to provide positive behavioral
8 interventions and supports necessary as an integral part of delivery of
9 services; and

10 (4) Upon enrollment of an enrollee, Panhandle Beginnings shall
11 conduct an initial placement meeting in which staff shall inform the
12 parent or legal guardian of the enrollee to which program the enrollee is
13 being admitted, goals being set for the successful reintegration into the
14 resident school district, and any specific items necessary for the
15 coordination of services.

16 Sec. 6. (1) Therapeutic methods appropriate to each enrollee shall
17 be determined based on his or her clinical needs and governed by service
18 definitions and evidence-based practices. Therapeutic programming shall
19 adhere to the principles of trauma-informed care which includes a
20 methodology of developmentally sensitive and neurobiology-informed
21 approaches to clinical problem solving.

22 (2) Panhandle Beginnings shall provide a medically necessary,
23 community-based, coordinated set of individualized treatment services to
24 enrollees receiving day treatment services. The guidelines proposed for
25 day treatment shall be based on best practices for the level of
26 therapeutic services needed for effective treatment. In order for
27 enrollees to receive day treatment services under direction of Panhandle
28 Beginnings, the following requirements must be met:

29 (a) The enrollee demonstrates symptomology consistent with a
30 diagnosis as defined in the Diagnostic and Statistical Manual of Mental
31 Disorders, Fifth Edition, which significantly impairs functioning and

1 requires and can reasonably be expected to respond to therapeutic
2 intervention, including mental health treatment or substance use
3 treatment;

4 (b) The enrollee is medically stable and does not require twenty-
5 four-hour medical or inpatient monitoring but requires three to five
6 units of outpatient level of care daily as indicated by service
7 definitions contained in rules and regulations of the department and the
8 medical assistance program established pursuant to section 68-908 up to
9 five times a week;

10 (c) The enrollee receives active treatment of no less than three to
11 six units of care daily as indicated by service definitions contained in
12 rules and regulations of the department and the medical assistance
13 program established pursuant to section 68-908 and no less than five
14 units a week of comprehensive mental and behavioral health services;

15 (d) Parents or a legal guardian sign consent for treatment;

16 (e) The enrollee receives at least one session of psychotherapy or
17 substance abuse counseling services per scheduled treatment day. Such
18 services may include individual psychotherapy, group psychotherapy, or
19 family therapy; and

20 (f) The enrollee is verified as a student with a disability under
21 the federal Individuals with Disabilities in Education Act, 20 U.S.C.
22 1431 to 1445, as such act and sections existed on January 1, 2018, and
23 rules and regulations of the department.

24 (3) Panhandle Beginnings shall provide an educationally necessary,
25 community-based, coordinated set of individualized treatment services to
26 those receiving day school services. Day school shall focus on the
27 enhancement of emotional and behavioral regulation skills, treatment of
28 mental health concerns, and provision of individualized evidence-based
29 practices to enhance each enrollee's ability to successfully access the
30 least restrictive environment for their appropriate and comprehensive
31 education. In order for enrollees to receive day school services under

1 direction of Panhandle Beginnings, the following requirements must be
2 met:

3 (a) Evidence of and documentation indicating that prior attempts of
4 evidence-based interventions have been attempted with fidelity in a less
5 restrictive environment and that these attempts have occurred over a
6 period of four to six weeks for a first-level attempt and four to six
7 weeks for a second-level attempt unless a multidisciplinary evaluation by
8 Panhandle Beginnings shows that the enrollee engages in serious violent
9 behavior that endangers himself or herself or others in the least
10 restrictive environment or the enrollee exhibits significant mental
11 health needs that suggest a more restrictive environment would be the
12 least restrictive environment for placement;

13 (b) There is a unanimous multidisciplinary evaluation and leadership
14 confirmation followed by the individualized education program team
15 agreement, if applicable;

16 (c) The enrollee is medically stable and does not require twenty-
17 four-hour medical or inpatient monitoring;

18 (d) The enrollee receives active treatment of no less than three to
19 six units of care daily as indicated by service definitions contained in
20 rules and regulations of the department and the medical assistance
21 program established pursuant to section 68-908 and no less than five
22 units a week of comprehensive mental and behavioral health services;

23 (e) Parents or a legal guardian sign consent for treatment; and

24 (f) The enrollee is verified as a student with a disability under
25 the federal Individuals with Disabilities in Education Act, 20 U.S.C.
26 1431 to 1445, as such act and sections existed on January 1, 2018, and
27 rules and regulations of the department.

