

AMENDMENTS TO LB460

Introduced by Health and Human Services.

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

3           Section 1. Section 68-1206, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           68-1206 (1) The Department of Health and Human Services shall  
6 administer the program of social services in this state. The department  
7 may contract with other social agencies for the purchase of social  
8 services at rates not to exceed those prevailing in the state or the cost  
9 at which the department could provide those services. The statutory  
10 maximum payments for the separate program of aid to dependent children  
11 shall apply only to public assistance grants and shall not apply to  
12 payments for social services. As part of the provision of social services  
13 authorized by section 68-1202, the department shall participate in the  
14 federal child care assistance program under 42 U.S.C. 618, as such  
15 section existed on January 1, 2013, and provide child care assistance to  
16 families with incomes up to one hundred twenty-five percent of the  
17 federal poverty level for FY2013-14 and one hundred thirty percent of the  
18 federal poverty level for FY2014-15 and each fiscal year thereafter.

19           (2) As part of the provision of social services authorized by this  
20 section and section 68-1202, the department shall participate in the  
21 federal Child Care Subsidy program. In determining ongoing eligibility  
22 for this program, ten percent of a household's gross earned income shall  
23 be disregarded after twelve continuous months on the program and at each  
24 subsequent redetermination. In determining ongoing ~~At redetermination of~~  
25 eligibility, if a family's income exceeds one hundred thirty percent of  
26 the federal poverty level, the family shall ~~continue to~~ receive  
27 transitional child care assistance through the remainder of the family's

1 ~~eligibility period or for up to twenty-four consecutive months or until~~  
2 ~~the family's family income exceeds one hundred eighty-five percent of the~~  
3 ~~state median income for a family of the same size as reported by the~~  
4 ~~United States Bureau of the Census, whichever occurs first. When the~~  
5 ~~family's eligibility period ends, the family shall continue to be~~  
6 ~~eligible for transitional child care assistance if the family's income is~~  
7 ~~below one hundred eighty-five percent of the federal poverty level. The~~  
8 ~~family shall receive transitional child care assistance through the~~  
9 ~~remainder of the transitional eligibility period or until the family's~~  
10 ~~income exceeds eighty-five percent of the state median income for a~~  
11 ~~family of the same size as reported by the United States Bureau of the~~  
12 ~~Census, whichever occurs first. federal poverty level. If a family's~~  
13 ~~income falls to one hundred thirty percent of the federal poverty level~~  
14 ~~or below, the twenty-four month time limit in this subsection shall cease~~  
15 ~~to apply until the family becomes eligible for transitional child care~~  
16 ~~assistance. The amount of such child care assistance shall be based on a~~  
17 ~~cost-shared plan between the recipient family and the state and shall be~~  
18 ~~based on a sliding-scale methodology. A recipient family may be required~~  
19 ~~to contribute a percentage of such family's gross income for child care~~  
20 ~~that is no more than the cost-sharing rates in the transitional child~~  
21 ~~care assistance program as of January 1, 2015, for those no longer~~  
22 ~~eligible for cash assistance as provided in section 68-1724. Initial~~  
23 ~~program eligibility standards shall not be impacted by the provisions of~~  
24 ~~this subsection.~~

25 (3) In determining the rate or rates to be paid by the department  
26 for child care as defined in section 43-2605, the department shall adopt  
27 a fixed-rate schedule for the state or a fixed-rate schedule for an area  
28 of the state applicable to each child care program category of provider  
29 as defined in section 71-1910 which may claim reimbursement for services  
30 provided by the federal Child Care Subsidy program, except that the  
31 department shall not pay a rate higher than that charged by an individual

1 provider to that provider's private clients. The schedule may provide  
2 separate rates for care for infants, for children with special needs,  
3 including disabilities or technological dependence, or for other  
4 individual categories of children. The schedule may also provide tiered  
5 rates based upon a quality scale rating of step three or higher under the  
6 Step Up to Quality Child Care Act. The schedule shall be effective on  
7 October 1 of every year and shall be revised annually by the department.

