

AMENDMENTS TO LB265

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 29-1816, Revised Statutes Cumulative Supplement,  
4 2014, is amended to read:

5           29-1816 (1)(a) The accused may be arraigned in county court or  
6 district court:

7           (i) If the accused was eighteen years of age or older when the  
8 alleged offense was committed;

9           (ii) If the accused was younger than eighteen years of age and was  
10 fourteen years of age or older when an alleged offense punishable as a  
11 Class I, IA, IB, IC, ID, II, or III felony was committed;~~or~~

12           (iii) If the alleged offense is a traffic offense as defined in  
13 section 43-245; or ~~or~~

14           (iv) Until January 1, 2017, if the accused was seventeen years of  
15 age when an alleged offense described in subdivision (1) of section  
16 43-247 was committed.

17           (b) Arraignment in county court or district court shall be by  
18 reading to the accused the complaint or information, unless the reading  
19 is waived by the accused when the nature of the charge is made known to  
20 him or her. The accused shall then be asked whether he or she is guilty  
21 or not guilty of the offense charged. If the accused appears in person  
22 and by counsel and goes to trial before a jury regularly impaneled and  
23 sworn, he or she shall be deemed to have waived arraignment and a plea of  
24 not guilty shall be deemed to have been made.

25           (2) At the time of the arraignment, the county court or district  
26 court shall advise the accused, if the accused was younger than eighteen  
27 years of age at the time the alleged offense was committed, that the

1 accused may move the county court or district court at any time not later  
2 than thirty days after arraignment, unless otherwise permitted by the  
3 court for good cause shown, to waive jurisdiction in such case to the  
4 juvenile court for further proceedings under the Nebraska Juvenile Code.  
5 This subsection does not apply if the case was transferred to county  
6 court or district court from juvenile court.

7 (3) For motions to transfer a case from the county court or district  
8 court to juvenile court:

9 (a) The county court or district court shall schedule a hearing on  
10 such motion within fifteen days. The customary rules of evidence shall  
11 not be followed at such hearing. The accused shall be represented by an  
12 attorney. The criteria set forth in section 43-276 shall be considered at  
13 such hearing. After considering all the evidence and reasons presented by  
14 both parties, the case shall be transferred to juvenile court unless a  
15 sound basis exists for retaining the case in county court or district  
16 court; and

17 (b) The county court or district court shall set forth findings for  
18 the reason for its decision. If the county court or district court  
19 determines that the accused should be transferred to the juvenile court,  
20 the complete file in the county court or district court shall be  
21 transferred to the juvenile court and the complaint, indictment, or  
22 information may be used in place of a petition therein. The county court  
23 or district court making a transfer shall order the accused to be taken  
24 forthwith to the juvenile court and designate where the juvenile shall be  
25 kept pending determination by the juvenile court. The juvenile court  
26 shall then proceed as provided in the Nebraska Juvenile Code.

27 (4) When the accused was younger than eighteen years of age when an  
28 alleged offense was committed, the county attorney or city attorney shall  
29 proceed under section 43-274.

30 Sec. 2. Section 43-245, Revised Statutes Cumulative Supplement,  
31 2014, is amended to read:

1           43-245 For purposes of the Nebraska Juvenile Code, unless the  
2 context otherwise requires:

3           (1) Abandonment means a parent's intentionally withholding from a  
4 child, without just cause or excuse, the parent's presence, care, love,  
5 protection, and maintenance and the opportunity for the display of  
6 parental affection for the child;

7           (2) Age of majority means nineteen years of age;

8           (3) Approved center means a center that has applied for and received  
9 approval from the Director of the Office of Dispute Resolution under  
10 section 25-2909;

11           (4) Civil citation means a noncriminal notice which cannot result in  
12 a criminal record and is described in section 43-248.02;

13           (5) Cost or costs means (a) the sum or equivalent expended, paid, or  
14 charged for goods or services, or expenses incurred, or (b) the  
15 contracted or negotiated price;

16           (6) Criminal street gang means a group of three or more people with  
17 a common identifying name, sign, or symbol whose group identity or  
18 purposes include engaging in illegal activities;

19           (7) Criminal street gang member means a person who willingly or  
20 voluntarily becomes and remains a member of a criminal street gang;

21           (8) Custodian means a nonparental caretaker having physical custody  
22 of the juvenile and includes an appointee described in section 43-294;

23           (9) Guardian means a person, other than a parent, who has qualified  
24 by law as the guardian of a juvenile pursuant to testamentary or court  
25 appointment, but excludes a person who is merely a guardian ad litem;

26           (10) Juvenile means any person under the age of eighteen;

27           (11) Juvenile court means the separate juvenile court where it has  
28 been established pursuant to sections 43-2,111 to 43-2,127 and the county  
29 court sitting as a juvenile court in all other counties. Nothing in the  
30 Nebraska Juvenile Code shall be construed to deprive the district courts  
31 of their habeas corpus, common-law, or chancery jurisdiction or the

1 county courts and district courts of jurisdiction of domestic relations  
2 matters as defined in section 25-2740;

3 (12) Juvenile detention facility has the same meaning as in section  
4 83-4,125;

5 (13) Legal custody has the same meaning as in section 43-2922;

6 (14) Mediator for juvenile offender and victim mediation means a  
7 person who (a) has completed at least thirty hours of training in  
8 conflict resolution techniques, neutrality, agreement writing, and ethics  
9 set forth in section 25-2913, (b) has an additional eight hours of  
10 juvenile offender and victim mediation training, and (c) meets the  
11 apprenticeship requirements set forth in section 25-2913;

12 (15) Mental health facility means a treatment facility as defined in  
13 section 71-914 or a government, private, or state hospital which treats  
14 mental illness;

15 (16) Nonoffender means a juvenile who is subject to the jurisdiction  
16 of the juvenile court for reasons other than legally prohibited conduct,  
17 including, but not limited to, juveniles described in subdivision (3)(a)  
18 of section 43-247;

19 (17) Nonsecure detention means detention characterized by the  
20 absence of restrictive hardware, construction, and procedure. Nonsecure  
21 detention services may include a range of placement and supervision  
22 options, such as home detention, electronic monitoring, day reporting,  
23 drug court, tracking and monitoring supervision, staff secure and  
24 temporary holdover facilities, and group homes;

