

AMENDMENTS TO LB 961

(Amendments to E & R amendments, ER194)

Introduced by Campbell

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

3           Section 1. The Legislature finds and declares that:

4           (1) The State of Nebraska has the legal responsibility  
5 for children in its custody and accordingly should maintain the  
6 decisionmaking authority inherent in direct case management of  
7 child welfare services;

8           (2) Training and longevity of child welfare case managers  
9 directly impact the safety, permanency, and well-being of children  
10 receiving child welfare services;

11           (3) Meaningful reform of the child welfare system  
12 can occur only when competent, skilled case managers educated  
13 in evidence-based child welfare best practices are making  
14 determinations for the care of, and services to, children  
15 and families and providing first-hand, direct information for  
16 decisionmaking and high-quality evidence to the courts relating to  
17 the best interests of the children;

18           (4) Maintaining quality, well-trained, and experienced  
19 case managers is essential and will be a core component in  
20 child welfare reform, including statewide strategic planning  
21 and implementation. Additional resources and funds for training,  
22 support, and compensation may be required;

1           (5) Notwithstanding the outsourcing of case management,  
2 the Department of Health and Human Services retains legal custody  
3 of wards of the state and remains responsible for their care.  
4 Inherent in privatized case management is the loss of trained,  
5 skilled individuals employed by the state providing the stable  
6 workforce essential to fulfilling the state's responsibilities for  
7 children who are wards of the state, resulting in the risk of loss  
8 of a trained, experienced, and stable workforce;

9           (6) Privatization of case management of child welfare  
10 services can and has resulted in dependence on one or more private  
11 entities for the provision of an essential specialized service  
12 that is extremely difficult to replace. As a result, the risk of  
13 a private entity abandoning the contract, either voluntarily or  
14 involuntarily, creates a very high risk to the entire child welfare  
15 system, including essential child welfare services;

16           (7) Privatization of case management and child welfare  
17 services, including responsibilities for both service coordination  
18 and service delivery by private entities, may create conflicts of  
19 interest because the resulting financial incentives can undermine  
20 decisionmaking regarding the appropriate services that would  
21 be in the best interests of the children. Additionally, such  
22 privatization of child welfare services, including case management,  
23 can result in loss of services across the spectrum of child welfare  
24 services by reducing market competition and driving many providers  
25 out of the market;

26           (8) Privatization of case management and of child welfare  
27 services has resulted in issues relating to caseloads, placement,

1 turnover, communication, and stability within the child welfare  
2 system that adversely affect outcomes and permanency for children  
3 and families; and

4 (9) Private lead agency contracts require complex  
5 monitoring capabilities to insure compliance and oversight of  
6 performance, including private case managers, to insure improved  
7 child welfare outcomes.

8 Sec. 2. (1) Except as provided in subsection (2) of  
9 this section, by April 1, 2012, for all cases in which a  
10 court has awarded a juvenile to the care of the Department of  
11 Health and Human Services according to subsection (1) of section  
12 43-285 and for any noncourt and voluntary cases, the case manager  
13 shall be an employee of the department. Such case manager shall  
14 be responsible for and shall directly oversee: Case planning;  
15 service authorization; investigation of compliance; monitoring  
16 and evaluation of the care and services provided to children  
17 and families; and decisionmaking regarding the determination of  
18 visitation and the care, placement, medical services, psychiatric  
19 services, training, and expenditures on behalf of each juvenile  
20 under subsection (1) of section 43-285. Such case manager shall be  
21 responsible for decisionmaking and direct preparation regarding the  
22 proposed plan for the care, placement, services, and permanency of  
23 the juvenile filed with the court required under subsection (2)  
24 of section 43-285. The health and safety of the juvenile shall be  
25 the paramount concern in the proposed plan in accordance with such  
26 subsection.

27 (2) The department may contract with a lead agency

1 for a case management lead agency model pilot project in the  
2 department's eastern service area as designated pursuant to section  
3 81-3116. The department shall include in the pilot project the  
4 appropriate conditions, performance outcomes, and oversight for the  
5 lead agency, including, but not be limited to:

6 (a) The reporting and survey requirements of lead  
7 agencies described in sections 6 and 7, Legislative Bill 1160, One  
8 Hundred Second Legislature, Second Session, 2012;

9 (b) Departmental monitoring and functional capacities of  
10 lead agencies described in section 8, Legislative Bill 1160, One  
11 Hundred Second Legislature, Second Session, 2012;

12 (c) The key areas of evaluation specified in subsection  
13 (3) of section 9, Legislative Bill 1160, One Hundred Second  
14 Legislature, Second Session, 2012;

15 (d) Compliance and coordination with the development  
16 of the statewide strategic plan for child welfare program and  
17 service reform pursuant to Legislative Bill 821, One Hundred Second  
18 Legislature, Second Session, 2012; and

19 (e) Assurance of financial accountability and reporting  
20 by the lead agency.

21 (3) Prior to April 1, 2013, the Health and Human Services  
22 Committee of the Legislature shall review the pilot project and  
23 provide to the department and the Legislature recommendations,  
24 and any legislation necessary to adopt the recommendations,  
25 regarding the adaptation or continuation of the pilot project. In  
26 making the recommendations, the committee shall utilize: (a) The  
27 evaluation completed pursuant to Legislative Bill 1160, One Hundred

1 Second Legislature, Second Session, 2012; (b) the recommendations  
2 of the statewide strategic plan pursuant to Legislative Bill  
3 821, One Hundred Second Legislature, Second Session, 2012; (c)  
4 the department's assessment of the pilot project; and (d) any  
5 additional reports, surveys, information, and data provided to and  
6 requested by the committee. If the pilot project continues past  
7 April 1, 2013, the lead agency shall comply with the requirements  
8 of section 4, Legislative Bill 821, One Hundred Second Legislature,  
9 Second Session, 2012.

