

E AND R AMENDMENTS TO LB 347

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 29-1926, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 29-1926 (1)(a) Upon request of the prosecuting or defense attorney
6 and upon a showing of compelling need, the court shall order the taking
7 of a videotape deposition of a child victim of or child witness to any
8 offense punishable as a felony. The deposition ordinarily shall be in
9 lieu of courtroom or in camera testimony by the child. If the court
10 orders a videotape deposition, the court shall:

11 (i) Designate the time and place for taking the deposition. The
12 deposition may be conducted in the courtroom, the judge's chambers, or
13 any other location suitable for videotaping;

14 (ii) Assure adequate time for the defense attorney to complete
15 discovery before taking the deposition; and

16 (iii) Preside over the taking of the videotape deposition in the
17 same manner as if the child were called as a witness for the prosecution
18 during the course of the trial.

19 (b) Unless otherwise required by the court, the deposition shall be
20 conducted in the presence of the prosecuting attorney, the defense
21 attorney, the defendant, and any other person deemed necessary by the
22 court, including the parent or guardian of the child victim or child
23 witness or a counselor or other person with whom the child is familiar.
24 Such parent, guardian, counselor, or other person shall be allowed to sit
25 with or near the child unless the court determines that such person would
26 be disruptive to the child's testimony.

27 (c) At any time subsequent to the taking of the original videotape

1 deposition and upon sufficient cause shown, the court shall order the
2 taking of additional videotape depositions to be admitted at the time of
3 the trial.

4 (d) If the child testifies at trial in person rather than by
5 videotape deposition, the taking of the child's testimony may, upon
6 request of the prosecuting attorney and upon a showing of compelling
7 need, be conducted in camera.

8 (e) Unless otherwise required by the court, the child shall testify
9 in the presence of the prosecuting attorney, the defense attorney, the
10 defendant, and any other person deemed necessary by the court, including
11 the parent or guardian of the child victim or child witness or a
12 counselor or other person with whom the child is familiar. Such parent,
13 guardian, counselor, or other person shall be allowed to sit with or near
14 the child unless the court determines that such person would be
15 disruptive to the child's testimony. Unless waived by the defendant, all
16 persons in the room shall be visible on camera except the camera
17 operator.

18 (f) If deemed necessary to preserve the constitutionality of the
19 child's testimony, the court may direct that during the testimony the
20 child shall at all times be in a position to see the defendant live or on
21 camera.

22 (g) For purposes of this section, child means ~~shall mean~~ a person
23 eleven years of age or younger at the time the motion to take the
24 deposition is made or at the time of the taking of in camera testimony at
25 trial.

26 (h) Nothing in this section shall restrict the court from conducting
27 the pretrial deposition or in camera proceedings in any manner deemed
28 likely to facilitate and preserve a child's testimony to the fullest
29 extent possible, consistent with the right to confrontation guaranteed in
30 the Sixth Amendment of the Constitution of the United States and Article
31 I, section 11, of the Nebraska Constitution. In deciding whether there is

1 a compelling need that child testimony accommodation is required by
2 pretrial videotape deposition, in camera live testimony, in camera
3 videotape testimony, or any other accommodation, the court shall make
4 particularized findings on the record of:

5 (i) The nature of the offense;

6 (ii) The significance of the child's testimony to the case;

7 (iii) The likelihood of obtaining the child's testimony without
8 modification of trial procedure or with a different modification
9 involving less substantial digression from trial procedure than the
10 modification under consideration;

11 (iv) The child's age;

12 (v) The child's psychological maturity and understanding; and

13 (vi) The nature, degree, and duration of potential injury to the
14 child from testifying.

15 (i) The court may order an independent examination by a psychologist
16 or psychiatrist if the defense attorney requests the opportunity to rebut
17 the showing of compelling need produced by the prosecuting attorney. Such
18 examination shall be conducted in the child's county of residence.

19 (j) After a finding of compelling need by the court, neither party
20 may call the child witness to testify as a live witness at the trial
21 before the jury unless that party demonstrates that the compelling need
22 no longer exists.

23 (k) Nothing in this section shall limit the right of access of the
24 media or the public to open court.

25 (l) Nothing in this section shall preclude discovery by the
26 defendant as set forth in section 29-1912.

27 (m) The Supreme Court may adopt and promulgate rules of procedure to
28 administer this section, which rules shall not be in conflict with laws
29 governing such matters.