25 (18) Parent means one or both parents or stepparents when the  
26 stepparent is married to a parent who has physical custody of the  
27 juvenile as of the filing of the petition;

28 (19) Parties means the juvenile as described in section 43-247 and  
29 his or her parent, guardian, or custodian;

30 (20) Physical custody has the same meaning as in section 43-2922;

31 (21) Except in proceedings under the Nebraska Indian Child Welfare

1 Act, relative means father, mother, grandfather, grandmother, brother,  
2 sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt,  
3 first cousin, nephew, or niece;

4 (22) Seal a record means that a record shall not be available to the  
5 public except upon the order of a court upon good cause shown;

6 (23) Secure detention means detention in a highly structured,  
7 residential, hardware-secured facility designed to restrict a juvenile's  
8 movement;

9 (24) Staff secure juvenile facility has the same meaning as in  
10 section 83-4,125;

11 (25) Status offender means a juvenile who has been charged with or  
12 adjudicated for conduct which would not be a crime if committed by an  
13 adult, including, but not limited to, juveniles charged under subdivision  
14 (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02; ~~and~~

15 (26) Traffic offense means any nonfelonious act in violation of a  
16 law or ordinance regulating vehicular or pedestrian travel, whether  
17 designated a misdemeanor or a traffic infraction; and -

18 (27) Young adult means an individual older than eighteen years of  
19 age but under twenty-one years of age.

20 Sec. 3. Section 43-246.01, Revised Statutes Cumulative Supplement,  
21 2014, is amended to read:

22 43-246.01 The juvenile court shall have:

23 (1) Exclusive original jurisdiction as to:

24 (a) Any juvenile described in subdivision (3) of section 43-247;

25 (b) Any juvenile who was under sixteen years of age at the time the  
26 alleged offense was committed and the offense falls under subdivision (1)  
27 of section 43-247;

28 (c) A party or proceeding described in subdivision (5) or (7) of  
29 section 43-247; and

30 (d) Any juvenile who was under fourteen years of age at the time the  
31 alleged offense was committed and the offense falls under subdivision (2)

1 of section 43-247;

2 (2) Exclusive original jurisdiction as to:

3 (a) Beginning January 1, 2015, any juvenile who is alleged to have  
4 committed an offense under subdivision (1) of section 43-247 and who was  
5 sixteen years of age at the time the alleged offense was committed, and  
6 beginning January 1, 2017, any juvenile who is alleged to have committed  
7 an offense under subdivision (1) of section 43-247 and who was sixteen  
8 years of age or seventeen years of age at the time the alleged offense  
9 was committed; and

10 (b) Any juvenile who was fourteen years of age or older at the time  
11 the alleged offense was committed and the offense falls under subdivision  
12 (2) of section 43-247 except offenses enumerated in subdivision (1)(a)  
13 (ii) of section 29-1816.

14 Proceedings initiated under this subdivision (2) may be transferred  
15 as provided in section 43-274; and

16 (3) Concurrent original jurisdiction with the county court or  
17 district court as to:

18 (a) Any juvenile described in subdivision (4) of section 43-247;

19 (b) Any proceeding under subdivision (6), (8), (9), or (10) of  
20 section 43-247; ~~and~~

21 (c) Any juvenile described in subdivision (1)(a)(ii) of section  
22 29-1816; ~~and~~ -

23 (d) Until January 1, 2017, any juvenile who is alleged to have  
24 committed an offense under subdivision (1) of section 43-247 and who was  
25 seventeen years of age at the time the alleged offense was committed.

26 Proceedings initiated under this subdivision (3) may be transferred  
27 as provided in section 43-274.

28 Sec. 4. (1) The juvenile court's jurisdiction over a young adult  
29 may be extended beyond eighteen years of age, but in no case beyond  
30 twenty-one years of age, when:

31 (a) The young adult is alleged to have committed an offense under

1 subdivision (1), (2), (3)(b), or (4) of section 43-247;

2 (b) The young adult was eighteen years of age or younger when the  
3 offense was committed; and

4 (c) All parties consent to the juvenile court's extended  
5 jurisdiction for the purposes of continuing treatment or services which  
6 are related to the offense.

7 (2) If jurisdiction is extended beyond eighteen years of age under  
8 subsection (1) of this section, the juvenile court shall:

9 (a) Specify the length of the extension, not to exceed a six-month  
10 increment;

11 (b) Specify what treatment or services will be provided in the  
12 juvenile court order during the extended jurisdiction; and

13 (c) At the request of a party, set a review hearing every six months  
14 thereafter at which an additional six-month incremental extension may be  
15 considered.

16 (3) If no review hearing is set initially, the parties may, by  
17 stipulated motion signed by all parties, request further extensions in  
18 increments of no greater than six months. If no party requests an  
19 additional six-month extension through stipulated motion or by requesting  
20 a review hearing, the extended jurisdiction shall terminate at the end of  
21 the period specified in the original order or at the end of six months  
22 after the order extending jurisdiction, whichever occurs first.

23 (4) Treatment ordered under this section shall not include  
24 commitment to a youth rehabilitation and treatment center or a juvenile  
25 detention facility.

26 (5) Upon termination of jurisdiction pursuant to this section, the  
27 juvenile court shall initiate proceedings pursuant to section 43-2,108.04  
28 to seal the young adult's records.

