



LEGISLATIVE
UPDATE:
JUVENILE JUSTICE
AND
CHILD WELFARE



Christine Henningsen, Nebraska Youth Advocates
Sarah Helvey, Nebraska Applesed

About Nebraska Youth Advocates

Who We Are: NYA is a project operated out of the Center on Children Families and the Law at the University of Nebraska-Lincoln. We are dedicated to giving juvenile defense attorneys the tools necessary to advocate zealously on behalf of their clients. We promote:

- Fairness
- Responsibility; and
- Respect

About Nebraska Appleseed

Who We Are: Nebraska Appleseed is a non-profit organization that fights for justice and opportunity for all Nebraskans.

- We take a complex approach to systemic issues:
 - ▣ Child welfare
 - ▣ Health care access
 - ▣ Immigration policy
 - ▣ Poverty
- We take our work wherever it does the most good – at the courthouse, at the statehouse, or in our community.

Legislative Session 101

- Each Legislature convenes over a two year period (“biennium”)
 - The first year of the biennium is a “long” session, 90 days from January through June.
 - The second year of the biennium is a “short” session, 60 days from January through April.
 - This was the first session of the 105th Legislature
 - Legislature Adjourned SINE DIE on May 23, 2017
 - All bills without an emergency clause go into effect three calendar months after the legislature adjourns, August 23, 2017
 - Bills that were not “indefinitely postponed” remain and may be taken up during the second or “short” session starting in January 2018

Webinar Road Map

- ❑ Changes to the state budget affecting funding for child welfare and juvenile justice
- ❑ Bills that passed this session:
 - ❑ Child Welfare
 - ❑ Juvenile Justice
- ❑ Remaining Legislative Bills:
 - ❑ Child Welfare
 - ❑ Juvenile Justice
- ❑ Interim Studies



State Budget & Funding Priorities

2017 State Budget

- Budget modifications in juvenile justice
 - ▣ Legislature failed to override a \$300,000 line-item veto by the Governor for probation services
 - ▣ Amount of money available for community-based juvenile services was not affected
 - ▣ Eliminated state investment in the Legal Education for Public Service Rural Practice Loan Repayment Assistance Funding
 - ▣ Increased funding to improve staffing ratios at YRTC
- Budget modifications in child welfare
 - ▣ Reduced general fund appropriation for provider contracts by 2.2%
 - ▣ 50% cut to contracted foster and kinship placement services, moving support services in-house
 - ▣ Protected contracts for post-adoptive & guardianship supports (Right Turn)

Bills that Passed

See Attached Handout

Child Welfare

LB 180

LB 225 (LB 297, 298, 336)

LB 289 (LB 188)

2017 Legislation – Child Welfare

- LB 180 (Bolz): Bridge custody orders
 - Permits the juvenile court to terminate and transfer jurisdiction over a juvenile's custody, physical care, and visitation to a district court

- LB 225 (Crawford): Alternative Response/CW Package
 - Extended the Alternative Response pilot program until December 2020, while DHHS must still complete evaluations and expansion outlined in federal waiver
 - This child welfare package bill was amended to include, three other bills (LB 297, 298, & 336)

2017 Legislation – Child Welfare

- LB 225 cont.
 - LB 297 (McCollister) created the Children and Juvenile Data Pilot Project
 - LB 298 (Baker) extends the protections of the NSFA by requiring that all child care institutions that contract with DHHS create a normalcy plan, and implemented stakeholder recommendations to require training to foster parents on trafficking and to require DHHS and Probation to establish procedures for the dissemination of a photo and information about a child missing from care to appropriate third parties, including law enforcement.
 - LB 336 (Riepe) allows DHHS to charge a reasonable fee (not to exceed \$3) for central registry checks

2017 Legislation – Child Welfare

- LB 188 (Howard): RE/TPR involving parental sexual assault
 - Exempts a bio parent convicted of sexual assault from the definition of family for purposes of requiring reasonable efforts
 - Requires the court to grant a TPR petition for a child conceived by a victim of SA against a perpetrator if: 1) in the CBI and 2) the perpetrator has been convicted/pled guilty/nolo contendere to SA or 3) the perpetrator has been found to have fathered or given birth to the child as a result of SA
 - Amended into LB 289 which was approved by the Governor

