

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 503

Introduced by Coash, 27.

Read first time January 23, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to child abuse or neglect; to amend sections
 2 28-710, 28-713, 28-714, 28-715, 28-716, 28-717, 28-719,
 3 28-723, 28-725, 28-727, 29-4304, and 43-2932, Reissue
 4 Revised Statutes of Nebraska, and sections 28-711,
 5 28-713.01, 28-720, 28-726, 28-728, 43-4318, and 43-4331,
 6 Revised Statutes Cumulative Supplement, 2012; to rename
 7 the Child Protection Act; to provide for alternative
 8 response to a report of child abuse or neglect; to define
 9 terms; to state intent; to provide for demonstration
 10 projects and expansion; to provide duties for the
 11 Department of Health and Human Services; to harmonize
 12 provisions; and to repeal the original sections.

13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-710, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-710 (1) Sections 28-710 to 28-727 and sections 2 to 7
4 of this act shall be known and may be cited as the Child Protection
5 and Family Safety Act.

6 (2) For purposes of the Child Protection and Family
7 Safety Act:

8 (a) Alternative response means a comprehensive assessment
9 of (i) the risk of subsequent child abuse or neglect, (ii) family
10 strengths and needs, and (iii) the provision of or referral for
11 necessary services. Alternative response does not include an
12 investigation or a formal determination as to whether child abuse or
13 neglect has occurred;

14 (b) Assessment means a comprehensive assessment of child
15 safety, risk of subsequent child abuse or neglect, and family
16 strengths and needs that is applied to a child abuse or neglect
17 report that does not allege knowing or intentional child abuse or
18 neglect. Assessment does not include a determination as to whether
19 the child abuse or neglect occurred but does determine the need for
20 services to address the safety of family members and the risk of
21 subsequent abuse or neglect;

22 ~~(a)~~—(c) Child abuse or neglect means knowingly,
23 intentionally, or negligently causing or permitting a minor child to
24 be:

25 (i) Placed in a situation that endangers his or her life

1 or physical or mental health;

2 (ii) Cruelly confined or cruelly punished;

3 (iii) Deprived of necessary food, clothing, shelter, or
4 care;

5 (iv) Left unattended in a motor vehicle if such minor
6 child is six years of age or younger;

7 (v) Sexually abused; or

8 (vi) Sexually exploited by allowing, encouraging, or
9 forcing such person to solicit for or engage in prostitution,
10 debauchery, public indecency, or obscene or pornographic photography,
11 films, or depictions;

12 ~~(b)~~ (d) Department means the Department of Health and
13 Human Services;

14 (e) Investigation means fact gathering related to the
15 current safety of a child and the risk of subsequent child abuse or
16 neglect that determines whether child abuse or neglect has occurred
17 and whether child protective services are needed;

18 ~~(e)~~ (f) Law enforcement agency means the police
19 department or town marshal in incorporated municipalities, the office
20 of the sheriff in unincorporated areas, and the Nebraska State
21 Patrol;

22 ~~(d)~~ (g) Out-of-home child abuse or neglect means child
23 abuse or neglect occurring in day care homes, foster homes, day care
24 centers, group homes, and other child care facilities or
25 institutions; and

1 ~~(e)~~(h) Subject of the report of child abuse or neglect
2 means the person or persons identified in the report as responsible
3 for the child abuse or neglect.

4 Sec. 2. (1) The Legislature declares that the public
5 policy of the State of Nebraska is to protect children whose health
6 or welfare may be jeopardized by abuse or neglect. The Legislature
7 recognizes that most families want to keep their children safe, but
8 circumstances or conditions sometimes interfere with their ability to
9 do so. Families and children are best served by interventions that
10 engage their protective capacities and address immediate safety
11 concerns and ongoing risks of child abuse or neglect. In furtherance
12 of this public policy and the family policy and principles set forth
13 in sections 43-532 and 43-533, it is the intent of the Legislature to
14 strengthen the family and make the home, school, and community safe
15 for children by promoting responsible child care in all settings and
16 to provide, when necessary, a safe temporary or permanent home
17 environment for abused or neglected children.

18 (2) In addition, it is the policy of this state to
19 require the reporting of child abuse or neglect in home, school, and
20 community settings; to provide for alternative response, when
21 appropriate, as the preferred response to reports not alleging
22 substantial child abuse or neglect; to require an investigation when
23 the report alleges substantial child abuse or neglect; and to provide
24 protective services, family support, and family preservation services
25 in appropriate cases.

1 Sec. 3. (1) The department, in consultation with the
2 Nebraska Children's Commission, shall develop an alternative response
3 implementation plan in accordance with sections 2 to 7 of this act.
4 When the alternative response implementation plan has been developed,
5 the department may begin using alternative response in up to five
6 alternative response demonstration project locations that are
7 designated by the department in consultation with the commission. The
8 department shall provide a report of an evaluation done pursuant to
9 subsection (2) of this section to the Legislature and the commission
10 by December 15, 2014. The department may begin using alternative
11 response in up to five additional alternative response demonstration
12 project locations on January 1, 2015. The department shall provide a
13 report of another evaluation done pursuant to subsection (2) of this
14 section to the Legislature and the commission by November 15, 2015.
15 The department may continue using alternative response until May 15,
16 2016. Continued use of alternative response thereafter requires
17 approval of the Legislature.

