

AMENDMENTS TO LB1140

Introduced by Health and Human Services.

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

3 Section 1. (1) Youth rehabilitation and treatment centers shall be
4 operated to provide programming and services to rehabilitate and treat
5 juveniles committed under the Nebraska Juvenile Code. Each youth
6 rehabilitation and treatment center shall be considered a separate
7 placement. Each youth rehabilitation and treatment center shall provide:

8 (a) Safe and sanitary space for sleeping, hygiene, education,
9 programming, treatment, recreation, and visitation for each juvenile;

10 (b) Health care and medical services;

11 (c) Appropriate physical separation and segregation of juveniles
12 based on gender;

13 (d) Sufficient staffing to comply with state and federal law and
14 protect the safety and security of each juvenile;

15 (e) Training that is specific to the population being served at the
16 youth rehabilitation and treatment center;

17 (f) A facility administrator for each youth rehabilitation and
18 treatment center who has the sole responsibility for administration of a
19 single youth rehabilitation and treatment center;

20 (g) An evaluation process for the development of an individualized
21 treatment plan within fourteen days after admission to the youth
22 rehabilitation and treatment center;

23 (h) An age-appropriate and developmentally appropriate education
24 program for each juvenile that can award relevant and necessary credits
25 toward high school graduation that will be accepted by the juvenile's
26 home school district;

27 (i) A case management and coordination process, designed to assure

1 appropriate reintegration of the juvenile with his or her family, school,
2 and community;

3 (j) Compliance with the requirements stated in Title XIX and Title
4 IV-E of the federal Social Security Act, as such act existed on January
5 1, 2020, the Special Education Act, or other funding guidelines as
6 appropriate;

7 (k) Research-based or evidence-based programming for all juveniles
8 that includes a strong academic program and classes in health education,
9 living skills, vocational training, behavior management and modification,
10 money management, family and parent responsibilities, substance use
11 awareness, physical education, job skills training, and job placement
12 assistance; and

13 (l) Research-based or evidence-based treatment service for
14 behavioral impairment, severe emotional disturbance, sex offender
15 behavior, other mental health or psychiatric disorder, drug and alcohol
16 addiction, physical or sexual abuse, and any other treatment indicated by
17 a juvenile's individualized treatment plan.

18 (2) Each youth rehabilitation and treatment center shall
19 electronically submit a report of its activities for the preceding fiscal
20 year to the Clerk of the Legislature on or before July 15 of each year.
21 The annual report shall include, but not be limited to, the following
22 information:

23 (a) Data on the population served, including, but not be limited to,
24 admissions, average daily census, average length of stay, race, and
25 ethnicity;

26 (b) An overview of programming and services; and

27 (c) An overview of any facility issues or facility improvements.

28 Sec. 2. (1) The Department of Health and Human Services shall
29 develop a five-year operations plan for the youth rehabilitation and
30 treatment centers and submit such operations plans electronically to the
31 Health and Human Services Committee of the Legislature on or before

1 November 15, 2020.

2 (2) The operations plan shall be developed with input from key
3 stakeholders and shall include, but not be limited to:

4 (a) A description of the population served at each youth
5 rehabilitation and treatment center;

6 (b) An organizational chart of supervisors and operations staff. The
7 operations plan shall not allow for administrative staff to have
8 oversight over more than one youth rehabilitation and treatment center
9 and shall not allow for clinical staff to have responsibility over more
10 than one youth rehabilitation and treatment center;

11 (c) Staff who shall be centralized offsite or managed onsite,
12 including facility and maintenance staff;

13 (d) A facility plan that considers taxpayer investments already made
14 in the facility and the community support and acceptance of the juveniles
15 in the community surrounding the youth rehabilitation and treatment
16 center;

17 (e) A description of each rehabilitation program offered at the
18 youth rehabilitation and treatment center;

19 (f) A description of each mental health treatment plan offered at
20 the youth rehabilitation and treatment center;

21 (g) A description of reentry and discharge planning;

22 (h) A staffing plan that ensures adequate staffing;

23 (i) An education plan developed in collaboration with the State
24 Department of Education;

25 (j) A capital improvements budget;

26 (k) An operating budget;

27 (l) A disaster recovery plan;

28 (m) A plan to segregate the juveniles by gender on separate
29 campuses;

30 (n) A parenting plan for juveniles placed in a youth rehabilitation
31 and treatment center who are parenting;

1 (o) A statement of the rights of juveniles placed at the youth
2 rehabilitation and treatment centers, including a right to privacy, and
3 the rights of parents or guardians;

4 (p) Quality and outcome measurements for tracking outcomes for
5 juveniles when they are discharged from the youth rehabilitation and
6 treatment center, including an exit survey of such juveniles;

7 (q) Key performance indicators to be included in the annual report
8 required under this section;

9 (r) A requirement for trauma-informed training provided to staff;

10 (s) Methods and procedures for investigations at the youth
11 rehabilitation and treatment center; and

12 (t) A grievance process for juveniles placed at the youth
13 rehabilitation and treatment centers.

