

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 941

Introduced by Hunt, 8.

Read first time January 13, 2020

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to infants and juveniles; to define terms; to
- 2 state intent; to create the Nebraska Youth in Care Bill of Rights;
- 3 and to provide powers and duties.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Bridge to independence program has the same meaning as in
3 section 43-4503;

4 (b) Child means any child placed in a foster family home, a child-
5 care institution, or a juvenile facility through a court proceeding
6 governed by the Nebraska Juvenile Code and any young adult in the bridge
7 to independence program;

8 (c) Child-care institution has the same meaning as in 42 U.S.C.
9 672(c), as such section existed on January 1, 2020, and includes a
10 residential child-caring agency as defined in section 71-1926;

11 (d) Foster family home includes a foster family home as defined in
12 42 U.S.C. 672(c), as such section existed on January 1, 2020, and in
13 section 71-1901; and

14 (e) Juvenile facility has the same meaning as in section 83-4,125.

15 (2) It is the policy of the Legislature to ensure that the quality
16 of care provided to children placed in foster family homes, juvenile
17 facilities, or child-care institutions is as close as possible to the
18 care a child would receive in a family setting. To carry out such policy,
19 the State of Nebraska shall aspire to treat all children placed in foster
20 family homes, juvenile facilities, or child-care institutions with
21 dignity and respect, to provide such children with honest and clear
22 communication and information to help them understand the system or
23 systems in which they are involved, to provide consistent opportunities
24 for such children to have their voices heard in their cases, to
25 successfully reunify children with their families or help such children
26 find permanency, to support lifelong family connections for such
27 children, to place such children in an environment accepting of their
28 cultures and beliefs, and to provide such children with the skills,
29 knowledge, and resources they need to become successful adults.

30 (3) In order to accomplish such goals, the duties and
31 responsibilities of the Department of Health and Human Services are

1 listed in the Nebraska Youth in Care Bill of Rights found in subsections
2 (3) through (7) of this section.

3 (4) The Department of Health and Human Services and the Juvenile
4 Services Division of the Office of Probation Administration shall ensure
5 that:

6 (a) Each child is permitted to attend religious services and
7 activities of such child's choice, to be balanced with the countervailing
8 rights of the child's biological parents, as provided under the First and
9 Fourteenth Amendments to the Constitution of the United States;

10 (b) Each child is placed with an individual sharing the child's
11 religious beliefs, when practical;

12 (c) Each child is free from unreasonable search and seizure as
13 provided under the Fourth Amendment to the Constitution of the United
14 States and as defined by state and federal law;

15 (d) Each child is safe and free from exploitation as provided under
16 the Fourteenth Amendment to the Constitution of the United States;

17 (e) Each child receives support for basic needs as provided under
18 the Fourteenth Amendment to the Constitution of the United States and
19 section 43-290;

20 (f) Each child is free from discrimination on the basis of race,
21 ethnicity, gender, national origin, tribal membership, religion, mental
22 or physical disability, gender identity, or sexual orientation;

23 (g) Each child who is also a parent is able to make decisions for
24 such parent's own child, as any other minor could, as provided under the
25 Fourteenth Amendment to the Constitution of the United States;

26 (h) Each child who becomes pregnant may report such pregnancy to a
27 caseworker with confidentiality;

28 (i) Each child who is parenting a child who is in such parent's
29 custody can provide input on the appropriateness of the placement for
30 such child;

31 (j) Each child is appointed legal counsel, which may include defense

1 counsel or a guardian ad litem, to advocate for the expressed interests
2 of such child as required under section 43-272;

3 (k) Each child has the opportunity to participate in age-appropriate
4 and developmentally appropriate extracurricular, enrichment, cultural,
5 and social activities as required by section 43-4711;

6 (l) Each child, including a child that is pregnant or parenting,
7 receives a free and appropriate public education as required by federal
8 law and attends the same school such child was previously enrolled in
9 unless it is contrary to the best interests of the child, as required by
10 federal law;

11 (m) Each child is provided timely notice of all court hearings in
12 proceedings involving such child and has the ability to attend or
13 participate in all court hearings unless the court determines it is
14 contrary to the best interests of the child;

15 (n) Information provided to a child is provided in the child's
16 primary language, as required by federal law;

17 (o) Information provided to a child with a disability is provided in
18 a manner consistent with requirements under federal law;

19 (p) Each child has access to, as determined by the child's
20 physician, age-appropriate, developmentally appropriate, and medically
21 accurate information, medical prevention services, medical treatment,
22 including an examination by a health care provider within two weeks after
23 initial removal from the home, and education on the child's right to
24 refuse or consent to medical treatment balanced with the countervailing
25 rights of the biological parents, unless contrary to the best interests
26 of the child;

27 (q) Each child receives medical, dental, vision, and mental health
28 services regularly and as often as needed, while preserving any right of
29 the child to consent to treatment; and

30 (r) Each child is prescribed and administered medications only as
31 necessary and is not overmedicated.