18 (2) The department shall contract with an independent
19 entity to evaluate the alternative response demonstration projects.
20 The evaluation shall include, but is not limited to, data on impact
21 on child safety and the recurrence of child abuse or neglect, family
22 access to services, and entry of children into out-of-home care and
23 the costs of the implementation and use of alternative response.

24 (3) The Nebraska Children's Commission shall advise the
25 department on:

1 (a) The development of the alternative response
2 implementation plan for alternative response demonstration projects;

3 (b) Oversight and monitoring of the alternative response
4 implementation plan;

5 (c) Consulting with child welfare stakeholders, service
6 providers, and other community partners for feedback and
7 recommendations on the alternative response implementation plan;

8 (d) Defining the scope of the independent evaluation of
9 the implementation of alternative response; and

10 (e) Defining the scope of the ongoing evaluation of the
11 alternative response.

12 (4) The department shall adopt and promulgate rules and
13 regulations governing the use of alternative response, the transfer
14 of cases between investigation and alternative response, the rights
15 of families offered alternative response, the provision of voluntary
16 services, and the collection, sharing, and reporting of data prior to
17 the use of alternative response.

18 Sec. 4. (1) This section applies to alternative response
19 demonstration projects designated under section 3 of this act.

20 (2) When any physician, any medical institution, any
21 nurse, any school employee, any social worker, the Inspector General
22 appointed under section 43-4317, or any other person has reasonable
23 cause to believe that a child has been subjected to child abuse or
24 neglect or observes such child being subjected to conditions or
25 circumstances which reasonably would result in child abuse or

1 neglect, he or she shall report or cause a report of such incident to
2 be made to the department on the toll-free telephone number described
3 in subsection (3) of this section or the department may request such
4 report in writing. The reporter shall provide his or her name and
5 address, and to the extent available the address and age of the
6 abused or neglected child, the address of the person or persons
7 having custody of the abused or neglected child, the nature and
8 extent of the child abuse or neglect or the conditions and
9 circumstances which would reasonably result in such child abuse or
10 neglect, any evidence of previous child abuse or neglect including
11 the nature and extent, and any other information which in the opinion
12 of the reporter may be helpful in establishing the cause of such
13 child abuse or neglect and the identity of the perpetrator or
14 perpetrators. If a law enforcement agency rather than the department
15 receives an initial report of child abuse or neglect and immediate
16 action is required under the circumstances, the law enforcement
17 agency shall immediately proceed with an investigation and notify the
18 department as soon as possible.

19 (3) The department shall maintain a statewide toll-free
20 telephone number to be used by any person any hour of the day or
21 night, any day of the week, to make reports of child abuse or
22 neglect.

23 Sec. 5. (1) This section applies to alternative response
24 demonstration projects designated under section 3 of this act.

25 (2) Upon the receipt of a report of child abuse and

1 neglect by telephone or in writing required by section 4 of this act,
2 the department shall immediately determine the response to the report
3 of child abuse or neglect. The department shall not use alternative
4 response if: The report includes allegations of physical abuse that
5 has resulted in serious bodily injury, as defined in section 28-109,
6 to a child; bodily injury, as defined in section 28-109, to a child
7 sustained during the commission of a domestic assault under section
8 28-323; sexual assault of a child under section 28-319.01 or
9 28-320.01; neglect resulting in bodily injury, as defined in section
10 28-109, to a child; a child death in which the alleged perpetrator
11 resides with other children in the home; the manufacture, as defined
12 in section 28-401, of methamphetamine; a positive methamphetamine
13 screen or test during the term of a pregnancy; child contact with
14 methamphetamine including, but not limited to, a positive meconium or
15 hair follicle screen test; a report of an adult or caretaker, as
16 defined in section 71-6721, residing in the home with a child where
17 such adult or caretaker has previously had his or her parental rights
18 terminated; abuse or neglect in a household where an active
19 investigation by the Division of Children and Family Services of the
20 Department of Health and Human Services is occurring of one or more
21 individuals residing in the home; abuse or neglect in a household
22 where an individual or family is currently receiving services through
23 the Protection and Safety section of the Division of Children and
24 Family Services; or a child has been recovered from a kidnapping.
25 Alternative response shall not be used for out-of-home child abuse

1 and neglect reports.

2 (3) If the response is an investigation, the department
3 shall notify the appropriate law enforcement agency to immediately
4 investigate the report, take immediate steps to protect the child,
5 and institute legal proceedings, if appropriate. In situations of
6 alleged out-of-home child abuse or neglect if the person or persons
7 to be notified have not already been notified and the person to be
8 notified is not the subject of the report of child abuse or neglect,
9 the law enforcement agency shall immediately notify the person or
10 persons having custody of each child who has allegedly been abused or
11 neglected that such report of alleged child abuse or neglect has been
12 made and shall provide such person or persons with information of the
13 nature of the alleged child abuse or neglect. The law enforcement
14 agency may request assistance from the department during
15 investigation for purposes of assessing risk of harm to the child
16 involved. The department shall also provide services as are necessary
17 and appropriate under the circumstances to protect and assist the
18 child and to preserve the family. The law enforcement agency shall,
19 by the next working day after the investigative response, notify the
20 department as to whether or not an investigation is being undertaken
21 by the law enforcement agency. The law enforcement agency shall
22 provide the department with a copy of each investigation done under
23 this section.

