

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 226

Introduced by Wishart, 27.

Read first time January 10, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to children; to amend sections 43-2,129,
2 43-1311.03, 43-2101, 43-4218, 43-4705, and 43-4708, Reissue Revised
3 Statutes of Nebraska; to provide for the purchase of motor vehicles
4 and motor vehicle insurance policies by certain children; to change
5 transition plan requirements for children in foster care; to change
6 provisions relating to the age of majority; to require the Normalcy
7 Task Force to study the provision of motor vehicle insurance
8 coverage for children in foster care; to require a report; to permit
9 caregivers to give permission for obtaining certain motor vehicle
10 permits; to limit liability of such caregivers; to harmonize
11 provisions; and to repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. A child who is sixteen years of age or older and who has
2 been adjudicated as a juvenile under subdivision (1), (2), (3)(a) or (b),
3 or (4) of section 43-247 shall be qualified and competent to contract for
4 the cash purchase of a motor vehicle and for the purchase of a motor
5 vehicle insurance policy with the consent of the court with continuing
6 jurisdiction over the child. The child shall be responsible for paying
7 the costs of the insurance premiums.

8 Sec. 2. Section 43-2,129, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 43-2,129 Sections 43-245 to 43-2,129 and section 1 of this act shall
11 be known and may be cited as the Nebraska Juvenile Code.

12 Sec. 3. Section 43-1311.03, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 43-1311.03 (1) When a child placed in foster care turns fourteen
15 years of age or enters foster care and is at least fourteen years of age,
16 a written independent living transition proposal shall be developed by
17 the Department of Health and Human Services at the direction and
18 involvement of the child to prepare for the transition from foster care
19 to successful adulthood. Any revision or addition to such proposal shall
20 also be made in consultation with the child. The transition proposal
21 shall be personalized based on the child's needs and shall describe the
22 services needed for the child to transition to a successful adulthood as
23 provided in the Nebraska Strengthening Families Act. The transition
24 proposal shall include, but not be limited to, the following needs and
25 the services needed for the child to transition to a successful adulthood
26 as provided in the Nebraska Strengthening Families Act:

27 (a) Education;

28 (b) Employment services and other workforce support;

29 (c) Health and health care coverage, including the child's potential
30 eligibility for medicaid coverage under the federal Patient Protection
31 and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act

1 and section existed on January 1, 2013;

2 (d) Behavioral health treatment and support needs and access to such
3 treatment and support;

4 (e) Financial assistance, including education on credit card
5 financing, banking, and other services;

6 (f) Housing;

7 (g) Relationship development and permanent connections;~~and~~

8 (h) Adult services, if the needs assessment indicates that the child
9 is reasonably likely to need or be eligible for services or other support
10 from the adult services system; and -

11 (i) Information, planning, and assistance to obtain a driver's
12 license as allowed under state law and consistent with subdivision (8)(d)
13 of this section, including, but not limited to, providing the child with
14 a copy of a driver's manual, identifying driver safety courses and
15 resources to access a driver safety course, and identifying potential
16 means to access a motor vehicle for such purposes.

17 (2) The transition proposal shall be developed and frequently
18 reviewed by the department in collaboration with the child's transition
19 team. The transition team shall be comprised of the child, the child's
20 caseworker, the child's guardian ad litem, individuals selected by the
21 child, and individuals who have knowledge of services available to the
22 child. As provided in the Nebraska Strengthening Families Act, one of the
23 individuals selected by the child may be designated as the child's
24 advisor and, as necessary, advocate for the child with respect to the
25 application of the reasonable and prudent parent standard and for the
26 child on normalcy activities. The department may reject an individual
27 selected by the child to be a member of the team if the department has
28 good cause to believe the individual would not act in the best interests
29 of the child.

30 (3) The transition proposal shall be considered a working document
31 and shall be, at the least, updated for and reviewed at every permanency

1 or review hearing by the court. The court shall determine whether the
2 transition proposal includes the services needed to assist the child to
3 make the transition from foster care to a successful adulthood.

4 (4) The transition proposal shall document what efforts were made to
5 involve and engage the child in the development of the transition
6 proposal and any revisions or additions to the transition proposal. As
7 provided in the Nebraska Strengthening Families Act, the court shall ask
8 the child, in an age or developmentally appropriate manner, about his or
9 her involvement in the development of the transition proposal and any
10 revisions or additions to such proposal. As provided in the Nebraska
11 Strengthening Families Act, the court shall make a finding as to the
12 child's involvement in the development of the transition proposal and any
13 revisions or additions to such proposal.

14 (5) The final transition proposal prior to the child's leaving
15 foster care shall specifically identify how the need for housing will be
16 addressed.

17 (6) If the child is interested in pursuing higher education, the
18 transition proposal shall provide for the process in applying for any
19 applicable state, federal, or private aid.

20 (7) The department shall provide without cost a copy of any consumer
21 report as defined in 15 U.S.C. 1681a(d), as such section existed on
22 January 1, 2016, pertaining to the child each year until the child is
23 discharged from care and assistance, including when feasible, from the
24 child's guardian ad litem, in interpreting and resolving any inaccuracies
25 in the report as provided in the Nebraska Strengthening Families Act.