8 Sec. 2. Section 68-1724, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 68-1724 (1) Cash assistance shall be provided for a period or  
11 periods of time not to exceed a total of sixty months for recipient  
12 families with children subject to the following:

13 (a) If the state fails to meet the specific terms of the self-  
14 sufficiency contract developed under section 68-1719, the sixty-month  
15 time limit established in this section shall be extended;

16 (b) The sixty-month time period for cash assistance shall begin  
17 within the first month of eligibility;

18 (c) When no longer eligible to receive cash assistance, assistance  
19 shall be available to reimburse work-related child care expenses even if  
20 the recipient family has not achieved economic self-sufficiency. The  
21 amount of such assistance shall be based on a cost-shared plan between  
22 the recipient family and the state which shall provide assistance up to  
23 one hundred eighty-five percent of the federal poverty level ~~for up to~~  
24 ~~twenty-four months~~. A recipient family may be required to contribute up  
25 to twenty percent of such family's gross income for child care. It is the  
26 intent of the Legislature that transitional health care coverage be made  
27 available on a sliding-scale basis to individuals and families with  
28 incomes up to one hundred eighty-five percent of the federal poverty  
29 level if other health care coverage is not available; and

30 (d) The self-sufficiency contract shall be revised and cash  
31 assistance extended when there is no job available for adult members of

1 the recipient family. It is the intent of the Legislature that available  
2 job shall mean a job which results in an income of at least equal to the  
3 amount of cash assistance that would have been available if receiving  
4 assistance minus unearned income available to the recipient family.

5 The department shall develop policy guidelines to allow for cash  
6 assistance to persons who have received the maximum cash assistance  
7 provided by this section and who face extreme hardship without additional  
8 assistance. For purposes of this section, extreme hardship means a  
9 recipient family does not have adequate cash resources to meet the costs  
10 of the basic needs of food, clothing, and housing without continuing  
11 assistance or the child or children are at risk of losing care by and  
12 residence with their parent or parents.

13 (2) Cash assistance conditions under the Welfare Reform Act shall be  
14 as follows:

15 (a) Adults in recipient families shall mean individuals at least  
16 nineteen years of age living with and related to a child eighteen years  
17 of age or younger and shall include parents, siblings, uncles, aunts,  
18 cousins, or grandparents, whether the relationship is biological,  
19 adoptive, or step;

20 (b) The payment standard shall be based upon family size;

21 (c) The adults in the recipient family shall ensure that the minor  
22 children regularly attend school. Education is a valuable personal  
23 resource. The cash assistance provided to the recipient family may be  
24 reduced when the parent or parents have failed to take reasonable action  
25 to encourage the minor children of the recipient family ages sixteen and  
26 under to regularly attend school. No reduction of assistance shall be  
27 such as may result in extreme hardship. It is the intent of the  
28 Legislature that a process be developed to insure communication between  
29 the case manager, the parent or parents, and the school to address issues  
30 relating to school attendance;

31 (d) Two-parent families which would otherwise be eligible under

1 section 43-504 or a federally approved waiver shall receive cash  
2 assistance under this section;

3 (e) For minor parents, the assistance payment shall be based on the  
4 minor parent's income. If the minor parent lives with at least one  
5 parent, the family's income shall be considered in determining  
6 eligibility and cash assistance payment levels for the minor parent. If  
7 the minor parent lives independently, support shall be pursued from the  
8 parents of the minor parent. If the absent parent of the minor's child is  
9 a minor, support from his or her parents shall be pursued. Support from  
10 parents as allowed under this subdivision shall not be pursued when the  
11 family income is less than three hundred percent of the federal poverty  
12 guidelines; and

13 (f) For adults who are not biological or adoptive parents or  
14 stepparents of the child or children in the family, if assistance is  
15 requested for the entire family, including the adults, a self-sufficiency  
16 contract shall be entered into as provided in section 68-1719. If  
17 assistance is requested for only the child or children in such a family,  
18 such children shall be eligible after consideration of the family's  
19 income and if (i) the family cooperates in pursuing child support and  
20 (ii) the minor children of the family regularly attend school.