1 (5) For a child involved in a proceeding under subdivision (3)(a) of
2 section 43-247, the Department of Health and Human Services and the
3 Juvenile Services Division of the Office of Probation Administration
4 shall:

5 (a) Facilitate a joint-sibling placement, unless it is contrary to
6 the safety or well-being of any of the siblings, as required by section
7 43-1311.02;

8 (b) Facilitate sibling visitation, if joint-sibling placement is not
9 possible, unless it is contrary to the safety or well-being of any of the
10 siblings, as required by section 43-1311.02;

11 (c) Ensure each sibling of a child under the jurisdiction of the
12 court may intervene to seek joint-sibling placement, sibling visitation,
13 or ongoing interaction with their siblings as required by section
14 43-1311.02;

15 (d) Facilitate reunification with the child's biological parents as
16 required by state and federal law, unless contrary to the best interests
17 of the child;

18 (e) Facilitate reasonable visitation with the child's biological
19 family and other significant individuals in the child's life as required
20 by state and federal law;

21 (f) Inform the child of the reasons for preventing any visitation or
22 placement;

23 (g) Inform the child who is adopted from foster care on post-
24 adoption services;

25 (h) Provide the child, including a child who is pregnant or
26 parenting, with an adequate plan to transition out of foster care, and
27 all related services as required by section 43-1311.03;

28 (i) Not assign a caseworker that is handling cases in excess of the
29 standards established as of January 1, 2012, pursuant to section 68-1207;

30 (j) Ensure a child does not experience excessive caseworker
31 turnover;

1 (k) Ensure information related to the child's foster care case is
2 kept confidential consistent with state and federal law; and

3 (l) Ensure a child has access to the child's birth certificate,
4 social security card, proof of health care coverage, record of
5 immunizations, medical and educational records, and any power of attorney
6 documents as provided in section 43-1311.03.

7 (6) In order to ensure that each child is aware of the rights stated
8 in this section and is able to express grievance related to infringements
9 of such rights without penalty:

10 (a) Caseworkers and juvenile probation officers shall be trained on
11 the rights stated in this section and how to discuss such rights in an
12 age-appropriate and developmentally appropriate manner with children;

13 (b) Each caseworker and juvenile probation officer shall discuss the
14 rights stated in this section with each child who is at least fourteen
15 years of age, at the placement of the child within two weeks after such
16 placement, and quarterly at team meetings and shall make reasonable
17 efforts to ensure the rights of each child are met by the placement;

18 (c) Each guardian ad litem and attorney shall discuss the rights
19 stated in this section with each child represented within two weeks after
20 appointment, once every six months thereafter, and again if a child
21 discloses that the child believes such rights have been infringed. Each
22 guardian ad litem and attorney shall raise such infringement with the
23 court unless it is determined by the guardian ad litem or attorney to be
24 without merit;

25 (d) A child may raise a grievance regarding infringement of rights,
26 if any of the rights stated in this section are not being met, by
27 complaint made to the Department of Health and Human Services or the
28 Juvenile Services Division of the Office of Probation Administration;

29 (e) Within three business days after receipt of a grievance, the
30 Department of Health and Human Services or the Juvenile Services Division
31 of the Office of Probation Administration shall provide acknowledgment of

1 receipt, including contact information, information on the grievance
2 process, and information on the appeal process; and

3 (f) Each child shall have access to a paper copy of grievance forms
4 and online access to such forms.

5 (7) For a child involved in a proceeding under subdivision (3)(a) of
6 section 43-247:

7 (a) A caseworker shall provide a paper copy of the rights stated in
8 this section to each child who is at least fourteen years of age and
9 discuss the rights stated in this section within seventy-two hours after
10 such child is placed in a foster family home or child-care institution.
11 The caseworker shall request that the child sign the document to
12 acknowledge such discussion as required by section 43-4713;

13 (b) The rights stated in this section shall be discussed at every
14 dispositional, review, and permanency planning hearing as provided in
15 section 43-4713; and

16 (c) A caseworker shall discuss the rights quarterly at team meetings
17 with the child and shall regularly provide opportunities to discuss such
18 rights and grievance process privately with the child.