

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 674

Introduced by Krist, 10.

Read first time January 06, 2016

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Disabled Persons and Family Support
2 Act; to amend sections 68-1502, 68-1504, 68-1505, 68-1506, 68-1508,
3 68-1509, 68-1510, 68-1511, 68-1512, 68-1513, 68-1515, 68-1516, and
4 68-1519, Reissue Revised Statutes of Nebraska, and section 68-1518,
5 Revised Statutes Cumulative Supplement, 2014; to provide financial
6 compensation for care given by families at home as prescribed; to
7 harmonize provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-1502, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 68-1502 The Legislature finds and declares that:

4 (1) The family is vital to the fundamental development of each
5 person in the State of Nebraska;

6 (2) A growing number of families are searching for ways to provide
7 for disabled family members in the home rather than placing them in state
8 or private institutional or residential facilities;

9 (3) Employable disabled persons should be encouraged to engage in
10 employment and ultimately become self-supporting;

11 (4) Necessary services and financial compensation for caregiving
12 should be available to families caring for a disabled family member so
13 that disabled persons may remain in the home, obtain employment if
14 possible, and maintain a more independent form of living;

15 (5) The State of Nebraska should make every effort to preserve the
16 family unit, to insure that decisions of providing for a disabled person
17 are based on the best interests of the disabled person and the family,
18 and to provide services to disabled persons which promote independent
19 living and employability; and

20 (6) The State of Nebraska should promote cost-effective health care
21 alternatives for disabled persons.

22 Sec. 2. Section 68-1504, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 68-1504 The department may provide support to families providing for
25 a disabled member in the home and to disabled persons in independent
26 living situations. Such support may be made available to compensate for
27 present and future expenses, including, but not limited to:

28 (1) The purchase or lease of special equipment or architectural
29 modifications of a home made to improve or facilitate the care,
30 treatment, therapy, general living conditions, or access of the disabled
31 person;

1 (2) Medical, surgical, therapeutic, diagnostic, and other health
2 services related to the disability or disabilities of the disabled
3 person;

4 (3) Counseling or training programs which assist the family in
5 providing proper care for the disabled family member or assist the
6 disabled person in an independent living situation and which provide for
7 the special needs of the family or disabled person;

8 (4) Attendant care, respite care, home health aid services,
9 homemaker services, and chore services which provide assistance with
10 training, routine body functions, dressing, preparation, consumption of
11 food, and ambulation as well as providing respite assistance to the
12 family;

13 (5) Transportation services for the disabled person;~~and~~

14 (6) Transportation, room, and board costs incurred by the family or
15 disabled person during evaluations or treatment of the disabled family
16 member which receive prior approval from the department; and -

17 (7) Financial compensation for care given by families at home to a
18 disabled family member when eligible under section 68-1505.

19 Sec. 3. Section 68-1505, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 68-1505 Families may be eligible to receive support or financial
22 compensation for caregiving pursuant to the Disabled Persons and Family
23 Support Act sections 68-1501 to 68-1519 if the family (1) resides in the
24 State of Nebraska, (2) has a family member who is disabled and is (a)
25 living at home or (b) residing in a state or private institutional or
26 residential facility but could return home under the act sections 68-1501
27 to 68-1519, and (3)(a) has insufficient income to provide for the total
28 cost of care for the disabled family member, (b) an out-of-home placement
29 has been attempted and failed and care at home is possible, or (c) the
30 cost of care by the family at home will be less than the cost to the
31 state for institutional care. The caregiver shall receive financial

1 compensation at an equal or higher rate than a salaried state employee
2 receives for similar work done at a state facility. The caregiver and his
3 or her family shall be eligible for health insurance as if the caregiver
4 is a full-time state employee.

5 Sec. 4. Section 68-1506, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 68-1506 A disabled person in an independent living situation may be
8 eligible to receive support pursuant to the Disabled Persons and Family
9 Support Act ~~sections 68-1501 to 68-1519~~ if the person (1) is a resident
10 of the State of Nebraska, (2) requires care to remain within an
11 independent living situation, and (3) has insufficient income to provide
12 for the total cost of such care.

