

LEGISLATIVE BILL 793

Approved by the Governor April 23, 2018

Introduced by Riepe, 12.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 68-1111, 68-1113, 68-1114, 68-1115, 68-1116, 68-1117, 68-1118, and 68-1119, Revised Statutes Cumulative Supplement, 2016, and sections 71-7611, 83-1201, and 83-1216, Revised Statutes Supplement, 2017; to rename the Aging and Disability Resource Center Demonstration Project Act; to state and restate intent; to redefine terms; to provide for establishment of aging and disability resource centers; to provide powers and duties; to require reports; to eliminate provisions relating to grants and references to aging and disability resource center demonstration projects; to change transfer provisions for the Nebraska Health Care Cash Fund; to change provisions relating to the provision of services under the Developmental Disabilities Services Act; to provide a termination date; to harmonize provisions; to appropriate funds; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 68-1111, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1111 Sections 68-1111 to 68-1119 and section 9 of this act shall be known and may be cited as the Aging and Disability Resource Center ~~Demonstration Project Act.~~

Sec. 2. Section 68-1113, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1113 The purpose of the Aging and Disability Resource Center ~~Demonstration Project Act~~ is to ~~evaluate the feasibility of establishing aging and disability resource centers statewide~~ to provide information about long-term care services and support available in the home and community for older Nebraskans or persons with disabilities, family caregivers, and persons who request information or assistance on behalf of others and to assist eligible individuals to access the most appropriate public and private resources to meet their long-term care needs.

It is the intent of the Legislature that aging and disability resource centers serve as an ongoing component of Nebraska's long-term care continuum and that aging and disability resource center sites coordinate and establish partnerships as necessary with organizations specializing in serving aging persons and persons with disabilities to provide the services described in the act.

Sec. 3. Section 68-1114, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1114 For purposes of the Aging and Disability Resource Center ~~Demonstration Project Act:~~

(1) Aging and disability resource center means a community-based entity established to provide information about long-term care services and support and to facilitate access to options counseling to assist eligible individuals and their representatives in identifying the most appropriate services to meet their long-term care needs;

(2) Area agency on aging has the meaning found in section 81-2208;

(3) Center for independent living has the definition found in 29 U.S.C. 796a, as such section existed on January 1, ~~2018~~ 2015;

(4) Department means the State Unit on Aging of the Division of Medicaid and Long-Term Care of the Department of Health and Human Services or any successor agency designated by the state to fulfill the responsibilities of section 305(a)(1) of the federal Older Americans Act of 1965, 42 U.S.C 3025(a)(1), as such section existed on January 1, ~~2018~~ 2015;

(5) Eligible individual means a person who has lost, never acquired, or has one or more conditions that affect his or her ability to perform basic activities of daily living that are necessary to live independently;

(6) Options counseling means a service that assists an eligible individual in need of long-term care and his or her representatives to make informed choices about the services and settings which best meet his or her long-term care needs and that uses uniform data and information collection assessments and encourages the widest possible use of community-based options to allow an eligible individual to live as independently as possible in the setting of his or her choice;

(7) Representative means a person designated as a legal guardian, designated by a power of attorney or a health care power of attorney, or chosen by law, by a court, or by an eligible individual seeking services, but use of the term representative shall not be construed to disqualify an individual who retains all legal and personal autonomy;

(8) Uniform assessment means a single standardized tool used to assess a defined population at a specific time; and

(9) University Center for Excellence in Developmental Disability Education, Research and Service means the federally designated University

Center for Excellence in Developmental Disability Education, Research and Service of the Munroe-Meyer Institute at the University of Nebraska Medical Center.

Sec. 4. Section 68-1115, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1115 The department shall award funding grants for three aging and disability resource centers. The department shall pursue federal matching funds as applicable and allocate such funds to the aging and disability resource centers center demonstration projects. The department shall adopt criteria for evaluating proposals to operate an aging and disability resource center demonstration project based on the requirements in section 68-1116 and release a request for proposals within sixty days after August 30, 2015.

Sec. 5. Section 68-1116, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1116 (1) The aging and disability resource centers center demonstration projects shall be established to evaluate the feasibility of establishing aging and disability resource centers statewide as a means of promoting appropriate, effective, and efficient use of long-term care resources. The aging and disability resource center demonstration projects shall operate through June 30, 2018.

