

LEGISLATIVE BILL 269

Approved by the Governor June 4, 2013

Introduced by Campbell, 25.

FOR AN ACT relating to children and families; to amend section 71-3406, Reissue Revised Statutes of Nebraska, and sections 43-285, 43-905, 43-1311.03, 43-4101, 43-4202, 43-4203, 43-4208, 68-1207, 71-1904, and 81-3133, Revised Statutes Cumulative Supplement, 2012; to change provisions relating to state wards, foster care, the Nebraska Children's Commission, child welfare services, the State Child Death Review Team, and reporting requirements for certain child welfare expenditures; to require application for federal reimbursement of certain costs, employment of a policy analyst, foster home licensing requirements, certain provisions in contracts for child welfare services, and a formal grievance process for the child welfare system and the juvenile justice system; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 43-285, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-285 (1) When the court awards a juvenile to the care of the Department of Health and Human Services, an association, or an individual in accordance with the Nebraska Juvenile Code, the juvenile shall, unless otherwise ordered, become a ward and be subject to the guardianship of the department, association, or individual to whose care he or she is committed. Any such association and the department shall have authority, by and with the assent of the court, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it. Any such association and the department shall be responsible for applying for any health insurance available to the juvenile, including, but not limited to, medical assistance under the Medical Assistance Act. Such guardianship shall not include the guardianship of any estate of the juvenile.

(2) Following an adjudication hearing at which a juvenile is adjudged to be under subdivision (3) of section 43-247, the court may order the department to prepare and file with the court a proposed plan for the care, placement, services, and permanency which are to be provided to such juvenile and his or her family. The plan shall include a statement regarding the eligibility of the juvenile for any health insurance, including, but not limited to, medical assistance under the Medical Assistance Act. The health and safety of the juvenile shall be the paramount concern in the proposed plan. When the plan includes the provision of services in order that the juvenile can remain in his or her home and such services are to prevent out-of-home placement, the plan shall be prepared and shall clearly state that the services described in the plan are to prevent placement and that, absent preventive services, foster care is the planned arrangement for the child. The department shall include in the plan for a juvenile who is sixteen years of age or older and subject to the guardianship of the department a written independent living transition proposal which meets the requirements of section 43-1311.03. The court may approve the plan, modify the plan, order that an alternative plan be developed, or implement another plan that is in the juvenile's best interests. In its order the court shall include a finding regarding the appropriateness of the programs and services described in the proposal designed to assist the juvenile in acquiring independent living skills. Rules of evidence shall not apply at the dispositional hearing when the court considers the plan that has been presented.

(3) Within thirty days after an order awarding a juvenile to the care of the department, an association, or an individual and until the juvenile reaches the age of majority, the department, association, or individual shall file with the court a report stating the location of the juvenile's placement and the needs of the juvenile in order to effectuate the purposes of subdivision (1) of section 43-246. The department, association, or individual shall file a report with the court once every six months or at shorter intervals if ordered by the court or deemed appropriate by the department, association, or individual. Every six months, the report shall provide an updated statement regarding the eligibility of the juvenile for health insurance, including, but not limited to, medical assistance under the Medical Assistance Act. The department, association, or individual shall file a report and notice of placement change with the court and shall send

copies of the notice to all interested parties at least seven days before the placement of the juvenile is changed from what the court originally considered to be a suitable family home or institution to some other custodial situation in order to effectuate the purposes of subdivision (1) of section 43-246. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change in placement and may order that the change be stayed until the completion of the hearing. Nothing in this section shall prevent the court on an ex parte basis from approving an immediate change in placement upon good cause shown. The department may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation or when the foster parents request that the juvenile be removed from their home. Approval of the court shall be sought within twenty-four hours after making the change in placement or as soon thereafter as possible. The department shall provide the juvenile's guardian ad litem with a copy of any report filed with the court by the department pursuant to this subsection.

(4) The court shall also hold a permanency hearing if required under section 43-1312.