28 (4) Panhandle Beginnings shall provide a multidisciplinary,
29 multimodal, structured treatment in an outpatient setting to enrollees
30 receiving intensive outpatient services. Services shall be based on
31 individual medical need. In order for enrollees to receive intensive

1 outpatient services under this subsection, Panhandle Beginnings shall
2 provide nine or more units per week of mental and behavioral health
3 services as indicated by service definitions contained in rules and
4 regulations of the department and the medical assistance program
5 established pursuant to section 68-908, including, but not limited to,
6 psychoeducation, individual therapy, group therapy, and family therapy.
7 Units of treatment may be reduced as clinically defined.

8 Sec. 7. (1) All enrollees in day treatment and day school shall
9 receive instruction by a member of the educational staff, which
10 instruction is aligned with the curriculum of the resident school
11 district.

12 (2) Instructional methodology shall be designed using evidence-based
13 strategies for supporting positive behaviors within the classroom while
14 addressing root causes of behavior with the intent that an enrollee will
15 be returned to a less restrictive environment when appropriate. Positive
16 behavioral interventions and supports shall be a component of such
17 instructional methodology.

18 (3) Training of educational staff members shall be based on
19 behavioral strategies, consisting of the components of positive
20 behavioral interventions and supports and trauma-informed practices. All
21 educational staff members shall also receive training on intervention
22 strategies focusing on special treatment procedures, including de-
23 escalation techniques and least restrictive forms of restraint, to be
24 used by educational staff members as a last resort when an enrollee is a
25 danger to himself, herself, or others. Additional training shall be
26 provided to educational staff members regarding evidence-based practices
27 to manage behaviors and provide support to enrollees within the
28 classroom. Therapeutically based training within the day treatment
29 program shall include both therapeutic and educational staff members
30 receiving comprehensive training on trauma-informed practices. Panhandle
31 Beginnings shall make available all training described in this subsection

1 to parents or legal guardians of the enrollees and the staff of the
2 enrollees' resident school districts as part of the effort to transition
3 enrollees to their resident school districts.

4 (4) Panhandle Beginnings staff members shall meet with parents or
5 legal guardians regularly to discuss progress in person, by telephone, or
6 by means of secure video conferencing. As appropriate, team meetings
7 shall take place between Panhandle Beginnings staff members and the staff
8 members of the resident school district.

9 (5) Reintegration into the resident school district shall be decided
10 on an individual basis and planned through team meetings once the
11 enrollee has met the goals determined during the initial placement
12 meeting as described in section 5 of this act. Consideration for the
13 needs of the resident school district shall be included. The
14 reintegration process shall be individualized for enrollees and shall
15 include a strong psychoeducational and behavioral health consultation
16 component and may include the periodic attendance of one resident school
17 district employee.

18 (6) Acknowledging the geographical distance within the service area,
19 barriers to travel may become cumbersome for an enrollee to receive
20 services at Panhandle Beginnings. A portion of the educational component
21 may include an outreach specialist to design a program for coordination
22 of services with the enrollee's resident school district. Such specialist
23 may also coordinate reintegration into the resident school district.

24 (7) The length of stay of enrollees in Panhandle Beginnings programs
25 shall be individualized and based on clinical criteria for admissions and
26 continued stay, taking into consideration an expectation of twenty-one to
27 ninety days within the therapeutic day treatment setting.