Juvenile Justice

LB 207 (LB 6)

LB 8

LB 10

LB 11

LB 428 (LB 427)

2017 Legislation- OIG

- LB 207 affects the Office of Inspector General of Child Welfare. This includes both HHS and probation involved youth
 - ▣ Provide for a release of a summarized report by the OIG of Child Welfare (LB 6)
 - A summarized report may be issued to bring awareness to systemic issues. Must be approved by chairperson of HHS or Judiciary Committee
 - ▣ Change provisions relating to powers and duties of the OIG of Child Welfare
 - OIG is not responsible for attorney fees
 - Employers cannot take adverse action against employees for disclosure

2017 Legislation- Juvenile Justice

- LB 8 (Krist): Juvenile Probation graduated response
 - ▣ Updates statutory framework governing administrative sanctions for youth out of compliance with probation orders
 - ▣ Allows probation officers to offer incentives for positive youth behavior on probation, and to respond to minor violations of probation with a structured matrix of developmentally-appropriate sanction options
 - ▣ Clarifies youth may not be detained solely on the basis of technical violations of probation
 - ▣ Motions to revoke can only be filed if probation is seeking revocation
 - ▣ Attorney for the child shall also receive any probation request that probation be revoked
 - ▣ LB 8 was approved by the Governor

2017 Legislation – Juvenile Justice

- LB 10 (Krist): Increase the number of juvenile court judges in Douglas County
 - ▣ Increases judges to six (from five)
 - ▣ LB 10 was Approved by the Governor with emergency clause
 - ▣ Public hearing on Wednesday, June 28th in Courtroom #412

2017 Legislation – Juvenile Justice

- LB 11 (Krist): Timing of appeal on orders to transfer
 - Responds to recent Supreme Court holdings that transfer from juvenile to criminal court does not affect a substantial right and is not a final order
 - Creates a statutory right to immediately appeal an order transferring a case from juvenile to county/district court or retaining a case in county/district court
 - LB 11 was approved by the Governor

2017 Legislation- Juvenile Justice

- LB 427 & LB 428 (Vargas): Pregnant and Parenting Students
 - LB 428, amended with LB 427 requires schools and the State Department of Education to implement policies to ensure accommodations are made to support pregnant and parenting students in successfully completing their education.
 - Requires all schools to accommodate teen moms who breast-feed and provide a private space where they can pump and store milk.
 - Requires public school boards to develop policies that address student absences, provide alternate coursework such as tutoring and online classes, and identify quality child care options. Schools can draw from a model policy which will be developed by the Nebraska Department of Education.
 - LB 428 was approved by the Governor

Carry Over Bills

See Attached Handout

Child Welfare

LB 108

LB 179

LB 189

LB 226

LB 397

LB 411

LB 658

Remaining Legislative Bills

- LB 108 (Crawford) Children of Incarcerated Parents
 - Requires police depts, county sheriffs and state patrol to establish guidelines for law enforcement officers to ensure child safety upon arrest of a parent/guardian
 - Entitles a parent/guardian to make 2 phone calls at no expense at booking for the purpose of arranging child care
 - Requires pre-sentence report to include whether and how children could be impacted by sentencing
 - Requires DOC to establish policies to support and encourage relationships between parent/guardian and child during incarceration
 - Remains in Judiciary Committee
 - LR 198 – interim study to examine the impact of incarceration on children in Nebraska

Remaining Legislative Bills

- LB 179 (Bolz): Bridge to Independence extension
 - Expands eligibility to the B2I program to youth aging out of juvenile probation who:
 - Are in a court-ordered out-of-home placement on their 19th birthday
 - Have received a court order in the 6 months prior to their 19th birthday that it is contrary to the welfare of the juvenile to remain in or return to his/her family home
 - Remains in the HHS Committee

- LB 189 (Howard): Caseload appropriation
 - Appropriates \$500k for FY17-18 and \$500k for FY18-19 to be used for the recruitment and retention of caseworkers for child welfare and to ensure that caseload standards in Neb. Rev. Stat. § 68-1207 are fulfilled and maintained
 - Remains in Appropriations Committee
 - LR 236 - interim study to examine workload studies