(2) Each aging and disability resource center demonstration project shall provide one or more of the following services:

(a) (1) Comprehensive information on the full range of available public and private long-term care programs, options, financing, service providers, and resources within a community, including information on the availability of integrated long-term care;

(b) Options counseling;

(c) (2) Assistance in accessing and applying for public benefits programs;

(3) Options counseling;

(d) (4) A convenient point of entry to the range of publicly supported long-term care programs for an eligible individual;

(e) (5) A process for identifying unmet service needs in communities and developing recommendations to respond to those unmet needs;

(f) (6) Facilitation of person-centered transition support to assure that an eligible individual is able to find the services and support that are most appropriate to his or her need;

(g) (7) Mobility management to promote the appropriate use of public transportation services by a person who does not own or is unable to operate an automobile; and

(h) (8) A home care provider registry that will provide a person who needs home care with the names of home care providers and information about his or her rights and responsibilities as a home care consumer.

Sec. 6. Section 68-1117, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1117 (1) If the department awards funding for aging and disability resource centers pursuant to section 68-1115, an Within sixty days after the release date of a request for proposals under section 68-1115, an area agency on aging receiving such funding shall establish a partnership with one or more lead organizations that specialize in serving , after consultation with a collaboration of organizations that serve aging persons and persons with congenital and acquired disabilities to provide services as described in subsection (2) of section 68-1116, including, but not limited to, centers for independent living and the University Center for Excellence in Developmental Disability Education, Research and Service, for the purpose of developing an aging and disability resource center plan. After consultation with a collaboration of and with other organizations, including, but not limited to, organizations providing advocacy, protection, and safety for aging persons and persons with congenital and acquired disabilities, the partnership may submit to the department a proposal to establish an aging and disability resource center plan demonstration project. The plan proposal shall specify how organizations currently serving eligible individuals will be engaged in the process of delivery of services through the aging and disability resource center demonstration project. The proposal shall be developed in consultation with eligible individuals and their representatives. The plan proposal shall indicate how resources will be utilized by the collaborating organizations to fulfill the responsibilities of an aging and disability resource center demonstration project.

(2) Two or more area agencies on aging may develop a joint proposal to establish an aging and disability resource center plan demonstration project to serve all or a portion of their planning-and-service areas. A joint plan proposal shall provide information on how the services described in section 68-1116 will be provided in the counties to be served by the aging and disability resource center demonstration project described in the joint proposal.

Sec. 7. Section 68-1118, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1118 The department shall provide Within thirty days after receipt of a proposal developed pursuant to subsection (1) or (2) of section 68-1117, the department shall review the proposal and determine whether the proposal is eligible for funding. The department shall select three proposals for funding. The department shall enter into a contract with an independent institution having experience in evaluating aging and disability programs for an evaluation of the aging and disability resource center demonstration projects. The

~~contract shall require that a report regarding evaluating the aging and disability resource centers demonstration projects be presented to the Clerk of the Legislature prior to December 1, of 2016, 2017, and 2018, and each December 1 thereafter.~~

Sec. 8. Section 68-1119, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1119 The department shall reimburse each area agency on aging operating an aging and disability resource center ~~demonstration project~~ on a schedule agreed to by the department and the area agency on aging. Such reimbursement shall be made from (1) state funds appropriated by the Legislature, (2) federal funds allocated to the department for the purpose of establishing and operating aging and disability resource centers, and (3) other funds as available.

Sec. 9. It is the intent of the Legislature that the costs for staff, operations, and state aid necessary to carry out the Aging and Disability Resource Center Act be funded from the Nebraska Health Care Cash Fund for fiscal years 2018-19 and 2019-20.

Sec. 10. Section 71-7611, Revised Statutes Supplement, 2017, is amended to read:

71-7611 (1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) sixty million three hundred thousand dollars on or before July 15, 2014, (b) sixty million three hundred fifty thousand dollars on or before July 15, 2015, (c) sixty million three hundred fifty thousand dollars on or before July 15, 2016, (d) sixty million seven hundred thousand dollars on or before July 15, 2017, (e) sixty-one ~~sixty~~ million six ~~seven~~ hundred thousand dollars on or before July 15, 2018, (f) sixty-one million three hundred fifty thousand dollars on or before July 15, 2019, and (g) ~~(f)~~ sixty million four hundred fifty thousand dollars on or before every July 15 thereafter from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer shall advise the State Treasurer on the amounts to be transferred first from the Nebraska Medicaid Intergovernmental Trust Fund until the fund balance is depleted and from the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain such transfers in perpetuity. The state investment officer shall report electronically to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. The Nebraska Health Care Cash Fund shall also include money received pursuant to section 77-2602. Except as otherwise provided by law, no more than the amounts specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

The State Treasurer shall transfer ten million dollars from the Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on June 28, 2018, and June 28, 2019.

It is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

(2) Any money in the Nebraska Health Care Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation.