28 Sec. 8. (1) The Panhandle Beginnings Advisory Board is created.

29 (2) The board shall consist of seven appointed members. Six of the
30 appointed members shall be representatives as described in subdivisions

31 (3)(a) through (3)(c) of this section, and one of the appointed members

1 shall not be an employee of the State of Nebraska or any such entities as
2 described in such subdivisions and shall have at least five years of
3 experience in the field of mental or behavioral health.

4 (3) The six appointed representative members shall be as follows:

5 (a) Two of the appointed members shall be employees of Educational
6 Service Unit No. 13 and shall include one administrator and one director
7 of its programs;

8 (b) Two of the appointed members shall be employees of Region 1
9 Behavioral Health Authority and shall include one administrator and one
10 specialist of any of its services; and

11 (c) Two of the appointed members shall be employees of any school
12 district with boundaries located in the Panhandle of Nebraska and shall
13 include one administrator and one specialist of any of the mental or
14 behavioral health services provided by such school districts.

15 (4) Appointments to the board shall be made by the Governor and
16 subject to approval of the Legislature. All appointed members shall be
17 residents of Nebraska.

18 (5) Except as otherwise provided in this section, all members shall
19 serve for terms of four years or until a successor has been appointed and
20 qualified. The terms shall begin on January 1 of the appropriate year.

21 (6) To ensure an experienced and knowledgeable board, the initial
22 terms of the appointed members shall be staggered as follows:

23 (a) One of the two members described in subdivisions (3)(a) through
24 (3)(c) of this section shall be appointed to serve for a two-year term
25 which ends in 2020;

26 (b) One of the two members described in such subdivisions shall be
27 appointed to serve for a four-year term which ends in 2022; and

28 (c) The appointee who is not an employee of the State of Nebraska or
29 any of the entities described in such subdivisions and who has at least
30 five years of experience in the field of mental or behavioral health
31 shall be appointed to serve for a four-year term which ends in 2022.

1 (7) In the event of a vacancy in office, the Governor shall appoint
2 a person to serve the unexpired portion of the term, subject to the
3 approval of the Legislature.

4 (8) The board shall:

5 (a) Appoint a clinical director to administer the day treatment
6 program and a principal to administer the day school under direction of
7 the board;

8 (b) Adopt rules and procedures to which the Panhandle Beginnings
9 clinical director, principal, and staff must adhere;

10 (c) Adopt rules and procedures for the management of the board; and

11 (d) Keep a complete record of all proceedings taken at any meeting
12 of the board.

13 Sec. 9. It is the intent of the Legislature to appropriate for
14 purposes of the Panhandle Beginnings Act from the General Fund:

15 (1) For fiscal year 2018-19, one hundred thirty-five thousand
16 dollars for startup costs and six hundred sixty-seven thousand three
17 hundred thirty-seven dollars for the educational costs for a total of
18 eight hundred two thousand three hundred thirty-seven dollars;

19 (2) For fiscal year 2019-20, two hundred thousand dollars in
20 facility costs and two hundred thirty-three thousand six hundred sixty-
21 eight dollars in educational costs for a total of four hundred thirty-
22 three thousand six hundred sixty-eight dollars;

23 (3) For fiscal year 2020-21, two hundred thousand dollars in
24 facility costs and two hundred thirty-three thousand six hundred sixty-
25 eight dollars in educational costs for a total of four hundred thirty-
26 three thousand six hundred sixty-eight dollars;

27 (4) For fiscal year 2021-22, two hundred thousand dollars in
28 facility costs and two hundred thirty-three thousand six hundred sixty-
29 eight dollars in educational costs for a total of four hundred thirty-
30 three thousand six hundred sixty-eight dollars; and

31 (5) For fiscal year 2022-23, two hundred thousand dollars in

1 facility costs and two hundred thirty-three thousand six hundred sixty-
2 eight dollars in educational costs for a total of four hundred thirty-
3 three thousand six hundred sixty-eight dollars.

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