21 Sec. 3. Section 71-1912, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 71-1912 (1) Before issuance of a license, the department shall  
24 investigate or cause an investigation to be made, when it deems  
25 necessary, to determine if the applicant or person in charge of the  
26 program meets or is capable of meeting the physical well-being, safety,  
27 and protection standards and the other rules and regulations of the  
28 department adopted and promulgated under the Child Care Licensing Act.  
29 The department may investigate the character of applicants and licensees,  
30 any member of the applicant's or licensee's household, and the staff and  
31 employees of programs ~~by making a national criminal history record~~

1 ~~information~~ check. The department may at any time inspect or cause an  
2 inspection to be made of any place where a program is operating to  
3 determine if such program is being properly conducted.

4 (2) All inspections by the department shall be unannounced except  
5 for initial licensure visits and consultation visits. Initial licensure  
6 visits are announced visits necessary for a provisional license to be  
7 issued to a family child care home I, family child care home II, child  
8 care center, or school-age-only or preschool program. Consultation visits  
9 are announced visits made at the request of a licensee for the purpose of  
10 consulting with a department specialist on ways of improving the program.

11 (3) An unannounced inspection of any place where a program is  
12 operating shall be conducted by the department or the city, village, or  
13 county pursuant to subsection (2) of section 71-1914 at least annually  
14 for a program licensed to provide child care for fewer than thirty  
15 children and at least twice every year for a program licensed to provide  
16 child care for thirty or more children.

17 (4) Whenever an inspection is made, the findings shall be recorded  
18 in a report designated by the department. The public shall have access to  
19 the results of these inspections upon a written or oral request to the  
20 department. The request must include the name and address of the program.  
21 Additional unannounced inspections shall be performed as often as is  
22 necessary for the efficient and effective enforcement of the Child Care  
23 Licensing Act.

24 (5)(a) A person applying for a license as a child care provider or a  
25 licensed child care provider under the Child Care Licensing Act shall  
26 submit a request for a national criminal history record information check  
27 for each child care staff member, including a prospective child care  
28 staff member of the child care provider, at the applicant's or licensee's  
29 expense, as set forth in this section. Beginning on September 1, 2019, a  
30 prospective child care staff member shall submit to a national criminal  
31 history record information check (i) prior to employment, except as

1 otherwise permitted under 45 C.F.R. 98.43, as such regulation existed on  
2 January 1, 2019, or (ii) prior to residing in a family child care home. A  
3 child care staff member who was employed by a child care provider prior  
4 to September 1, 2019, or who resided in a family child care home prior to  
5 September 1, 2019, shall submit to a national criminal history record  
6 information check by September 1, 2021, unless the child care staff  
7 member ceases to be a child care staff member prior to such date.

8 (b) A child care staff member shall be required to undergo a  
9 national criminal history record information check not less than once  
10 during each five-year period. A child care staff member shall submit a  
11 complete set of his or her fingerprints to the Nebraska State Patrol. The  
12 Nebraska State Patrol shall transmit a copy of the child care staff  
13 member's fingerprints to the Federal Bureau of Investigation for a  
14 national criminal history record information check. The national criminal  
15 history record information check shall include information concerning  
16 child care staff members from federal repositories of such information  
17 and repositories of such information in other states, if authorized by  
18 federal law for use by the Nebraska State Patrol. The Nebraska State  
19 Patrol shall issue a report to the department that includes the  
20 information collected from the national criminal history record  
21 information check concerning child care staff members. A child care staff  
22 member being screened shall pay the actual cost of the fingerprinting and  
23 national criminal history record information check. The department and  
24 the Nebraska State Patrol may adopt and promulgate rules and regulations  
25 concerning the costs associated with the fingerprinting and the national  
26 criminal history record information check. The department may adopt and  
27 promulgate rules and regulations implementing national criminal history  
28 record information check requirements for child care providers and child  
29 care staff members.

30 (c) A child care staff member shall also submit to the following  
31 background checks at his or her expense:

1           (i) A search of the National Crime Information Center's National Sex  
2 Offender Registry; and

3           (ii) A search of the following registries, repositories, or data  
4 bases in the state where the child care provider is located or where the  
5 child care staff member resides and each state where the child care  
6 provider was located or where the child care staff member resided during  
7 the preceding five years:

8           (A) State criminal registries or repositories;

9           (B) State sex offender registries or repositories; and

10          (C) State-based child abuse and neglect registries and data bases.