24 (4) In the case of alternative response, the department
25 may complete the assessment described in subdivision (2)(b) of

1 section 28-710. The department shall transfer a subject of a report
2 being given alternative response to a law enforcement agency for
3 investigation if the department determines that a child's safety is
4 compromised. Participation in services offered to a subject of a
5 report being given alternative response is voluntary on the part of
6 the subject. A subject of a report being given alternative response
7 shall not be transferred to a law enforcement agency for
8 investigation based upon his or her failure to enroll or participate
9 in such services. When the response to the report of child abuse or
10 neglect is alternative response, there shall be no formal
11 determination of the case and the subject of the report shall not be
12 entered into the central register of child protection cases
13 maintained pursuant to section 28-718.

14 (5) The department shall, by the next working day after
15 receipt of a report of child abuse and neglect or notification by a
16 law enforcement agency as provided in section 4 of this act, enter in
17 the tracking system of child protection cases maintained pursuant to
18 section 28-715 all reports of child abuse or neglect received under
19 this section that are opened for investigation or alternative
20 response and any action taken.

21 (6) The department shall, upon request, make available to
22 the appropriate investigating law enforcement agency and the county
23 attorney a copy of all reports relative to a case of suspected child
24 abuse or neglect subject to investigation. Aggregate, non-identifying
25 reports of child abuse or neglect being given alternative response

1 shall be made available quarterly to requesting agencies outside the
2 department. Such alternative response case data shall include, but
3 not be limited to, the nature of the initial child abuse or neglect
4 report, the nature of services offered, the location of the cases,
5 the number of cases per month, and the number of alternative response
6 cases that were transferred for investigation. Agencies other than
7 the department and the Office of the Inspector General of Nebraska
8 Child Welfare shall not be provided specific, identifying reports of
9 child abuse or neglect being given alternative response. The office
10 shall have access to all reports relative to cases of suspected child
11 abuse or neglect subject to investigation and those subject to
12 alternative response. The department and the office shall develop
13 procedures allowing for the Inspector General's review of cases
14 subject to alternative response. The Inspector General shall include
15 in the report pursuant to section 43-4331 a summary of all cases
16 reviewed pursuant to this subsection.

17 Sec. 6. (1) This section applies to alternative response
18 demonstration projects designated under section 3 of this act.

19 (2) Upon completion of investigation done pursuant to
20 section 5 of this act:

21 (a) In situations of alleged out-of-home child abuse or
22 neglect, the person or persons having custody of the allegedly abused
23 or neglected child or children shall be given written notice of the
24 results of the investigation and any other information the law
25 enforcement agency or department deems necessary. Such notice and

1 information shall be sent by first-class mail; and

2 (b) The subject of the report of child abuse or neglect
3 shall be given written notice of the determination of the case and
4 whether the subject of the report of child abuse or neglect will be
5 entered into the central register of child protection cases
6 maintained pursuant to section 28-718 under the criteria provided in
7 section 28-720.

8 (3) If the subject of the report will be entered into the
9 central register, the notice to the subject shall be sent by
10 certified mail with return receipt requested or first-class mail to
11 the last-known address of the subject of the report of child abuse or
12 neglect and shall include:

13 (a) The nature of the report;

14 (b) The classification of the report under section
15 28-720; and

16 (c) Notification of the right of the subject of the
17 report of child abuse or neglect to request the department to amend
18 or expunge identifying information from the report or to remove the
19 substantiated report from the central register in accordance with
20 section 28-723.

21 (4) If the subject of the report will not be entered into
22 the central register, the notice to the subject shall be sent by
23 first-class mail and shall include:

24 (a) The nature of the report; and

25 (b) The classification of the report under section

1 28-720.

2 Sec. 7. Section 28-711, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 28-711 If section 4 of this act does not apply:

5 (1) When any physician, any medical institution, any
6 nurse, any school employee, any social worker, the Inspector General
7 appointed under section 43-4317, or any other person has reasonable
8 cause to believe that a child has been subjected to child abuse or
9 neglect or observes such child being subjected to conditions or
10 circumstances which reasonably would result in child abuse or
11 neglect, he or she shall report such incident or cause a report of
12 child abuse or neglect to be made to the proper law enforcement
13 agency or to the department on the toll-free number established by
14 ~~subsection~~subdivision (2) of this section. Such report may be made
15 orally by telephone with the caller giving his or her name and
16 address, shall be followed by a written report, and to the extent
17 available shall contain the address and age of the abused or
18 neglected child, the address of the person or persons having custody
19 of the abused or neglected child, the nature and extent of the child
20 abuse or neglect or the conditions and circumstances which would
21 reasonably result in such child abuse or neglect, any evidence of
22 previous child abuse or neglect including the nature and extent, and
23 any other information which in the opinion of the person may be
24 helpful in establishing the cause of such child abuse or neglect and
25 the identity of the perpetrator or perpetrators. Law enforcement

1 agencies receiving any reports of child abuse or neglect under this
2 subsection shall notify the department pursuant to section 28-718 on
3 the next working day by telephone or mail; and -

4 (2) The department shall establish a statewide toll-free
5 number to be used by any person any hour of the day or night, any day
6 of the week, to make reports of child abuse or neglect. Reports of
7 child abuse or neglect not previously made to or by a law enforcement
8 agency shall be made immediately to such agency by the department.