(5) When the court awards a juvenile to the care of the department, an association, or an individual, then the department, association, or individual shall have standing as a party to file any pleading or motion, to be heard by the court with regard to such filings, and to be granted any review or relief requested in such filings consistent with the Nebraska Juvenile Code.

(6) Whenever a juvenile is in a foster care placement as defined in section 43-1301, the Foster Care Review Office or the designated local foster care review board may participate in proceedings concerning the juvenile as provided in section 43-1313 and notice shall be given as provided in section 43-1314.

(7) Any written findings or recommendations of the Foster Care Review Office or the designated local foster care review board with regard to a juvenile in a foster care placement submitted to a court having jurisdiction over such juvenile shall be admissible in any proceeding concerning such juvenile if such findings or recommendations have been provided to all other parties of record.

(8) The executive director and any agent or employee of the Foster Care Review Office or any member of any local foster care review board participating in an investigation or making any report pursuant to the Foster Care Review Act or participating in a judicial proceeding pursuant to this section shall be immune from any civil liability that would otherwise be incurred except for false statements negligently made.

Sec. 2. Section 43-905, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-905 (1) The Department of Health and Human Services shall be the legal guardian of all children committed to it. The department shall afford temporary care and shall use special diligence to provide suitable homes for such children. The department shall make reasonable efforts to accomplish joint-sibling placement or sibling visitation or ongoing interaction between siblings as provided in section 43-1311.02. The department is authorized to place such children in suitable families for adoption, foster care, or guardianship or, in the discretion of the department, on a written contract.

(2) The contract shall provide (a) for the children's education in the public schools or otherwise, (b) for teaching them some useful occupation, and (c) for kind and proper treatment as members of the family in which they are placed.

(3) Whenever any child who has been committed to the department becomes self-supporting, the department shall declare that fact and the guardianship of the department shall cease. Thereafter the child shall be entitled to his or her own earnings. Guardianship of and services by the department shall never extend beyond the age of majority, except that (a) services by the department to a child shall continue until the child reaches the age of twenty-one if the child is a student regularly attending a school, college, or university or regularly attending a course of vocational or technical training designed to prepare such child for gainful employment and (b) beginning January 1, 2014, coverage for health care and related services under medical assistance in accordance with section 68-911 may be extended as provided under the federal Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1, 2013, for medicaid coverage for individuals under twenty-six years of age as allowed pursuant to such act.

(4) Whenever the parents of any ward, whose parental rights have not been terminated, have become able to support and educate their child, the

department shall restore the child to his or her parents if the home of such parents would be a suitable home. The guardianship of the department shall then cease.

(5) Whenever permanent free homes for the children cannot be obtained, the department shall have the authority to provide and pay for the maintenance of the children in private families, in foster care, in guardianship, in boarding homes, or in institutions for care of children.

Sec. 3. Section 43-1311.03, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-1311.03 (1) When a child placed in foster care turns sixteen years of age or enters foster care and is at least sixteen years of age, a written independent living transition proposal shall be developed by the Department of Health and Human Services at the direction and involvement of the child to prepare for the transition from foster care to adulthood. The transition proposal shall be personalized based on the child's needs. The transition proposal shall include, but not be limited to, the following needs:

(a) Education;

(b) Employment services and other workforce support;

(c) Health and health care coverage, including the child's potential eligibility for medicaid coverage under the federal Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1, 2013;

(d) Financial assistance, including education on credit card financing, banking, and other services;

(e) Housing;

(f) Relationship development; and

(g) Adult services, if the needs assessment indicates that the child is reasonably likely to need or be eligible for services or other support from the adult services system.

(2) The transition proposal shall be developed and frequently reviewed by the department in collaboration with the child's transition team. The transition team shall be comprised of the child, the child's caseworker, the child's guardian ad litem, individuals selected by the child, and individuals who have knowledge of services available to the child.