14 (3) The department shall submit a report electronically to the Clerk
15 of the Legislature on or before December 15, 2021, and each December 15
16 thereafter regarding such operations plan and key performance indicators.

17 Sec. 3. Section 43-251.01, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 43-251.01 All placements and commitments of juveniles for
20 evaluations or as temporary or final dispositions are subject to the
21 following:

22 (1) No juvenile shall be confined in an adult correctional facility
23 as a disposition of the court;

24 (2) A juvenile who is found to be a juvenile as described in
25 subdivision (3) of section 43-247 shall not be placed in an adult
26 correctional facility, the secure youth confinement facility operated by
27 the Department of Correctional Services, or a youth rehabilitation and
28 treatment center or committed to the Office of Juvenile Services;

29 (3) A juvenile who is found to be a juvenile as described in
30 subdivision (1), (2), or (4) of section 43-247 shall not be assigned or
31 transferred to an adult correctional facility or the secure youth

1 confinement facility operated by the Department of Correctional Services;

2 (4) A juvenile under the age of fourteen years shall not be placed
3 with or committed to a youth rehabilitation and treatment center;

4 (5)(a) Before July 1, 2019, a juvenile shall not be detained in
5 secure detention or placed at a youth rehabilitation and treatment center
6 unless detention or placement of such juvenile is a matter of immediate
7 and urgent necessity for the protection of such juvenile or the person or
8 property of another or if it appears that such juvenile is likely to flee
9 the jurisdiction of the court; and

10 (b) On and after July 1, 2019:

11 (i) A juvenile shall not be detained unless the physical safety of
12 persons in the community would be seriously threatened or detention is
13 necessary to secure the presence of the juvenile at the next hearing, as
14 evidenced by a demonstrable record of willful failure to appear at a
15 scheduled court hearing within the last twelve months;

16 (ii) A child twelve years of age or younger shall not be placed in
17 detention under any circumstances; and

18 (iii) A juvenile shall not be placed into detention:

19 (A) To allow a parent or guardian to avoid his or her legal
20 responsibility;

21 (B) To punish, treat, or rehabilitate such juvenile;

22 (C) To permit more convenient administrative access to such
23 juvenile;

24 (D) To facilitate further interrogation or investigation; or

25 (E) Due to a lack of more appropriate facilities except in case of
26 an emergency as provided in section 8 of this act;

27 (6) A juvenile alleged to be a juvenile as described in subdivision
28 (3) of section 43-247 shall not be placed in a juvenile detention
29 facility, including a wing labeled as staff secure at such facility,
30 unless the designated staff secure portion of the facility fully complies
31 with subdivision (5) of section 83-4,125 and the ingress and egress to

1 the facility are restricted solely through staff supervision; and

2 (7) A juvenile alleged to be a juvenile as described in subdivision
3 (1), (2), (3)(b), or (4) of section 43-247 shall not be placed out of his
4 or her home as a dispositional order of the court unless:

5 (a) All available community-based resources have been exhausted to
6 assist the juvenile and his or her family; and

7 (b) Maintaining the juvenile in the home presents a significant risk
8 of harm to the juvenile or community.

9 Sec. 4. Section 43-401, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 43-401 Sections 43-401 to 43-424 and sections 2, 6 to 8, and 10 of
12 this act shall be known and may be cited as the Health and Human
13 Services, Office of Juvenile Services Act.

14 Sec. 5. Section 43-403, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 43-403 For purposes of the Health and Human Services, Office of
17 Juvenile Services Act:

18 (1) Aftercare means the control, supervision, and care exercised
19 over juveniles who have been paroled;

20 (2) Committed means an order by a court committing a juvenile to the
21 care and custody of the Office of Juvenile Services for treatment;

22 (3) Community supervision means the control, supervision, and care
23 exercised over juveniles committed to the Office of Juvenile Services
24 when a commitment to the level of treatment of a youth rehabilitation and
25 treatment center has not been ordered by the court;

26 (4) Emergency means a situation, including fire, flood, tornado,
27 natural disaster, or damage to a youth rehabilitation and treatment
28 center, that renders the youth rehabilitation and treatment center
29 uninhabitable. Emergency does not include inadequate staffing;

30 (5) (4) Evaluation means assessment of the juvenile's social,
31 physical, psychological, and educational development and needs, including

1 a recommendation as to an appropriate treatment plan;

2 ~~(6)~~ ~~(5)~~ Parole means a conditional release of a juvenile from a
3 youth rehabilitation and treatment center to aftercare or transferred to
4 Nebraska for parole supervision by way of interstate compact;

5 ~~(7)~~ ~~(6)~~ Placed for evaluation means a placement with the Office of
6 Juvenile Services or the Department of Health and Human Services for
7 purposes of an evaluation of the juvenile; and

8 ~~(8)~~ ~~(7)~~ Treatment means type of supervision, care, confinement, and
9 rehabilitative services for the juvenile.