13 Sec. 5. Section 68-1508, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 68-1508 The department may allocate costs for programs and services
16 between the department and the family or the disabled person in an
17 independent living situation. Such cost allocation shall be based on the
18 need for support pursuant to the Disabled Persons and Family Support Act
19 ~~sections 68-1501 to 68-1519~~ and shall not be based on income guidelines
20 or fee schedules established for other programs administered by the
21 department.

22 Sec. 6. Section 68-1509, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 68-1509 The department, in considering the needs and eligibility
25 criteria of families and disabled persons, shall consider various
26 factors, including, but not limited to:

27 (1) Total family income, except that the amount which the spouse may
28 designate as provided in section 68-922 shall be excluded in determining
29 total family income per month;

30 (2) The cost of providing supplemental services to the family or the
31 disabled person;

1 (3) The need for each program or service received by the family or
2 the disabled person;

3 (4) The eligibility of the family or the disabled person for other
4 support programs;

5 (5) The costs of providing for the family or the disabled person in
6 an independent living situation, notwithstanding the special
7 circumstances of providing for a disabled person;

8 (6) The number of persons in the family; ~~and~~

9 (7) The availability of insurance to cover the cost of needed
10 programs and services; and -

11 (8) The most economical care that is in the best interests of the
12 disabled person, including financial compensation for care given by
13 families to a disabled family member at home.

14 If assets have been designated for an individual in accordance with
15 section 68-922, such assets shall not be considered in determining the
16 eligibility for support of the individual's disabled spouse.

17 Sec. 7. Section 68-1510, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 68-1510 The support and financial compensation for caregiving
20 available under the Disabled Persons and Family Support Act sections
21 ~~68-1501 to 68-1519~~ shall be supplemental to other support programs for
22 which the family or disabled person is eligible and is not intended to
23 reduce the responsibility for the provision of services and support by
24 such other programs. The department shall (1) determine whether any
25 request under the act sections 68-1501 to 68-1519 is appropriate to and
26 available from other support programs, (2) deny any request if the
27 requested assistance is appropriate to and available from other support
28 programs and such assistance is in the best interests of the disabled
29 person, and (3) provide information and referral to all families and
30 disabled persons whose request for assistance was denied pursuant to this
31 section on the procedure for applying for other appropriate and available

1 support programs.

2 Sec. 8. Section 68-1511, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 68-1511 The department may, by agreement with the head of the family
5 or disabled person, provide support pursuant to the Disabled Persons and
6 Family Support Act sections 68-1501 to 68-1519 (1) directly to the family
7 or the disabled person, or (2) directly to qualified programs and
8 services. The department shall assist each family or disabled person
9 receiving support under the act sections 68-1501 to 68-1519 in locating
10 qualified programs and services. The family or the disabled person may be
11 required to be responsible for contracting for those programs and
12 services which the department approves and shall furnish the department a
13 copy of each contract. The family or the disabled person may compensate
14 the providers of such programs and services directly. Providers of
15 programs and services shall be required to comply with all standards
16 established by the department for participation pursuant to the act
17 sections 68-1501 to 68-1519.

18 Sec. 9. Section 68-1512, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 68-1512 (1) Except as provided in subsection (2) of this section,
21 the The maximum support allowable under the Disabled Persons and Family
22 Support Act sections 68-1501 to 68-1519 shall be (a 1) three hundred
23 dollars per month per disabled person averaged over any one-year period
24 or (b 2) three hundred dollars per month per family averaged over any
25 one-year period for the first disabled family member plus one hundred
26 fifty dollars per month averaged over any one-year period for each
27 additional disabled family member. The department shall not provide
28 support, pursuant to the act sections 68-1501 to 68-1519, to any family
29 or disabled person whose gross income less the cost of medical or other
30 care specifically related to the disability exceeds the median family
31 income for a family of four in Nebraska, except that the department shall

1 make adjustments for the actual size of the family.

2 (2) The limitations in subsection (1) of this section do not apply
3 to financial compensation for care given by families at home to a
4 disabled family member eligible under section 68-1505.

5 Sec. 10. Section 68-1513, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 68-1513 The department shall review the needs of each family or
8 disabled person receiving support under the Disabled Persons and Family
9 Support Act ~~sections 68-1501 to 68-1519~~ on a regular basis, as
10 established by the department, or upon the showing of a change of
11 circumstances by the head of the family.

