

Disability Rights Nebraska 106th Legislature Highlights

Each year, Disability Rights Nebraska educates policymakers and the public on several legislative bills and resolutions that impact people with disabilities in our state.

While we finalize our legislative priorities for 2021, let's revisit some significant wins for people with disabilities that occurred during the 106th Legislature (2019-2020).

LB 147 “authorize teachers and other school personnel to ‘use reasonable physical intervention’ to protect the student, other individuals, or school property.”

Federal data shows that while only approximately 13% of students have disabilities, they account for about 80% of uses of seclusion or and restraint. Because this bill would disproportionately affect students with disabilities, Disability Rights Nebraska prioritized educating policymakers and the public on our concerns about LB 147 during the 106th Legislative Session.

LB 147 and its vague language left loopholes that would compromise the safety of both the individual being restrained as well as the individual doing the restraining. The issues inspiring this legislation require a more **thorough, inclusive** understanding of root causes and effective policy solutions.

From our testimony: “LB 147 is at best largely unnecessary, codifying authorities that teachers and administrators already have, and at worst a policy which could result in more student and staff injuries because it green-lights immediate use of very dangerous techniques for both those being restrained and those doing the restraining.”

In July 2020, a motion to invoke cloture (or cease debate and force a vote on the bill) failed on a vote of 32-15. LB 147 did not pass in 2020.

LB 323

“change eligibility provisions under the Medical Assistance Act for certain people with disabilities”

Many people with disabilities want to work, and are perfectly capable of doing so...but by working a certain amount of hours or making a certain income, they may risk losing Medicaid coverage.

In 1999, Nebraska tried to address this dilemma with the Medicaid Incentive for Workers with Disabilities (MIWD) – or Medicaid Buy-In – program. Participants in the program can earn up to 250% of the federal poverty level, pay a sliding-scale premium, and retain their Medicaid coverage.

However, very few people have been able to meet the MIWD program’s rigid eligibility requirements. MIWD has existed in our state for two decades, but **less than 100 people** are on the program. For comparison, other states’ MIWD programs have hundreds, or even thousands of participants.

From our letter: “Why this program is important is simple: Nebraskans with disabilities who are utilizing Medicaid face a wholly unique problem—if they go to work and have an income, they risk becoming ineligible for Medicaid’s income limit due to their earnings. Who else risks losing their health insurance just by getting a job? Or who has to negotiate down their compensation because that income is too high and it will jeopardize their health insurance?”

To address this issue, we worked on LB 323 with Sen. Crawford, Easterseals, and The Arc of Nebraska. Its purpose was to eliminate some of the excessive eligibility requirements, making it much easier for people with disabilities to qualify for the MIWD program.

Nebraska’s legislators unanimously agreed that people with disabilities should not be punished for earning an income. LB 323 passed on August 12, 2020.

LB 15

“adopt the Children of Nebraska Hearing Aid Act”

For children with a hearing disability, access to hearing aids and/or cochlear implants can significantly impact their social, emotional, and academic development. Yet, this technology can be incredibly difficult for many families to afford.

A pair of hearing aids can cost up to \$6000. Further, they need to be replaced frequently – approximately every 3 to 5 years. If a child uses a pair of hearing aids from birth to age 19, and needs replacements every 3 years, costs can easily total upwards of \$36,000.

LB 15 requires most health plans to cover hearing aids and their associated expenses for Nebraskans under the age of 19, including evaluation, fitting, repairs, etc. It caps covered expenses at \$3,000 over four years. **The bill significantly lessens the financial burden on families of children with hearing impairments.**

From our letter: “Given the high cost of hearing aids and frequent replacement, the Nebraska Commission for the Deaf and Hard of Hearing estimates up to \$6,000 per pair replaced every 3-5 years—LB 15 would greatly benefit those children who need hearing aids (and their families).”

Policymakers agreed that Nebraskan children should have better access to hearing aids. **LB 15 passed on May 23, 2019.**

LB 247

“adopt the Advance Mental Health Care Directives Act”

A mental health crisis can affect a person’s decision-making capacity. In these situations, an individual may be less able to provide input on their own mental health treatment.

We worked with Sen. Bolz on legislation that would allow people with mental illnesses to issue instructions or preferences for future mental health care decisions. With an advance mental health care directive, an individual can preemptively consent to or refuse certain types of care, including inpatient treatment or psychotropic medication.

From our Public Policy Director: ““LB 247 would create an advance directive to cover mental health specifically. These directives can provide an alternative to Emergency Protective Custody for people who are in crisis. We are pleased to have worked with Senator Bolz to modify the bill to include and center personal preferences and personal choices as necessary components of mental health advance directives.”

Nebraska senators voted in favor of allowing individuals to provide preferences and directions for mental health care in case they are unable to make these decisions during a future mental health crisis. **LB 247 passed on August 6, 2020.**



We're looking forward to more legislative successes for Nebraskans with disabilities in 2021.

Follow along with our efforts this session at bit.ly/2021LegislativeUpdates

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities