

Judiciary Committee
LB 944
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Good afternoon, Senator Seiler and members of the Judiciary Committee. I'm Courtney Phillips (C-O-U-R-T-N-E-Y P-H-I-L-L-I-P-S), Chief Executive Officer of the Department of Health and Human Services.

LB 944 amends a variety of statutes relating to parents and marital relationships. The Department respectfully opposes this bill because it creates uncertainties and may have unintended consequences for children and families.

Section 23 makes significant changes to Neb. Rev. Stat. §71-640.01 regarding who would be deemed legal parents of a child born in Nebraska. LB 944 allows the biological mother to complete an affidavit attesting she is not the parent, and the biological father to complete an affidavit attesting he is the father, and his spouse to do an affidavit that the father's spouse is the other parent. This amounts to relinquishment of parental rights by the biological mother and establishment of parental rights in someone unrelated to the child without the protections of current relinquishment and adoption statutes. It would also effectively legalize surrogacy which is not presently recognized in Nebraska. Neb. Rev. Stat. §25-21,200 makes surrogate parenthood contracts void.

Excluding the biological mother from the original birth certificate potentially prevents the collection of demographic and medical information concerning the pregnancy and the newborn which is required in the Centers for Disease Control and Prevention, National Center for Health Statistics (NCHS) standards. This information is essential for state, local and national vital statistics related to birth outcomes. Without maternal information and related data, the birth record is less valuable for research, statistics and public health purposes. If the State is unable to provide accurate and full reporting to NCHS there is risk for noncompliance and loss of funding to the Vital Records program. Further, enhancements would be required to our Electronic Registration System to accommodate this change. Neb. Rev. Stat. §43-107 requires the completion of a medical history when a child is adopted and reported to DHHS. LB 944 does not have a similar provision.

It's also important to have a record of the biological mother for children involved in the child welfare system and juvenile court. For instance, Neb. Rev. Stat. §43-1311.01 requires notice to parents of biological siblings of a child removed from his or her home. The definition of sibling under federal and state law includes children of a parent who relinquished parental rights to the removed child or whose parental rights were terminated.

Section 23 of LB 944 must be reconciled with Neb. Rev. Stat. §42-377, which provides for legitimacy of children born to a mother who was married. A biological mother and her spouse could have a child and later divorce, at which time the biological mother's spouse could try to avoid the obligation to support the child by claiming she is not the biological parent.

The term "natural parent" is used in case law and state statute largely interchangeably with biological parent. Some thought should be given to the impact of LB 944 and laws regarding natural parents.

Thank you. I'm happy to answer any questions you may have.