10           Sec. 3. Section 68-1207, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           68-1207 (1) The Department of Health and Human Services  
13 shall supervise all public child welfare services as described by  
14 law. The department and the pilot project described in section 2 of  
15 this act shall establish and maintain caseloads to carry out child  
16 welfare services which provide for adequate, timely, and indepth  
17 investigations and services to children and families. Caseloads  
18 shall range between twelve and seventeen cases as determined  
19 pursuant to subsection (2) of this section. In establishing the  
20 standards for such specific caseloads within such range, the  
21 department and the pilot project shall ~~(1)~~ (a) include the workload  
22 factors that may differ due to geographic responsibilities, office  
23 location, and the travel required to provide a timely response in  
24 the investigation of abuse and neglect, the protection of children,  
25 and the provision of services to children and families in a  
26 uniform and consistent statewide manner and ~~(2)~~ consider workload  
27 standards recommended by national child welfare organizations and

1 ~~factors related to the attainment of such standards. The department~~  
2 ~~shall consult with the appropriate employee representative in~~  
3 ~~establishing such standards.~~ (b) utilize the workload criteria of  
4 the standards established as of January 1, 2012, by the Child  
5 Welfare League of America. The average caseload shall be reduced  
6 by the department in all service areas as designated pursuant  
7 to section 81-3116 and by the pilot project to comply with  
8 the caseload range described in this subsection by September 1,  
9 2012. Beginning September 15, 2012, the department shall include  
10 in its annual report required pursuant to section 68-1207.01  
11 a report on the attainment of the decrease according to such  
12 caseload standards. The department's annual report shall also  
13 include changes in the standards of the Child Welfare League of  
14 America or its successor.

15 (2) Caseload size shall be determined in the following  
16 manner: (a) If children are placed in the home, the family shall  
17 count as one case regardless of how many children are placed in  
18 the home; (b) if a child is placed out of the home, the child  
19 shall count as one case; (c) if, within one family, one or more  
20 children are placed in the home and one or more children are placed  
21 out of the home, the children placed in the home shall count as  
22 one case and each child placed out of the home shall count as one  
23 case; and (d) any child receiving services from the department or a  
24 private entity under contract with the department shall be counted  
25 as provided in subdivisions (a) through (c) of this subsection  
26 whether or not such child is a ward of the state. For purposes of  
27 this subsection, a child is considered to be placed in the home if

1 the child is placed with his or her biological or adoptive parent  
2 or a legal guardian and a child is considered to be placed out of  
3 the home if the child is placed in foster care, group home care, or  
4 any other setting which is not the child's planned permanent home.

5 (3) To insure appropriate oversight of noncourt and  
6 voluntary cases when any child welfare services are provided,  
7 either by the department or by a lead agency participating in  
8 the pilot project, as a result of a child safety assessment, the  
9 department or lead agency shall develop a case plan that specifies  
10 the services to be provided and the actions to be taken by the  
11 department or lead agency and the family in each such case.

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

14 Sec. 4. Section 81-3116, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 81-3116 The responsibilities of the divisions created in  
17 section 81-3113 include, but are not limited to, the following:

18 (1) The Division of Behavioral Health shall administer  
19 (a) the state hospitals for the mentally ill designated in section  
20 83-305 and (b) publicly funded community-based behavioral health  
21 services;

22 (2) The Division of Children and Family Services shall  
23 administer (a) protection and safety programs and services,  
24 including child welfare programs and services and the Office of  
25 Juvenile Services, (b) economic and family support programs and  
26 services, and (c) service areas as may be designated by the  
27 chief executive officer or by the Director of Children and Family

1 Services under authority of the chief executive officer, except  
2 that on and after September 1, 2012, the western, central, and  
3 northern service areas shall be aligned to be coterminous with the  
4 district court judicial districts described in section 24-301.02;

5 (3) The Division of Developmental Disabilities shall  
6 administer (a) the Beatrice State Developmental Center and  
7 (b) publicly funded community-based developmental disabilities  
8 services;

9 (4) The Division of Medicaid and Long-Term Care shall  
10 administer (a) the medical assistance program also known as  
11 medicaid, (b) aging services, and (c) other related programs  
12 and services;

13 (5) The Division of Public Health shall administer  
14 (a) preventive and community health programs and services, (b)  
15 the regulation and licensure of health-related professions and  
16 occupations, and (c) the regulation and licensure of health care  
17 facilities and health care services; and

18 (6) The Division of Veterans' Homes shall administer (a)  
19 the Eastern Nebraska Veterans' Home, (b) the Grand Island Veterans'  
20 Home, (c) the Norfolk Veterans' Home, and (d) the Western Nebraska  
21 Veterans' Home.

22 Sec. 5. On and after the effective date of this act,  
23 the Department of Health and Human Services shall not reinstate a  
24 lead agency in the southeast, central, western, or northern service  
25 areas of Nebraska as such service areas are designated pursuant to  
26 section 81-3116.

27 Sec. 6. Original sections 68-1207 and 81-3116, Reissue



1 Revised Statutes of Nebraska, are repealed.

2           Sec. 7. Since an emergency exists, this act takes effect

3 when passed and approved according to law.