Remaining Legislative Bills

- LB 226 (Wishart): Access to drivers' licenses for foster youth
 - Requires DHHS to provide information and assistance to obtain a driver's license as part of transition planning
 - Provides liability protection for caregivers
 - Permits wards age 16+ to contract for the cash purchase of a car and individual car insurance policy with the consent of the court
 - Remains in Judiciary Committee

- LB 397 (Wayne): ROE @ TPR
 - Requires the application of the Nebraska Evidence Rules at TPR proceedings
 - Prohibits consideration of evidence at TPR which is inadmissible in criminal proceedings
 - Remains in Judiciary Committee

Remaining Legislative Bills

- LB 411 (Bolz): Sibling placement, visitation and ongoing interaction
 - Clarifies that the reasonable efforts requirement for sibling placement, visitation and ongoing interaction applies even if the children have no pre-existing relationship
 - Requires DHHS to file a sibling placement report and send copies of placement change notice to known siblings
 - Grants a right to intervene to siblings for the limited purpose of seeking placement/visitation/interaction
 - Permits appeal by any party who has intervened and whose substantial rights have been affected by a final order
 - Placed on General File with Judiciary AM 764

Remaining Legislative Bills

- LB 658 (Wayne): Parents right to expert witness at adjudication/dispo
 - Establishes a right of a parent/guardian/custodian during an adjudication or disposition proceeding to have appointed one expert witness, whose reasonable fees and expenses shall be paid by the county if the parent is indigent
 - Requires the report of any evaluation of a juvenile ordered as part of an adjudication or disposition proceeding to be made available to all parties at least 15 days prior to the hearing
 - Remains in Judiciary Committee

Juvenile Justice

LB 158

LB 434

LB 556

LB 595

Juvenile Justice

- LB 158 (Pansing Brooks) – Access to counsel in juvenile proceedings
 - ▣ Extends automatic appointment of legal counsel at the time of filing in juvenile proceedings statewide
 - ▣ Remains on General File
 - ▣ Legislature did pass LR 151, commemorating the right to counsel for children and pledging to acknowledge and redress disparities in representation, due process and decision making in the juvenile courts

Remaining Legislative Bills

- LB 434 (Ebke) – Use of videoconferencing
 - Eliminates requirement of stipulation of all parties for the use of telephonic or videoconferencing in evidentiary proceedings in a manner that ensures preservation of “due process rights of all parties”
 - Remains in Judiciary Committee

- LB 556 (Halloran): Create the offenses of use of a facsimile or nonfunctioning firearm to commit a felony and possession of a firearm by a prohibited juvenile offender
 - As written it created a new felony offense for a young person up to the age of 25 in possession of a firearm who has previously been adjudicated as a “juvenile offender” for certain enumerated felony offenses
 - Placed on General File with Judiciary AM 664, which removes the new “juvenile offender” felony offense.

Remaining Legislative Bills

- LB 595 (Groene) Provide for the use of physical restraint or removal from a class in response to student behavior
 - ▣ Allows extensive discretion to use physical restraint and classroom removal on students
 - ▣ Does not include provisions for schools to meaningfully address student behaviors and mental health needs
 - ▣ Remains on General File, with numerous amendments on file



Interim Studies

See Attached Handout

Interim Studies

- LR 139 (Bolz)- To analyze the best use of the state's child welfare resources in line with its goals
- LR 216 (Pansing Brooks)- To examine the policies, practices, and laws that govern the safeguarding and sealing of juvenile records

OJJDP Title II Formula Grants

- Federal money states may use to plan, operate and evaluate projects focused on improving our juvenile justice system.
- Nebraska is not participating in formula grants program this year
- 4 Core Requirements
 - ▣ Deinstitutionalization of status offenders
 - ▣ Separation of youth from adults in secure facilities
 - ▣ Removal of youth from adult jails and lockups
 - ▣ Reduction of DMC within the juvenile justice system

Contact Information

Christine Henningsen

Nebraska Youth
Advocates

christine.henningsen@unl.edu

▣ Twitter: @youth_ne

nebraskayouthadvocates.org

Sarah Helvey

Nebraska Appleseed

shelvey@neappleseed.org

▣ Facebook page:
neappleseed

▣ Twitter:
@neappleseed

www.neappleseed.org