29 Sec. 5. Section 43-247, Revised Statutes Cumulative Supplement,  
30 2014, is amended to read:

31 43-247 The juvenile court in each county shall have jurisdiction of:

1 (1) Any juvenile who has committed an act other than a traffic  
2 offense which would constitute a misdemeanor or an infraction under the  
3 laws of this state, or violation of a city or village ordinance;

4 (2) Any juvenile who has committed an act which would constitute a  
5 felony under the laws of this state;

6 (3) Any juvenile (a) who is homeless or destitute, or without proper  
7 support through no fault of his or her parent, guardian, or custodian;  
8 who is abandoned by his or her parent, guardian, or custodian; who lacks  
9 proper parental care by reason of the fault or habits of his or her  
10 parent, guardian, or custodian; whose parent, guardian, or custodian  
11 neglects or refuses to provide proper or necessary subsistence,  
12 education, or other care necessary for the health, morals, or well-being  
13 of such juvenile; whose parent, guardian, or custodian is unable to  
14 provide or neglects or refuses to provide special care made necessary by  
15 the mental condition of the juvenile; or who is in a situation or engages  
16 in an occupation, including prostitution, dangerous to life or limb or  
17 injurious to the health or morals of such juvenile, (b) who, by reason of  
18 being wayward or habitually disobedient, is uncontrolled by his or her  
19 parent, guardian, or custodian; who deports himself or herself so as to  
20 injure or endanger seriously the morals or health of himself, herself, or  
21 others; or who is habitually truant from home or school, or (c) who is  
22 mentally ill and dangerous as defined in section 71-908;

23 (4) Any juvenile who has committed an act which would constitute a  
24 traffic offense as defined in section 43-245;

25 (5) The parent, guardian, or custodian of any juvenile described in  
26 this section;

27 (6) The proceedings for termination of parental rights;

28 (7) Any juvenile who has been voluntarily relinquished, pursuant to  
29 section 43-106.01, to the Department of Health and Human Services or any  
30 child placement agency licensed by the Department of Health and Human  
31 Services;



1 (8) Any juvenile who was a ward of the juvenile court at the  
2 inception of his or her guardianship and whose guardianship has been  
3 disrupted or terminated;

4 (9) The adoption or guardianship proceedings for a child over which  
5 the juvenile court already has jurisdiction under another provision of  
6 the Nebraska Juvenile Code;

7 (10) The paternity or custody determination for a child over which  
8 the juvenile court already has jurisdiction; ~~and~~

9 (11) The proceedings under the Young Adult Bridge to Independence  
10 Act; and -

11 (12) Any young adult over whom the juvenile court has extended  
12 jurisdiction pursuant to section 4 of this act.

13 Notwithstanding the provisions of the Nebraska Juvenile Code, the  
14 determination of jurisdiction over any Indian child as defined in section  
15 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and  
16 the district court shall have exclusive jurisdiction in proceedings  
17 brought pursuant to section 71-510.

18 Sec. 6. Section 43-297.01, Revised Statutes Cumulative Supplement,  
19 2014, is amended to read:

20 43-297.01 (1) Following an adjudication, whenever any juvenile is  
21 placed on juvenile probation subject to the supervision of a probation  
22 officer, the Office of Probation Administration is deemed to have  
23 placement and care responsibility for the juvenile.

24 (2) The court shall order the initial placement and level of care  
25 for the juvenile placed on juvenile probation. Prior to determining the  
26 placement and level of care for a juvenile, the court may solicit a  
27 recommendation from the Office of Probation Administration. The status of  
28 each juvenile placed out-of-home shall be reviewed periodically, but not  
29 less than once every six months by the court in person, by video, or  
30 telephonically. Periodic reviews shall assess the juvenile's safety and  
31 the continued necessity and appropriateness of placement, ensure case

1 plan compliance, and monitor the juvenile's progress. The court shall  
2 determine whether an out-of-home placement made by the office is in the  
3 best interests of the juvenile. The office shall provide all interested  
4 parties with a copy of any report filed with the court by the office  
5 pursuant to this subsection.

6 (3) The Office of Probation Administration may transition a juvenile  
7 to a less restrictive placement or to a placement which has the same  
8 level of restriction as the current placement. In order to make a  
9 placement change under this section, the office shall file a notice of  
10 placement change with the court and shall send copies of the notice to  
11 all interested parties at least seven days before the change of  
12 placement. The court, on its own motion, or upon the filing of an  
13 objection to the change by an interested party, may order a hearing to  
14 review such a change in placement and may order that the change be stayed  
15 pending the outcome of the hearing on the objection.

16 (4) The Office of Probation Administration may make an immediate  
17 change in placement without court approval only if the juvenile is in a  
18 harmful or dangerous situation. Approval of the court shall be sought  
19 within twenty-four hours after making the change in placement or as soon  
20 thereafter as possible. The office shall provide all interested parties  
21 with a copy of any report filed with the court by the office pursuant to  
22 this subsection.

23 (5) Whenever the court places a juvenile in a foster care placement  
24 as defined in section 43-1301, the Foster Care Review Office or  
25 designated local foster care review board may participate in proceedings  
26 concerning the juvenile as provided in section 43-1313 and notice shall  
27 be given as provided in section 43-1314.

28 (6) Any written findings or recommendations of the Foster Care  
29 Review Office or the designated local foster care review board with  
30 regard to a juvenile in a foster care placement submitted to a court  
31 having jurisdiction over such juvenile shall be admissible in any

1 proceeding concerning such juvenile if such findings or recommendations  
2 have been provided to all other parties of record.

3 (7 5) Nothing in this section prevents the court on an ex parte  
4 basis from approving an immediate change in placement upon good cause  
5 shown.

6 Sec. 7. Section 43-2,129, Revised Statutes Cumulative Supplement,  
7 2014, is amended to read:

8 43-2,129 Sections 43-245 to 43-2,129 and section 4 of this act shall  
9 be known and may be cited as the Nebraska Juvenile Code.

10 Sec. 8. Section 43-1301, Revised Statutes Cumulative Supplement,  
11 2014, is amended to read:

12 43-1301 For purposes of the Foster Care Review Act, unless the  
13 context otherwise requires:

14 (1) Local board means a local foster care review board created  
15 pursuant to section 43-1304;

16 (2) Office means the Foster Care Review Office created pursuant to  
17 section 43-1302;

18 (3) Foster care facility means any foster family home as defined in  
19 section 71-1901, residential child-caring agency as defined in section  
20 71-1926, public agency, private agency, or any other person or entity  
21 receiving and caring for foster children;

22 (4) Foster care placements means (a) all types of placements of  
23 juveniles described in sections 43-245 and section 43-247, (b) all types  
24 of placements of neglected, dependent, or delinquent children, including  
25 those made directly by the Department of Health and Human Services, by  
26 the court, by parents, or by third parties, (c) and placements of  
27 children who have been voluntarily relinquished pursuant to section  
28 43-106.01 to the department Department of Health and Human Services or  
29 any child-placing agency as defined in section 71-1926 licensed by the  
30 department, and (d) all types of placements that are considered to be a  
31 trial home visit, including those made directly by the department or

