

LEGISLATIVE BILL 333

Approved by the Governor April 18, 1986

Introduced by Barrett, 39; Marsh, 29; Baack, 47;
Chronister, 18; Beyer, 3; Rupp, 22;
Scofield, 49; Withem, 14; Nelson, 35;
Remmers, 1; Chizek, 31; Goodrich, 20;
V. Johnson, 8; Labeledz, 5; Conway, 17;
R. Johnson, 34; Miller, 37; Smith, 33

AN ACT relating to families; to amend section 33-106, Reissue Revised Statutes of Nebraska, 1943, sections 71-627 and 71-628, Revised Statutes Supplement, 1984, and sections 71-612 and 71-617.15, Revised Statutes Supplement, 1985; to state intent; to define terms; to create a board; to provide powers and duties relating to child abuse and neglect; to create a fund; to change provisions relating to certain fees; to provide for an additional docket fee for dissolution of marriage; to provide for termination of certain fees; to harmonize provisions; to provide severability; and to repeal the original sections.

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

Section 1. The Legislature hereby finds that the large number of confirmed cases of child abuse and neglect places an enormous burden upon the citizens and government of Nebraska because victimized and maltreated children often bear the scars of abuse and neglect for many years and even throughout their lives. The Legislature recognizes that siblings, parents, and entire families suffer from the disruption and turmoil which accompany incidents of child abuse and neglect.

The Legislature further recognizes that the taxpaying public labors under the heavy economic burden of paying for the destructive effects of child abuse including subsequent juvenile delinquency, educational problems, adult criminal activity, mental illness, and poor parenting behavior.

The Legislature further recognizes that child abuse and neglect is a problem that should be approached through prevention efforts and that society presently possesses the ability to prevent many of these problems before the suffering and social costs begin to mount.

It is the expressed intent of sections 1 to 6

of this act to make the prevention of child abuse and neglect a priority of this state and to establish the Nebraska Child Abuse Prevention Fund as a means to that end.

Sec. 2. As used in sections 1 to 6 of this act, unless the context otherwise requires:

(1) Board shall mean the Nebraska Child Abuse Prevention Fund Board;

(2) Department shall mean the Department of Social Services;

(3) Director shall mean the Director of Social Services; and

(4) Fund shall mean the Nebraska Child Abuse Prevention Fund.

Sec. 3. (1) There is hereby created within the department the Nebraska Child Abuse Prevention Fund Board which shall be composed of nine members as follows: The Director of Social Services, the Director of Health, and seven members to be appointed by the Governor with the approval of the Legislature. The Governor shall appoint two members from each of the three congressional districts and one member from the state at large. As a group, the appointed board members (a) shall demonstrate knowledge in the area of child abuse and neglect prevention, (b) shall be representative of the demographic composition of this state, and (c) to the extent practicable, shall be representative of all of the following categories (i) the business community, (ii) the religious community, (iii) the legal community, (iv) professional providers of child abuse and neglect prevention services, and (v) volunteers in child abuse and neglect prevention services.

(2) The term of each appointed board member shall be three years, except that of the board members first appointed, two, including the at-large member, shall serve for three years, three shall serve for two years, and two shall serve for one year. The Governor shall designate the term which each of the members first appointed shall serve when he or she makes the appointments. An appointed board member shall not serve more than two consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The board shall elect a chairperson from among the appointed board members who shall serve for a term of two years. The board may elect the other officers and establish committees as it deems

appropriate.

(4) The members of the board shall not receive any compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as provided in sections 84-306.01 to 84-306.05 for state employees. The reimbursement shall be paid from the fund. In any one fiscal year, no more than five per cent of the annually available funds as provided in section 6 of this act shall be used for the purpose of reimbursement of board members.

(5) Any board member may be removed by the Governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

Sec. 4. The board shall have the following powers and duties:

(1) To meet not less than twice annually at the call of the chairperson to conduct its official business;

(2) To require that at least five of the board members approve the awarding of grants made under subdivision (3)(b) of this section;

(3) To develop, one year after the appointment of the original board and annually thereafter, a state plan for the distribution and disbursement of money in the fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment and maintenance of prevention programs and the receipt of money from the fund in all geographic areas of this state. The plan shall be transmitted to the director, the Governor, and the Legislature and made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures for:

(a) Developing and publicizing criteria for the awarding of grants for programs to be supported with money from the fund within the limits of appropriations made for that purpose;

(b) Awarding grants to agencies, organizations, or individuals for community-based child abuse prevention programs. The programs shall provide education, public awareness, or prevention services. In awarding grants under this subdivision, consideration shall be given by the board to factors such as need, geographic location, diversity, coordination with or improvement of existing services, and extensive use of volunteers;

(c) Supporting and encouraging the formation

of local child abuse councils;

(d) Consulting with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;

(e) Facilitating information exchange among groups concerned with prevention programs; and

(f) Encouraging statewide educational and public awareness programs regarding the problems of families and children which (i) encourage professional persons and groups to recognize and deal with problems of families and children, (ii) make information regarding the problems of families and children and the prevention of such problems available to the general public in order to encourage citizens to become involved in the prevention of such problems, and (iii) encourage the development of community prevention programs.

Sec. 5. The director shall:

(1) Have the power to deny any grant award, or portion of such award, made by the board;

(2) Review and monitor expenditures of money from the fund on a periodic basis; and

(3) Submit to the Governor and the Legislature an annual report of all receipts and disbursements of funds, including the recipients, the nature of the program funded, the dollar amount awarded, and the percentage of the total annually available funds the grant represents. The report may be made available to the public upon request.

Sec. 6. (1) There is hereby established in the state treasury a special fund to be known as the Nebraska Child Abuse Prevention Fund. The Legislature shall appropriate two hundred fifty thousand dollars each year from the General Fund to the Nebraska Child Abuse Prevention Fund. All amounts which may be received from grants, gifts, bequests, the federal government, or other sources granted or given for the purposes specified in sections 1 to 6 of this act shall be credited to and deposited in the Nebraska Child Abuse Prevention Fund by the State Treasurer. The fund shall be administered and disbursed by the department.

(2) Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

(3) Until the amount in the fund exceeds two and one half million dollars, not more than seventy-five per cent of the money deposited in the fund each year plus seventy-five per cent of all earnings from the

investment of money in the fund credited during the previous fiscal year shall be available for disbursement by the board in accordance with sections 1 to 6 of this act, except that any amounts which may be received from any grants, gifts, bequests, the federal government, or other sources shall be disbursed pursuant to the conditions imposed by such sources. Money not available for disbursement shall be retained and accumulated in the fund. When the assets in the fund exceed two and one half million dollars, only the earnings from the investment of money in the fund credited during the previous fiscal year or other income credited to the fund shall be available for disbursement by the board in accordance with sections 1 to 6 of this act.

(4) In any one fiscal year, no more than twenty per cent of the annually available funds as provided in subsection (3) of this section shall be disbursed to any one agency, organization, or individual.

(5) Funds allocated from the fund shall only be used for purposes authorized under sections 1 to 6 of this act and shall not be used to supplant any existing governmental program or service. No grants may be made to any state department or agency.

(6) When the State Treasurer certifies that the assets in the fund exceed two and one half million dollars, the additional docket fees prescribed in section 7 of this act and the additional charge for supplying a certified copy of the record of any birth as provided in sections 71-612, 71-617.15, 71-627, and 71-628 shall be terminated.

Sec. 7. In addition to the fees provided for in section 33-106, the clerk of the district court shall collect an additional twenty-five dollars in docket fees for dissolution of marriages. The twenty-five dollar fee shall be paid to the state treasury and credited to the General Fund.

Sec. 8. That section 33-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

33-106. In addition to the judges retirement fund fee and the fee provided in section 7 of this act and except as otherwise provided by law, the fees of the clerk of the district court shall be as follows: There shall be a docket fee of forty dollars for each civil and criminal case except (1) a case commenced by filing a transcript of judgment as hereinafter provided, (2) proceedings under the Workmen's Compensation Law and the Employment Security Law, where when provision is made

