

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 82**

Introduced by Howard, 9; Dierks, 40; Harms, 48; Nantkes, 46.

Read first time January 8, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Juvenile Code; to amend section  
2 43-285, Reissue Revised Statutes of Nebraska; to require  
3 notification of change in case managers as prescribed;  
4 and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 43-285, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-285 (1) When the court awards a juvenile to the care  
4 of the Department of Health and Human Services, an association,  
5 or an individual in accordance with the Nebraska Juvenile Code,  
6 the juvenile shall, unless otherwise ordered, become a ward and  
7 be subject to the guardianship of the department, association,  
8 or individual to whose care he or she is committed. Any such  
9 association and the department shall have authority, by and  
10 with the assent of the court, to determine the care, placement,  
11 medical services, psychiatric services, training, and expenditures  
12 on behalf of each juvenile committed to it. Such guardianship shall  
13 not include the guardianship of any estate of the juvenile.

14           (2) Following an adjudication hearing at which a juvenile  
15 is adjudged to be under subdivision (3) of section 43-247, the  
16 court may order the department to prepare and file with the court  
17 a proposed plan for the care, placement, services, and permanency  
18 which are to be provided to such juvenile and his or her family.  
19 The health and safety of the juvenile shall be the paramount  
20 concern in the proposed plan. The plan shall include the name of  
21 the case manager assigned to the juvenile's case. The department  
22 shall include in the plan for a juvenile who is sixteen years of  
23 age or older and subject to the guardianship of the department  
24 a written proposal describing programs and services designed to  
25 assist the juvenile in acquiring independent living skills. If

1 any other party, including, but not limited to, the guardian  
2 ad litem, parents, county attorney, or custodian, proves by a  
3 preponderance of the evidence that the department's plan is not  
4 in the juvenile's best interests, the court shall disapprove the  
5 department's plan. The court may modify the plan, order that an  
6 alternative plan be developed, or implement another plan that is  
7 in the juvenile's best interests. In its order the court shall  
8 include a finding regarding the appropriateness of the programs and  
9 services described in the proposal designed to assist the juvenile  
10 in acquiring independent living skills. Rules of evidence shall not  
11 apply at the dispositional hearing when the court considers the  
12 plan that has been presented. The department or any other party  
13 may request a review of the court's order concerning the plan by a  
14 juvenile review panel as provided in section 43-287.04.

15 (3) Within thirty days after an order awarding a juvenile  
16 to the care of the department, an association, or an individual  
17 and until the juvenile reaches the age of majority, the department,  
18 association, or individual shall file with the court a report  
19 stating the location of the juvenile's placement and the needs of  
20 the juvenile in order to effectuate the purposes of subdivision  
21 (1) of section 43-246. The department, association, or individual  
22 shall file a report with the court once every six months or at  
23 shorter intervals if ordered by the court or deemed appropriate  
24 by the department, association, or individual. The department,  
25 association, or individual shall file a report and notice of

1 placement change with the court and shall send copies of the  
2 notice to all interested parties at least seven days before the  
3 placement of the juvenile is changed from what the court originally  
4 considered to be a suitable family home or institution to some  
5 other custodial situation in order to effectuate the purposes of  
6 subdivision (1) of section 43-246. The court, on its own motion  
7 or upon the filing of an objection to the change by an interested  
8 party, may order a hearing to review such a change in placement  
9 and may order that the change be stayed until the completion of  
10 the hearing. Nothing in this section shall prevent the court on  
11 an ex parte basis from approving an immediate change in placement  
12 upon good cause shown. The department may make an immediate change  
13 in placement without court approval only if the juvenile is in a  
14 harmful or dangerous situation or when the foster parents request  
15 that the juvenile be removed from their home. Approval of the court  
16 shall be sought within twenty-four hours after making the change in  
17 placement or as soon thereafter as possible. The department or any  
18 other party may request a review of the change in placement by a  
19 juvenile review panel in the manner set out in section 43-287.04.  
20 The department shall provide the juvenile's guardian ad litem with  
21 a copy of any report filed with the court by the department  
22 pursuant to this subsection.

23 (4) The court shall also hold a permanency hearing if  
24 required under section 43-1312.

25 (5) Within seven days after assignment of a new case

1 manager to a juvenile whose care has been awarded to the  
2 department, an association, or an individual, the department shall  
3 notify the court of the name of the case manager being replaced,  
4 the name of the new case manager, and the number of times a new  
5 case manager has been assigned to such juvenile's case since his or  
6 her first case manager.

7           ~~(5)~~ (6) When the court awards a juvenile to the care  
8 of the department, an association, or an individual, then the  
9 department, association, or individual shall have standing as a  
10 party to file any pleading or motion, to be heard by the court  
11 with regard to such filings, and to be granted any review or relief  
12 requested in such filings consistent with the Nebraska Juvenile  
13 Code.

14           ~~(6)~~ (7) Whenever a juvenile is in a foster care placement  
15 as defined in section 43-1301, the State Foster Care Review Board  
16 may participate in proceedings concerning the juvenile as provided  
17 in section 43-1313 and notice shall be given as provided in section  
18 43-1314.

19           ~~(7)~~ (8) Any written findings or recommendations of the  
20 State Foster Care Review Board or any designated local foster care  
21 review board with regard to a juvenile in a foster care placement  
22 submitted to a court having jurisdiction over such juvenile shall  
23 be admissible in any proceeding concerning such juvenile if such  
24 findings or recommendations have been provided to all other parties  
25 of record.

1           ~~(8)~~ (9) Any member of the State Foster Care Review Board,  
2 any of its agents or employees, or any member of any local foster  
3 care review board participating in an investigation or making any  
4 report pursuant to the Foster Care Review Act or participating in a  
5 judicial proceeding pursuant to this section shall be immune from  
6 any civil liability that would otherwise be incurred except for  
7 false statements negligently made.

8           Sec. 2. Original section 43-285, Reissue Revised Statutes  
9 of Nebraska, is repealed.