1 ~~office Department of Health and Human Services;~~

2 (5) Person or court in charge of the child means (a) the Department  
3 of Health and Human Services, an association, or an individual who has  
4 been made the guardian of a neglected, dependent, or delinquent child by  
5 the court and has the responsibility of the care of the child and has the  
6 authority by and with the assent of the court to place such a child in a  
7 suitable family home or institution or has been entrusted with the care  
8 of the child by a voluntary placement made by a parent or legal guardian,  
9 (b) the court which has jurisdiction over the child, or (c) the entity  
10 having jurisdiction over the child pursuant to the Nebraska Indian Child  
11 Welfare Act;

12 (6) Voluntary placement means the placement by a parent or legal  
13 guardian who relinquishes the possession and care of a child to a third  
14 party, individual, or agency;

15 (7) Family unit means the social unit consisting of the foster child  
16 and the parent or parents or any person in the relationship of a parent,  
17 including a grandparent, and any siblings with whom the foster child  
18 legally resided prior to placement in foster care, except that for  
19 purposes of potential sibling placement, the child's family unit also  
20 includes the child's siblings even if the child has not resided with such  
21 siblings prior to placement in foster care;

22 (8) Residential child-caring agency has the definition found in  
23 section 71-1926;

24 (9) Child-placing agency has the definition found in section  
25 71-1926;~~and~~

26 (10) Siblings means biological siblings and legal siblings,  
27 including, but not limited to, half-siblings and stepsiblings; ~~and -~~

28 (11) Trial home visit means a placement of a court-involved juvenile  
29 that goes from a foster care placement back to his or her legal parent or  
30 parents or guardian but remains as a ward of the state.

31 Sec. 9. Section 43-1302, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 43-1302 (1){a} The Foster Care Review Office is hereby established.  
3 The purpose of the office is to provide information and direct reporting  
4 to the courts, the Department of Health and Human Services, the Office of  
5 Probation Administration, and the Legislature regarding the foster care  
6 system in Nebraska; to provide oversight of the foster care system; and  
7 to make recommendations regarding foster care policy to the Legislature.  
8 The executive director of the Foster Care Review Office ~~office~~ shall  
9 provide information and reporting services, provide analysis of  
10 information obtained, and oversee foster care file audit case reviews and  
11 tracking of cases of children in the foster care system. The executive  
12 director of the office shall, through information analysis and with the  
13 assistance of the Foster Care Advisory Committee, (a i) determine key  
14 issues of the foster care system and ways to resolve the issues and to  
15 otherwise improve the system and (b ii) make policy recommendations.

16 ~~(b) All equipment and effects of the State Foster Care Review Board~~  
17 ~~on July 1, 2012, shall be transferred to the Foster Care Review Office,~~  
18 ~~and all staff of the board, except the executive director and interim~~  
19 ~~executive director, shall be transferred to the office. The State Foster~~  
20 ~~Care Review Board shall terminate on July 1, 2012. Beginning on July 1,~~  
21 ~~2012, the data coordinator of the board, as such position existed prior~~  
22 ~~to such date, shall serve as the executive director of the office until~~  
23 ~~the Foster Care Advisory Committee hires an executive director as~~  
24 ~~prescribed by this section. It is the intent of the Legislature that the~~  
25 ~~staff of the board employed prior to July 1, 2012, shall continue to be~~  
26 ~~employed by the office until such time as the executive director is hired~~  
27 ~~by the committee.~~

28 ~~(c) It is the intent of the Legislature that the funds appropriated~~  
29 ~~to the State Foster Care Review Board be transferred to the Foster Care~~  
30 ~~Review Office for FY2012-13.~~

31 (2)(a) The Foster Care Advisory Committee is created. The committee

1 shall have five members appointed by the Governor. Three members shall be  
2 local board members, one member shall have data analysis experience, and  
3 one member shall be a resident of the state who is representative of the  
4 public at large. The members shall have no pecuniary interest in the  
5 foster care system and shall not be employed by the office, the  
6 Department of Health and Human Services, a county, a residential child-  
7 caring agency, a child-placing agency, or a court.

8 ~~(b) The Governor shall appoint three members from a list of twelve~~  
9 ~~local board members submitted by the Health and Human Services Committee~~  
10 ~~of the Legislature, one member from a list of four persons with data~~  
11 ~~analysis experience submitted by the Health and Human Services Committee~~  
12 ~~of the Legislature, and one member from a list of four persons who are~~  
13 ~~residents of the state and are representative of the public at large~~  
14 ~~submitted by the Health and Human Services Committee of the Legislature.~~  
15 The Health and Human Services Committee of the Legislature shall hold a  
16 confirmation hearing for the appointees, and the appointments shall be  
17 subject to confirmation by the Legislature, except that the initial  
18 members and members appointed while the Legislature is not in session  
19 shall serve until the next session of the Legislature, at which time a  
20 majority of the members of the Legislature shall approve or disapprove of  
21 the appointments.

22 (c) The terms of the members shall be for three years, except that  
23 the Governor shall designate two of the initial appointees to serve  
24 initial terms ending on March 1, 2014, and three of the initial  
25 appointees to serve initial terms ending on March 1, 2015. The Governor  
26 shall make the initial appointments within thirty days after July 1,  
27 2012. Members shall not serve more than two consecutive terms, except  
28 that members shall serve until their successors have been appointed and  
29 qualified. The Governor shall appoint members to fill vacancies in the  
30 same manner as the original appointments to serve for the remainder of  
31 the unexpired term.

1 (d) The Foster Care Advisory Committee shall meet at least four  
2 times each calendar year. Each member shall attend at least two meetings  
3 each calendar year and shall be subject to removal for failure to attend  
4 at least two meetings unless excused by a majority of the members of the  
5 committee. Members shall be reimbursed for their actual and necessary  
6 expenses as provided in sections 81-1174 to 81-1177.

7 (e) The duties of the Foster Care Advisory Committee are to:

8 (i) Hire and fire an executive director for the office who has  
9 training and experience in foster care; and

10 (ii) Support and facilitate the work of the office, including the  
11 tracking of children in foster care and reviewing foster care file audit  
12 case reviews.

