

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB376

Hearing Date: Thursday February 18, 2021
Committee On: Health and Human Services
Introducer: Cavanaugh, M.
One Liner: Authorize the application for and implementation of services and supports for developmentally disabled children and their families and provide duties for the Advisory Committee on Developmental Disabilities

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Arch, Cavanaugh, M., Day, Hansen, B., Murman, Walz, Williams
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents: Machaela Cavanaugh Edison McDonald Sherri Harnisch Leah Janke Kristen Larsen	Representing: Introducer The ARC of Nebraska Self Down Syndrome Alliance of the Midlands Nebraska Council on Developmental Disabilities
Opponents: Tony Green	Representing: Department of Health and Human Services
Neutral: Amber Parker	Representing: Self

Submitted Written Testimony:

Proponents: Spike Eickholt Angela Willey Brad Meurrens	Representing: ACLU of Nebraska Down Syndrome Advocates in Action Nebraska Disability Rights Nebraska
Opponents:	Representing:
Neutral:	Representing:

Summary of purpose and/or changes:

LB 376 would amend the statute relating to the Advisory Committee for Developmental Disabilities and add new language

relating to a pilot program.

LB 376 would add new language regarding legislative findings, stating in part that early intervention has been shown to help children with developmental delays, children with disabilities often need supports outside of school, family caregivers are less costly than institutional settings, and providing support to family caregivers allows them to stay in the workforce and use their primary insurance as a first payer. [Section 1, pp. 2-3, lines 1-15].

It would also require the Department of Health and Human Services [DHHS] apply for a waiver for a family support pilot program, administered by the Division of Developmental Disabilities [DDD]. This pilot program would do the following:

- Offer an annual capped budget for long-term services and supports of \$12,000;
- Offer Medicaid eligibility for disabled children based on a child's income and assets; and
- Allow a family to self-direct services. [Section 2, p. 3, lines 16-31].

DHHS would adopt and promulgate rules and regulations regarding criteria of services, how to allocate services, eligibility determination, benefit limits, and quality assurance. DDD would need to stay within the appropriated budget, submit an annual report to the Legislature, and establish annual benefit levels. [Section 2, p. 4, lines 1-26].

The child must be a resident of Nebraska, the income and assets of the child must not exceed certain levels, and the child must be a child with a medically determinable physical or mental impairment or combination that causes severe functional limitations and can be expected to cause death or can be expected to last for at least one year. [Section 3, pp. 4-5, lines 27-6].

The waivers slots shall be given priority in the following order, based on appropriations:

1. Disabled children and family unites in crisis situations where the child tends to self-injure or injure family members;
2. Disabled children who are at risk for placement in juvenile detention centers or out-of-home placement;
3. Disabled children whose primary caregivers are grandparents;
4. Families with more than one disabled child residing in the home; and
5. Date of application under the pilot program. [Section 4, p. 5, lines 7-21].

The Advisory Committee on Developmental Disabilities would develop and guide implementation of the program. [Section 5, p. 6, lines 18-20].

Explanation of amendments:

AM 1307 replaces LB 376 and becomes the bill.

Differences from the original bill include removing references to the family support program as a 'pilot program,' [throughout] and requiring the Department of Health and Human Services [DHHS] to apply for specifically a three-year 1915[c] Medicaid waiver. The amendment would change the amount available to families from \$12,000 to \$10,000, and would limit the participants to 850 individuals or families. [Section 2, p. 2].

It would also add language stating that the family support program would be set at an intermediate care facility institutional level of care. [Section 2, p. 3, lines 6-9].

It adds language that DHHS shall adopt rules and regulations relating to the enrollment process and eligibility determination including a child's maximum income and assets. [Section 2, p. 3, lines 15-17].

In an annual report to the Legislature, DHHS Division of Developmental Disabilities must include the status of the waiting list for comprehensive waiver and other applicable waivers. They would also include the number and demographics of children with disabilities who were not found eligible and why they were not found eligible. [Section 2, p. 3-4, lines 25-27; 31-3].

It would add language that to be eligible for services and support, the child shall be determined to meet the intermediate care facility institutional level of care criteria set forth in the amendment. [Section 3[4], p. 4, lines 21-23].

New language would also require DHHS to collaborate with a private nonprofit, if private funding is available, to complete an independent evaluation of the family support program. [Section 5, p. 5, lines 23-30].

New language would also add intent language related to American Rescue Plan Act [ARPA] funds relating to Home and Community Based Services [HCBS]. In ARPA, Section 9817, there is a 10% increase to the federal matching assistance percentage [FMAP] provided to HCBS services from March 2021 to April 2022. This amendment would state that it is the intent of the legislature to use those funds to eliminate unmet needs relating to HCBS services for Developmental Disabilities as much as is possible; and that those funds be used to partially fund the family support program. [Section 2[b][c], pp. 2-3, lines 29-7].

John Arch, Chairperson