30 (2)(a) No custodian of a videotape of a child victim or child
31 witness alleging, explaining, denying, or describing an act of sexual

1 assault pursuant to section 28-319, 28-319.01, or 28-320.01 or child
2 abuse pursuant to section 28-707 as part of an investigation or
3 evaluation of the abuse or assault shall release or use a videotape or
4 copies of a videotape or consent, by commission or omission, to the
5 release or use of a videotape or copies of a videotape to or by any other
6 party without a court order, notwithstanding the fact that the child
7 victim or child witness has consented to the release or use of the
8 videotape or that the release or use is authorized under law, except as
9 provided in section 28-730 or pursuant to an investigation under the
10 Office of Inspector General of Nebraska Child Welfare Act. Any custodian
11 may release or consent to the release or use of a videotape or copies of
12 a videotape to law enforcement agencies or agencies authorized to
13 prosecute such abuse or assault cases on behalf of the state.

14 (b) The court order may govern the purposes for which the videotape
15 may be used, the reproduction of the videotape, the release of the
16 videotape to other persons, the retention and return of copies of the
17 videotape, and any other requirements reasonably necessary for the
18 protection of the privacy and best interests of the child victim or child
19 witness.

20 (c) Pursuant to section 29-1912, the defendant described in the
21 videotape may petition the district court in the county where the alleged
22 offense took place or where the custodian of the videotape resides for an
23 order releasing to the defendant a copy of the videotape.

24 (d) Any person who releases or uses a videotape except as provided
25 in this section shall be guilty of a Class I misdemeanor.

26 Sec. 2. Section 43-2,108, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 43-2,108 (1) The juvenile court judge shall keep a minute book in
29 which he or she shall enter minutes of all proceedings of the court in
30 each case, including appearances, findings, orders, decrees, and
31 judgments, and any evidence which he or she feels it is necessary and

1 proper to record. Juvenile court legal records shall be deposited in
2 files and shall include the petition, summons, notice, certificates or
3 receipts of mailing, minutes of the court, findings, orders, decrees,
4 judgments, and motions.

5 (2) Except as provided in subsections (3), ~~and (4), and (5)~~ of this
6 section, the medical, psychological, psychiatric, and social welfare
7 reports and the records of juvenile probation officers as they relate to
8 individual proceedings in the juvenile court shall not be open to
9 inspection, without order of the court. Such records shall be made
10 available to a district court of this state or the District Court of the
11 United States on the order of a judge thereof for the confidential use of
12 such judge or his or her probation officer as to matters pending before
13 such court but shall not be made available to parties or their counsel;
14 and such district court records shall be made available to a county court
15 or separate juvenile court upon request of the county judge or separate
16 juvenile judge for the confidential use of such judge and his or her
17 probation officer as to matters pending before such court, but shall not
18 be made available by such judge to the parties or their counsel.

19 (3) As used in this section ~~subsection~~, confidential record
20 information means ~~shall mean~~ all docket records, other than the
21 pleadings, orders, decrees, and judgments; case files and records;
22 reports and records of probation officers; and information supplied to
23 the court of jurisdiction in such cases by any individual or any public
24 or private institution, agency, facility, or clinic, which is compiled
25 by, produced by, and in the possession of any court. In all cases under
26 subdivision (3)(a) of section 43-247, access to all confidential record
27 information in such cases shall be granted only as follows: (a) The court
28 of jurisdiction may, subject to applicable federal and state regulations,
29 disseminate such confidential record information to any individual, or
30 public or private agency, institution, facility, or clinic which is
31 providing services directly to the juvenile and such juvenile's parents

1 or guardian and his or her immediate family who are the subject of such
2 record information; (b) the court of jurisdiction may disseminate such
3 confidential record information, with the consent of persons who are
4 subjects of such information, or by order of such court after showing of
5 good cause, to any law enforcement agency upon such agency's specific
6 request for such agency's exclusive use in the investigation of any
7 protective service case or investigation of allegations under subdivision
8 (3)(a) of section 43-247, regarding the juvenile or such juvenile's
9 immediate family, who are the subject of such investigation; and (c) the
10 court of jurisdiction may disseminate such confidential record
11 information to any court, which has jurisdiction of the juvenile who is
12 the subject of such information upon such court's request.

13 (4) The court shall provide copies of predispositional reports and
14 evaluations of the juvenile to the juvenile's attorney and the county
15 attorney or city attorney prior to any hearing in which the report or
16 evaluation will be relied upon.