13 (3) The executive director of the office shall hire, fire, and  
14 supervise office staff and shall be responsible for the duties of the  
15 office as provided by law, including the annual report and other  
16 reporting, review, tracking, data collection and analysis, and oversight  
17 and training of local boards.

18 Sec. 10. Section 43-1303, Revised Statutes Cumulative Supplement,  
19 2014, is amended to read:

20 43-1303 (1) The office shall maintain the statewide register of all  
21 foster care placements occurring within the state, and there shall be a  
22 ~~weekly~~ ~~monthly~~ report made to the registry of all foster care placements  
23 by the Department of Health and Human Services, any child-placing agency,  
24 or any court in a form as developed by the office in consultation with  
25 representatives of entities required to make such reports. For each child  
26 entering and leaving foster care, such ~~monthly~~ report shall consist of  
27 identifying information, placement information, and the plan or  
28 permanency plan developed by the person or court in charge of the child  
29 pursuant to section 43-1312. The department, Office of Probation  
30 Administration, and every court and child-placing agency shall report any  
31 foster care placement within three working days. The report shall contain

1 the following information:

2 (a) Child identification information, including name, ~~social~~  
3 ~~security number,~~ date of birth, gender, race, and religion, and  
4 ethnicity;

5 (b) Identification information for parents and stepparents,  
6 including name, ~~social security number,~~ address, and status of parental  
7 rights;

8 (c) Placement information, including initial placement date, current  
9 placement date, and the name and address of the foster care placement  
10 provider;

11 (d) Court status information, including which court has  
12 jurisdiction, initial custody date, court hearing date, and results of  
13 the court hearing;

14 (e) Agency or other entity having custody of the child; and

15 (f) Case worker, probation officer, or person providing direct case  
16 management or supervision functions. ; ~~and~~

17 ~~(g) Permanency plan objective.~~

18 (2)(a) The Foster Care Review Office ~~office~~ shall designate a local  
19 board to conduct foster care file audit case reviews for each case of  
20 children in foster care placement.

21 (b) The office may adopt and promulgate rules and regulations for  
22 the following:

23 (i) Establishment of training programs for local board members which  
24 shall include an initial training program and periodic inservice training  
25 programs;

26 (ii) Development of procedures for local boards;

27 (iii) Establishment of a central record-keeping facility for all  
28 local board files, including foster care file audit case reviews;

29 (iv) Accumulation of data and the making of annual reports on  
30 children in foster care placements. Such reports shall include, but not  
31 be limited to, (A) personal data on length of time in foster care, (B)



1 number of placements, (C) frequency and results of foster care file audit  
2 case reviews and court review hearings, (D) number of children supervised  
3 by the foster care programs in the state annually, (E) trend data  
4 impacting foster care, services, and placements, (F) analysis of the  
5 data, and (G) recommendations for improving the foster care system in  
6 Nebraska;

7 (v) Accumulation of data and making of quarterly reports regarding  
8 the children in foster care placements;

9 (vi v) To the extent not prohibited by section 43-1310, evaluation  
10 of the judicial and administrative data collected on foster care and the  
11 dissemination of such data to the judiciary, public and private agencies,  
12 the department, and members of the public; and

13 (vii vi) Manner in which the office shall determine the  
14 appropriateness of requesting a court review hearing as provided for in  
15 section 43-1313.

16 (3) A local board shall send a written report to the office for each  
17 foster care file audit case review conducted by the local board. A court  
18 shall send a written report to the office for each foster care review  
19 hearing conducted by the court.

20 (4) The office shall report and make recommendations to the  
21 Legislature, the department, the Office of Probation Administration, the  
22 courts, local boards, and county welfare offices. Such reports and  
23 recommendations shall include, but not be limited to, the annual judicial  
24 and administrative data collected on foster care pursuant to subsections  
25 (2) and (3) of this section and the annual evaluation of such data. The  
26 report and recommendations submitted to the Legislature shall be  
27 submitted electronically. In addition, the Foster Care Review Office  
28 ~~office~~ shall provide copies of such reports and recommendations to each  
29 court having the authority to make foster care placements. ~~The executive~~  
30 ~~director of the office or his or her designees from the office may visit~~  
31 ~~and observe foster care facilities in order to ascertain whether the~~

1 ~~individual physical, psychological, and sociological needs of each foster~~  
2 ~~child are being met.~~ The executive director shall also provide, at a time  
3 specified by the Health and Human Services Committee of the Legislature,  
4 regular electronic updates regarding child welfare data and information  
5 at least quarterly, and a fourth-quarter report which shall be the annual  
6 report. The executive director shall include issues, policy concerns, and  
7 problems which have come to the office and the executive director from  
8 analysis of the data. The executive director shall recommend alternatives  
9 to the identified problems and related needs of the office and the foster  
10 care system to the committee. The Health and Human Services Committee  
11 shall coordinate and prioritize data and information requests submitted  
12 to the office by members of the Legislature. The annual report of the  
13 office shall be completed by December 1 each year, beginning December 1,  
14 2012, and shall be submitted electronically to the committee.

15 (5) The executive director of the office or his or her designees  
16 from the office may visit and observe foster care facilities in order to  
17 ascertain whether the individual physical, psychological, and  
18 sociological needs of each foster child are being met.

19 (6) At the request of any state agency, the executive director of  
20 the office or his or her designees from the office may conduct a case  
21 file review process and data analysis regarding any state ward or ward of  
22 the court whether placed in-home or out-of-home at the time of the case  
23 file review.

24 Sec. 11. Section 43-1304, Revised Statutes Cumulative Supplement,  
25 2014, is amended to read:

26 43-1304 There shall be local foster care review boards to conduct  
27 the foster care file audit case reviews of children in foster care  
28 placement and carry out other powers and duties given to such boards  
29 under the Foster Care Review Act. ~~Members of local boards serving on July~~  
30 ~~1, 2012, shall continue to serve the unexpired portion of their terms.~~  
31 The executive director of the office shall select members to serve on

1 local boards from a list of applications submitted to the office. Each  
2 local board shall consist of not less than four and not more than ten  
3 members as determined by the executive director. The members of the local  
4 board shall reasonably represent the various social, economic, racial,  
5 and ethnic groups of the county or counties from which its members may be  
6 appointed. A person employed by the office, the Department of Health and  
7 Human Services, a residential child-caring agency, a child-placing  
8 agency, or a court shall not be appointed to a local board. A list of the  
9 members of each local board shall be sent to the department and the  
10 Office of Probation Administration.