(3) The transition proposal shall be considered a working document and shall be, at the least, updated for and reviewed at every permanency or review hearing by the court.

(4) The final transition proposal prior to the child's leaving foster care shall specifically identify how the need for housing will be addressed.

(5) If the child is interested in pursuing higher education, the transition proposal shall provide for the process in applying for any applicable state, federal, or private aid.

(6) On or before the date the child reaches nineteen years of age, the department shall provide the child with (a) a certified copy of the child's birth certificate and facilitate securing a federal social security card when the child is eligible for such card and (b) all documentation required for enrollment in medicaid coverage for former foster care children as available under the federal Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1, 2013. All fees associated with securing the certified copy of the child's birth certificate shall be waived by the state.

Sec. 4. Section 43-4101, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-4101 (1) The Nebraska Juvenile Service Delivery Project shall be established as a pilot program administered by the Office of Probation Administration. The pilot program shall be evaluated by the University of Nebraska Medical Center's College of Public Health. The project may be expanded by the Office of Probation Administration. The purpose of the pilot program is to ~~(1)~~ (a) provide access to services in the community for juveniles placed on probation, ~~(2)~~ (b) prevent unnecessary commitment of juveniles to the Department of Health and Human Services and to the Office of Juvenile Services, ~~(3)~~ (c) eliminate barriers preventing juveniles from receiving needed services, ~~(4)~~ (d) prevent unnecessary penetration of juveniles further into the juvenile justice system, ~~(5)~~ (e) enable the juvenile's needs to be met in the least intrusive and least restrictive manner while maintaining the safety of the juvenile and the community, ~~(6)~~ (f) reduce the duplication of resources within the juvenile justice system through intense coordinated case management and supervision, and ~~(7)~~ (g) use evidence-based practices and responsive case management to improve outcomes for adjudicated juveniles.

(2) On or before July 1, 2013, the Department of Health and Human

Services shall apply for reimbursement under Title IV-E of the federal Social Security Act, as amended, for reimbursable costs associated with the Nebraska Juvenile Service Delivery Project. The reimbursed funds received by the department shall be remitted to the State Treasurer for credit to the Probation Program Cash Fund for reimbursement of expenses incurred by the Office of Probation Administration pursuant to the Nebraska Juvenile Service Delivery Project.

Sec. 5. Section 43-4202, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-4202 (1) The Nebraska Children's Commission is created as a high-level leadership body to (a) create a statewide strategic plan for reform of the child welfare system programs and services in the State of Nebraska and (b) review the operations of the Department of Health and Human Services regarding child welfare programs and services and recommend, as a part of the statewide strategic plan, options for attaining the legislative intent stated in section 43-4201, either by the establishment of a new division within the department or the establishment of a new state agency to provide all child welfare programs and services which are the responsibility of the state. The commission shall provide a permanent forum for collaboration among state, local, community, public, and private stakeholders in child welfare programs and services.

(2) The commission shall include the following voting members:

~~(a) The chief executive officer of the Department of Health and Human Services or his or her designee;~~

~~(b) The Director of Children and Family Services or his or her designee; and~~

(a) The executive director of the Foster Care Review Office; and

~~(c) Sixteen (b) Seventeen members appointed by the Governor, within thirty days after April 12, 2012. The members appointed pursuant to this subdivision shall represent stakeholders in the child welfare system and shall include: (i) A director of a child advocacy center; (ii) an administrator of a behavioral health region established pursuant to section 71-807; (iii) a community representative from each of the service areas designated pursuant to section 81-3116. In the eastern service area designated pursuant to such section, the representative may be from a lead agency of a pilot project established under Legislative Bill 961, One Hundred Second Legislature, Second Session, 2012, section 68-1212 or a collaborative member; (iv) a prosecuting attorney who practices in juvenile court; (v) a guardian ad litem; (vi) a biological parent currently or previously involved in the child welfare system; (vii) a foster parent; (viii) a court appointed special advocate volunteer; (ix) a member of the State Foster Care Review Board or any entity that succeeds to the powers and duties of the board or a member of a local foster care review board; (x) a child welfare service agency that directly provides a wide range of child welfare services and is not a member of a lead agency collaborative; (xi) a young adult previously in foster care; and (xii) a representative of a child advocacy organization that deals with legal and policy issues that include child welfare; and (xiii) a representative of a federally recognized Indian tribe residing within the State of Nebraska and appointed within thirty days after the effective date of this act from a list of three nominees submitted by the Commission on Indian Affairs.~~

