

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 292

Introduced by Coash, 27.

Read first time January 15, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Child Protection and Family Safety Act;
- 2 to amend sections 28-713.01, 28-720, 28-720.01, and 28-721, Revised
- 3 Statutes Cumulative Supplement, 2014; to change provisions relating
- 4 to the central registry of child protection cases; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-713.01, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 28-713.01 (1) Upon completion of the investigation pursuant to
4 section 28-713:

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

11 (b) The subject of the report of child abuse or neglect shall be
12 given written notice of the determination of the case and whether the
13 subject of the report of child abuse or neglect will be entered into the
14 central registry of child protection cases maintained pursuant to section
15 28-718 under the criteria provided in section 28-720.

16 (2) If the subject of the report will be entered into the central
17 registry, the notice to the subject shall be sent by certified mail with
18 return receipt requested or first-class mail to the last-known address of
19 the subject of the report of child abuse or neglect and shall include:

20 (a) The nature of the report;

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

22 (c) Notification of the right of the subject of the report of child
23 abuse or neglect to request the department to amend or expunge
24 identifying information from the report or to remove the substantiated
25 report from the central registry in accordance with section 28-723; and -

26 (d) If the subject of the report of child abuse or neglect is a
27 minor child who is twelve years of age or older but younger than nineteen
28 years of age:

29 (i) Notification of the mandatory expungement hearing to be held
30 according to section 28-721, a waiver form to waive the hearing, and an
31 explanation of the hearing process;

1 (ii) An explanation of the implications of being entered in the
2 central registry as a subject;

3 (iii) Notification of any other procedures determined appropriate in
4 rules and regulations adopted and promulgated by the department; and

5 (iv) Provision of a copy of all notice materials required to be
6 provided to the subject under this subsection to the minor child's
7 attorney of record, parent or guardian, and guardian ad litem, if
8 applicable.

9 (3) If the subject of the report will not be entered into the
10 central registry, the notice to the subject shall be sent by first-class
11 mail and shall include:

12 (a) The nature of the report; and

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

14 Sec. 2. Section 28-720, Revised Statutes Cumulative Supplement,
15 2014, is amended to read:

16 28-720 (1) All cases entered into the central registry of child
17 protection cases maintained pursuant to section 28-718 shall be
18 classified as one of the following:

19 (a 1) Court substantiated, if a court of competent jurisdiction has
20 entered a judgment of guilty against the subject of the report of child
21 abuse or neglect upon a criminal complaint, indictment, or information or
22 there has been an adjudication of jurisdiction of a juvenile court over
23 the child under subdivision (3)(a) of section 43-247 which relates or
24 pertains to the report of child abuse or neglect;

25 (b 2) Court pending, if a criminal complaint, indictment, or
26 information or a juvenile petition under subdivision (3)(a) of section
27 43-247, which relates or pertains to the subject of the report of abuse
28 or neglect, has been filed and is pending in a court of competent
29 jurisdiction; or

30 (c 3) Agency substantiated, if the department's determination of
31 child abuse or neglect against the subject of the report of child abuse

1 or neglect was supported by a preponderance of the evidence and based
2 upon an investigation pursuant to section 28-712.01 or 28-713.

3 (2) If a case described in subdivision (1)(b) of this section is
4 dismissed by the court or a juvenile petition under subdivision (3)(a) of
5 section 43-247 is redesignated to indicate there is no fault on the part
6 of the parent, guardian, or custodian, the case shall be immediately
7 expunged from the central registry of child protection cases.

8 (3)(a) If the subject of the report of child abuse or neglect is a
9 minor child who is younger than twelve years of age, the case shall not
10 be entered into the central registry of child protection cases.

11 (b) If a juvenile petition is filed under subdivision (3)(a) of
12 section 43-247 indicating that the juvenile is without proper support
13 through no fault of his or her parent, guardian, or custodian, the case
14 shall not be entered into the central registry of child protection cases.

15 (4) If the subject of the report of child abuse or neglect is a
16 minor child who is twelve years of age or older but younger than nineteen
17 years of age, the case shall not be classified as court pending in the
18 central registry of child protection cases.

19 (5) The department shall report annually, on or before September 15,
20 to the Governor and electronically to the chairpersons of the Health and
21 Human Services Committee of the Legislature and the Judiciary Committee
22 of the Legislature the number of cases entered into the central registry
23 of child protection cases in which the subject is a minor child, the ages
24 of such subjects who are children, and the number of such cases
25 classified as court substantiated or agency substantiated.

26 Sec. 3. Section 28-720.01, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 28-720.01 All reports of child abuse or neglect which are not under
29 subdivision (1)(a), (b 2), or (c 3) of section 28-720 shall be considered
30 unfounded and shall be maintained only in the tracking system of child
31 protection cases pursuant to section 28-715 and not in the central

1 registry of child protection cases maintained pursuant to section 28-718.

2 Sec. 4. Section 28-721, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 28-721 (1) At any time, the department may amend, expunge, or
5 remove from the central registry of child protection cases maintained
6 pursuant to section 28-718 any record upon good cause shown and upon
7 notice to the subject of the report of child abuse or neglect.

8 (2)(a) If the subject of the report of child abuse or neglect is a
9 minor child who is twelve years of age or older but younger than nineteen
10 years of age, the subject is entered into the central registry of child
11 protection cases maintained under section 28-718, and the case involving
12 that minor child is classified as court substantiated or agency
13 substantiated as provided in section 28-720, the department shall conduct
14 a mandatory expungement hearing (i) within sixty days after the subject
15 receives the notification required under section 28-713.01 unless the
16 subject returns a signed and notarized waiver form provided under section
17 28-713.01 within thirty days after receipt and (ii) within sixty days
18 after the subject's nineteenth birthday.

19 (b) The department may conduct the mandatory expungement hearing by
20 any means, including by telephone.

21 (c) If a mandatory expungement hearing is held regarding the subject
22 of a report of child abuse or neglect who is a minor child and the
23 subject is entered into the central registry of child protection cases
24 maintained under section 28-718, the subject may make a subsequent
25 request under subsection (1) of this section or section 28-723.

26 Sec. 5. Original sections 28-713.01, 28-720, 28-720.01, and 28-721,
27 Revised Statutes Cumulative Supplement, 2014, are repealed.