

Nebraska Disability Legislative Update | June 16, 2021

As is the case every year, a lot happened this session in the Nebraska Legislature. Given the Session started with COVID precautions, it was unique as compared to other Legislative sessions. There were several pieces of legislation that either directly or indirectly impacted persons with disabilities in Nebraska.

The following lists the bill, bill intent as well as the actions taken by the Senate and governor:

- **LB290**, Cavanaugh. Adopt the Paid Family and Medical Leave Insurance Act. The Act will create a paid family and medical leave insurance program to provide partial wage replacement for eligible workers to care for themselves or a family member experiencing a serious illness or to care for a new child through birth, foster care or adoption. This bill made it out of committee but did not pass.
- **LB52**, Walz. This bill would change provisions relating to transition services for students with a developmental disability, provides consistency across the state for students with disabilities to begin planning for post high school by reducing the current age of at least 16 years to 14 years. This would allow for more time to plan for student transitions from school to adult services. This bill passed and was signed by the governor.
- **LB306**. Brandt. This bill provides eligibility requirements for the low-income home energy assistance program and would expand eligibility to the Low-Income Home Energy Assistance Program (LIHEAP) program from 130% of the federal poverty level to 150%, making more Nebraska households eligible. This would benefit persons with disabilities who live in poverty. This bill passed but was vetoed, but the veto was overridden by the Legislature.
- **LR3CA**, Slama. This was a Constitutional amendment Resolution to require verification of identity prior to voting. It gives Nebraska voters the opportunity to voice their opinion on whether the Nebraska Legislature should institute Voter ID. This could lead to making it more difficult for persons with disabilities to be able to vote. This resolution was not authorized by the Legislature.
- **LB 154**, Wayne. Tracking Student Discipline; this bill will require the implementation of a state-wide system for tracking individual student discipline. Data tracked will include suspensions, expulsions, and incidents involving violence or requiring restraint, and when law enforcement are required to be involved. In addition to the incident reports, data collected will include, but not be limited to, demographic information, race, poverty, attendance, disabilities, and English proficiency. As children with disabilities tend to be overrepresented in these data nationally, this will allow the opportunity to get a better handle on school discipline and students from typically under resourced groups, including those with disabilities. This bill was passed and signed by the governor,
- **LB 297**, Lindstrom. Protection of Vulnerable Adults from Financial Exploitation Act. LB 297 would authorize broker-dealers and investment advisers to place a hold, for up to 30 business days, on transactions and distributions in cases of suspected financial exploitation of vulnerable adults or senior adults. The bill would expressly authorize a qualified person to notify a designated third party of the vulnerable adult or senior adult in the case of suspected financial exploitation. This bill passed and was signed by the governor.
- **LB337**, Kolterman. Adopt the Step-Therapy Reform Act. LB 337 creates the Step Therapy Reform Act, which creates commonsense guardrails on the practice of step therapy. "Step therapy" is an insurance practice in which a patient is required to try and fail a treatment/selected by the insurance company before the insurance company will cover the original treatment prescribed by his or her health care provider. This bill was passed and signed by the governor.