(3) ~~The commission~~ Nebraska Children's Commission shall have the following nonvoting, ex officio members: (a) The chairperson of the Health and Human Services Committee of the Legislature or a committee member designated by the chairperson; (b) the chairperson of the Judiciary Committee of the Legislature or a committee member designated by the chairperson; (c) the chairperson of the Appropriations Committee of the Legislature or a committee member designated by the chairperson; ~~and~~ (d) three persons appointed by the State Court Administrator; ~~(e) the chief executive officer of the Department of Health and Human Services or his or her designee; (f) the Director of Children and Family Services of the Division of Children and Family Services of the Department of Health and Human Services or his or her designee; and~~ (g) the Inspector General of Nebraska Child Welfare. The nonvoting, ex officio members may attend commission meetings and participate in the discussions of the commission, provide information to the commission on the policies, programs, and processes of each of their respective bodies, gather information for the commission, and provide information back to their respective bodies from the commission. The nonvoting, ex officio members shall not vote on decisions by the commission or on the direction or development of the statewide strategic plan pursuant to section 43-4204.

(4) The commission shall meet within sixty days after April 12, 2012, and shall select from among its members a chairperson and vice-chairperson and conduct any other business necessary to the organization

of the commission. The commission shall meet not less often than once every three months, and meetings of the commission may be held at any time on the call of the chairperson. ~~The commission shall be within the office of the chief executive officer of the Department of Health and Human Services.~~ The commission may hire staff to carry out the responsibilities of the commission. For administrative purposes, the offices of the staff of the commission shall be located in the Foster Care Review Office. The commission shall hire a consultant with experience in facilitating strategic planning to provide neutral, independent assistance in developing the statewide strategic plan. The commission shall terminate on June 30, 2014, unless continued by the Legislature.

(5) The commission, with assistance from the executive director of the Foster Care Review Office, shall employ a policy analyst to provide research and expertise to the commission relating to the child welfare system. The policy analyst shall work in conjunction with the staff of the commission. His or her responsibilities may include, but are not limited to: (a) Monitoring the Nebraska child welfare system and juvenile justice system to provide information to the commission; (b) analyzing child welfare and juvenile justice public policy through research and literature reviews and drafting policy reports when requested; (c) managing or leading projects or tasks and providing resource support to commission members and committees as determined by the chairperson of the commission; (d) serving as liaison among child welfare and juvenile justice stakeholders and the public and responding to information inquiries as required; and (e) other duties as assigned by the commission.

~~(5)~~ (6) Members of the commission shall be reimbursed for their actual and necessary expenses as members of such commission as provided in sections 81-1174 to 81-1177.

Sec. 6. Section 43-4203, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-4203 (1) The Nebraska Children's Commission shall work with administrators from each of the service areas designated pursuant to section 81-3116, the teams created pursuant to section 28-728, local foster care review boards, child advocacy centers, the teams created pursuant to the Supreme Court's Through the Eyes of the Child Initiative, community stakeholders, and advocates for child welfare programs and services to establish networks in each of such service areas. Such networks shall permit collaboration to strengthen the continuum of services available to child welfare agencies and to provide resources for children and juveniles outside the child protection system. Each service area shall develop its own unique strategies to be included in the statewide strategic plan. The Department of Health and Human Services shall assist in identifying the needs of each service area.

