There are around 400,000 American children in foster care, and some 58,000 are living in group homes, residential treatment facilities, psychiatric institutions and emergency shelters.

This type of placement—called “congregate care”—can be beneficial for children who require short-term supervision and structure because their behavior may be dangerous. But officials believe too many kids who don’t need that type of intense supervision are still in these group placements—depending on the state, between 5 percent and 32 percent—making it harder to find them permanent homes and costing state governments three to five times more than family foster care.

Child welfare agencies are working to reduce the use of congregate care by reinvesting funds into family-based and prevention services and changing policies to favor family placements and discourage congregate care.

For example, some states have lowered the number of beds in group facilities and increased the number of family foster homes. Other states are including children and families in the decisions made on where children should be placed and what resources families might need to keep their children home safely.

Virginia has been a leader in reducing the number of children in congregate care and increasing family-based placements and permanent adoptions. Among other things, the state established a council to develop a set of reforms that supported family-focused, child-centered, community-based care, with an emphasis on finding permanent homes in family settings for all children. The state increased care from relatives, foster families or adoptive parents, and included children and biological families in these placement decisions. Lawmakers changed the child welfare finance system to reflect these new priorities. They reduced the amount of matching funds for congregate care, while increasing foster care and adoption subsidies and funding for recruiting and training foster and adoptive families.

Since 2007, the number of kids in congregate care has dropped by 62.4 percent, and kinship care placements have increased by 10.32 percent, according to a report from the Virginia Department of Human Services Commissioner. In addition, placements into permanent homes increased by 14.01 percent.

As the need to find cost savings continues and the benefits to children and communities of reducing institutional care become clearer, more states are considering similar changes to their child welfare systems.

—Kate Bartell Nowak

Sex Offenders’ Online Rights Upheld

A federal appeals court in January ruled unconstitutional an Indiana law that broadly prohibits registered sex offenders from using social media websites. In the case of Doe v. Marion County Prosecutor, the court said that Indiana’s law barring registered sex offenders from any social networking sites, instant message services or chat sites available to minors violated the offenders’ First Amendment free speech rights.

The appeals court said the law prohibits protected speech too broadly in its effort to advance the state’s interest in protecting young people from improper communications. The suit was filed as a class action on behalf of registered sex offenders in Indiana.

Federal district courts in recent years have ruled similarly against broad Internet restriction laws in Louisiana and Nebraska.

Eight states have enacted restrictions on Web use by registered sex offenders, often tailoring the law to offenders who have been convicted of particular crimes against children. More common are state laws that specify what information must be collected when sex offenders register. Most laws include Internet accounts, profiles, screen names, email addresses and other such online identifiers.

Internet addresses and identifiers are among the registration information that must be provided under the federal Sex Offender Registration and Notification (SORNA) provisions of the Adam Walsh Child Protection and Safety Act of 2006. The act placed many sex offender registration requirements on states. Sixteen states have complied with SORNA to date; others face federal justice assistance grant penalties.

—Donna Lyons
Diabetes is chronic, debilitating and costly. So costly, in fact, that “one of every five U.S. federal health care dollars is spent on treating people with diabetes,” according to the Congressional Diabetes Caucus. More than 26 million Americans live with the disease. That’s triple the number diagnosed in 1980 and, if current trends continue, approximately half of all minority children born in 2000 will develop some form of the disease in their lifetime, according to the American Diabetes Association.

Uncontrolled, diabetes can affect the heart, eyes, kidneys, nerves, skin and gums. Since Type 2 diabetes results, in part, from a lack of exercise and an abundance of high-calorie food, some state policies are aimed at increasing physical activity and nutritional standards in schools and informing the public about how to prevent it.

“We’ve been working hard over the last year and a half to raise diabetes awareness, education and testing across Illinois,” says House Republican Leader Tom Cross, who joined the Illinois Legislative Diabetes Caucus in 2011. “And we plan to expand and build on our efforts in the years to come.”

In 2011, the caucus teamed with the Illinois Diabetes Policy Coalition to host a conference with lawmakers, doctors, caregivers, diabetics and others to discuss how to help people with the disease and prevent others from getting it.

Lawmakers designated November diabetes awareness month and passed legislation that:
◆ Requires parents who seek assistance at school for the diabetic care of their children to submit diabetes plans.
◆ Provides aides to help children with diabetes to follow their plans at school.
◆ Requires training for school employees and gives them civil immunity for responding in good faith.

Illinois lawmakers also chose to continue funding Type 1 diabetes research and authorized a pilot program for a neonatal diabetes registry. Last year, caucus members hosted free diabetes screenings at 23 sites across the state, testing hundreds of adults and children.

In Connecticut, staff from the Department of Health—working with the Connecticut Diabetes Advisory Council, health care professionals and others—created a five-year plan in 2007 to stop, or at least delay, the growth rate of diabetes in high-risk populations. It also addressed the needs of those already diagnosed to prevent further costly and debilitating complications. The plan spurred two programs: an annual conference for diabetes professionals and an educational seminar that teaches people with diabetes the best ways to manage their chronic conditions, which is sponsored by Stanford University and funded by the Connecticut Department of Public Health.

