

**Health and Human Services Committee**

**LB 728**

**January 30, 2014**

**Jodi Fenner, Director  
Division of Developmental Disabilities  
Department of Health and Human Services**

Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Jodi Fenner (J-O-D-I F-E-N-N-E-R). I am the Director of the Division of Developmental Disabilities for the Nebraska Department of Health and Human Services. I am here today to testify in support of LB728.

The purpose of LB728 is to bring Nebraska statutes in line with federal regulations.

Since 1997, the Legislature has mandated Nebraska State Patrol fingerprint criminal history background checks for employees providing direct care to individuals in developmental disability services. These background checks are processed through the Federal Bureau of Investigation and then DHHS shares the reports with the certified developmental disability service providers for their employment decisions.

In 2010, an audit was conducted by the U.S. Department of Justice and concerns were noted about federal compliance with the practice of DHHS disseminating criminal history record information to private agencies. The Division of Developmental Disabilities then began allowing providers to use external resources for background checks in parallel with the background checks processed by the Nebraska State Patrol. In 2012, the Beatrice State Developmental Center also began running parallel background checks through an external resource.

In 2013, another audit was conducted by the U.S. Department of Justice and it was determined at that time that the current practice of DHHS disseminating criminal history record information to private service providers must stop as it violates federal regulations.

Pursuant to section 83-1217 of the Developmental Disabilities Services Act, the Division will continue to require developmental disability service providers to conduct criminal history record checks using external resources. While these background checks may not include a fingerprint component, providers will continue to ensure the identity of their employees through federally required documentation verification, Form I-9, which requires documents such as a birth certificate or driver's license be submitted prior to employment. In addition to the criminal history record checks by an external resource and the I-9 process, the Division will also continue to require providers to complete records checks of the Adult Protective Services and Child Protective Services Registries and the Nebraska Sex Offender Registry.

The Division intends to continue using the federal background checks concurrent with the external background checks at the Beatrice State Developmental Center. While we have not experienced any significant concerns utilizing this parallel process for the past two years, if future concerns arise, the Division can address those through its regulatory certification processes.

LB728 will **not** put individuals with developmental disabilities at risk. The use of employment background check resources has grown considerably since 1997. The division's current regulatory requirements for service providers meet or exceed the background check processes for other healthcare industries. LB728, however, **is** required to ensure that Nebraska's practices are compliant with federal law.

We appreciate your thoughtful consideration of LB728 and your continued support for people with developmental disabilities throughout Nebraska.

I would be happy to answer any questions you may have at this time.