(2)(a) The commission shall create a committee to examine state policy regarding the prescription of psychotropic drugs for children who are wards of the state and the administration of such drugs to such children. Such committee shall review the policy and procedures for prescribing and administering such drugs and make recommendations to the commission for changes in such policy and procedures.

(b) The commission shall create a committee to examine the structure and responsibilities of the Office of Juvenile Services as they exist on April 12, 2012. Such committee shall review the role and effectiveness of the youth rehabilitation and treatment centers in the juvenile justice system and make recommendations to the commission on the future role of the youth rehabilitation and treatment centers in the juvenile justice continuum of care. Such committee shall also review the responsibilities of the Administrator of the Office of Juvenile Services, including oversight of the youth rehabilitation and treatment centers and juvenile parole, and make recommendations to the commission relating to the future responsibilities of the administrator.

(c) The commission may organize committees as it deems necessary. Members of the committees may be members of the commission or may be appointed, with the approval of the majority of the commission, from individuals with knowledge of the committee's subject matter, professional expertise to assist the committee in completing its assigned responsibilities, and the ability to collaborate within the committee and with the commission to carry out the powers and duties of the commission.

~~(d) If the One Hundred Second Legislature, Second Session, 2012, creates the The Title IV-E Demonstration Project Committee or created pursuant to section 43-4208 and the Foster Care Reimbursement Rate Committee, or both, such committees created pursuant to section 43-4212 shall be under the jurisdiction of the commission.~~

(3) The commission shall work with the office of the State Court Administrator, as appropriate, and entities which coordinate facilitated conferencing as described in section 43-247.01. Facilitated conferencing shall be included in statewide strategic plan discussions by the commission. Facilitated conferencing shall continue to be utilized and maximized, as determined by the court of jurisdiction, during the development of the statewide strategic plan. Funding and contracting of facilitated conferencing entities shall continue to be provided by the Department of Health and Human Services to at least the same extent as such funding and contracting are being provided on April 12, 2012.

(4) The commission shall gather information and communicate with juvenile justice specialists of the Office of Probation Administration and county officials with respect to any county-operated practice model participating in the Crossover Youth Program of the Center for Juvenile Justice Reform at Georgetown University.

(5) The commission shall coordinate and gather information about the progress and outcomes of the Nebraska Juvenile Service Delivery Project established pursuant to section 43-4101.

~~(5) If the Nebraska Juvenile Service Delivery Project is enacted by the One Hundred Second Legislature, Second Session, 2012, the commission shall coordinate and gather information about the progress and outcomes of the project.~~

Sec. 7. Section 43-4208, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-4208 (1)(a) The Title IV-E Demonstration Project Committee is created. The members of the committee shall be appointed by the Director of Children and Family Services or his or her designee and shall include representatives of the Department of Health and Human Services and representatives of child welfare stakeholder entities, including one advocacy organization which deals with legal and policy issues that include child welfare, one advocacy organization the singular focus of which is issues impacting children, two child welfare service agencies that provide a wide range of child welfare services, and one entity which is a lead agency as of March 1, 2012. Members of the committee shall have experience or knowledge in the area of child welfare that involves Title IV-E eligibility criteria and activities. In addition, there shall be at least one ex officio member of the committee, appointed by the State Court Administrator. The ex officio member or members shall not be involved in decisionmaking, implementation plans, or reporting but may attend committee meetings, provide information to the committee about the processes and programs of the court system involving children and juveniles, and inform the State Court Administrator of the committee's activities. The committee shall be convened by the director within thirty days after April 12, 2012.

(b) The committee shall review, report, and provide recommendations regarding the application of the Department of Health and Human Services for a demonstration project pursuant to 42 U.S.C. 1320a-9 to obtain a waiver as provided in 42 U.S.C. 1320a-9(b), as such section existed on January 1, 2012. The committee may engage a consultant with expertise in Title IV-E demonstration project applications and requirements.