11 Sec. 12. Section 43-1308, Revised Statutes Cumulative Supplement,  
12 2014, is amended to read:

13 43-1308 (1) Except as otherwise provided in the Nebraska Indian  
14 Child Welfare Act, the designated local board shall:

15 (a) Conduct a foster care file audit case review at least once every  
16 six months for the case of each child in a foster care placement to  
17 determine what efforts have been made to carry out the plan or permanency  
18 plan for rehabilitation of the foster child and family unit or for  
19 permanent placement of such child pursuant to section 43-1312;

20 (b) Submit to the court having jurisdiction over such child for the  
21 purposes of foster care placement, within thirty days after the foster  
22 care file audit case review, its findings and recommendations regarding  
23 the efforts and progress made to carry out the plan or permanency plan  
24 established pursuant to section 43-1312 together with any other  
25 recommendations it chooses to make regarding the child. The findings and  
26 recommendations shall include whether there is a need for continued out-  
27 of-home placement, whether the current placement is safe and appropriate,  
28 the specific reasons for the findings and recommendations, including  
29 factors, opinions, and rationale considered in the foster care file audit  
30 case review, whether the grounds for termination of parental rights under  
31 section 43-292 appear to exist, and the date of the next foster care file

1 audit case review by the designated local board;

2 (c) If the return of the child to his or her parents is not likely,  
3 recommend referral for adoption and termination of parental rights,  
4 guardianship, placement with a relative, or, as a last resort, another  
5 planned, permanent living arrangement; and

6 (d) Promote and encourage stability and continuity in foster care by  
7 discouraging unnecessary changes in the placement of foster children and  
8 by encouraging the recruitment of foster parents who may be eligible as  
9 adoptive parents.

10 (2) When the office or designated local board determines that the  
11 interests of a child in a foster care placement would be served thereby,  
12 the office or designated local board may request a court review hearing  
13 as provided for in section 43-1313.

14 (3) Due to the confidential and protected nature of child-specific  
15 and family-specific information regarding mental and behavioral health  
16 services, if such information is discussed at a local board meeting or a  
17 portion of a meeting, the portion of the meeting at which such  
18 information is discussed shall be exempt from the Open Meetings Act.

19 Sec. 13. Section 43-1309, Revised Statutes Cumulative Supplement,  
20 2014, is amended to read:

21 43-1309 Upon the request of the office or designated local board,  
22 any records pertaining to a case assigned to such local board shall be  
23 furnished to the office or designated local board by the Department of  
24 Health and Human Services or, upon court order, by the Office of  
25 Probation Administration , ~~or upon the request of the Department of~~  
26 ~~Health and Human Services, any records pertaining to a case assigned to~~  
27 ~~the department, shall be furnished to the office or designated local~~  
28 ~~board or department by the agency charged with the child or any public~~  
29 official or employee of a political subdivision having relevant contact  
30 with the child. Upon the request of the Foster Care Review Office office  
31 or designated local board, and if such information is not obtainable

1 elsewhere, the court having jurisdiction of the foster child shall  
2 release such information to the office or designated local board as the  
3 court deems necessary to determine the physical, psychological, and  
4 sociological circumstances of such foster child.

5 Sec. 14. Section 43-1313, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

7 43-1313 When a child is in foster care placement, the court having  
8 jurisdiction over such child for the purposes of foster care placement  
9 shall review the dispositional order for such child at least once every  
10 six months. The court may reaffirm the order or direct other disposition  
11 of the child. Any review hearing by a court having jurisdiction over such  
12 child for purposes of foster care placement shall be conducted on the  
13 record as provided in sections 43-283 and 43-284, and any recommendations  
14 of the office or designated local board concerning such child shall be  
15 admissible in such proceedings if such recommendations have been provided  
16 to all other parties of record included in the record. The court shall  
17 review a case on the record more often than every six months and at any  
18 time following the original placement of the child if the office or local  
19 board requests a hearing in writing specifying the reasons for the  
20 review. Members of the office or local board or its designated  
21 representative may attend and be heard at any hearing conducted under  
22 this section and may participate through counsel at the hearing with the  
23 right to call and cross-examine witnesses and present arguments to the  
24 court.

25 Sec. 15. (1) An Out-of-Home Data Pilot Project is created. The  
26 purpose of the project is to demonstrate, under the supervision of the  
27 Out-of-Home Data Pilot Project Advisory Group, how an existing state  
28 agency data system or systems currently used to account for children and  
29 juveniles in out-of-home placement could serve as a foundation for an  
30 independent, external oversight data warehouse. The pilot project shall  
31 be administered by the Foster Care Review Office and shall terminate on

1 January 1, 2017.

2 (2) The Out-of-Home Data Pilot Project Advisory Group is created.  
3 The group shall include the Inspector General of Nebraska Child Welfare  
4 or his or her designee, the State Court Administrator or his or her  
5 designee, the probation administrator of the Office of Probation  
6 Administration or his or her designee, the executive director of the  
7 Nebraska Commission on Law Enforcement and Criminal Justice or his or her  
8 designee, the Commissioner of Education or his or her designee, the  
9 executive director of the Foster Care Review Office or his or her  
10 designee, a representative of the University of Nebraska at Omaha,  
11 Juvenile Justice Institute, the Chief Information Officer of the office  
12 of Chief Information Officer or his or her designee, and one  
13 representative each from the Division of Children and Family Services of  
14 the Department of Health and Human Services, the Division of  
15 Developmental Disabilities of the Department of Health and Human  
16 Services, the Division of Behavioral Health of the Department of Health  
17 and Human Services, and the Division of Medicaid and Long-Term Care of  
18 the Department of Health and Human Services.