9 Sec. 8. Section 28-713, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 28-713 ~~Upon~~ If section 5 of this act does not apply, upon
12 the receipt of a call reporting child abuse and neglect as required
13 by section 28-711:

14 (1) It is the duty of the law enforcement agency to
15 investigate the report, to take immediate steps to protect the child,
16 and to institute legal proceedings if appropriate. In situations of
17 alleged out-of-home child abuse or neglect if the person or persons
18 to be notified have not already been notified and the person to be
19 notified is not the subject of the report of child abuse or neglect,
20 the law enforcement agency shall immediately notify the person or
21 persons having custody of each child who has allegedly been abused or
22 neglected that such report of alleged child abuse or neglect has been
23 made and shall provide such person or persons with information of the
24 nature of the alleged child abuse or neglect. The law enforcement
25 agency may request assistance from the department during the

1 investigation and shall, by the next working day, notify either the
2 hotline or the department of receipt of the report, including whether
3 or not an investigation is being undertaken by the law enforcement
4 agency. A copy of all reports, whether or not an investigation is
5 being undertaken, shall be provided to the department;

6 (2) In situations of alleged out-of-home child abuse or
7 neglect if the person or persons to be notified have not already been
8 notified and the person to be notified is not the subject of the
9 report of child abuse or neglect, the department shall immediately
10 notify the person or persons having custody of each child who has
11 allegedly been abused or neglected that such report of alleged child
12 abuse or neglect has been made and shall provide such person or
13 persons with information of the nature of the alleged child abuse or
14 neglect and any other information that the department deems
15 necessary. The department shall investigate for the purpose of
16 assessing each report of child abuse or neglect to determine the risk
17 of harm to the child involved. The department shall also provide such
18 social services as are necessary and appropriate under the
19 circumstances to protect and assist the child and to preserve the
20 family;

21 (3) The department may make a request for further
22 assistance from the appropriate law enforcement agency or take such
23 legal action as may be appropriate under the circumstances;

24 (4) The department shall, by the next working day after
25 receiving a report of child abuse or neglect under subdivision (1) of

1 this section, make a written report or a summary on forms provided by
2 the department to the proper law enforcement agency in the county and
3 enter in the tracking system of child protection cases maintained
4 pursuant to section 28-715 all reports of child abuse or neglect
5 opened for investigation and any action taken; and

6 (5) The department shall, upon request, make available to
7 the appropriate investigating law enforcement agency and the county
8 attorney a copy of all reports relative to a case of suspected child
9 abuse or neglect.

10 Sec. 9. Section 28-713.01, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 28-713.01 If section 6 of this act does not apply:

13 (1) Upon completion of the investigation pursuant to
14 section 28-713:

15 (a) In situations of alleged out-of-home child abuse or
16 neglect, the person or persons having custody of the allegedly abused
17 or neglected child or children shall be given written notice of the
18 results of the investigation and any other information the law
19 enforcement agency or department deems necessary. Such notice and
20 information shall be sent by first-class mail; and

21 (b) The subject of the report of child abuse or neglect
22 shall be given written notice of the determination of the case and
23 whether the subject of the report of child abuse or neglect will be
24 entered into the central register of child protection cases
25 maintained pursuant to section 28-718 under the criteria provided in

1 section 28-720; -

2 (2) If the subject of the report will be entered into the
3 central register, the notice to the subject shall be sent by
4 certified mail with return receipt requested or first-class mail to
5 the last-known address of the subject of the report of child abuse or
6 neglect and shall include:

7 (a) The nature of the report;

8 (b) The classification of the report under section
9 28-720; and

10 (c) Notification of the right of the subject of the
11 report of child abuse or neglect to request the department to amend
12 or expunge identifying information from the report or to remove the
13 substantiated report from the central register in accordance with
14 section 28-723; and -

15 (3) If the subject of the report will not be entered into
16 the central register, the notice to the subject shall be sent by
17 first-class mail and shall include:

18 (a) The nature of the report; and

19 (b) The classification of the report under section
20 28-720.

21 Sec. 10. Section 28-714, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 28-714 The privileged communication between patient and
24 physician, between client and professional counselor, and between
25 husband and wife shall not be a ground for excluding evidence in any

1 judicial proceeding resulting from a report of child abuse or neglect
2 required by section 28-711 or section 4 of this act.

3 Sec. 11. Section 28-715, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-715 The department shall retain all information from
6 all reports of suspected child abuse or neglect required by section
7 28-711 or section 4 of this act and all records generated as a result
8 of such reports in a tracking system of child protection cases. The
9 tracking system shall be used for statistical purposes as well as a
10 reference for future investigations if subsequent reports of child
11 abuse or neglect are made involving the same victim or subject of a
12 report of child abuse or neglect.