(c) The committee shall (i) review Nebraska's current status of Title IV-E participation and penetration rates, (ii) review strategies and solutions for raising Nebraska's participation rate and reimbursement for Title IV-E in child placement, case management, replacement, training, adoption, court findings, and proceedings, and (iii) recommend specific actions for addressing barriers to participation and reimbursement.

(d) The committee shall provide an implementation plan and a timeline for making application for a Title IV-E waiver. The implementation plan shall support and align with the goals of the statewide strategic plan required pursuant to ~~Legislative Bill 821, One Hundred Second Legislature, Second Session, 2012, section 43-4204,~~ including, but not limited to, maximizing federal funding to be able to utilize state and federal funding for a broad array of services for children, including prevention, intervention, and community-based, in-home, and out-of-home services to attain positive outcomes for the safety and well-being of and to expedite permanency for children. The committee shall report on its activities to the Health and Human Services Committee of the Legislature on or before July 1, 2012, September 1, 2012, and November 1, 2012, and shall provide a final written report to the department, the Health and Human Services Committee of the Legislature, and the Governor by December 15, 2012.

~~(e) If the Nebraska Children's Commission is created by the One Hundred Second Legislature, Second Session, 2012, the The Title IV-E Demonstration Project Committee shall thereupon come under the commission's~~

~~jurisdiction.~~ is under the jurisdiction of the Nebraska Children's Commission created pursuant to section 43-4202. The commission may make changes it deems necessary to comply with this subsection to facilitate the application for such demonstration project.

(2) The committee's implementation plan shall address the demonstration project designed to meet the requirements of 42 U.S.C. 1320a-9, including, but not limited to, the following:

(a) Increasing permanency for children by reducing the time in foster care placements when possible and promoting a successful transition to adulthood for older youth;

(b) Increasing positive outcomes for children and families in their homes and communities, including tribal communities, and improving the safety and well-being of children;

(c) Preventing child abuse and neglect and the reentry of children into foster care; and

(d) Considering the options of developing a program to (i) permit foster care maintenance payments to be made under Title IV-E of the federal Social Security Act, as such act existed on January 1, 2012, to a long-term therapeutic family treatment center on behalf of children residing in such a center or (ii) identify and address domestic violence that endangers children and results in the placement of children in foster care.

(3) The implementation plan for the demonstration project shall include information showing:

(a) The ability and capacity of the department to effectively use the authority to conduct a demonstration project under this section by identifying changes the department has made or plans to make in policies, procedures, or other elements of the state's child welfare program that will enable the state to successfully achieve the goal or goals of the project; and

(b) That the department has implemented, or plans to implement within three years after the date of submission of its application under this section or within two years after the date on which the United States Secretary of Health and Human Services approves such application, whichever is later, at least two of the child welfare program improvement policies described in 42 U.S.C. 1320a-9(a)(7), as such section existed on January 1, 2012.

(4) At least one of the child welfare program improvement policies to be implemented by the Department of Health and Human Services under the demonstration project shall be a policy that the state has not previously implemented as of the date of submission of its application under this section.

(5) On or before July 1, 2013, the Department of Health and Human Services, in conjunction with the Office of Probation Administration, shall develop a policy for reimbursement of all allowable foster care maintenance costs as provided under Title IV-E of the federal Social Security Act, 42 U.S.C. 672, as such act and section existed on January 1, 2013.

~~(5)~~ (6) For purposes of this section, long-term therapeutic family treatment center has the definition found in 42 U.S.C. 1320a-9(a)(8), as such section existed on January 1, 2012.

