

**Health and Human Services Committee
LB 702
January 26, 2018**

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Good afternoon, Chairperson Riepe, and members of the Health and Human Services Committee. My name is Matt Wallen (M-A-T-T-W-A-L-L-E-N) and I am the Director of the Division of Children and Family Services in the Department of Health and Human Services (DHHS). I am here to testify in support of LB 702. Thank you Senator Kolterman for introducing this bill and working with the Department.

LB 702 is a result of new federal regulations issued in 2016 to create efficiency in establishing a medical support order and to assure child support is based on the parent's current income. Nebraska has until October 1, 2018, to update our state statutes to comply with the federal requirements in two ways. First, Nebraska needs to recognize Medicaid as health care coverage for child support enforcement purposes and, second, Nebraska needs to change some of its child support laws pertaining to individuals incarcerated for 180 days or more.

Recognizing Medicaid as Health Care Coverage.

Title IV-D requires Nebraska to have laws and procedures to establish and enforce medical support judgments as part of child support orders whenever health care coverage is available to the responsible party at a reasonable cost.

Nebraska's current definition of "health care coverage" found at Neb. Rev. Stat. § 44-3,144(5) excludes public medical assistance programs such as Medicaid. This means that children who are covered by Medicaid are not recognized as having health care coverage for child support enforcement purposes. Even though a child has coverage through a public medical assistance program, Nebraska law requires child support workers to secure alternative health care coverage that meets the statutory definition.

Nebraska's statutes were consistent with prior federal law. However, 45 CFR 303.31 was amended in 2016 to require all states to recognize children covered under Medicaid or other need-based health care programs as having health care coverage. Our current state statute is now in direct conflict with this federal mandate. This could have serious implications for the State.

The federal Office of Child Support Enforcement (OCSE) has specifically advised Nebraska that it must comply with this new federal regulation by October 1, 2018. OCSE has further advised that failure by the

State to comply by that date would subject Nebraska to a potential loss of all IV-D and TANF funding, currently amounting to a loss of more than \$81 million.

LB 702 aligns Neb. Rev. Stat. § 44-3,144(5) with the new federal mandate requiring that Medicaid be recognized as health care coverage. In addition, the bill would ultimately promote efficiency and reduce taxpayer costs by eliminating the need for child support workers to dedicate time and resources pursuing medical support orders in situations where the child already has health care coverage through public medical assistance.

Modifying Support Orders of Incarcerated Individuals.

The second part of LB 702 concerns modifying an existing child support order for persons incarcerated for 180 days or more. Under Nebraska Revised Statute § 43-512.15, incarcerated individuals are deemed to have a voluntary reduction in income if they are incarcerated less than one year or incarcerated for criminal nonsupport or crimes in which a supported child was victimized. This state statute directly conflicts with new federal regulations.

45 CFR 302.56 now provides that incarceration may not be treated as voluntary unemployment when it comes to establishing or modifying support orders. 45 CFR 303.8 requires Nebraska to either amend its IV-D State Plan to include a review of child support orders after learning that a noncustodial parent will be incarcerated more than 180 days or provide notice to both parents of the right to request a review for modification.

As OCSE has stated, “Children do not benefit when their parents engage in a cycle of non-payment, underground income generation and re-incarceration”. Individuals released from prison with insurmountable child support debt are less likely to be productive members, to take care of their responsibilities and to succeed in the outside world. They are also less likely to be involved in their children’s lives, and ultimately are less likely to continue making support payments.

It is not anticipated that the change in statute will significantly increase the work load for staff, nor will it require additional FTE’s. When an incarcerated individual is no longer in prison and has the ability to earn a living wage, child support could again be reviewed and modified at that time.

Thank you for the opportunity to testify before you today. I believe LB 702 will help DHHS continue in our mission of helping people live better lives. I’m happy to answer any questions you may have.