13 Sec. 12. Section 28-716, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 28-716 Any person participating in an investigation or
16 the making of a report of child abuse or neglect required by section
17 28-711 or section 4 of this act pursuant to or participating in a
18 judicial proceeding resulting therefrom shall be immune from any
19 liability, civil or criminal, that might otherwise be incurred or
20 imposed, except for maliciously false statements.

21 Sec. 13. Section 28-717, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 28-717 Any person who willfully fails to make any report
24 of child abuse or neglect required by section 28-711 or section 4 of
25 this act shall be guilty of a Class III misdemeanor.

1 Sec. 14. Section 28-719, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-719 Upon complying with identification requirements
4 established by regulation of the department, or when ordered by a
5 court of competent jurisdiction, any person legally authorized by
6 section 28-722, 28-726, or 28-727 to have access to records relating
7 to child abuse and neglect may request and shall be immediately
8 provided the information requested in accordance with the requirement
9 of the Child Protection and Family Safety Act. Such information shall
10 not include the name and address of the person making the report of
11 child abuse or neglect. The names and other identifying data and the
12 dates and the circumstances of any persons requesting or receiving
13 information from the central register of child protection cases
14 maintained pursuant to section 28-718 shall be entered in such
15 register record.

16 Sec. 15. Section 28-720, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 28-720 All cases entered into the central register of
19 child protection cases maintained pursuant to section 28-718 shall be
20 classified as one of the following:

21 (1) Court substantiated, if a court of competent
22 jurisdiction has entered a judgment of guilty against the subject of
23 the report of child abuse or neglect upon a criminal complaint,
24 indictment, or information or there has been an adjudication of
25 jurisdiction of a juvenile court over the child under subdivision (3)

1 (a) of section 43-247 which relates or pertains to the report of
2 child abuse or neglect;

3 (2) Court pending, if a criminal complaint, indictment,
4 or information or a juvenile petition under subdivision (3)(a) of
5 section 43-247, which relates or pertains to the subject of the
6 report of abuse or neglect, has been filed and is pending in a court
7 of competent jurisdiction; or

8 (3) Agency substantiated, if the department's
9 determination of child abuse or neglect against the subject of the
10 report of child abuse or neglect was supported by a preponderance of
11 the evidence and based upon an investigation pursuant to section
12 28-713 or section 5 of this act.

13 Sec. 16. Section 28-723, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 28-723 At any time subsequent to the completion of the
16 department's investigation, the subject of the report of child abuse
17 or neglect may request the department to amend, expunge identifying
18 information from, or remove the record of the report from the central
19 register of child protection cases maintained pursuant to section
20 28-718. If the department refuses to do so or does not act within
21 thirty days, the subject of the report of child abuse or neglect
22 shall have the right to a fair hearing within the department to
23 determine whether the record of the report of child abuse or neglect
24 should be amended, expunged, or removed on the grounds that it is
25 inaccurate or that it is being maintained in a manner inconsistent

1 with the Child Protection and Family Safety Act. Such fair hearing
2 shall be held within a reasonable time after the subject's request
3 and at a reasonable place and hour. In such hearings, the burden of
4 proving the accuracy and consistency of the record shall be on the
5 department. A juvenile court finding of child abuse or child neglect
6 shall be presumptive evidence that the report was not unfounded. The
7 hearing shall be conducted by the ~~head~~ chief executive officer of the
8 department or his or her designated agent, who is hereby authorized
9 and empowered to order the amendment, expunction, or removal of the
10 record to make it accurate or consistent with the requirements of the
11 act. The decision shall be made in writing, at the close of the
12 hearing, or within thirty days thereof, and shall state the reasons
13 upon which it is based. Decisions of the department may be appealed
14 under the provisions of the Administrative Procedure Act.

15 Sec. 17. Section 28-725, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 28-725 All information of the department concerning
18 reports of child abuse or neglect of noninstitutional children,
19 including information in the tracking system of child protection
20 cases maintained pursuant to section 28-715 or records in the central
21 register of child protection cases maintained pursuant to section
22 28-718, and all information of the department generated as a result
23 of such reports or records, shall be confidential and shall not be
24 disclosed except as specifically authorized by the Child Protection
25 and Family Safety Act and section 81-3126 or other applicable law.

1 The subject of the report of child abuse or neglect may authorize any
2 individual or organization to receive the following information from
3 the central register of child protection cases maintained pursuant to
4 section 28-718 which relates or pertains to him or her: (1) The date
5 of the alleged child abuse or neglect; and (2) the classification of
6 the case pursuant to section 28-720. Permitting, assisting, or
7 encouraging the unauthorized release of any information contained in
8 such reports or records shall be a Class V misdemeanor.