Sec. 8. Section 68-1207, Revised Statutes Cumulative Supplement, 2012, is amended to read:

68-1207 (1) The Department of Health and Human Services shall supervise all public child welfare services as described by law. The department and the pilot project described in section 68-1212 shall maintain caseloads to carry out child welfare services which provide for adequate, timely, and indepth investigations and services to children and families. Caseloads shall range between twelve and seventeen cases as determined pursuant to subsection (2) of this section. In establishing the specific caseloads within such range, the department and the pilot project shall (a) include the workload factors that may differ due to geographic responsibilities, office location, and the travel required to provide a timely response in the investigation of abuse and neglect, the protection of children, and the provision of services to children and families in a uniform and consistent statewide manner and (b) utilize the workload criteria of the standards established as of January 1, 2012, by the Child Welfare League of America. The average caseload shall be reduced by the department in all service areas as designated pursuant to section 81-3116 and by the pilot project to comply with the caseload range described in this subsection by September 1, 2012. Beginning September 15, 2012, the department shall include in its annual report required pursuant to section 68-1207.01 a report on the attainment of the decrease according to such caseload standards. The department's annual report shall also include changes in the standards of the Child Welfare League of America or its successor.

(2) Caseload size shall be determined in the following manner: (a) If children are placed in the home, the family shall count as one case regardless of how many children are placed in the home; (b) if a child is placed out of the home, the child shall count as one case; (c) if, within one family, one or more children are placed in the home and one or more children are placed out of the home, the children placed in the home shall count as one case and each child placed out of the home shall count as one case; and (d) any child receiving services from the department or a private entity under contract with the department shall be counted as provided in subdivisions (a) through (c) of this subsection whether or not such child is a ward of the state. For purposes of this subsection, a child is considered to be placed in the home if the child is placed with his or her biological or adoptive parent or a legal guardian and a child is considered to be placed out of the home if the child is placed in foster care, group home care, or any other setting which is not the child's planned permanent home.

(3) To insure appropriate oversight of noncourt and voluntary cases when any child welfare services are provided, either by the department or by a lead agency participating in the pilot project, as a result of a child safety assessment, the department or lead agency shall develop a case plan that specifies the services to be provided and the actions to be taken by the department or lead agency and the family in each such case. Such case plan shall clearly indicate, when appropriate, that children are receiving services to prevent out-of-home placement and that, absent preventive services, foster care is the planned arrangement for the child.

(4) To carry out the provisions of this section, the Legislature shall provide funds for additional staff.

Sec. 9. Section 71-1904, Revised Statutes Cumulative Supplement, 2012, is amended to read:

71-1904 (1) The department shall adopt and promulgate rules and regulations pursuant to sections 71-1901 to 71-1906.01 for (a) the proper care and protection of children by licensees under such sections, (b) the issuance, suspension, and revocation of licenses to provide foster care, (c) the issuance, suspension, and revocation of probationary licenses to provide foster care, (d) the issuance, suspension, and revocation of provisional licenses to provide foster care, (e) the provision of training in foster care, which training shall be directly related to the skills necessary to care for children in need of out-of-home care, including, but not limited to, abused, neglected, dependent, and delinquent children, and (f) the proper administration of sections 71-1901 to 71-1906.01.

(2) The training required by subdivision (1)(e) of this section may be waived in whole or in part by the department for persons operating foster homes providing care only to relatives of the foster care provider. Such waivers shall be granted on a case-by-case basis upon assessment by the department of the appropriateness of the relative foster care placement. The department shall submit electronically an annual report to the Health and Human Services Committee of the Legislature on the number of waivers granted under this subsection and the total number of children placed in relative foster homes. For ~~2012, 2013,~~ 2013 and 2014, the department shall provide the report to the Health and Human Services Committee of the Legislature on or before September 15.

(3) The department shall adopt and promulgate rules and regulations establishing new foster home licensing requirements that ensure children's safety, health, and well-being but minimize the use of licensing mandates for nonsafety issues. Such rules and regulations shall provide alternatives to address nonsafety issues regarding housing and provide assistance to families in overcoming licensing barriers, especially in child-specific relative and kinship placements, to maximize appropriate reimbursement under Title IV-E of the federal Social Security Act, as amended, including expanding the use of kinship guardianship assistance payments under 42 U.S.C. 673(d), as such act and section existed on January 1, 2013.