(4) The State Treasurer shall transfer fifty thousand dollars on or before July 15, 2016, from the Nebraska Health Care Cash Fund to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center. It is the intent of the Legislature that these funds be used by the College of Public Health for workforce training.

Sec. 11. Section 83-1201, Revised Statutes Supplement, 2017, is amended to read:

83-1201 Sections 83-1201 to 83-1227 and section 13 of this act shall be known and may be cited as the Developmental Disabilities Services Act.

Sec. 12. Section 83-1216, Revised Statutes Supplement, 2017, is amended to read:

83-1216 (1) The department shall administer the medicaid home and community-based services waivers upon application approval by the federal Centers for Medicare and Medicaid Services. ~~Beginning July 1, 2019, persons determined to be eligible for specialized services who on or after September 6, 1993, graduate from high school, reach the age of twenty-one years, or are currently receiving services shall receive services in accordance with the Developmental Disabilities Services Act.~~ The amount of funding for any person receiving services shall be determined using an objective assessment process developed by the department and approved by the federal Centers for Medicare and Medicaid Services.

(2) The department shall provide directly or by contract service coordination to Nebraska residents found to be eligible for specialized services.

(3) It is the intent of the Legislature that the department take all possible steps to maximize federal funding. All Nebraska residents eligible for funding for specialized services through the department shall apply for and

accept any federal medicaid benefits for which they may be eligible and benefits from other funding sources within the department, the State Department of Education, specifically including the Division of Rehabilitation Services, and other agencies to the maximum extent possible.

(4) The priorities for funding the medicaid home and community-based services waivers under this section are as follows:

(a) The first funding priority of the state shall be responding to the needs of persons with developmental disabilities in immediate crisis due to caregiver death, homelessness, or a threat to the life and safety of the person;

(b) The second funding priority of the state in responding to the needs of persons with developmental disabilities shall be for persons that have resided in an institutional setting for a period of at least twelve consecutive months and who are requesting community-based services;

(c) The third funding priority of the state in responding to the needs of persons with developmental disabilities shall be for serving wards of the department or persons placed under the supervision of the Office of Probation Administration by the Nebraska court system who are transitioning upon age nineteen with no other alternatives as determined by the department to support residential services necessary to pursue economic self-sufficiency;

(d) The fourth funding priority of the state in responding to the needs of persons with developmental disabilities shall be for serving persons transitioning from the education system upon attaining twenty-one years of age to maintain skills and receive the day services necessary to pursue economic self-sufficiency; and

(e) The fifth funding priority of the state in responding to the needs of persons with developmental disabilities shall be for serving all other persons by date of application.

Sec. 13. (1) If the department determines that there are not enough funds available to provide services to all eligible individuals under subdivision (4) (d) of section 83-1216, the department shall provide day services to individuals who:

(a) Are transitioning from the education system upon attaining twenty-one years of age on or after July 1, 2019; and

(b) Are determined by the department to be otherwise eligible for the day services in accordance with the Developmental Disabilities Services Act.

(2) The department shall provide services comparable to the day services the individual would have received pursuant to subdivision (4)(d) of section 83-1216 if funds were available.

(3) No later than September 15 of each year, the director shall provide electronic notification to the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature of the estimated number of individuals needing services under subsection (4) of section 83-1216 and the net additional resources necessary to provide services to all eligible individuals under subsection (4) of section 83-1216 other than subdivision (e) of such subsection.

(4) This section terminates June 30, 2021.

Sec. 14. There is hereby appropriated (1) \$321,182 from the Nebraska Health Care Cash Fund for FY2018-19 and (2) \$321,182 from the Nebraska Health Care Cash Fund for FY2019-20 to the Department of Health and Human Services, for Program 33, to aid in carrying out the provisions of Legislative Bill 793, One Hundred Fifth Legislature, Second Session, 2018.

Sec. 15. There is hereby appropriated (1) \$613,912 from the Nebraska Health Care Cash Fund for FY2018-19 and (2) \$631,912 from the Nebraska Health Care Cash Fund for FY2019-20 to the Department of Health and Human Services, for Program 571, to aid in carrying out the provisions of Legislative Bill 793, One Hundred Fifth Legislature, Second Session, 2018.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 16. Sections 11, 12, 13, and 17 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 17. Original sections 83-1201 and 83-1216, Revised Statutes Supplement, 2017, are repealed.

Sec. 18. Original sections 68-1111, 68-1113, 68-1114, 68-1115, 68-1116, 68-1117, 68-1118, and 68-1119, Revised Statutes Cumulative Supplement, 2016, and section 71-7611, Revised Statutes Supplement, 2017, are repealed.

Sec. 19. Since an emergency exists, this act takes effect when passed and approved according to law.