

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 570

Introduced by Walz, 15; Howard, 9; Wishart, 27.

Read first time January 22, 2019

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to persons with disabilities; to amend
2 sections 81-6,121 and 81-6,122, Revised Statutes Cumulative
3 Supplement, 2018; to restate legislative intent; to change
4 membership of an advisory committee within the Department of Health
5 and Human Services; to provide powers and duties; to require
6 reports; to eliminate obsolete provisions; to repeal the original
7 sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-6,121, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 81-6,121 The Legislature finds and declares that:

4 (1) In 1999 the United States Supreme Court held in the case of
5 Olmstead v. L.C., 527 U.S. 581, that unjustified segregation of persons
6 with disabilities constitutes discrimination in violation of Title II of
7 the federal Americans with Disabilities Act of 1990. The court held that
8 public entities must provide community-based services to persons with
9 disabilities when (a) such services are appropriate, (b) the affected
10 persons do not oppose community-based services, and (c) community-based
11 services can be reasonably accommodated, taking into account the
12 resources available to the public entity and the needs of others who are
13 receiving disability services from the entity. The court stated that
14 institutional placement of persons who can handle and benefit from
15 community-based services perpetuates unwarranted assumptions that persons
16 so isolated are incapable or unworthy of participating in community life,
17 and that confinement in an institution severely diminishes the everyday
18 life activities of individuals, including family relations, social
19 contacts, work options, economic independence, educational advancement,
20 and cultural enrichment;

21 (2) Many Nebraskans with disabilities live in institutional
22 placements and settings where they are segregated and isolated with
23 diminished opportunities to participate in community life; and

24 (3) The United States Supreme Court further stated in the Olmstead
25 decision that development of (a) a comprehensive, effective working plan
26 for providing services to qualified persons with disabilities in the most
27 integrated community-based settings and (b) a waiting list that moves at
28 a reasonable pace could be important ways for a state to demonstrate its
29 commitment to achieving compliance with the federal Americans with
30 Disabilities Act of 1990.

31 Sec. 2. Section 81-6,122, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 81-6,122 (1) The Department of Health and Human Services shall, in
3 collaboration with the Governor's Policy Research Office, the Department
4 of Correctional Services, the Department of Economic Development, the
5 Department of Labor, the Department of Transportation, the State
6 Department of Education, and the office of the state long-term care
7 ombudsman, develop a comprehensive strategic plan for providing services
8 to qualified persons with disabilities in the most integrated community-
9 based settings pursuant to the Olmstead decision.

10 (2) The department shall (a) convene a team consisting of a
11 decisionmaking representative persons from each of the five ~~six~~ divisions
12 of the department and the Department of Correctional Services, the
13 Department of Economic Development, the Department of Labor, the
14 Department of Transportation, the State Department of Education, and the
15 office of the state long-term care ombudsman ~~to assess components of the~~
16 ~~strategic plan which may be in development;~~ (b) ~~consult with other state~~
17 ~~agencies that administer programs serving persons with disabilities;~~ (c)
18 appoint and convene a stakeholder advisory committee to assist in the
19 review and development of the strategic plan, such committee members to
20 include a representative from the State Advisory Committee on Mental
21 Health Services, the Advisory Committee on Developmental Disabilities,
22 the Nebraska Statewide Independent Living Council, the Nebraska Planning
23 Council on Developmental Disabilities, the Division of Rehabilitation
24 Services in the State Department of Education, a housing authority in a
25 city of the first or second class and a housing authority in a city of
26 the primary or metropolitan class, the Assistive Technology Partnership,
27 the protection and advocacy system for Nebraska, an assisted-living
28 organization, the behavioral health regions, mental health practitioners,
29 developmental disability service providers, an organization that
30 advocates for persons with developmental disabilities, an organization
31 that advocates for persons with mental illness, an organization that

1 advocates for persons with brain injuries, and an area agency on aging,
2 and including two persons with disabilities representing self-advocacy
3 organizations, and, at the department's discretion, other persons with
4 expertise in programs serving persons with disabilities; ~~(c) arrange~~ ~~(d)~~
5 ~~determine the need for~~ consultation with an independent a consultant to
6 assist with the continued analysis and revision ~~development~~ of the
7 strategic plan and determine whether the benchmarks, deadlines, and
8 timeframes are in substantial compliance with the strategic plan; ~~(d)~~ ~~(e)~~
9 provide continuing analysis of the strategic plan and a report on the
10 progress of the strategic plan and changes or revisions to the
11 Legislature by December 15, 2021, and every three years thereafter; and
12 ~~(e)~~ a preliminary progress report to the Legislature and the Governor by
13 December 15, 2016, which includes, but is not limited to, ~~(i)~~ the
14 components of the strategic plan which may be in development and ~~(ii)~~ the
15 department's recommendation on hiring a consultant; ~~(f)~~ provide a second
16 progress report to the Legislature and the Governor by December 15, 2017;
17 and ~~(g)~~ provide the completed strategic plan to the Legislature and the
18 Governor by June 30, 2019 ~~December 15, 2018~~. The reports and completed
19 plan shall be submitted electronically to the Legislature.

20 Sec. 3. Original sections 81-6,121 and 81-6,122, Revised Statutes
21 Cumulative Supplement, 2018, are repealed.

22 Sec. 4. Since an emergency exists, this act takes effect when
23 passed and approved according to law.