for the fees that may be charged, 7 and (3) a criminal case appealed to the district court from any court inferior thereto as hereinafter provided. There shall be a docket fee of twenty-five dollars for each case commenced by filing a transcript of judgment from another court in this state for the purpose of obtaining a lien. There shall be a docket fee of twenty-five dollars for each criminal case appealed to the district court from any court inferior thereto. In all cases, other than those appealed from an inferior court or original filings which are within jurisdictional limits of an inferior court and ~~where~~ when a jury is demanded in district court, the docket fee shall cover all fees of ~~said the~~ the clerk except that ~~said the~~ the clerk shall be paid for each copy or transcript ordered of any pleading, record, or other paper; and that ~~said the~~ the clerk shall be entitled to a fee of fifteen dollars for making a complete record of a case. ~~The 7 said fee to~~ shall be taxed as a part of the costs of the case, except when expressly waived by the parties to the action. In all civil cases, except habeas corpus cases ~~wherein in which~~ in which a poverty affidavit is filed and approved by the court, and for all other services, the docket fee or other fee shall be paid by the party filing the case or requesting the service at the time the case is filed or the service requested. For any other service which may be rendered or performed by ~~said the~~ the clerk but which is not required in the discharge of his or her official duties, the fee shall be the same as that of a notary public but in no case less than one dollar.

Sec. 9. That section 71-612, Revised Statutes Supplement, 1985, be amended to read as follows:

71-612. (1) The Director of Health, as the State Registrar, through the Department of Health shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by regulations of the department, a certified copy of the record of any birth, death, marriage, or divorce registered. Except as provided in subsections (2), (3), ~~and (5), and (6)~~ of this section, the department shall be entitled to charge and collect in advance a fee of five dollars, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for any such record, whether or not the record is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record on

file with the department upon the request of (a) the United States Veterans' Administration, or any lawful service organization empowered to represent veterans, if the copy of the record is to be issued for the welfare of any member or veteran of the armed forces of the United States, or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the military department of the State of Nebraska.

(3) The department may, free of charge, search for and furnish a certified copy of any record on file with the department when in the opinion of the director of vital statistics it would be a hardship for the claimant of old age, survivors', or disability benefits under the Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Such funds shall be paid to the state treasury and by the State Treasurer credited to the Bureau of Vital Statistics Fund, which is hereby created. The fund shall be used for the purpose of administering the laws relating to vital statistics. The fund may be used to create, under section 81-104.01, a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The Department of Health shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any inhospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that such fee shall not exceed two dollars per individual search or copy requested.

(6) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth. Such fees collected shall be paid to the state treasury and credited to the General Fund.

Sec. 10. That section 71-617.15, Revised Statutes Supplement, 1985, be amended to read as follows:

71-617.15. The Department of Health shall charge and collect a fee of five dollars for each delayed birth certificate application when submitted. Upon request and payment of the fee required by section 71-612, a certified copy of such a certificate shall be furnished by the Director of Health through the Bureau of Vital Statistics. All The department shall charge and collect an additional fee of one dollar for each delayed birth certificate. Except as provided in subsection (6) of section 71-612, all fees so collected shall be paid into the state treasury and by the State Treasurer credited to the Bureau of Vital Statistics Fund.

Sec. 11. That section 71-627, Revised Statutes Supplement, 1984, be amended to read as follows:

71-627. The certificate of birth of adopted children shall be filed as other certificates of birth. There shall be a fee of five dollars charged for each certificate filed. All fees so collected shall be paid into the state treasury and shall be credited by the State Treasurer to the Bureau of Vital Statistics Fund, as provided in section 71-612, except as provided in subsection (6) of section 71-612. Upon request and the payment of the fee prescribed by section 71-612 for the same, a certified copy of such a certificate may be furnished by the Director of Health, through the Bureau of Vital Statistics. The department shall charge and collect an additional fee of one dollar for each certificate furnished.

Sec. 12. That section 71-628, Revised Statutes Supplement, 1984, be amended to read as follows:

71-628. In case of the legitimation of any child born in Nebraska by the subsequent marriage of its parents, as provided in section 43-1409, the Bureau of Vital Statistics, Department of Health, upon the receipt of a certified copy of the marriage certificate of the parents and a statement of the husband acknowledging paternity, shall prepare a new certificate of birth in the new name of the child so legitimated, in substantially the same form as that used for other live births, and shall charge a filing fee of five dollars. The department shall charge and collect an additional fee of one dollar for each new certificate of birth prepared. Such fees collected shall be paid to the state treasury and credited to the General Fund by the State Treasurer.

Sec. 13. If any section in this act or any

part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 14. That original section 33-106, Reissue Revised Statutes of Nebraska, 1943, sections 71-627 and 71-628, Revised Statutes Supplement, 1984, and sections 71-612 and 71-617.15, Revised Statutes Supplement, 1985, are repealed.