

E AND R AMENDMENTS TO LB 265

Introduced by Hansen, 26, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new 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), (11), or (12) of
25 section 43-247;

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

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

31 (d) Any juvenile who was under fourteen years of age at the time the

1 alleged offense was committed and the offense falls under subdivision (2)
2 of section 43-247;

3 (2) Exclusive original jurisdiction as to:

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

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

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

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

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

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

22 (c) Any juvenile described in subdivision (1)(a)(ii) of section
23 29-1816; ~~and -~~

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

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

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

1 (a) The young adult is alleged to have committed an offense under
2 subdivision (1), (2), (3)(b), or (4) of section 43-247;

3 (b) The young adult was under the age of eighteen when the offense
4 was committed; and

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

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

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

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

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

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

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

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

30 Sec. 5. Section 43-247, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 43-247 The juvenile court in each county shall have jurisdiction of:

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

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

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

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

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

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

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

1 Services;

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

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

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

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

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

14 (13) Except as provided in subdivisions (11) and (12) of this
15 section, any individual adjudged to be within the provisions of this
16 section until the individual reaches the age of majority or the court
17 otherwise discharges the individual from its jurisdiction.

18 Notwithstanding the provisions of the Nebraska Juvenile Code, the
19 determination of jurisdiction over any Indian child as defined in section
20 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and
21 the district court shall have exclusive jurisdiction in proceedings
22 brought pursuant to section 71-510.

23 Sec. 6. Section 43-297.01, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 43-297.01 (1) Following an adjudication, whenever any juvenile is
26 placed on juvenile probation subject to the supervision of a probation
27 officer, the Office of Probation Administration is deemed to have
28 placement and care responsibility for the juvenile.

29 (2) The court shall order the initial placement and level of care
30 for the juvenile placed on juvenile probation. Prior to determining the
31 placement and level of care for a juvenile, the court may solicit a

1 recommendation from the Office of Probation Administration. The status of
2 each juvenile placed out-of-home shall be reviewed periodically, but not
3 less than once every six months by the court in person, by video, or
4 telephonically. Periodic reviews shall assess the juvenile's safety and
5 the continued necessity and appropriateness of placement, ensure case
6 plan compliance, and monitor the juvenile's progress. The court shall
7 determine whether an out-of-home placement made by the office is in the
8 best interests of the juvenile. The office shall provide all interested
9 parties with a copy of any report filed with the court by the office
10 pursuant to this subsection.

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

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

28 (5) Whenever the court places a juvenile in a foster care placement
29 as defined in section 43-1301, the Foster Care Review Office or
30 designated local foster care review board may participate in proceedings
31 concerning the juvenile as provided in section 43-1313 and notice shall

1 be given as provided in section 43-1314.

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

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

11 Sec. 7. Section 43-2,129, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 43-2,129 Sections 43-245 to 43-2,129 and section 4 of this act shall
14 be known and may be cited as the Nebraska Juvenile Code.

15 Sec. 8. Section 43-1301, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 43-1301 For purposes of the Foster Care Review Act, unless the
18 context otherwise requires:

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

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

23 (3) Foster care facility means any foster family home as defined in
24 section 71-1901, residential child-caring agency as defined in section
25 71-1926, public agency, private agency, or any other person or entity
26 receiving and caring for foster children;

27 (4) Foster care placements means (a) all types of placements of
28 juveniles described in sections 43-245 and section 43-247, (b) all types
29 of placements of neglected, dependent, or delinquent children, including
30 those made directly by the Department of Health and Human Services, by
31 the court, by parents, or by third parties, (c) all types of and

1 placements of children who have been voluntarily relinquished pursuant to
2 section 43-106.01 to the department ~~Department of Health and Human~~
3 ~~Services~~ or any child-placing agency as defined in section 71-1926
4 licensed by the department, and (d) all types of placements that are
5 considered to be a trial home visit, including those made directly by the
6 department or office ~~Department of Health and Human Services;~~

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

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

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

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

29 (9) Child-placing agency has the definition found in section
30 71-1926; ~~and~~

31 (10) Siblings means biological siblings and legal siblings,

1 including, but not limited to, half-siblings and stepsiblings; and -

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

5 Sec. 9. Section 43-1302, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

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

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

1 ~~by the committee.~~

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

5 (2)(a) The Foster Care Advisory Committee is created. The committee
6 shall have five members appointed by the Governor. Three members shall be
7 local board members, one member shall have data analysis experience, and
8 one member shall be a resident of the state who is representative of the
9 public at large. The members shall have no pecuniary interest in the
10 foster care system and shall not be employed by the office, the
11 Department of Health and Human Services, a county, a residential child-
12 caring agency, a child-placing agency, or a court.

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

27 (c) The terms of the members shall be for three years, except that
28 the Governor shall designate two of the initial appointees to serve
29 initial terms ending on March 1, 2014, and three of the initial
30 appointees to serve initial terms ending on March 1, 2015. The Governor
31 shall make the initial appointments within thirty days after July 1,

1 2012. Members shall not serve more than two consecutive terms, except
2 that members shall serve until their successors have been appointed and
3 qualified. The Governor shall appoint members to fill vacancies from the
4 same category as the vacated position in the same manner as the original
5 appointments to serve for the remainder of the unexpired term.

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

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

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

15 (ii) Support and facilitate the work of the office, including the
16 tracking of children in foster care and reviewing foster care file audit
17 case reviews.

18 (3) The executive director of the office shall hire, fire, and
19 supervise office staff and shall be responsible for the duties of the
20 office as provided by law, including the annual report and other
21 reporting, review, tracking, data collection and analysis, and oversight
22 and training of local boards.

23 Sec. 10. Section 43-1303, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 43-1303 (1) The office shall maintain the statewide register of all
26 foster care placements occurring within the state, and there shall be a
27 weekly ~~monthly~~ report made to the registry of all foster care placements
28 by the Department of Health and Human Services, any child-placing agency,
29 or any court in a form as developed by the office in consultation with
30 representatives of entities required to make such reports. For each child
31 entering and leaving foster care, such ~~monthly~~ report shall consist of

1 identifying information, placement information, and the plan or
2 permanency plan developed by the person or court in charge of the child
3 pursuant to section 43-1312. The department, the Office of Probation
4 Administration, and every court and child-placing agency shall report any
5 foster care placement within three working days. The report shall contain
6 the following information:

7 (a) Child identification information, including name, ~~social~~
8 ~~security number~~, date of birth, gender, race, and religion, and
9 ethnicity;

10 (b) Identification information for parents and stepparents,
11 including name, ~~social security number~~, address, and status of parental
12 rights;

13 (c) Placement information, including initial placement date, current
14 placement date, and the name and address of the foster care placement
15 provider;

16 (d) Court status information, including which court has
17 jurisdiction, initial custody date, court hearing date, and results of
18 the court hearing;

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

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

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

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

26 (b) The office may adopt and promulgate rules and regulations for
27 the following:

28 (i) Establishment of training programs for local board members which
29 shall include an initial training program and periodic inservice training
30 programs;

31 (ii) Development of procedures for local boards;

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

3 (iv) Accumulation of data and the making of annual reports on
4 children in foster care placements. Such reports shall include, but not
5 be limited to, (A) personal data on length of time in foster care, (B)
6 number of placements, (C) frequency and results of foster care file audit
7 case reviews and court review hearings, (D) number of children supervised
8 by the foster care programs in the state annually, (E) trend data
9 impacting foster care, services, and placements, (F) analysis of the
10 data, and (G) recommendations for improving the foster care system in
11 Nebraska;

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

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

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

21 (3) A local board shall send a written report to the office for each
22 foster care file audit case review conducted by the local board. A court
23 shall send a written report to the office for each foster care review
24 hearing conducted by the court.

25 (4) The office shall report and make recommendations to the
26 Legislature, the department, the Office of Probation Administration, the
27 courts, local boards, and county welfare offices. Such reports and
28 recommendations shall include, but not be limited to, the annual judicial
29 and administrative data collected on foster care pursuant to subsections
30 (2) and (3) of this section and the annual evaluation of such data. The
31 report and recommendations submitted to the Legislature shall be

1 submitted electronically. In addition, the Foster Care Review Office
2 office shall provide copies of such reports and recommendations to each
3 court having the authority to make foster care placements. ~~The executive~~
4 ~~director of the office or his or her designees from the office may visit~~
5 ~~and observe foster care facilities in order to ascertain whether the~~
6 ~~individual physical, psychological, and sociological needs of each foster~~
7 ~~child are being met.~~ The executive director of the office shall also
8 provide, at a time specified by the Health and Human Services Committee
9 of the Legislature, regular electronic updates regarding child welfare
10 data and information at least quarterly, and a fourth-quarter report
11 which shall be the annual report. The executive director shall include
12 issues, policy concerns, and problems which have come to the office and
13 the executive director from analysis of the data. The executive director
14 shall recommend alternatives to the identified problems and related needs
15 of the office and the foster care system to the committee. The Health and
16 Human Services Committee shall coordinate and prioritize data and
17 information requests submitted to the office by members of the
18 Legislature. The annual report of the office shall be completed by
19 December 1 each year, beginning December 1, 2012, and shall be submitted
20 electronically to the committee.

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

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

30 Sec. 11. Section 43-1304, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 43-1304 There shall be local foster care review boards to conduct
2 the foster care file audit case reviews of children in foster care
3 placement and carry out other powers and duties given to such boards
4 under the Foster Care Review Act. ~~Members of local boards serving on July~~
5 ~~1, 2012, shall continue to serve the unexpired portion of their terms.~~
6 The executive director of the office shall select members to serve on
7 local boards from a list of applications submitted to the office. Each
8 local board shall consist of not less than four and not more than ten
9 members as determined by the executive director. The members of the local
10 board shall reasonably represent the various social, economic, racial,
11 and ethnic groups of the county or counties from which its members may be
12 appointed. A person employed by the office, the Department of Health and
13 Human Services, a residential child-caring agency, a child-placing
14 agency, or a court shall not be appointed to a local board. A list of the
15 members of each local board shall be sent to the department and the
16 Office of Probation Administration.

17 Sec. 12. Section 43-1308, Revised Statutes Cumulative Supplement,
18 2014, is amended to read:

19 43-1308 (1) Except as otherwise provided in the Nebraska Indian
20 Child Welfare Act, the designated local board shall:

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

26 (b) Submit to the court having jurisdiction over such child for the
27 purposes of foster care placement, within thirty days after the foster
28 care file audit case review, its findings and recommendations regarding
29 the efforts and progress made to carry out the plan or permanency plan
30 established pursuant to section 43-1312 together with any other
31 recommendations it chooses to make regarding the child. The findings and

1 recommendations shall include whether there is a need for continued out-
2 of-home placement, whether the current placement is safe and appropriate,
3 the specific reasons for the findings and recommendations, including
4 factors, opinions, and rationale considered in the foster care file audit
5 case review, whether the grounds for termination of parental rights under
6 section 43-292 appear to exist, and the date of the next foster care file
7 audit case review by the designated local board;

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

12 (d) Promote and encourage stability and continuity in foster care by
13 discouraging unnecessary changes in the placement of foster children and
14 by encouraging the recruitment of foster parents who may be eligible as
15 adoptive parents.

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

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

25 Sec. 13. Section 43-1309, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 43-1309 Upon the request of the office or designated local board,
28 any records pertaining to a case assigned to such local board shall be
29 furnished to the office or designated local board by the Department of
30 Health and Human Services, by , or upon the request of the Department of
31 Health and Human Services, any records pertaining to a case assigned to

1 ~~the department, shall be furnished to the office or designated local~~
2 ~~board or department by the agency charged with the child or any public~~
3 ~~official or employee of a political subdivision having relevant contact~~
4 ~~with the child, or, upon court order, by the Office of Probation~~
5 ~~Administration.~~ Upon the request of the Foster Care Review Office office
6 or designated local board, and if such information is not obtainable
7 elsewhere, the court having jurisdiction of the foster child shall
8 release such information to the office or designated local board as the
9 court deems necessary to determine the physical, psychological, and
10 sociological circumstances of such foster child.

11 Sec. 14. Section 43-1313, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

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

31 Sec. 15. (1) An Out-of-Home Data Pilot Project is created. The

1 purpose of the project is to demonstrate, under the supervision of the
2 Out-of-Home Data Pilot Project Advisory Group, how an existing state
3 agency data system or systems currently used to account for children and
4 juveniles in out-of-home placement could serve as a foundation for an
5 independent, external oversight data warehouse. The pilot project shall
6 be administered by the Foster Care Review Office and shall terminate on
7 January 1, 2017.

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

25 (3) The purposes of the Out-of-Home Data Pilot Project Advisory
26 Group are to oversee the Out-of-Home Data Pilot Project and to consider
27 whether an independent, external oversight data warehouse could be
28 created by building on an existing state agency data system or systems
29 currently used to account for children and juveniles in out-of-home
30 placement. The group shall consider the features and capabilities of
31 existing state agency data systems that include: Information on children

1 and juveniles in out-of-home placement; where an independent, external
2 oversight data warehouse might be located within state government for
3 administrative purposes; possible costs associated with establishing and
4 operating an independent, external oversight data warehouse; challenges
5 of data collection; barriers to data sharing; protection of confidential
6 information; restrictions on access to confidential information; and
7 other issues pertinent to the group's purpose. The group shall submit a
8 report electronically to the Legislature, the Governor, and the Supreme
9 Court by December 15, 2015.

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

21 Sec. 16. Section 43-1318, Revised Statutes Cumulative Supplement,
22 2014, is amended to read:

23 43-1318 Sections 43-1301 to 43-1321 and section 15 of this act shall
24 be known and may be cited as the Foster Care Review Act.

25 Sec. 17. Section 43-2404.02, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 43-2404.02 (1) There is created a separate and distinct budgetary
28 program within the commission to be known as the Community-based Juvenile
29 Services Aid Program. Funding acquired from participation in the federal
30 act, state General Funds, and funding acquired from other sources which
31 may be used for purposes consistent with the Juvenile Services Act and

1 the federal act shall be used to aid in the establishment and provision
2 of community-based services for juveniles who come in contact with the
3 juvenile justice system.

4 (2)(a) Ten percent of the annual General Fund appropriation to the
5 Community-based Juvenile Services Aid Program, excluding administrative
6 budget funds, shall be set aside for the development of a common data set
7 and evaluation of the effectiveness of the Community-based Juvenile
8 Services Aid Program. The intent in creating this common data set is to
9 allow for evaluation of the use of the funds and the effectiveness of the
10 programs or outcomes in the Community-based Juvenile Services Aid
11 Program.

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

29 (c) Providing the commission access to records and information for,
30 as well as the commission granting access to records and information
31 from, the common data set is not a violation of confidentiality

1 provisions under any law, rule, or regulation if done in good faith for
2 purposes of evaluation. Records and documents, regardless of physical
3 form, that are obtained or produced or presented to the commission for
4 the common data set are not public records for purposes of sections
5 84-712 to 84-712.09.

6 (d) The ten percent of the annual General Fund appropriation to the
7 Community-based Juvenile Services Aid Program, excluding administrative
8 budget funds, shall be appropriated as follows: In fiscal year 2015-16,
9 seven percent shall go to the commission for development of the common
10 data set and three percent shall go to the University of Nebraska at
11 Omaha, Juvenile Justice Institute, for evaluation. In fiscal year
12 2016-17, six percent shall go to the commission for development and
13 maintenance of the common data set and four percent shall go to the
14 University of Nebraska at Omaha, Juvenile Justice Institute, for
15 evaluation. Every fiscal year thereafter, beginning in fiscal year
16 2017-18, five percent shall go to the commission for development and
17 maintenance of the common data set and five percent shall go to the
18 University of Nebraska at Omaha, Juvenile Justice Institute, for
19 evaluation.

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

1 requirement.

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

8 (b) Funds received under the Community-based Juvenile Services Aid
9 Program shall be used exclusively to assist the aid recipient in the
10 implementation and operation of programs or the provision of services
11 identified in the aid recipient's comprehensive juvenile services plan,
12 including programs for local planning and service coordination;
13 screening, assessment, and evaluation; diversion; alternatives to
14 detention; family support services; treatment services; truancy
15 prevention and intervention programs; pilot projects approved by the
16 commission; payment of transportation costs to and from placements,
17 evaluations, or services; personnel when the personnel are aligned with
18 evidence-based treatment principles, programs, or practices; contracting
19 with other state agencies or private organizations that provide evidence-
20 based treatment or programs; preexisting programs that are aligned with
21 evidence-based practices or best practices; and other services that will
22 positively impact juveniles and families in the juvenile justice system.

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

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

7 (e) If a county, multiple counties, or a federally recognized or
8 state-recognized Indian tribe or tribes is denied aid under this section
9 or receives no aid under this section, the entity may request an appeal
10 pursuant to the appeal process in rules and regulations adopted and
11 promulgated by the commission. The commission shall establish appeal and
12 hearing procedures by December 15, 2014. The commission shall make appeal
13 and hearing procedures available on its web site.

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

30 (b) Any recipient of aid under the Community-based Juvenile Services
31 Aid Program shall be assisted by the University of Nebraska at Omaha,

1 Juvenile Justice Institute, in reporting in the common data set, as set
2 forth in the rules and regulations adopted and promulgated by the
3 commission. Community-based aid utilization and evaluation data shall be
4 stored and maintained by the commission.

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

8 (i) The varying rates of recidivism, as defined by rules and
9 regulations adopted and promulgated by the commission, and other measures
10 for juveniles participating in community-based programs; and

11 (ii) Whether juveniles are sent to staff secure or secure juvenile
12 detention after participating in a program funded by the Community-based
13 Juvenile Services Aid Program.

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

27 (6) The commission shall adopt and promulgate rules and regulations
28 for the Community-based Juvenile Services Aid Program in consultation
29 with the Director of the Community-based Juvenile Services Aid Program,
30 the Director of Juvenile Diversion Programs, the Office of Probation
31 Administration, the Nebraska Association of County Officials, and the

1 University of Nebraska at Omaha, Juvenile Justice Institute. The rules
2 and regulations shall include, but not be limited to:

3 (a) The required elements of a comprehensive juvenile services plan
4 and planning process;

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

8 (c) A distribution process for funds retained under subsection (3)
9 of this section;

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

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

13 (f) A reporting process for the commission to the Governor and
14 Legislature. The report shall be made electronically to the Governor and
15 the Legislature; and -

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

17 Sec. 18. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
18 17, 20 of this act become operative on September 6, 2015. The other
19 sections of this act become operative on their effective date.

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

22 Sec. 20. Original sections 29-1816, 43-245, 43-246.01, 43-247,
23 43-297.01, 43-2,129, 43-1301, 43-1302, 43-1303, 43-1304, 43-1308,
24 43-1309, 43-1313, and 43-2404.02, Revised Statutes Cumulative Supplement,
25 2014, are repealed.

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

28 2. On page 1, strike beginning with the semicolon in line 1 through
29 line 10 and insert "and child welfare; to amend sections 29-1816, 43-245,
30 43-246.01, 43-247, 43-297.01, 43-2,129, 43-1301, 43-1302, 43-1303,
31 43-1304, 43-1308, 43-1309, 43-1313, 43-1318, and 43-2404.02, Revised

1 Statutes Cumulative Supplement, 2014; to change provisions relating to
2 arraignment of juveniles, court jurisdiction of juveniles, placement of
3 juveniles, foster care placements, duties of the Foster Care Review
4 Office, membership of the Foster Care Advisory Committee, local foster
5 care review boards, foster care records, and the Community-based Juvenile
6 Services Aid Program; to define and redefine terms; to extend juvenile
7 court jurisdiction to young adults as prescribed; to provide for a foster
8 care case file review process; to exempt certain meetings of local foster
9 care review boards from the Open Meetings Act; to create a pilot project
10 and advisory group regarding data on out-of-home placements; to provide
11 for development of a common data set relating to juveniles; to eliminate
12 obsolete provisions; to harmonize provisions; to provide operative dates;
13 to repeal the original sections; and to declare an emergency."