12 Sec. 11. Section 68-1515, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 68-1515 The department shall adopt and promulgate rules and
15 regulations, as necessary, to implement the Disabled Persons and Family
16 Support Act ~~sections 68-1501 to 68-1519~~, including:

17 (1) Standards and procedures for determining approval of qualified
18 programs and services to participate under the act ~~sections 68-1501 to~~
19 ~~68-1519~~;

20 (2) Identification of the need for programs and services of families
21 providing for a disabled family member in the home or of disabled persons
22 in an independent living situation;

23 (3) Identification of the need for support to families and disabled
24 persons or for financial compensation for care given by families at home
25 to a disabled family member and procedures for the provision of such
26 support or financial compensation ~~support~~ under the act ~~sections 68-1501~~
27 ~~to 68-1519~~;

28 (4) Procedures for review of each family or disabled person
29 receiving support under the act ~~sections 68-1501 to 68-1519~~;

30 (5) Procedures and guidelines for determining priorities,
31 eligibility standards, and eligibility criteria for the selection of

1 families and disabled persons to participate in programs pursuant to the
2 act ~~sections 68-1501 to 68-1519~~;

3 (6) Procedures and guidelines for determining when support pursuant
4 to the act ~~sections 68-1501 to 68-1519~~ would be a duplication of support
5 from other support programs or would result in excessive support to a
6 family or disabled person; and

7 (7) When applicable, an ~~an~~ annual determination of the family income
8 guidelines necessary to carry out the provisions of section 68-1512. Such
9 guidelines shall be based on population, per capita income, and other
10 data provided by the United States Department of Commerce, Bureau of the
11 Census.

12 Sec. 12. Section 68-1516, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 68-1516 ~~The department shall begin providing support pursuant to~~
15 ~~sections 68-1501 to 68-1519 on July 1, 1982. From July 1, 1982, to July~~
16 ~~1, 1986, the department shall provide support on a priority basis to~~
17 ~~families and disabled persons eligible to receive support pursuant to~~
18 ~~sections 68-1501 to 68-1519.~~ The department shall give priority to those
19 families providing for a severely or multiple disabled family member and
20 to severely or multiple disabled persons in independent living
21 situations. Priority shall also be given to those families and disabled
22 persons (1) with the greatest need for support and financial compensation
23 for caregiving to maintain the disabled person in the family home or
24 independent living situation, (2) who have the greatest possibility of
25 maintaining the disabled person in the home or independent living
26 situation on a continual basis, and (3) who demonstrate that support
27 pursuant to the Disabled Persons and Family Support Act ~~sections 68-1501~~
28 ~~to 68-1519~~ will provide the most cost-effective form of care for the
29 disabled person.

30 Sec. 13. Section 68-1518, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 68-1518 The department shall file an annual report with the Governor
2 and the Clerk of the Legislature on or before January 1 of each year
3 beginning January 1, 1983. The report submitted to the Clerk of the
4 Legislature shall be submitted electronically. Such report shall include:

5 (1) The number of families and disabled persons applying for
6 support, including financial compensation for caregiving, pursuant to the
7 Disabled Persons and Family Support Act and the number of families and
8 disabled persons receiving support pursuant to the act;

9 (2) The types of services and programs being applied for and those
10 being provided through the act;

11 (3) The effects of the support, including financial compensation for
12 caregiving, provided under the act on the disabled and their families;
13 and

14 (4) Any proposals for amendment of the act.

15 Sec. 14. Section 68-1519, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 68-1519 Any person who by means of a willfully false statement or
18 representation, or by impersonation or other device, obtains or attempts
19 to obtain, or who aids or abets any other person in obtaining support
20 under the Disabled Persons and Family Support Act sections 68-1501 to
21 ~~68-1519~~ shall, upon conviction thereof, be punished pursuant to section
22 68-1017.

23 Sec. 15. Original sections 68-1502, 68-1504, 68-1505, 68-1506,
24 68-1508, 68-1509, 68-1510, 68-1511, 68-1512, 68-1513, 68-1515, 68-1516,
25 and 68-1519, Reissue Revised Statutes of Nebraska, and section 68-1518,
26 Revised Statutes Cumulative Supplement, 2014, are repealed.