9 Sec. 18. Section 28-726, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 28-726 Except as provided in this section and sections
12 28-722 and 81-3126, no person, official, or agency shall have access
13 to information in the tracking system of child protection cases
14 maintained pursuant to section 28-715 or in records in the central
15 register of child protection cases maintained pursuant to section
16 28-718 unless in furtherance of purposes directly connected with the
17 administration of the Child Protection and Family Safety Act. Such
18 persons, officials, and agencies having access to such information
19 shall include, but not be limited to:

20 (1) A law enforcement agency investigating a report of
21 known or suspected child abuse or neglect;

22 (2) A county attorney in preparation of a child abuse or
23 neglect petition or termination of parental rights petition;

24 (3) A physician who has before him or her a child whom he
25 or she reasonably suspects may be abused or neglected;

1 (4) An agency having the legal responsibility or
2 authorization to care for, treat, or supervise an abused or neglected
3 child or a parent, a guardian, or other person responsible for the
4 abused or neglected child's welfare who is the subject of the report
5 of child abuse or neglect;

6 (5) Any person engaged in bona fide research or auditing.
7 No information identifying the subjects of the report of child abuse
8 or neglect shall be made available to the researcher or auditor;

9 (6) The Foster Care Review Office and the designated
10 local foster care review board when the information relates to a
11 child in a foster care placement as defined in section 43-1301. The
12 information provided to the office and local board shall not include
13 the name or identity of any person making a report of suspected child
14 abuse or neglect;

15 (7) The designated protection and advocacy system
16 authorized pursuant to the Developmental Disabilities Assistance and
17 Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act existed on
18 January 1, 2005, and the Protection and Advocacy for Mentally Ill
19 Individuals Act, 42 U.S.C. 10801, as the act existed on September 1,
20 2001, acting upon a complaint received from or on behalf of a person
21 with developmental disabilities or mental illness;

22 (8) The person or persons having custody of the abused or
23 neglected child in situations of alleged out-of-home child abuse or
24 neglect; and

25 (9) For purposes of licensing providers of child care

1 programs, the Department of Health and Human Services.

2 Sec. 19. Section 28-727, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-727 Upon request, a physician or the person in charge
5 of an institution, school, facility, or agency making a legally
6 mandated report of child abuse or neglect pursuant to section 28-711
7 or section 4 of this act shall receive a summary of the findings of
8 and actions taken by the department in response to his or her report.
9 The amount of detail such summary contains shall depend on the source
10 of the report of child abuse or neglect and shall be established by
11 regulations of the department.

12 Sec. 20. Section 28-728, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 28-728 (1) The Legislature finds that child abuse and
15 neglect are community problems requiring a coordinated response by
16 law enforcement, child advocacy centers, prosecutors, the Department
17 of Health and Human Services, and other agencies or entities designed
18 to protect children. It is the intent of the Legislature to create a
19 child abuse and neglect investigation team in each county or
20 contiguous group of counties and to create a child abuse and neglect
21 treatment team in each county or contiguous group of counties.

22 (2) Each county or contiguous group of counties will be
23 assigned by the Department of Health and Human Services to a child
24 advocacy center. The purpose of a child advocacy center is to provide
25 a child-focused location for conducting forensic interviews and

1 medical evaluations for alleged child victims of abuse and neglect
2 and for coordinating a multidisciplinary team response that supports
3 the physical, emotional, and psychological needs of children who are
4 alleged victims of abuse or neglect. Each child advocacy center shall
5 meet accreditation criteria set forth by the National Children's
6 Alliance. Nothing in this section shall prevent a child from
7 receiving treatment or other services at a child advocacy center
8 which has received or is in the process of receiving accreditation.

9 (3) Each county attorney or the county attorney
10 representing a contiguous group of counties is responsible for
11 convening the child abuse and neglect investigation team and ensuring
12 that protocols are established and implemented. A representative of
13 the child advocacy center assigned to the team shall assist the
14 county attorney in facilitating case review, developing and updating
15 protocols, and arranging training opportunities for the team. Each
16 team must have protocols which, at a minimum, shall include
17 procedures for:

18 (a) Mandatory reporting of child abuse and neglect as
19 outlined in section 28-711 and section 4 of this act to include
20 training to professionals on identification and reporting of abuse;

21 (b) Assigning roles and responsibilities between law
22 enforcement and the Department of Health and Human Services for the
23 initial response;

24 (c) Outlining how reports will be shared between law
25 enforcement and the Department of Health and Human Services under

1 section 28-713 and section 5 of this act;

2 (d) Coordinating the investigative response including,
3 but not limited to:

4 (i) Defining cases that require a priority response;

5 (ii) Contacting the reporting party;

6 (iii) Arranging for a video-recorded forensic interview
7 at a child advocacy center for children who are three to eighteen
8 years of age and are alleged to be victims of sexual abuse or serious
9 physical abuse or neglect, have witnessed a violent crime, are found
10 in a drug-endangered environment, or have been recovered from a
11 kidnapping;

12 (iv) Assessing the need for and arranging, when
13 indicated, a medical evaluation of the alleged child victim;

14 (v) Assessing the need for and arranging, when indicated,
15 appropriate mental health services for the alleged child victim or
16 nonoffender caregiver;

17 (vi) Conducting collateral interviews with other persons
18 with information pertinent to the investigation including other
19 potential victims;

20 (vii) Collecting, processing, and preserving physical
21 evidence including photographing the crime scene as well as any
22 physical injuries as a result of the alleged child abuse and neglect;
23 and

24 (viii) Interviewing the alleged perpetrator;

25 (e) Reducing the risk of harm to alleged child abuse and

1 neglect victims;

2 (f) Ensuring that the child is in safe surroundings,
3 including removing the perpetrator when necessary or arranging for
4 temporary custody of the child when the child is seriously endangered
5 in his or her surroundings and immediate removal appears to be
6 necessary for the child's protection as provided in section 43-248;

7 (g) Sharing of case information between team members; and

8 (h) Outlining what cases will be reviewed by the
9 investigation team including, but not limited to:

10 (i) Cases of sexual abuse, serious physical abuse and
11 neglect, drug-endangered children, and serious or ongoing domestic
12 violence;

13 (ii) Cases determined by the Department of Health and
14 Human Services to be high or very high risk for further maltreatment;
15 and

16 (iii) Any other case referred by a member of the team
17 when a system-response issue has been identified.

18 (4) Each county attorney or the county attorney
19 representing a contiguous group of counties is responsible for
20 convening the child abuse and neglect treatment team and ensuring
21 that protocols are established and implemented. A representative of
22 the child advocacy center appointed to the team shall assist the
23 county attorney in facilitating case review, developing and updating
24 protocols, and arranging training opportunities for the team. Each
25 team must have protocols which, at a minimum, shall include

1 procedures for:

2 (a) Case coordination and assistance, including the
3 location of services available within the area;

4 (b) Case staffings and the coordination, development,
5 implementation, and monitoring of treatment or safety plans
6 particularly in those cases in which ongoing services are provided by
7 the Department of Health and Human Services or a contracted agency
8 but the juvenile court is not involved;

9 (c) Reducing the risk of harm to child abuse and neglect
10 victims;

11 (d) Assisting those child abuse and neglect victims who
12 are abused and neglected by perpetrators who do not reside in their
13 homes; and

14 (e) Working with multiproblem status offenders and
15 delinquent youth.

16 (5) For purposes of this section, forensic interview
17 means a video-recorded interview of an alleged child victim conducted
18 at a child advocacy center by a professional with specialized
19 training designed to elicit details about alleged incidents of abuse
20 or neglect, and such interview may result in intervention in criminal
21 or juvenile court.

22 Sec. 21. Section 29-4304, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 29-4304 (1) A victim does not waive the protections
25 afforded by sections 29-4301 to 29-4304 by testifying in court about

1 the offense, except that:

2 (a) If the victim partially discloses the contents of a
3 confidential communication in the course of testifying, then either
4 party may request the court to rule that justice requires the
5 protections afforded by sections 29-4301 to 29-4304 be waived to the
6 extent the protections apply to that portion of the confidential
7 communication; and

8 (b) Any waiver shall apply only to the extent necessary
9 to require any witness to respond to counsel's questions concerning a
10 confidential communication that is relevant to the case.

11 (2) An advocate cannot waive the protections afforded a
12 victim under sections 29-4301 to 29-4304. However, if a victim brings
13 suit against an advocate or the agency, business, or organization in
14 which the advocate was employed or served as a volunteer at the time
15 of the advocacy relationship, the advocate may testify or produce
16 records regarding confidential communications with the victim and is
17 not in violation of sections 29-4301 to 29-4304.

18 (3) Sections 29-4301 to 29-4304 shall not relieve an
19 advocate of any duty to report suspected adult abuse or neglect as
20 required by section 28-372 or suspected child abuse or neglect as
21 required by section 28-711 or section 5 of this act or any other
22 legal duty to report a criminal or unlawful act.

23 (4) Sections 29-4301 to 29-4304 shall not be construed to
24 limit any other testimonial privilege available to any person under
25 the laws of this state.

1 Sec. 22. Section 43-2932, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-2932 (1) When the court is required to develop a
4 parenting plan:

5 (a) If a preponderance of the evidence demonstrates, the
6 court shall determine whether a parent who would otherwise be
7 allocated custody, parenting time, visitation, or other access to the
8 child under a parenting plan:

9 (i) Has committed child abuse or neglect;

10 (ii) Has committed child abandonment under section
11 28-705;

12 (iii) Has committed domestic intimate partner abuse; or

13 (iv) Has interfered persistently with the other parent's
14 access to the child, except in the case of actions taken for the
15 purpose of protecting the safety of the child or the interfering
16 parent or another family member, pending adjudication of the facts
17 underlying that belief; and

18 (b) If a parent is found to have engaged in any activity
19 specified by subdivision (1)(a) of this section, limits shall be
20 imposed that are reasonably calculated to protect the child or
21 child's parent from harm. The limitations may include, but are not
22 limited to:

23 (i) An adjustment of the custody of the child, including
24 the allocation of sole legal custody or physical custody to one
25 parent;

1 (ii) Supervision of the parenting time, visitation, or
2 other access between a parent and the child;

3 (iii) Exchange of the child between parents through an
4 intermediary or in a protected setting;

5 (iv) Restraints on the parent from communication with or
6 proximity to the other parent or the child;

7 (v) A requirement that the parent abstain from possession
8 or consumption of alcohol or nonprescribed drugs while exercising
9 custodial responsibility and in a prescribed period immediately
10 preceding such exercise;

11 (vi) Denial of overnight physical custodial parenting
12 time;

13 (vii) Restrictions on the presence of specific persons
14 while the parent is with the child;

15 (viii) A requirement that the parent post a bond to
16 secure return of the child following a period in which the parent is
17 exercising physical custodial parenting time or to secure other
18 performance required by the court; or

19 (ix) Any other constraints or conditions deemed necessary
20 to provide for the safety of the child, a child's parent, or any
21 person whose safety immediately affects the child's welfare.

22 (2) A court determination under this section shall not be
23 considered a report for purposes of inclusion in the central register
24 of child protection cases pursuant to the Child Protection and Family
25 Safety Act.

1 (3) If a parent is found to have engaged in any activity
2 specified in subsection (1) of this section, the court shall not
3 order legal or physical custody to be given to that parent without
4 making special written findings that the child and other parent can
5 be adequately protected from harm by such limits as it may impose
6 under such subsection. The parent found to have engaged in the
7 behavior specified in subsection (1) of this section has the burden
8 of proving that legal or physical custody, parenting time,
9 visitation, or other access to that parent will not endanger the
10 child or the other parent.

11 Sec. 23. Section 43-4318, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 43-4318 (1) The office shall investigate:

14 (a) Allegations or incidents of possible misconduct,
15 misfeasance, malfeasance, or violations of statutes or of rules or
16 regulations of the department by an employee of or person under
17 contract with the department, a private agency, a licensed child care
18 facility, a foster parent, or any other provider of child welfare
19 services or which may provide a basis for discipline pursuant to the
20 Uniform Credentialing Act; and

21 (b) Death or serious injury in foster homes, private
22 agencies, child care facilities, and other programs and facilities
23 licensed by or under contract with the department and death or
24 serious injury in any case in which services are provided by the
25 department to a child or his or her parents or any case involving an

1 investigation under the Child Protection and Family Safety Act, which
2 case has been open for one year or less. The department shall report
3 all cases of death or serious injury of a child in a foster home,
4 private agency, child care facility or program, or other program or
5 facility licensed by the department to the Inspector General as soon
6 as reasonably possible after the department learns of such death or
7 serious injury. For purposes of this subdivision, serious injury
8 means an injury or illness caused by suspected abuse, neglect, or
9 maltreatment which leaves a child in critical or serious condition.

10 (2) Any investigation conducted by the Inspector General
11 shall be independent of and separate from an investigation pursuant
12 to the Child Protection and Family Safety Act. The Inspector General
13 and his or her staff are subject to the reporting requirements of the
14 Child Protection and Family Safety Act.

15 (3) Notwithstanding the fact that a criminal
16 investigation, a criminal prosecution, or both are in progress, all
17 law enforcement agencies and prosecuting attorneys shall cooperate
18 with any investigation conducted by the Inspector General and shall,
19 immediately upon request by the Inspector General, provide the
20 Inspector General with copies of all law enforcement reports which
21 are relevant to the Inspector General's investigation. All law
22 enforcement reports which have been provided to the Inspector General
23 pursuant to this section are not public records for purposes of
24 sections 84-712 to 84-712.09 and shall not be subject to discovery by
25 any other person or entity. Except to the extent that disclosure of

1 information is otherwise provided for in the Office of Inspector
2 General of Nebraska Child Welfare Act, the Inspector General shall
3 maintain the confidentiality of all law enforcement reports received
4 pursuant to its request under this section. Law enforcement agencies
5 and prosecuting attorneys shall, when requested by the Inspector
6 General, collaborate with the Inspector General regarding all other
7 information relevant to the Inspector General's investigation. If the
8 Inspector General in conjunction with the Public Counsel determines
9 it appropriate, the Inspector General may, when requested to do so by
10 a law enforcement agency or prosecuting attorney, suspend an
11 investigation by the office until a criminal investigation or
12 prosecution is completed or has proceeded to a point that, in the
13 judgment of the Inspector General, reinstatement of the Inspector
14 General's investigation will not impede or infringe upon the criminal
15 investigation or prosecution. Under no circumstance shall the
16 Inspector General interview any minor who has already been
17 interviewed by a law enforcement agency, personnel of the Division of
18 Children and Family Services of the department, or staff of a child
19 advocacy center in connection with a relevant ongoing investigation
20 of a law enforcement agency.

21 Sec. 24. Section 43-4331, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 43-4331 On or before September 15 of each year, the
24 Inspector General shall provide to the Health and Human Services
25 Committee of the Legislature and the Governor a summary of reports

1 and investigations made under the Office of Inspector General of
2 Nebraska Child Welfare Act for the preceding year. The summaries
3 shall detail recommendations and the status of implementation of
4 recommendations and may also include recommendations to the committee
5 regarding issues discovered through investigation, audits,
6 inspections, and reviews by the office that will increase
7 accountability and legislative oversight of the Nebraska child
8 welfare system, improve operations of the department and the Nebraska
9 child welfare system, or deter and identify fraud, abuse, and illegal
10 acts. Such summary shall include summaries of alternative response
11 cases under alternative response demonstration projects implemented
12 in accordance with sections 2 to 7 of this act reviewed by the
13 Inspector General. The summaries shall not contain any confidential
14 or identifying information concerning the subjects of the reports and
15 investigations.

16 Sec. 25. Original sections 28-710, 28-713, 28-714,
17 28-715, 28-716, 28-717, 28-719, 28-723, 28-725, 28-727, 29-4304, and
18 43-2932, Reissue Revised Statutes of Nebraska, and sections 28-711,
19 28-713.01, 28-720, 28-726, 28-728, 43-4318, and 43-4331, Revised
20 Statutes Cumulative Supplement, 2012, are repealed.