By March, lawmakers in 30 states had introduced some 160 bills on diabetes that, for example:
◆ Specify when and how to list diabetes on death certificates.
◆ Describe what kind of diabetic care must be provided in schools.
◆ Set diabetes or physical education requirements for schools.
◆ Support breastfeeding (which reduces the risk of the baby developing Type 2 diabetes later in life).
◆ Approve license plates highlighting diabetes to help fund research.
◆ Tax diabetic supplies.
◆ Require state goals and plans on fighting the disease.

—Kara Nett Hinkley

For more on diabetes, go to www.ncsl.org/magazine.
On Jan. 16, President Obama outlined his federal firearms policy. Within 48 hours, nine states had introduced legislation prohibiting the enforcement, either by state or federal officials, of specified federal firearms laws. One month later, as of Feb. 26, 24 states had introduced similar bills.

The bills differ in structure, but the message is clear: state legislators want to control how they police their state’s firearm activity without federal involvement.

Historically, state efforts to declare federal law unenforceable or to make enforcement of a federal law illegal (also known as “nullification”) have been rejected in the U.S. Supreme Court.

In the 1958 decision in Cooper v. Aaron, the Supreme Court ruled unanimously that the previous federal decision regarding desegregation of schools was the law across all states. It ruled states were bound to uphold the federal law, regardless of any law their own state legislature might pass that contradicted it.

Although challenges on the basis of nullification have been unsuccessful, states have succeeded in challenging certain federal laws as infringements of state rights under the 10th Amendment. Typically this has occurred when the federal government attempts to coerce or commandeer state laws.

The most notable case was Printz v. U.S., when the Supreme Court found that provisions of the Brady Handgun Violence Prevention Act violated the 10th Amendment by compelling state police officers to run background checks until the federal system could be put into place.

—Jonathan Griffin

Bills Introduced Prohibiting the Enforcement of Federal Firearms Laws

Source: NCSL, Feb. 26, 2013
Two-thirds of Americans who are online use social media, and many express concern about the privacy of their accounts. In the past two years, state legislators have focused on one area of concern: employers or administrators asking applicants, employees or students to turn over usernames or passwords to their personal accounts. In 2012, lawmakers introduced bills in 14 states and enacted them in six. With more than 50 bills now pending in 28 states and numerous media reports, YouTube videos and social media postings, some might say the issue has gone viral.

The idea of an employer asking applicants or employees to turn over passwords to their personal social media accounts is seen by some as an invasion of privacy. And businesses have admitted that it can be a bad idea for employers to view social media postings. By doing so, they could encounter information—about race, religion, age and disability—that is unlawful to consider when making decisions about applicants or employees.

Most bills seek to protect employees or students from being required to turn over passwords and or usernames for personal social media accounts. Some bills also would prevent a person from having to “friend” a supervisor or coworker or show someone else their social media activity (“shoulder surfing”).

Legislators increasingly are recognizing the need to carve out certain exceptions, however. “I hear everybody saying, ‘we love the idea of privacy,’ but there’s some really serious issues as soon as we cloak this with some protection, because a lot of people can be doing things that are criminal that would expose an employer to liability,” Nebraska Senator Steve Lathrop (NP) said during a hearing in the Business and Labor Committee he chairs. Nebraska legislators discussed how employers could be held liable for criminal acts by employees that might appear on personal social networking sites and whether law enforcement officials should be exempted from the law because of the nature of their work and the powers they have.

Illinois Representative Jim Durkin (R) introduced legislation this year to address some unintended consequences he sees in the state’s Right to Privacy Act that was passed last year. The new legislation would allow exceptions to the act, such as allowing an employer to investigate work-related misconduct or to prevent employees from transferring proprietary or confidential business or financial information from work accounts to personal accounts. The legislation also allows employers to access accounts on electronic devices paid for or provided by the employer or accounts that an employee uses for business purposes.

The line between personal and professional has become blurred with regard to social media. Representative Brian Patrick Kennedy (D) of Rhode Island introduced legislation to spell out what is private and what is protected. “Nothing in this legislation gives anyone a privacy right in the parts of social media that are unsecured,” he says.

Michigan’s 2012 legislation contains a specific provision to allow broker-dealers and investment advisers to access employees’ personal social media accounts when those accounts are used to conduct business.

Without specific exemptions, legislation in some states “would place broker-dealers and investment advisers in a precarious position where compliance with state privacy laws might cause them to run afoul of their supervisory and record-keeping responsibilities under state and federal statutes and regulations, and vice-versa,” says A. Heath Abshure, Arkansas securities commissioner and president of North American Securities Administrators Association.

Social media legislation can be surprisingly complex. Simply defining “social media” and “personal account” can be tricky. A group of Internet and privacy lawyers devoted a blog post in January to the widely varying definitions of “social media” or “social networking” in the six states with laws. Debate over legislation can be filled with many “what-if” questions yet to be answered. But those what ifs can be very important, says Nebraska Senator Ernie Chambers (NP), “especially in an area where practically everything is new.”

—Pam Greenberg