26 (8) A child adjudicated to be a juvenile described in subdivision
27 (3)(a) of section 43-247 and who is in an out-of-home placement shall
28 receive information regarding the Young Adult Bridge to Independence Act
29 and the bridge to independence program available under the act. The
30 department shall create a clear and developmentally appropriate written
31 notice discussing the rights of eligible young adults to participate in

1 the program. The notice shall include information about eligibility and
2 requirements to participate in the program, the extended services and
3 support that young adults are eligible to receive under the program, and
4 how young adults can be a part of the program. The notice shall also
5 include information about the young adult's right to request a client-
6 directed attorney to represent the young adult pursuant to section
7 43-4510 and the benefits and role of an attorney. The department shall
8 disseminate this information to all children who were adjudicated to be a
9 juvenile described in subdivision (3)(a) of section 43-247 and who are in
10 an out-of-home placement at sixteen years of age and yearly thereafter
11 until nineteen years of age, and not later than ninety days prior to the
12 child's last court review before attaining nineteen years of age or being
13 discharged from foster care to independent living. In addition to
14 providing the written notice, not later than ninety days prior to the
15 child's last court review before attaining nineteen years of age or being
16 discharged from foster care to independent living, a representative of
17 the department shall explain the information contained in the notice to
18 the child in person and the timeline necessary to avoid a lapse in
19 services and support.

20 (9) On or before the date the child reaches eighteen or nineteen
21 years of age or twenty-one years of age if the child participates in the
22 bridge to independence program, if the child is leaving foster care, the
23 department shall provide the child with:

24 (a) A certified copy of the child's birth certificate and facilitate
25 securing a federal social security card when the child is eligible for
26 such card;

27 (b) Health insurance information and all documentation required for
28 enrollment in medicaid coverage for former foster care children as
29 available under the federal Patient Protection and Affordable Care Act,
30 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on
31 January 1, 2013;

1 (c) A copy of the child's medical records;

2 (d) A driver's license or identification card issued by a state in
3 accordance with the requirements of section 202 of the REAL ID Act of
4 2005, as such section existed on January 1, 2016;

5 (e) A copy of the child's educational records;

6 (f) A credit report check;

7 (g) Contact information, with permission, for family members,
8 including siblings, with whom the child can maintain a safe and
9 appropriate relationship, and other supportive adults;

10 (h) A list of local community resources, including, but not limited
11 to, support groups, health clinics, mental and behavioral health and
12 substance abuse treatment services and support, pregnancy and parenting
13 resources, and employment and housing agencies;

14 (i) Written information, including, but not limited to, contact
15 information, for disability resources or benefits that may assist the
16 child as an adult, specifically including information regarding state
17 programs established pursuant to 42 U.S.C. 677, as such section existed
18 on January 1, 2016, and disability benefits, including supplemental
19 security income pursuant to 42 U.S.C. 1382 et seq., as such sections
20 existed on January 1, 2016, or social security disability insurance
21 pursuant to 42 U.S.C. 423, as such section existed on January 1, 2016, if
22 the child may be eligible as an adult;

23 (j) An application for public assistance and information on how to
24 access the system to determine public assistance eligibility;

25 (k) A letter prepared by the department that verifies the child's
26 name and date of birth, dates the child was in foster care, and whether
27 the child was in foster care on his or her eighteenth, nineteenth, or
28 twenty-first birthday and enrolled in medicaid while in foster care;

29 (l) Written information about the child's Indian heritage or tribal
30 connection, if any; and

31 (m) Written information on how to access personal documents in the

1 future.

2 All fees associated with securing the certified copy of the child's
3 birth certificate or obtaining an operator's license or a state
4 identification card shall be waived by the state.

5 The transition proposal shall document that the child was provided
6 all of the documents listed in this subsection. The court shall make a
7 finding as to whether the child has received the documents as part of the
8 independence hearing as provided in subdivision (2)(d) of section 43-285.

9 Sec. 4. Section 43-2101, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 43-2101 (1) All persons under nineteen years of age are declared to
12 be minors, but in case any person marries under the age of nineteen
13 years, his or her minority ends.

14 (2) Upon becoming the age of majority, a person is considered an
15 adult and acquires all rights and responsibilities granted or imposed by
16 statute or common law, except that (a) a person eighteen years of age or
17 older and who is not a ward of the state may enter into a binding
18 contract or lease of whatever kind or nature and shall be legally
19 responsible therefor and (b) a person sixteen years of age or older and
20 who is a ward of the state may enter into a contract for the cash
21 purchase of a motor vehicle and a contract for the purchase of motor
22 vehicle insurance with the consent of the court which has continuing
23 jurisdiction as provided in section 1 of this act.

24 Sec. 5. Section 43-4218, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 43-4218 (1) The Normalcy Task Force is created. Beginning July 1,
27 2016, the Normalcy Task Force shall monitor and make recommendations
28 regarding the implementation in Nebraska of the federal Preventing Sex
29 Trafficking and Strengthening Families Act, Public Law 113-183, as such
30 act existed on January 1, 2016.