Sec. 10. (1) Any entity seeking to enter into a contract with the Department of Health and Human Services to provide child welfare services shall provide evidence of financial stability and liquidity prior to executing such contract.

(2) An entity contracting with the department to provide child welfare services shall not require any subcontractor or employee of such contractor or subcontractor to sign an agreement not to compete with such contractor as a condition of subcontracting or employment.

Sec. 11. The Department of Health and Human Services shall implement a formal grievance process for families involved in the child welfare system or juvenile justice system. Such grievance process shall ensure that families are not dissuaded from utilizing the grievance process for fear of reprisal

from the department, providers, or foster parents. A report of each grievance allegation and the determination of and any action to be taken by the department shall be provided to the Inspector General for Nebraska Child Welfare within ten days after such determination is made.

Sec. 12. Section 71-3406, Reissue Revised Statutes of Nebraska, is amended to read:

71-3406 (1) The chief executive officer of the Department of Health and Human Services shall appoint a minimum of eight and a maximum of twelve members to the State Child Death Review Team. The core members shall be (a) a physician employed by the department, who shall be a permanent member and shall serve as the chairperson of the team, (b) a senior staff member with child protective services of the department, (c) a forensic pathologist, (d) a law enforcement representative, and (e) the Inspector General of Nebraska Child Welfare, and (f) an attorney. The remaining members appointed may be, but shall not be limited to, the following: A county attorney; a Federal Bureau of Investigation agent responsible for investigations on Native American reservations; a social worker; and members of organizations which represent hospitals or physicians.

(2) Members shall serve four-year terms with the exception of the chairperson. In the absence of the chairperson, the chief executive officer may appoint another member of the core team to serve as chairperson.

(3) The team shall not be considered a public body for purposes of the Open Meetings Act. The team shall meet a minimum of four times a year. Members of the team shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 13. Section 81-3133, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-3133 (1)(a) On or before July 30, 2012, the Division of Children and Family Services of the Department of Health and Human Services shall report in writing its expenditures between January 1, 2012, and June 30, 2012, and the outcomes relating to such expenditures to the Appropriations Committee of the Legislature and the Health and Human Services Committee of the Legislature. Such report shall identify any changes or movement of funds in excess of two hundred fifty thousand dollars relating to child welfare between subprograms within Budget Program 347 and Budget Program 354.

(b) Beginning with the third calendar quarter of 2012, the division shall report in writing its expenditures for each quarter and the outcomes relating to such expenditures within thirty days after the end of the quarter to the Appropriations Committee of the Legislature and the Health and Human Services Committee of the Legislature. Such report shall identify any changes or movement of funds in excess of two hundred fifty thousand dollars relating to child welfare between subprograms within Budget Program 347 and Budget Program 354.

(2)(a) For the biennium ending June 30, 2015, and the biennium ending June 30, 2017, the Division of Children and Family Services of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to section 81-132, include a strategic plan that identifies the main purpose or purposes of each program, verifiable and auditable key goals that the division believes are fair measures of its progress in meeting each program's main purpose or purposes, and benchmarks for improving performance on the key goals for the state as a whole and for each Department of Health and Human Services service area designated pursuant to section 81-3116. The division shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them. Such key goals and benchmarks shall be developed by the Division of Children and Family Services with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (2) of section 81-1113.

(b) Not later than September 15, 2013, and not later than September 15, 2015, the Division of Children and Family Services of the Department of Health and Human Services shall report to the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature on the progress towards the key goals identified pursuant to this subsection that occurred in the previous twelve months.

~~(3) It is the intent of the Legislature that appropriations of funds for child welfare aid be designated as a separate budget program beginning July 1, 2012.~~

Sec. 14. Original section 71-3406, Reissue Revised Statutes of Nebraska, and sections 43-285, 43-905, 43-1311.03, 43-4101, 43-4202, 43-4203, 43-4208, 68-1207, 71-1904, and 81-3133, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 15. Since an emergency exists, this act takes effect when passed and approved according to law.