- **LB357**, Hunt. Create the Nebraska Youth in Care Bill of Rights. This bill would create the Nebraska Youth in Care Bill of Rights. The bill would provide foster youth in out-of-home placements and those placed in Youth Rehabilitation and Treatment Centers (which typically includes a relatively high number of children with disabilities) with a list of rights related to services, connection to family, life skills and transition planning, and how to file a grievance or appeal if they believe their rights have been violated. This bill did not pass.
- **LB 273**, Lowe. Expands options for transferring individuals who are placed at a Nebraska youth rehabilitation and treatment center (YRTC) to the most suitable treatment facilities based on their individual needs and treatment plan. When high acuity youth are not provided the appropriate services for their care, this can often put the youth themselves, other youth in the facility, and DHHS staff at risk. Providing flexibility in placement options will allow for youth to receive treatment based on individual needs assessment. This bill passed and was signed by the governor.
- **LB428**, HHS Committee. This bill clarifies that the education programs provided by the Department of Health and Human Services at the youth rehabilitation and treatment centers (YRTCs) shall maintain accreditation by the State Board of Education and that juveniles committed to the YRTCs are entitled to receive an age-appropriate and developmentally appropriate education, equivalent to educational opportunities offered within the regular settings of public school districts across the State. As noted, children with disabilities tend to be overrepresented in these settings. This bill was passed and signed with amendments requiring any future changes be approved by the Legislature.
- **LB376**, M. Cavanaugh. LB 376 would authorize the application for and implementation of services and supports for developmentally disabled children and their families by authorizing the Department of Health and Human Services to apply for a Medicaid Waiver to administer a pilot family support program. This was intended to provide needed supports to families with children with disabilities. Disability organizations in Nebraska watched this bill closely given the level of need in the community. Despite significant support from the disability community, this bill was successfully filibustered and was not passed.
- **LR529**, Walz. This bill, in addition to determining where school-directed lottery funds were to be spent, included provisions on teacher support, that it establishes the Behavioral Intervention Training and Teacher Support Act; this creates a training program for educational personnel on dealing with students with behavior problems in schools. The Senator received significant feedback from MMI staff and faculty with expertise in this area and should represent a major benefit to students with mental health and behavioral disorders. Amendment 1422 (Murman,) which contained language very similar to LB 147 regarding restraint and physical coercion of students, was attempted to be added to this bill but was defeated in a floor vote. However, the bill did not pass. Components of the bill were successfully amended into LB 528 (a technical update to education legislative language) by Amendment 1458.
- **LB 400**, Arch. The bill changes provisions with respect to telehealth. Under the bill, the definition of telehealth for the purposes of domestic insurance companies and the Nebraska Telehealth Act, is amended to include audio-only services for the delivery of behavioral health services; it also prohibits insurers from excluding coverage solely because a service is delivered through telehealth, including services originating from any location where the patient is located. This bill was passed and signed by the governor.
- **LB 487**, Arch. LB 487 prohibits any health insurance plan to establish any rate, term or condition that places a greater financial burden on an insured for accessing treatment for a mental health condition using telehealth or tele-monitoring service. In addition, the bill would require the reimbursement rate for accessing mental health services via telehealth be, at a minimum, the same as the rate for a comparable treatment provided in person. This bill passed and was signed by the governor.

There were a number of other bills of note, including LB 14 (Senator Blood's Audiology and Speech- Language Pathology Interstate Compact Act, passed and signed) LB 83 (Senator Flood's changes to the Open Meetings Act allowing for virtual conferencing, passed and signed) LB 101 (Senator Walz's bill on Medicaid Managed Care, passed and signed) and LB 374 (Senator DeBoer's bill on supports to persons with Alzheimer's and other dementias, did not pass) that will have impacts on MMI services and persons with disabilities in Nebraska.

As a reminder of the Legislature's processes this year (especially given the COVID requirements):

Bill introduction took place this past January. While Senators were asked to limit the number of bills introduced compared to past years, nearly 700 bills were introduced along with nearly 110 Legislative Resolutions.

The hearing schedule was adjusted from prior years; by law, all bills introduced are required to receive a committee hearing (each bill is referred to a specific committee, for example the Health and Human Services, Education, Banking, Commerce and Insurance, Business and Labor, Government, Military, and Veteran Affairs, etc.) Two hearing sessions per day were scheduled for each committee which created a very demanding schedule for Senators and their staff. This routine proceeded from the end of January through mid-March.

In the latter half of March, bills were either passed out of Committee (or not.) Senators, Committees, and the Speaker of the Legislature then designated specific bills as priority bills. Senators are limited to prioritize one bill, Committees can prioritize up to five bills, and the Speaker can prioritize an unlimited number of bills. This is a critical circumstance as bills that are not prioritized typically do not move to passage.

The last part of the session focused on floor debate on bills that had advanced, and especially bills involving the state budget. The Legislature completed its work in May. However, a Special Session of the Legislature is anticipated this fall as regards the Census and redistricting as a result of the same.

If you have questions you can visit the Nebraska Legislature's website (it is easy to use) at <https://nebraskalegislature.gov/> or contact me at msmitha@unmc.edu or 402.559.5744.

I'd be happy to respond to any questions or concerns you might have.