

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 80

Introduced by McGill, 26; Avery, 28; Campbell, 25; Christensen, 44;
Coash, 27; Council, 11; Dubas, 34; Hadley, 37; Howard,
9; Wallman, 30.

Read first time January 06, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to juveniles; to amend section 43-285, Revised
2 Statutes Cumulative Supplement, 2010; to change
3 provisions relating to the department's care plan for
4 certain juveniles; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-285, Revised Statutes Cumulative
2 Supplement, 2010, 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, or an
5 individual in accordance with the Nebraska Juvenile Code, the
6 juvenile shall, unless otherwise ordered, become a ward and be
7 subject to the guardianship of the department, association, or
8 individual to whose care he or she is committed. Any such association
9 and the department shall have authority, by and with the assent of
10 the court, to determine the care, placement, medical services,
11 psychiatric services, training, and expenditures on behalf of each
12 juvenile committed to it. Such guardianship shall not include the
13 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 court
16 may order the department to prepare and file with the court a
17 proposed plan for the care, placement, services, and permanency which
18 are to be provided to such juvenile and his or her family. The health
19 and safety of the juvenile shall be the paramount concern in the
20 proposed plan. The department shall include in the plan for a
21 juvenile who is sixteen years of age or older and subject to the
22 guardianship of the department a written proposal describing programs
23 and services designed to assist the juvenile in acquiring independent
24 living skills. ~~If any other party, including, but not limited to, the~~
25 ~~guardian ad litem, parents, county attorney, or custodian, proves by~~

1 ~~a preponderance of the evidence that the department's plan is not in~~
2 ~~the juvenile's best interests, the court shall disapprove the~~
3 ~~department's plan.~~ The court may modify the plan, order that an
4 alternative plan be developed, or implement another plan that is in
5 the juvenile's best interests. In its order the court shall include a
6 finding regarding the appropriateness of the programs and services
7 described in the proposal designed to assist the juvenile in
8 acquiring independent living skills. Rules of evidence shall not
9 apply at the dispositional hearing when the court considers the plan
10 that has been presented.

11 (3) Within thirty days after an order awarding a juvenile
12 to the care of the department, an association, or an individual and
13 until the juvenile reaches the age of majority, the department,
14 association, or individual shall file with the court a report stating
15 the location of the juvenile's placement and the needs of the
16 juvenile in order to effectuate the purposes of subdivision (1) of
17 section 43-246. The department, association, or individual shall file
18 a report with the court once every six months or at shorter intervals
19 if ordered by the court or deemed appropriate by the department,
20 association, or individual. The department, association, or
21 individual shall file a report and notice of placement change with
22 the court and shall send copies of the notice to all interested
23 parties at least seven days before the placement of the juvenile is
24 changed from what the court originally considered to be a suitable
25 family home or institution to some other custodial situation in order

1 to effectuate the purposes of subdivision (1) of section 43-246. The
2 court, on its own motion or upon the filing of an objection to the
3 change by an interested party, may order a hearing to review such a
4 change in placement and may order that the change be stayed until the
5 completion of the hearing. Nothing in this section shall prevent the
6 court on an ex parte basis from approving an immediate change in
7 placement upon good cause shown. The department may make an immediate
8 change in placement without court approval only if the juvenile is in
9 a harmful or dangerous situation or when the foster parents request
10 that the juvenile be removed from their home. Approval of the court
11 shall be sought within twenty-four hours after making the change in
12 placement or as soon thereafter as possible. The department shall
13 provide the juvenile's guardian ad litem with a copy of any report
14 filed with the court by the department pursuant to this subsection.

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

17 (5) When the court awards a juvenile to the care of the
18 department, an association, or an individual, then the department,
19 association, or individual shall have standing as a party to file any
20 pleading or motion, to be heard by the court with regard to such
21 filings, and to be granted any review or relief requested in such
22 filings consistent with the Nebraska Juvenile Code.

23 (6) Whenever a juvenile is in a foster care placement as
24 defined in section 43-1301, the State Foster Care Review Board may
25 participate in proceedings concerning the juvenile as provided in

1 section 43-1313 and notice shall be given as provided in section
2 43-1314.

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

9 (8) Any member of the State Foster Care Review Board, any
10 of its agents or employees, or any member of any local foster care
11 review board participating in an investigation or making any report
12 pursuant to the Foster Care Review Act or participating in a judicial
13 proceeding pursuant to this section shall be immune from any civil
14 liability that would otherwise be incurred except for false
15 statements negligently made.

16 Sec. 2. Original section 43-285, Revised Statutes
17 Cumulative Supplement, 2010, is repealed.