

## LEGISLATIVE BILL 961

Approved by the Governor April 9, 2012

Introduced by Health and Human Services Committee: Campbell, 25, Chairperson; Bloomfield, 17; Cook, 13; Gloor, 35; Howard, 9; Krist, 10; Lambert, 2.

FOR AN ACT relating to public health and welfare; to amend sections 68-1207 and 81-3116, Reissue Revised Statutes of Nebraska; to state intent; to change provisions relating to case management of child welfare services and designation of service areas; to provide limits on caseloads, contracts, and contract extensions as prescribed; to repeal the original sections; and to declare an emergency.

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

Section 1. The Legislature finds and declares that:

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

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

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

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

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

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

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

(8) Privatization of case management and of child welfare services has resulted in issues relating to caseloads, placement, turnover, communication, and stability within the child welfare system that adversely affect outcomes and permanency for children and families; and

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

Sec. 2. (1) Except as provided in subsection (2) of this section, by April 1, 2012, for all cases in which a court has awarded a juvenile to the care of the Department of Health and Human Services according to subsection (1) of section 43-285 and for any noncourt and voluntary cases, the case manager shall be an employee of the department. Such case manager shall be responsible for and shall directly oversee: Case planning; service authorization; investigation of compliance; monitoring and evaluation of the care and services provided to children and families; and decisionmaking regarding the determination of visitation and the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile under subsection (1) of section 43-285. Such case manager shall be

responsible for decisionmaking and direct preparation regarding the proposed plan for the care, placement, services, and permanency of the juvenile filed with the court required under subsection (2) of section 43-285. The health and safety of the juvenile shall be the paramount concern in the proposed plan in accordance with such subsection.

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

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

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

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

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

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

(3) Prior to April 1, 2013, the Health and Human Services Committee of the Legislature shall review the pilot project and provide to the department and the Legislature recommendations, and any legislation necessary to adopt the recommendations, regarding the adaptation or continuation of the pilot project. In making the recommendations, the committee shall utilize:

(a) The evaluation completed pursuant to Legislative Bill 1160, One Hundred Second Legislature, Second Session, 2012; (b) the recommendations of the statewide strategic plan pursuant to Legislative Bill 821, One Hundred Second Legislature, Second Session, 2012; (c) the department's assessment of the pilot project; and (d) any additional reports, surveys, information, and data provided to and requested by the committee. If the pilot project continues past April 1, 2013, the lead agency shall comply with the requirements of section 4, Legislative Bill 821, One Hundred Second Legislature, Second Session, 2012.

Sec. 3. Section 68-1207, Reissue Revised Statutes of Nebraska, 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 2 of this act shall establish and 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 standards for such specific caseloads within such range, the department and the pilot project shall ~~(1)~~ (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 ~~(2)~~ consider workload standards recommended by national child welfare organizations and factors related to the attainment of such standards. The department shall consult with the appropriate employee representative in establishing such standards. (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.

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

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

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

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

(2) The Division of Children and Family Services shall administer (a) protection and safety programs and services, including child welfare programs and services and the Office of Juvenile Services, (b) economic and family support programs and services, and (c) service areas as may be designated by the chief executive officer or by the Director of Children and Family Services under authority of the chief executive officer, except that on and after September 1, 2012, the western, central, and northern service areas shall be aligned to be coterminous with the district court judicial districts described in section 24-301.02;

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

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

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

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

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

Sec. 6. Original sections 68-1207 and 81-3116, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.