17 (5) In all cases under sections 43-246.01 and 43-247, the court or
18 the probation officer shall disseminate confidential record information
19 to (a) the office of Inspector General of Nebraska Child Welfare upon
20 request for the exclusive use in an investigation pursuant to the Office
21 of Inspector General of Nebraska Child Welfare Act and (b) the Foster
22 Care Review Office pursuant to the Foster Care Review Act. Nothing in
23 this subsection shall prevent the notification of death or serious injury
24 of a juvenile to the Inspector General of Nebraska Child Welfare pursuant
25 to section 43-4318 as soon as reasonably possible after the Office of
26 Probation Administration learns of such death or serious injury.

27 (~~6~~ 5) Nothing in ~~subsections~~ ~~subsection~~ (3) and (5) of this section
28 shall be construed to restrict the dissemination of confidential record
29 information between any individual or public or private agency,
30 institute, facility, or clinic, except any such confidential record
31 information disseminated by the court of jurisdiction pursuant to this

1 section shall be for the exclusive and private use of those to whom it
2 was released and shall not be disseminated further without order of such
3 court.

4 (7)(a) ~~(6)(a)~~ Any records concerning a juvenile court petition filed
5 pursuant to subdivision (3)(c) of section 43-247 shall remain
6 confidential except as may be provided otherwise by law. Such records
7 shall be accessible to (i) the juvenile except as provided in subdivision
8 (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's
9 parent or guardian, and (iv) persons authorized by an order of a judge or
10 court.

11 (b) Upon application by the county attorney or by the director of
12 the facility where the juvenile is placed and upon a showing of good
13 cause therefor, a judge of the juvenile court having jurisdiction over
14 the juvenile or of the county where the facility is located may order
15 that the records shall not be made available to the juvenile if, in the
16 judgment of the court, the availability of such records to the juvenile
17 will adversely affect the juvenile's mental state and the treatment
18 thereof.

19 Sec. 3. Section 43-3001, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 43-3001 (1) Notwithstanding any other provision of law regarding the
22 confidentiality of records and when not prohibited by the federal Privacy
23 Act of 1974, as amended, juvenile court records and any other pertinent
24 information that may be in the possession of school districts, school
25 personnel, county attorneys, the Attorney General, law enforcement
26 agencies, child advocacy centers, state probation personnel, state parole
27 personnel, youth detention facilities, medical personnel, treatment or
28 placement programs, the Department of Health and Human Services, the
29 Department of Correctional Services, the Foster Care Review Office, local
30 foster care review boards, child abuse and neglect investigation teams,
31 child abuse and neglect treatment teams, or other multidisciplinary teams

1 for abuse, neglect, or delinquency concerning a child who is in the
2 custody of the state may be shared with individuals and agencies who have
3 been identified in a court order authorized by this section.

4 (2) In any judicial proceeding concerning a child who is currently,
5 or who may become at the conclusion of the proceeding, a ward of the
6 court or state or under the supervision of the court, an order may be
7 issued which identifies individuals and agencies who shall be allowed to
8 receive otherwise confidential information concerning the child for
9 legitimate and official purposes. The individuals and agencies who may be
10 identified in the court order are the child's attorney or guardian ad
11 litem, the parents' attorney, foster parents, appropriate school
12 personnel, county attorneys, the Attorney General, authorized court
13 personnel, law enforcement agencies, state probation personnel, state
14 parole personnel, youth detention facilities, medical personnel, court
15 appointed special advocate volunteers, treatment or placement programs,
16 the Department of Health and Human Services, the Office of Juvenile
17 Services, the Department of Correctional Services, the Foster Care Review
18 Office, local foster care review boards, the office of Inspector General
19 of Nebraska Child Welfare, child abuse and neglect investigation teams,
20 child abuse and neglect treatment teams, other multidisciplinary teams
21 for abuse, neglect, or delinquency, and other individuals and agencies
22 for which the court specifically finds, in writing, that it would be in
23 the best interest of the juvenile to receive such information. Unless the
24 order otherwise states, the order shall be effective until the child
25 leaves the custody of the state or supervision of the court or until a
26 new order is issued.

27 (3) All information acquired by an individual or agency pursuant to
28 this section shall be confidential and shall not be disclosed except to
29 other persons who have a legitimate and official interest in the
30 information and are identified in the court order issued pursuant to this
31 section with respect to the child in question. A person who receives such

1 information or who cooperates in good faith with other individuals and
2 agencies identified in the appropriate court order by providing
3 information or records about a child shall be immune from any civil or
4 criminal liability. The provisions of this section granting immunity from
5 liability shall not be extended to any person alleged to have committed
6 an act of child abuse or neglect.

7 (4) In any proceeding under this section relating to a child of
8 school age, certified copies of school records relating to attendance and
9 academic progress of such child are admissible in evidence.

10 (5) Except as provided in subsection (4) of this section, any person
11 who publicly discloses information received pursuant to this section
12 shall be guilty of a Class III misdemeanor.

13 Sec. 4. Section 43-4301, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 43-4301 Sections 43-4301 to 43-4331 and sections 8 to 11 of this act
16 shall be known and may be cited as the Office of Inspector General of
17 Nebraska Child Welfare Act.

18 Sec. 5. Section 43-4302, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 43-4302 (1) It is the intent of the Legislature to:

21 (a) Establish a full-time program of investigation and performance
22 review to provide increased accountability and oversight of the Nebraska
23 child welfare system;

24 (b) Assist in improving operations of the ~~department and the~~
25 Nebraska child welfare system;

26 (c) Provide an independent form of inquiry for concerns regarding
27 the actions of individuals and agencies responsible for the care and
28 protection of children and youth in the Nebraska child welfare system.
29 Confusion of the roles, responsibilities, and accountability structures
30 between individuals, private contractors, branches of government, and
31 agencies in the current system make it difficult to monitor and oversee

1 the Nebraska child welfare system; and

2 (d) Provide a process for investigation and review to determine if
3 individual complaints and issues of investigation and inquiry reveal a
4 problem in the child welfare system, not just individual cases, that
5 necessitates legislative action for improved policies and restructuring
6 of the child welfare system.

7 (2) It is not the intent of the Legislature in enacting the Office
8 of Inspector General of Nebraska Child Welfare Act to interfere with the
9 duties of the Legislative Auditor or the Legislative Fiscal Analyst or to
10 interfere with the statutorily defined investigative responsibilities or
11 prerogatives of any officer, agency, board, bureau, commission,
12 association, society, or institution of the executive branch of state
13 government, except that the act does not preclude an inquiry on the sole
14 basis that another agency has the same responsibility. The act shall not
15 be construed to interfere with or supplant the responsibilities or
16 prerogatives of the Governor to investigate, monitor, and report on the
17 activities of the agencies, boards, bureaus, commissions, associations,
18 societies, and institutions of the executive branch under his or her
19 administrative direction.

20 Sec. 6. Section 43-4303, Revised Statutes Cumulative Supplement,
21 2014, is amended to read:

22 43-4303 For purposes of the Office of Inspector General of Nebraska
23 Child Welfare Act, the definitions found in sections 43-4304 to 43-4316
24 and sections 8 to 11 of this act apply.

25 Sec. 7. Section 43-4304, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 43-4304 Administrator means a person charged with administration of
28 a program, an office, or a division of the department or administration
29 of a private agency or licensed child care facility, the probation
30 administrator, or the executive director.

31 Sec. 8. Child welfare system means public and private agencies and

1 parties that provide or effect services or supervision to system-involved
2 children and their families.

3 Sec. 9. Commission means the Nebraska Commission on Law Enforcement
4 and Criminal Justice.

5 Sec. 10. Executive director means the executive director of the
6 commission.

7 Sec. 11. Juvenile services division means the Juvenile Services
8 Division of the Office of Probation Administration.

9 Sec. 12. Section 43-4316, Revised Statutes Cumulative Supplement,
10 2014, is amended to read:

11 43-4316 Responsible individual means a foster parent, a relative
12 provider of foster care, or an employee of the department, the juvenile
13 services division, the commission, a foster home, a private agency, a
14 licensed child care facility, or another provider of child welfare
15 programs and services responsible for the care or custody of records,
16 documents, and files.

17 Sec. 13. Section 43-4318, Revised Statutes Cumulative Supplement,
18 2014, is amended to read:

19 43-4318 (1) The office shall investigate:

20 (a) Allegations or incidents of possible misconduct, misfeasance,
21 malfeasance, or violations of statutes or of rules or regulations of:

22 (i) The the department by an employee of or person under contract
23 with the department, a private agency, a licensed child care facility, a
24 foster parent, or any other provider of child welfare services or which
25 may provide a basis for discipline pursuant to the Uniform Credentialing
26 Act; and

27 (ii) The juvenile services division by an employee of or person
28 under contract with the juvenile services division, a private agency, a
29 licensed facility, a foster parent, or any other provider of juvenile
30 justice services;

31 (iii) The commission by an employee of or person under contract with

1 the commission related to programs and services supported by the Nebraska
2 County Juvenile Services Plan Act, the Community-based Juvenile Services
3 Aid Program, juvenile pretrial diversion programs, or inspections of
4 juvenile facilities; and

5 (iv) A juvenile detention facility and staff secure juvenile
6 facility by an employee of or person under contract with such facilities;

7 (b) Death or serious injury in foster homes, private agencies, child
8 care facilities, juvenile detention facilities, staff secure juvenile
9 facilities, and other programs and facilities licensed by or under
10 contract with the department or the juvenile services division; and
11 ~~Office of Probation Administration and death~~

12 (c) Death or serious injury in any case in which services are
13 provided by the department or the juvenile services division to a child
14 or his or her parents or any case involving an investigation under the
15 Child Protection and Family Safety Act, which case has been open for one
16 year or less and upon review determines the death or serious injury did
17 not occur by chance.

18 The department, the juvenile services division, each juvenile
19 detention facility, and each staff secure juvenile facility and the
20 ~~Office of Probation Administration~~ shall report all cases of death or
21 serious injury of a child in a foster home, private agency, child care
22 facility or program, or other program or facility licensed by the
23 department or inspected through the commission to the Inspector General
24 as soon as reasonably possible after the department or the Office of
25 Probation Administration learns of such death or serious injury. For
26 purposes of this subsection ~~subdivision~~, serious injury means an injury
27 or illness caused by suspected abuse, neglect, or maltreatment which
28 leaves a child in critical or serious condition.

29 (2) Any investigation conducted by the Inspector General shall be
30 independent of and separate from an investigation pursuant to the Child
31 Protection and Family Safety Act. The Inspector General and his or her

1 staff are subject to the reporting requirements of the Child Protection
2 and Family Safety Act.

3 (3) Notwithstanding the fact that a criminal investigation, a
4 criminal prosecution, or both are in progress, all law enforcement
5 agencies and prosecuting attorneys shall cooperate with any investigation
6 conducted by the Inspector General and shall, immediately upon request by
7 the Inspector General, provide the Inspector General with copies of all
8 law enforcement reports which are relevant to the Inspector General's
9 investigation. All law enforcement reports which have been provided to
10 the Inspector General pursuant to this section are not public records for
11 purposes of sections 84-712 to 84-712.09 and shall not be subject to
12 discovery by any other person or entity. Except to the extent that
13 disclosure of information is otherwise provided for in the Office of
14 Inspector General of Nebraska Child Welfare Act, the Inspector General
15 shall maintain the confidentiality of all law enforcement reports
16 received pursuant to its request under this section. Law enforcement
17 agencies and prosecuting attorneys shall, when requested by the Inspector
18 General, collaborate with the Inspector General regarding all other
19 information relevant to the Inspector General's investigation. If the
20 Inspector General in conjunction with the Public Counsel determines it
21 appropriate, the Inspector General may, when requested to do so by a law
22 enforcement agency or prosecuting attorney, suspend an investigation by
23 the office until a criminal investigation or prosecution is completed or
24 has proceeded to a point that, in the judgment of the Inspector General,
25 reinstatement of the Inspector General's investigation will not impede or
26 infringe upon the criminal investigation or prosecution. Under no
27 circumstance shall the Inspector General interview any minor who has
28 already been interviewed by a law enforcement agency, personnel of the
29 Division of Children and Family Services of the department, or staff of a
30 child advocacy center in connection with a relevant ongoing investigation
31 of a law enforcement agency.

1 Sec. 14. Section 43-4320, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 43-4320 (1) Complaints to the office may be made in writing. The
4 office shall also maintain a toll-free telephone line for complaints. A
5 complaint shall be evaluated to determine if it alleges possible
6 misconduct, misfeasance, malfeasance, or violation of a statute or of
7 rules and regulations pursuant to section 43-4318 of the department by an
8 employee of or a person under contract with the department, a private
9 agency, or a licensed child care facility, a foster parent, or any other
10 provider of child welfare services or alleges a basis for discipline
11 pursuant to the Uniform Credentialing Act. All complaints shall be
12 evaluated to determine whether a full investigation is warranted.

13 (2) The office shall not conduct a full investigation of a complaint
14 unless:

15 (a) The complaint alleges misconduct, misfeasance, malfeasance, or
16 violation of a statute or of rules and regulations pursuant to section
17 43-4318 of the department, or a basis for discipline pursuant to the
18 Uniform Credentialing Act;

19 (b) The complaint is against a person within the jurisdiction of the
20 office; and

21 (c) The allegations can be independently verified through
22 investigation.

23 (3) The Inspector General shall determine within fourteen days after
24 receipt of a complaint whether it will conduct a full investigation. A
25 complaint alleging facts which, if verified, would provide a basis for
26 discipline under the Uniform Credentialing Act shall be referred to the
27 appropriate credentialing board under the act.

28 (4) When a full investigation is opened on a private agency that
29 contracts with the Office of Probation Administration, the Inspector
30 General shall give notice of such investigation to the Office of
31 Probation Administration.

1 Sec. 15. Section 43-4321, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 43-4321 All employees of the department, the juvenile services
4 division, or the commission, all foster parents, and all owners,
5 operators, managers, supervisors, and employees of private agencies,
6 licensed child care facilities, juvenile detention facilities, staff
7 secure juvenile facilities, and other providers of child welfare services
8 or juvenile justice services shall cooperate with the office. Cooperation
9 includes, but is not limited to, the following:

10 (1) Provision of full access to and production of records and
11 information. Providing access to and producing records and information
12 for the office is not a violation of confidentiality provisions under any
13 law, statute, rule, or regulation if done in good faith for purposes of
14 an investigation under the Office of Inspector General of Nebraska Child
15 Welfare Act;

16 (2) Fair and honest disclosure of records and information reasonably
17 requested by the office in the course of an investigation under the act;

18 (3) Encouraging employees to fully comply with reasonable requests
19 of the office in the course of an investigation under the act;

20 (4) Prohibition of retaliation by owners, operators, or managers
21 against employees for providing records or information or filing or
22 otherwise making a complaint to the office;

23 (5) Not requiring employees to gain supervisory approval prior to
24 filing a complaint with or providing records or information to the
25 office;

26 (6) Provision of complete and truthful answers to questions posed by
27 the office in the course of an investigation; and

28 (7) Not willfully interfering with or obstructing the investigation.

29 Sec. 16. Section 43-4324, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 43-4324 (1) In conducting investigations, the office shall access

1 all relevant records through subpoena, compliance with a request of the
2 office, and voluntary production. The office may request or subpoena any
3 record necessary for the investigation from the department, the juvenile
4 services division, the commission, a foster parent, a licensed child care
5 facility, a juvenile detention facility, a staff secure juvenile
6 facility, or a private agency that is pertinent to an investigation. All
7 case files, licensing files, medical records, financial and
8 administrative records, and records required to be maintained pursuant to
9 applicable licensing rules shall be produced for review by the office in
10 the course of an investigation.

11 (2) Compliance with a request of the office includes:

12 (a) Production of all records requested;

13 (b) A diligent search to ensure that all appropriate records are
14 included; and

15 (c) A continuing obligation to immediately forward to the office any
16 relevant records received, located, or generated after the date of the
17 request.

18 (3) The office shall seek access in a manner that respects the
19 dignity and human rights of all persons involved, maintains the integrity
20 of the investigation, and does not unnecessarily disrupt child welfare
21 programs or services. When advance notice to a foster parent or to an
22 administrator or his or her designee is not provided, the office
23 investigator shall, upon arrival at the departmental office, bureau, or
24 division, the private agency, the licensed child care facility, the
25 juvenile detention facility, the staff secure juvenile facility, or the
26 location of another provider of child welfare services, request that an
27 onsite employee notify the administrator or his or her designee of the
28 investigator's arrival.

29 (4) When circumstances of an investigation require, the office may
30 make an unannounced visit to a foster home, a departmental office,
31 bureau, or division, a licensed child care facility, a juvenile detention

1 facility, a staff secure juvenile facility, a private agency, or another
2 provider to request records relevant to an investigation.

3 (5) A responsible individual or an administrator may be asked to
4 sign a statement of record integrity and security when a record is
5 secured by request as the result of a visit by the office, stating:

6 (a) That the responsible individual or the administrator has made a
7 diligent search of the office, bureau, division, private agency, licensed
8 child care facility, juvenile detention facility, staff secure juvenile
9 facility, or other provider's location to determine that all appropriate
10 records in existence at the time of the request were produced;

11 (b) That the responsible individual or the administrator agrees to
12 immediately forward to the office any relevant records received, located,
13 or generated after the visit;

14 (c) The persons who have had access to the records since they were
15 secured; and

16 (d) Whether, to the best of the knowledge of the responsible
17 individual or the administrator, any records were removed from or added
18 to the record since it was secured.

19 (6) The office shall permit a responsible individual, an
20 administrator, or an employee of a departmental office, bureau, or
21 division, a private agency, a licensed child care facility, a juvenile
22 detention facility, a staff secure juvenile facility, or another provider
23 to make photocopies of the original records within a reasonable time in
24 the presence of the office for purposes of creating a working record in a
25 manner that assures confidentiality.

26 (7) The office shall present to the responsible individual or the
27 administrator or other employee of the departmental office, bureau, or
28 division, private agency, licensed child care facility, juvenile
29 detention facility, staff secure juvenile facility, or other service
30 provider a copy of the request, stating the date and the titles of the
31 records received.

1 (8) If an original record is provided during an investigation, the
2 office shall return the original record as soon as practical but no later
3 than ten working days after the date of the compliance request.

4 (9) All investigations conducted by the office shall be conducted in
5 a manner designed to ensure the preservation of evidence for possible use
6 in a criminal prosecution.

7 Sec. 17. Section 43-4325, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 43-4325 (1) Reports of investigations conducted by the office shall
10 not be distributed beyond the entity that is the subject of the report
11 without the consent of the Inspector General.

12 (2) Except when a report is provided to a guardian ad litem or an
13 attorney in the juvenile court pursuant to subsection (2) of section
14 43-4327, the office shall redact confidential information before
15 distributing a report of an investigation. The office may disclose
16 confidential information to the chairperson of the Health and Human
17 Services Committee of the Legislature or the chairperson of the Judiciary
18 Committee of the Legislature when such disclosure is, in the judgment of
19 the Public Counsel, desirable to keep the chairperson informed of
20 important events, issues, and developments in the Nebraska child welfare
21 system.

22 (3) Records and documents, regardless of physical form, that are
23 obtained or produced by the office in the course of an investigation are
24 not public records for purposes of sections 84-712 to 84-712.09. Reports
25 of investigations conducted by the office are not public records for
26 purposes of sections 84-712 to 84-712.09.

27 (4) The office may withhold the identity of sources of information
28 to protect from retaliation any person who files a complaint or provides
29 information in good faith pursuant to the Office of Inspector General of
30 Nebraska Child Welfare Act.

31 Sec. 18. Section 43-4326, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 43-4326 (1) The department shall provide the Public Counsel and the
3 Inspector General with direct computer access to all computerized
4 records, reports, and documents maintained by the department in
5 connection with administration of the Nebraska child welfare system.

6 (2) The juvenile services division and the commission shall provide
7 the Inspector General with direct computer access to all computerized
8 records, reports, and documents maintained by the juvenile services
9 division in connection with administration of juvenile justice services.

10 Sec. 19. Section 43-4327, Revised Statutes Cumulative Supplement,
11 2014, is amended to read:

12 43-4327 (1) The Inspector General's report of an investigation shall
13 be in writing to the Public Counsel and shall contain recommendations.
14 The report may recommend systemic reform or case-specific action,
15 including a recommendation for discharge or discipline of employees or
16 for sanctions against a foster parent, private agency, licensed child
17 care facility, or other provider of child welfare services or juvenile
18 justice services. All recommendations to pursue discipline shall be in
19 writing and signed by the Inspector General. A report of an investigation
20 shall be presented to the director, the probation administrator, or the
21 executive director within fifteen days after the report is presented to
22 the Public Counsel.

23 (2) Any person receiving a report under this section shall not
24 further distribute the report or any confidential information contained
25 in the report. The Inspector General, upon notifying the Public Counsel
26 and the director, the probation administrator, or the executive director,
27 may distribute the report, to the extent that it is relevant to a child's
28 welfare, to the guardian ad litem and attorneys in the juvenile court in
29 which a case is pending involving the child or family who is the subject
30 of the report. The report shall not be distributed beyond the parties
31 except through the appropriate court procedures to the judge.

1 (3) A report that identifies misconduct, misfeasance, malfeasance,
2 or violation of statute, rules, or regulations by an employee of the
3 department, the juvenile services division, the commission, a private
4 agency, a licensed child care facility, or another provider that is
5 relevant to providing appropriate supervision of an employee may be
6 shared with the employer of such employee. The employer may not further
7 distribute the report or any confidential information contained in the
8 report.

9 Sec. 20. Section 43-4328, Revised Statutes Cumulative Supplement,
10 2014, is amended to read:

11 43-4328 (1) Within fifteen days after a report is presented to the
12 director, the probation administrator, or the executive director under
13 section 43-4327, he or she shall determine whether to accept, reject, or
14 request in writing modification of the recommendations contained in the
15 report. The Inspector General, with input from the Public Counsel, may
16 consider the director's, probation administrator's, or executive
17 director's request for modifications but is not obligated to accept such
18 request. Such report shall become final upon the decision of the
19 director, the probation administrator, or the executive director to
20 accept or reject the recommendations in the report or, if the director,
21 the probation administrator, or the executive director requests
22 modifications, within fifteen days after such request or after the
23 Inspector General incorporates such modifications, whichever occurs
24 earlier.