19 (3) The purposes of the Out-of-Home Data Pilot Project Advisory  
20 Group are to oversee the Out-of-Home Data Pilot Project and to consider  
21 whether an independent, external oversight data warehouse could be  
22 created by building on an existing state agency data system or systems  
23 currently used to account for children and juveniles in out-of-home  
24 placement. The group shall consider the features and capabilities of  
25 existing state agency data systems that include: Information on children  
26 and juveniles in out-of-home placement; where an independent, external  
27 oversight data warehouse might be located within state government for  
28 administrative purposes; possible costs associated with establishing and  
29 operating an independent, external oversight data warehouse; challenges  
30 of data collection; barriers to data sharing; protection of confidential  
31 information; restrictions on access to confidential information; and

1 other issues pertinent to the group's purpose. The group shall submit a  
2 report electronically to the Legislature, the Governor, and the Supreme  
3 Court by December 15, 2015.

4 (4) For purposes of this section, an independent, external oversight  
5 data warehouse means a data system which allows data analysis to: (a)  
6 Account for children and juveniles in out-of-home placement regardless of  
7 whether they entered out-of-home placement through the Department of  
8 Health and Human Services or through court involvement; (b) determine  
9 whether out-of-home placement outcomes for children and juveniles meet  
10 policy goals for children and juveniles in out-of-home placement; (c)  
11 determine whether children are better off as a result of out-of-home  
12 placement; (d) identify indicators for successful outcomes of out-of-home  
13 placement; and (e) project future needs for children and juveniles in  
14 out-of-home placement.

15 Sec. 16. Section 43-1318, Revised Statutes Cumulative Supplement,  
16 2014, is amended to read:

17 43-1318 Sections 43-1301 to 43-1321 and section 15 of this act shall  
18 be known and may be cited as the Foster Care Review Act.

19 Sec. 17. Section 43-2404.02, Revised Statutes Cumulative Supplement,  
20 2014, is amended to read:

21 43-2404.02 (1) There is created a separate and distinct budgetary  
22 program within the commission to be known as the Community-based Juvenile  
23 Services Aid Program. Funding acquired from participation in the federal  
24 act, state General Funds, and funding acquired from other sources which  
25 may be used for purposes consistent with the Juvenile Services Act and  
26 the federal act shall be used to aid in the establishment and provision  
27 of community-based services for juveniles who come in contact with the  
28 juvenile justice system.

29 (2)(a) Ten percent of the annual General Fund appropriation to the  
30 Community-based Juvenile Services Aid Program, excluding administrative  
31 budget funds, shall be set aside for the development of a common data set

1 and evaluation of the effectiveness of the Community-based Juvenile  
2 Services Aid Program. The intent in creating this common data set is to  
3 allow for evaluation of the use of the funds and the effectiveness of the  
4 programs or outcomes in the Community-based Juvenile Services Aid  
5 Program.

6 (b) The common data set shall be developed and maintained by the  
7 commission and shall serve as a primary data collection site for any  
8 intervention funded with Community-based Juvenile Services Aid designed  
9 to serve juveniles and deter involvement in the formal juvenile justice  
10 system. The commission shall work with agencies and programs to enhance  
11 existing data sets. To ensure that the data set permits evaluation of  
12 recidivism and other measures, the commission shall work with the Office  
13 of Probation Administration, juvenile diversion programs, law  
14 enforcement, the courts, and others to compile data that demonstrates  
15 whether a youth has moved deeper into the juvenile justice system. The  
16 University of Nebraska at Omaha, Juvenile Justice Institute, shall assist  
17 with the development of common definitions, variables, and training  
18 required for data collection and reporting into the common data set by  
19 juvenile justice programs. The common data set maintained by the  
20 commission shall be provided to the University of Nebraska at Omaha,  
21 Juvenile Justice Institute, to assess the effectiveness of the Community-  
22 based Juvenile Services Aid Program.

23 (c) Providing the commission access to records and information for,  
24 as well as the commission granting access to records and information  
25 from, the common data set is not a violation of confidentiality  
26 provisions under any law, rule, or regulation if done in good faith for  
27 purposes of evaluation. Records and documents, regardless of physical  
28 form, that are obtained or produced or presented to the commission for  
29 the common data set are not public records.

30 (d) The ten percent of the annual General Fund appropriation to the  
31 Community-based Juvenile Services Aid Program, excluding administrative



1 budget funds, shall be appropriated as follows: In the year 2016, seven  
2 percent shall go to the commission for development of the common data set  
3 and three percent shall go to the University of Nebraska at Omaha,  
4 Juvenile Justice Institute, for evaluation. In the year 2017, six percent  
5 shall go to the commission for development and maintenance of the common  
6 data set and four percent shall go to the University of Nebraska at  
7 Omaha, Juvenile Justice Institute, for evaluation. Every year thereafter,  
8 beginning in the year 2018, five percent shall go to the commission for  
9 development and maintenance of the common data set and five percent shall  
10 go to the University of Nebraska at Omaha, Juvenile Justice Institute,  
11 for evaluation.

12 (e 2) The remaining funds in the annual General Fund appropriation  
13 to the Community-based Juvenile Services Aid Program shall be apportioned  
14 as aid in accordance with a formula established in rules and regulations  
15 adopted and promulgated by the commission. The formula shall be based on  
16 the total number of residents per county and federally recognized or  
17 state-recognized Indian tribe who are twelve years of age through  
18 eighteen years of age and other relevant factors as determined by the  
19 commission. The commission may require a local match of up to forty  
20 percent from the county, multiple counties, federally recognized or  
21 state-recognized Indian tribe or tribes, or any combination of the three  
22 which is receiving aid under such program. Any local expenditures for  
23 community-based programs for juveniles may be applied toward such match  
24 requirement.

25 (3)(a) In distributing funds provided under the Community-based  
26 Juvenile Services Aid Program, aid recipients shall prioritize programs  
27 and services that will divert juveniles from the juvenile justice system,  
28 reduce the population of juveniles in juvenile detention and secure  
29 confinement, and assist in transitioning juveniles from out-of-home  
30 placements.