31 (2) The members of the task force shall include, but not be limited

1 to, (a) representatives from the legislative, executive, and judicial
2 branches of government. The representatives from the legislative and
3 judicial branches shall be nonvoting, ex officio members, (b) no fewer
4 than three young adults currently or previously in foster care which may
5 be filled on a rotating basis by members of Project Everlast or a similar
6 youth support or advocacy group, (c) a representative from the juvenile
7 probation system, (d) the executive director of the Foster Care Review
8 Office, (e) one or more representatives from a child welfare advocacy
9 organization, (f) one or more representatives from a child welfare
10 service agency, (g) one or more representatives from an agency providing
11 independent living services, (h) one or more representatives of a child-
12 care institution as defined in section 43-4703, (i) one or more current
13 or former foster parents, (j) one or more parents who have experience in
14 the foster care system, (k) one or more professionals who have relevant
15 practical experience such as a caseworker, and (l) one or more guardians
16 ad litem who practice in juvenile court.

17 (3) On or before July 1, 2016, the Nebraska Children's Commission
18 shall appoint the members of the task force. Members of the task force
19 shall be appointed for terms of two years. The commission shall appoint a
20 chairperson or chairpersons of the task force and may fill vacancies on
21 the task force as such vacancies occur.

22 (4) The task force shall provide a written report with
23 recommendations regarding the initial and ongoing implementation of the
24 federal Preventing Sex Trafficking and Strengthening Families Act, as
25 such act existed on January 1, 2016, and related efforts to improve
26 normalcy for children in foster care and related populations to the
27 Nebraska Children's Commission, the Health and Human Services Committee
28 of the Legislature, the Department of Health and Human Services, and the
29 Governor by December 15 of each year. The report to the Health and Human
30 Services Committee of the Legislature shall be submitted electronically.

31 (5) The task force, with assistance from and in collaboration with

1 the Department of Administrative Services, the Department of Health and
2 Human Services, the Department of Insurance, and the Department of Motor
3 Vehicles, shall examine the costs and benefits of implementing or
4 supporting a program under which children in foster care may be insured
5 under a motor vehicle insurance policy. The task force shall submit its
6 recommendations to the Nebraska Children's Commission, the Department of
7 Health and Human Services, and the Health and Human Services Committee of
8 the Legislature on or before September 15, 2018. The report to the
9 committee shall be submitted electronically.

10 Sec. 6. Section 43-4705, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 43-4705 (1) Each caregiver shall use the reasonable and prudent
13 parent standard in determining whether to give permission for a child to
14 participate in extracurricular, enrichment, cultural, and social
15 activities. When using the reasonable and prudent parent standard, the
16 caregiver shall consider:

17 (a) ~~(1)~~ The child's goals and input;

18 (b) ~~(2)~~ To the extent possible, the input of the parent of the
19 child;

20 (c) ~~(3)~~ The child's age, maturity, and developmental level to
21 maintain the overall health and safety of the child;

22 (d) ~~(4)~~ The potential risk factors and the appropriateness of the
23 extracurricular, enrichment, cultural, or social activity;

24 (e) ~~(5)~~ The best interests of the child, based on information known
25 by the caregiver;

26 (f) ~~(6)~~ The importance of encouraging the child's emotional and
27 developmental growth;

28 (g) ~~(7)~~ The importance of providing the child with the most family-
29 like living experience possible;

30 (h) ~~(8)~~ The behavioral history of the child and the child's ability
31 to safely participate in the proposed activity;

1 ~~(i) (9)~~ The child's personal and cultural identity; and

2 ~~(j) (10)~~ The individualized needs of the child.

3 (2) A caregiver who is at least twenty-one years of age and who has
4 a current motor vehicle operator's license issued by this state or
5 another state may give permission for a child in foster care to obtain a
6 learner's permit pursuant to section 60-4,123 and a provisional
7 operator's permit pursuant to section 60-4,120.01. Such caregiver shall
8 use the reasonable and prudent parent standard as described in subsection
9 (1) of this section to determine whether to give such permission.

10 Sec. 7. Section 43-4708, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 43-4708 (1) A caregiver is not liable for harm caused to a child
13 who participates in an activity approved by the caregiver or by a child
14 who participates in an activity approved by a caregiver if the caregiver
15 has acted in accordance with the reasonable and prudent parent standard.

16 (2) A caregiver who gives permission for a child in foster care to
17 obtain a learner's permit or a provisional operator's permit pursuant to
18 subsection (2) of section 43-4705 is not liable for harm caused to a
19 child or by a child if the caregiver has acted in accordance with the
20 reasonable and prudent parent standard.

21 (3) This section may not be interpreted as removing or limiting any
22 existing liability protection afforded by law.

23 Sec. 8. Original sections 43-2,129, 43-1311.03, 43-2101, 43-4218,
24 43-4705, and 43-4708, Reissue Revised Statutes of Nebraska, are repealed.