

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 517

Introduced by Hansen, 42.

Read first time January 21, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Juvenile Code; to amend
2 sections 43-283.01 and 43-292, Reissue Revised Statutes
3 of Nebraska; to provide an additional basis for not
4 reunifying the family and for termination of parental
5 rights; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-283.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-283.01 (1) In determining whether reasonable efforts
4 have been made to preserve and reunify the family and in making
5 such reasonable efforts, the juvenile's health and safety are the
6 paramount concern.

7 (2) Except as provided in subsection (4) of this section,
8 reasonable efforts shall be made to preserve and reunify families
9 prior to the placement of a juvenile in foster care to prevent or
10 eliminate the need for removing the juvenile from the juvenile's
11 home and to make it possible for a juvenile to safely return to the
12 juvenile's home.

13 (3) If continuation of reasonable efforts to preserve
14 and reunify the family is determined to be inconsistent with the
15 permanency plan determined for the juvenile in accordance with a
16 permanency hearing under section 43-1312, efforts shall be made
17 to place the juvenile in a timely manner in accordance with the
18 permanency plan and to complete whatever steps are necessary to
19 finalize the permanent placement of the juvenile.

20 (4) Reasonable efforts to preserve and reunify the
21 family are not required if a court of competent jurisdiction
22 has determined that:

23 (a) The parent of the juvenile has subjected the
24 juvenile to aggravated circumstances, including, but not limited
25 to, abandonment, torture, chronic abuse, or sexual abuse;

1 (b) The parent of the juvenile has (i) committed first or
2 second degree murder to another child of the parent, (ii) committed
3 voluntary manslaughter to another child of the parent, (iii) aided
4 or abetted, attempted, conspired, or solicited to commit murder, or
5 aided or abetted voluntary manslaughter of the juvenile or another
6 child of the parent, ~~or~~ (iv) committed a felony assault which
7 results in serious bodily injury to the juvenile or another minor
8 child of the parent, or (v) been convicted of felony sexual assault
9 of the other parent of the juvenile under section 28-319.01 or
10 28-320.01 or a comparable crime in another state; or

11 (c) The parental rights of the parent to a sibling of the
12 juvenile have been terminated involuntarily.

13 (5) If reasonable efforts to preserve and reunify the
14 family are not required because of a court determination made under
15 subsection (4) of this section, a permanency hearing, as provided
16 in section 43-1312, shall be held for the juvenile within thirty
17 days after the determination, reasonable efforts shall be made
18 to place the juvenile in a timely manner in accordance with the
19 permanency plan, and whatever steps are necessary to finalize the
20 permanent placement of the juvenile shall be made.

21 (6) Reasonable efforts to place a juvenile for adoption
22 or with a guardian may be made concurrently with reasonable efforts
23 to preserve and reunify the family, but priority shall be given to
24 preserving and reunifying the family as provided in this section.

25 Sec. 2. Section 43-292, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-292 The court may terminate all parental rights
3 between the parents or the mother of a juvenile born out of
4 wedlock and such juvenile when the court finds such action to be in
5 the best interests of the juvenile and it appears by the evidence
6 that one or more of the following conditions exist:

7 (1) The parents have abandoned the juvenile for six
8 months or more immediately prior to the filing of the petition;

9 (2) The parents have substantially and continuously or
10 repeatedly neglected and refused to give the juvenile or a sibling
11 of the juvenile necessary parental care and protection;

12 (3) The parents, being financially able, have willfully
13 neglected to provide the juvenile with the necessary subsistence,
14 education, or other care necessary for his or her health, morals,
15 or welfare or have neglected to pay for such subsistence,
16 education, or other care when legal custody of the juvenile is
17 lodged with others and such payment ordered by the court;

18 (4) The parents are unfit by reason of debauchery,
19 habitual use of intoxicating liquor or narcotic drugs, or repeated
20 lewd and lascivious behavior, which conduct is found by the court
21 to be seriously detrimental to the health, morals, or well-being of
22 the juvenile;

23 (5) The parents are unable to discharge parental
24 responsibilities because of mental illness or mental deficiency and
25 there are reasonable grounds to believe that such condition will

1 continue for a prolonged indeterminate period;

2 (6) Following a determination that the juvenile is one
3 as described in subdivision (3)(a) of section 43-247, reasonable
4 efforts to preserve and reunify the family if required under
5 section 43-283.01, under the direction of the court, have failed to
6 correct the conditions leading to the determination;

7 (7) The juvenile has been in an out-of-home placement for
8 fifteen or more months of the most recent twenty-two months;

9 (8) The parent has inflicted upon the juvenile, by other
10 than accidental means, serious bodily injury;

11 (9) The parent of the juvenile has subjected the
12 juvenile to aggravated circumstances, including, but not limited
13 to, abandonment, torture, chronic abuse, or sexual abuse; ~~or~~

14 (10) The parent has (a) committed murder of another child
15 of the parent, (b) committed voluntary manslaughter of another
16 child of the parent, (c) aided or abetted, attempted, conspired,
17 or solicited to commit murder, or aided or abetted voluntary
18 manslaughter of the juvenile or another child of the parent, or (d)
19 committed a felony assault that resulted in serious bodily injury
20 to the juvenile or another minor child of the parent; or-

21 (11) One parent has been convicted of felony sexual
22 assault of the other parent under section 28-319.01 or 28-320.01 or
23 a comparable crime in another state.

24 Sec. 3. Original sections 43-283.01 and 43-292, Reissue
25 Revised Statutes of Nebraska, are repealed.