31 (b) Funds received under the Community-based Juvenile Services Aid

1 Program shall be used exclusively to assist the aid recipient in the  
2 implementation and operation of programs or the provision of services  
3 identified in the aid recipient's comprehensive juvenile services plan,  
4 including programs for local planning and service coordination;  
5 screening, assessment, and evaluation; diversion; alternatives to  
6 detention; family support services; treatment services; truancy  
7 prevention and intervention programs; pilot projects approved by the  
8 commission; payment of transportation costs to and from placements,  
9 evaluations, or services; personnel when the personnel are aligned with  
10 evidence-based treatment principles, programs, or practices; contracting  
11 with other state agencies or private organizations that provide evidence-  
12 based treatment or programs; preexisting programs that are aligned with  
13 evidence-based practices or best practices; and other services that will  
14 positively impact juveniles and families in the juvenile justice system.

15 (c) Funds received under the Community-based Juvenile Services Aid  
16 Program shall not be used for the following: Construction of secure  
17 detention facilities, secure youth treatment facilities, or secure youth  
18 confinement facilities; capital construction or the lease or acquisition  
19 of facilities; programs, services, treatments, evaluations, or other  
20 preadjudication services that are not based on or grounded in evidence-  
21 based practices, principles, and research, except that the commission may  
22 approve pilot projects that authorize the use of such aid; or office  
23 equipment, office supplies, or office space.

24 (d) Any aid not distributed to counties under this subsection shall  
25 be retained by the commission to be distributed on a competitive basis  
26 under the Community-based Juvenile Services Aid Program for a county,  
27 multiple counties, federally recognized or state-recognized Indian tribe  
28 or tribes, or any combination of the three demonstrating additional need  
29 in the funding areas identified in this subsection.

30 (e) If a county, multiple counties, or a federally recognized or  
31 state-recognized Indian tribe or tribes is denied aid under this section

1 or receives no aid under this section, the entity may request an appeal  
2 pursuant to the appeal process in rules and regulations adopted and  
3 promulgated by the commission. The commission shall establish appeal and  
4 hearing procedures by December 15, 2014. The commission shall make appeal  
5 and hearing procedures available on its web site.

6 (4)(a) Any recipient of aid under the Community-based Juvenile  
7 Services Aid Program shall electronically file an annual report as  
8 required by rules and regulations adopted and promulgated by the  
9 commission. Any program funded through Community-based Juvenile Services  
10 Aid that served juveniles shall report data on the individual youth  
11 served. Any program that is not directly serving youth shall include  
12 program-level data. In either case, data collected shall include, but not  
13 be limited to, the following: The ~~The report shall include, but not be~~  
14 ~~limited to,~~ the type of juvenile service, how the service met the goals  
15 of the comprehensive juvenile services plan, demographic information on  
16 the ~~total number of juveniles served, program outcomes success rates, the~~  
17 total number of juveniles served, and the number of juveniles who  
18 completed the program or intervention sent to secure juvenile detention  
19 or residential treatment and secure confinement, and a listing of the  
20 expenditures for detention, residential treatment, and nonresidential  
21 treatment.

22 (b) Any recipient of aid under the Community-based Juvenile Services  
23 Aid Program shall be assisted by the University of Nebraska at Omaha,  
24 Juvenile Justice Institute, in reporting in the common data set, as set  
25 forth in the rules and regulations adopted and promulgated by the  
26 commission. Community-based aid utilization and evaluation data shall be  
27 stored and maintained by the commission.

28 (c) Evaluation of the use of funds and the evidence of the  
29 effectiveness of the programs shall be completed by the University of  
30 Nebraska at Omaha, Juvenile Justice Institute, specifically:

31 (i) The varying rates of recidivism, as defined by rules and

1 regulations adopted and promulgated by the commission, and other measures  
2 for juveniles participating in community-based programs; and  
3 (ii) Whether juveniles are sent to staff secure or secure juvenile  
4 detention after participating in a program funded by the Community-based  
5 Juvenile Services Aid Program.

6 (5) The commission shall report annually to the Governor and the  
7 Legislature on the distribution and use of funds for aid appropriated  
8 under the Community-based Juvenile Services Aid Program. The report shall  
9 include, but not be limited to, an aggregate report of the use of the  
10 Community-based Juvenile Services Aid Program funds, including the types  
11 of juvenile services and programs that were funded, demographic  
12 information on the total number of juveniles served, program success  
13 rates, the total number of juveniles sent to secure juvenile detention or  
14 residential treatment and secure confinement, and a listing of the  
15 expenditures of all counties and federally recognized or state-recognized  
16 Indian tribes for detention, residential treatment, and secure  
17 confinement. The report submitted to the Legislature shall be submitted  
18 electronically.

19 (6) The commission shall adopt and promulgate rules and regulations  
20 for the Community-based Juvenile Services Aid Program in consultation  
21 with the Director of the Community-based Juvenile Services Aid Program,  
22 the Director of Juvenile Diversion Programs, the Office of Probation  
23 Administration, the Nebraska Association of County Officials, and the  
24 University of Nebraska at Omaha, Juvenile Justice Institute. The rules  
25 and regulations shall include, but not be limited to:

26 (a) The required elements of a comprehensive juvenile services plan  
27 and planning process;

28 (b) The Community-based Juvenile Services Aid Program formula,  
29 review process, match requirements, and fund distribution. The  
30 distribution process shall ensure a conflict of interest policy;

31 (c) A distribution process for funds retained under subsection (3)

1 of this section;

2 (d) A plan for evaluating the effectiveness of plans and programs  
3 receiving funding;

4 (e) A reporting process for aid recipients;~~and~~

5 (f) A reporting process for the commission to the Governor and  
6 Legislature. The report shall be made electronically to the Governor and  
7 the Legislature; and -

8 (g) Requirements regarding the use of the common data set.

9 Sec. 18. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,  
10 17, and 20 of this act become operative three calendar months after the  
11 adjournment of this legislative session. The other sections of this act  
12 become operative on their effective date.

13 Sec. 19. Original section 43-1318, Revised Statutes Cumulative  
14 Supplement, 2014, is repealed.

15 Sec. 20. Original sections 29-1816, 43-245, 43-246.01, 43-247,  
16 43-297.01, 43-2,129, 43-1301, 43-1302, 43-1303, 43-1304, 43-1308,  
17 43-1309, 43-1313, and 43-2404.02, Revised Statutes Cumulative Supplement,  
18 2014, are repealed.

19 Sec. 21. Since an emergency exists, this act takes effect when  
20 passed and approved according to law.