25 (2) Within fifteen days after the report is presented to the
26 director, the probation administrator, or the executive director, the
27 report shall be presented to the foster parent, private agency, licensed
28 child care facility, or other provider of child welfare services or
29 juvenile justice services that is the subject of the report and to
30 persons involved in the implementation of the recommendations in the
31 report. Within forty-five days after receipt of the report, the foster

1 parent, private agency, licensed child care facility, or other provider
2 may submit a written response to the office to correct any factual errors
3 in the report. The Inspector General, with input from the Public Counsel,
4 shall consider all materials submitted under this subsection to determine
5 whether a corrected report shall be issued. If the Inspector General
6 determines that a corrected report is necessary, the corrected report
7 shall be issued within fifteen days after receipt of the written
8 response.

9 (3) If the Inspector General does not issue a corrected report
10 pursuant to subsection (2) of this section, or if the corrected report
11 does not address all issues raised in the written response, the foster
12 parent, private agency, licensed child care facility, or other provider
13 may request that its written response, or portions of the response, be
14 appended to the report or corrected report.

15 (4) A report which raises issues related to credentialing under the
16 Uniform Credentialing Act shall be submitted to the appropriate
17 credentialing board under the act.

18 Sec. 21. Section 43-4330, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 43-4330 The Office of Inspector General of Nebraska Child Welfare
21 Act does not require the Inspector General to investigate all complaints.
22 The Inspector General, with input from the Public Counsel, shall
23 prioritize and select investigations and inquiries that further the
24 intent of the act and assist in legislative oversight of the Nebraska
25 child welfare system and juvenile justice system. If the Inspector
26 General determines that he or she will not investigate a complaint, the
27 Inspector General may recommend to the parties alternative means of
28 resolution of the issues in the complaint.

29 Sec. 22. Section 43-4331, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 43-4331 On or before September 15 of each year, the Inspector

1 General shall provide to the Health and Human Services Committee of the
2 Legislature, the Judiciary Committee of the Legislature, the Supreme
3 Court, and the Governor a summary of reports and investigations made
4 under the Office of Inspector General of Nebraska Child Welfare Act for
5 the preceding year. The summary provided to the committees ~~committee~~
6 shall be provided electronically. The summaries shall detail
7 recommendations and the status of implementation of recommendations and
8 may also include recommendations to the committees ~~committee~~ regarding
9 issues discovered through investigation, audits, inspections, and reviews
10 by the office that will increase accountability and legislative oversight
11 of the Nebraska child welfare system, improve operations of the
12 department, the juvenile services division, the commission, and the
13 Nebraska child welfare system, or deter and identify fraud, abuse, and
14 illegal acts. Such summary shall include summaries of alternative
15 response cases under alternative response demonstration projects
16 implemented in accordance with sections 28-710.01, 28-712, and 28-712.01
17 reviewed by the Inspector General. The summaries shall not contain any
18 confidential or identifying information concerning the subjects of the
19 reports and investigations.

20 Sec. 23. Original section 29-1926, Reissue Revised Statutes of
21 Nebraska, and sections 43-2,108, 43-3001, 43-4301, 43-4302, 43-4303,
22 43-4304, 43-4316, 43-4318, 43-4320, 43-4321, 43-4324, 43-4325, 43-4326,
23 43-4327, 43-4328, 43-4330, and 43-4331, Revised Statutes Cumulative
24 Supplement, 2014, are repealed.

25 2. On page 1, strike beginning with "the" in line 1 through line 8
26 and insert "juveniles and child welfare; to amend section 29-1926,
27 Reissue Revised Statutes of Nebraska, and sections 43-2,108, 43-3001,
28 43-4301, 43-4302, 43-4303, 43-4304, 43-4316, 43-4318, 43-4320, 43-4321,
29 43-4324, 43-4325, 43-4326, 43-4327, 43-4328, 43-4330, and 43-4331,
30 Revised Statutes Cumulative Supplement, 2014; to change provisions
31 relating to certain videotape depositions, dissemination of confidential

1 record information, and court-ordered access to confidential information
2 as prescribed; to change provisions relating to investigations,
3 complaints, access to and disclosure of certain information, and reports
4 under the Office of Inspector General of Nebraska Child Welfare Act; to
5 authorize investigations and reviews of juvenile justice services; to
6 define and redefine terms; to harmonize provisions; and to repeal the
7 original sections."