11          (d) Any individual shall be ineligible for employment by a child  
12 care provider if such individual:

13          (i) Refuses to consent to the national criminal history record  
14 information check described in this subsection;

15          (ii) Knowingly makes a materially false statement in connection with  
16 the national criminal history record information check;

17          (iii) Is registered, or required to be registered, on a state sex  
18 offender registry or repository or the National Sex Offender Registry; or

19          (iv) Has been convicted of a crime of violence, a crime of moral  
20 turpitude, or a crime of dishonesty.

21          (e) The department may adopt and promulgate rules and regulations  
22 prohibiting the employment of any child care staff member with one or  
23 more criminal convictions as the department deems necessary to protect  
24 the health and safety of children receiving child care.

25          (f) A child care provider shall be ineligible for a license under  
26 the Child Care Licensing Act and shall be ineligible to participate in  
27 the child care subsidy program if the provider employs a child care staff  
28 member who is ineligible for employment under subdivisions (d) or (e) of  
29 this subsection.

30          (g) National criminal history record information subject to federal  
31 confidentiality requirements may only be used for purposes of granting a



1 child care license or approving a child care provider for participation  
2 in the child care subsidy program.

3 (h) For purposes of this subsection:

4 (i) Child care provider means a child care program other than a  
5 family child care home I; and

6 (ii) Child care staff member means an individual who is not related  
7 to all of the children for whom child care services are provided and:

8 (A) who is employed by a child care provider for compensation,  
9 including contract employees or self-employed individuals;

10 (B) whose activities involve the care or supervision of children for  
11 a child care provider or unsupervised access to children who are cared  
12 for or supervised by a child care provider; or

13 (C) who is residing in a family child care home and who is eighteen  
14 years of age or older.

15 Sec. 4. Section 71-1924, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 71-1924 Sections 71-1924 to 71-1951 and section 5 of this act shall  
18 be known and may be cited as the Children's Residential Facilities and  
19 Placing Licensure Act.

20 Sec. 5. (1) Any individual eighteen years of age or older working in  
21 a residential child-caring agency shall be required to undergo a national  
22 criminal history record information check not less than once during each  
23 five-year period that he or she is working in such an agency. The  
24 individual shall submit a complete set of his or her fingerprints to the  
25 Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of  
26 the individual's fingerprints to the Federal Bureau of Investigation for  
27 a national criminal history record information check. The national  
28 criminal history record information check shall include information  
29 concerning the individual from federal repositories of such information  
30 and repositories of such information in other states, if authorized by  
31 federal law for use by the Nebraska State Patrol. The Nebraska State

1 Patrol shall issue a report to the department that includes the  
2 information collected from the national criminal history record  
3 information check concerning the individual. The individual being  
4 screened shall pay the actual cost of the fingerprinting and national  
5 criminal history record information check, except that the department may  
6 pay all or part of the cost if funding becomes available. The department  
7 and the Nebraska State Patrol may adopt and promulgate rules and  
8 regulations concerning the costs associated with the fingerprinting and  
9 the national criminal history record information check. The department  
10 may adopt and promulgate rules and regulations implementing national  
11 criminal history record information check requirements for residential  
12 child-caring agencies.

13 (2) An individual eighteen years of age or older working in a  
14 residential child-caring agency shall also submit to the following  
15 background checks:

16 (a) A search of the National Crime Information Center's National Sex  
17 Offender Registry; and

18 (b) A search of the following registries, repositories, or data  
19 bases in the state where the individual resides and each state where the  
20 individual resided during the preceding five years:

21 (i) State criminal registries or repositories;

22 (ii) State sex offender registries or repositories; and

23 (iii) State-based child abuse and neglect registries and data bases.

24 Sec. 6. Sections 1, 2, 3, and 7 of this act become operative three  
25 calendar months after the adjournment of this legislative session. The  
26 other sections of this act become operative on their effective date.

27 Sec. 7. Original sections 68-1206, 68-1724, and 71-1912, Reissue  
28 Revised Statutes of Nebraska, are repealed.

29 Sec. 8. Original section 71-1924, Reissue Revised Statutes of  
30 Nebraska, is repealed.

31 Sec. 9. Since an emergency exists, this act takes effect when passed

1 and approved according to law.