10 Sec. 6. (1) The Department of Health and Human Services shall
11 develop an emergency plan for the Youth Rehabilitation and Treatment
12 Center-Geneva, the Youth Rehabilitation and Treatment Center-Kearney, and
13 any other facility being used as a youth rehabilitation and treatment
14 center and operating under state law.

15 (2) Each emergency plan shall:

16 (a) Identify and designate temporary placement facilities for the
17 placement of juveniles in the event a youth rehabilitation and treatment
18 center must be evacuated due to an emergency as defined in section
19 43-403. The administrator of a proposed temporary placement facility
20 shall consent to be designated as a temporary placement facility in the
21 emergency plan. A criminal detention facility or a juvenile detention
22 facility shall only be designated as a temporary placement facility
23 pursuant to section 8 of this act;

24 (b) Identify barriers to implementation of an effective emergency
25 plan, including necessary administrative or legislative changes;

26 (c) Include procedures for the Office of Juvenile Services to
27 provide reliable, effective, and timely notification that an emergency
28 plan is to be implemented to:

29 (i) Staff at the youth rehabilitation and treatment center where the
30 emergency plan is implemented and the administrator and staff at the
31 temporary placement facility;

1 (ii) Juveniles placed at the youth rehabilitation and treatment
2 center;

3 (iii) Families and legal guardians of juveniles placed at the youth
4 rehabilitation and treatment center;

5 (iv) The State Court Administrator, in a form and manner prescribed
6 by the State Court Administrator;

7 (v) The committing court of each juvenile placed at the youth
8 rehabilitation and treatment center;

9 (vi) The chairperson of the Health and Human Services Committee of
10 the Legislature; and

11 (vii) The office of Public Counsel and the office of Inspector
12 General of Nebraska Child Welfare;

13 (d) Detail the plan for transportation of juveniles to a temporary
14 placement facility; and

15 (e) Include methods and schedules for implementing the emergency
16 plan.

17 (3) Each emergency plan shall be developed on or before October 15,
18 2020.

19 Sec. 7. (1) The Department of Health and Human Services shall
20 ensure that the administrator of each temporary placement facility
21 described in an emergency plan required under section 6 of this act
22 consents to the temporary placement of juveniles placed in such facility
23 pursuant to the emergency plan. Prior to inclusion in an emergency plan
24 as a temporary placement facility, the department and the administrator
25 of the temporary placement facility shall agree on a cost-reimbursement
26 plan for the temporary placement of juveniles at such facility.

27 (2) If an emergency plan required under section 6 of this act is
28 implemented, the Office of Juvenile Services shall, at least twenty-four
29 hours prior to implementation, if practical, and otherwise within twenty-
30 four hours after implementation of such emergency plan, notify the
31 persons and entities listed in subdivision (2)(c) of section 6 of this

1 act.

2 Sec. 8. In the event of an emergency and only after all other
3 temporary placement options have been exhausted, the Office of Juvenile
4 Services may provide for the placement of a juvenile for a period not to
5 exceed seven days at a criminal detention facility, if allowed by law, or
6 a juvenile detention facility, as such terms are defined in section
7 83-4,125.

8 Sec. 9. (1) The Department of Health and Human Services shall
9 contract for the completion of a needs assessment and cost analysis for
10 the establishment of an inpatient adolescent psychiatric unit housed
11 within the Lincoln Regional Center. The department shall contract with an
12 outside consultant with expertise in needs assessment and cost analysis
13 of health care facilities within sixty days after the operative date of
14 this section for the purpose of conducting such assessment and analysis.

15 (2) The department shall submit a report electronically to the
16 Health and Human Service Committee of the Legislature and the Clerk of
17 the Legislature on or before October 15, 2020. Such report shall contain
18 the following information:

19 (a) A needs assessment, including the number of adolescents expected
20 to use such inpatient adolescent psychiatric unit;

21 (b) The cost of opening an existing facility at the Lincoln Regional
22 Center for use as an inpatient adolescent psychiatric unit;

23 (c) The cost of reopening the facility at the Lincoln Regional
24 Center, including the costs for necessary construction, upgrades, or
25 repairs;

26 (d) Annual operating costs of such unit, including, but not limited
27 to, any federal funds available to operate the unit in addition to
28 General Fund appropriations; and

29 (e) Cost savings realized by moving adolescents from out-of-state
30 institutions back to Nebraska for treatment at such unit.

31 (3) For purposes of this section, adolescent means a person under

1 the jurisdiction of the juvenile court.

2 Sec. 10. Policies and procedures of the Department of Health and
3 Human Services regarding the transportation of juveniles placed at the
4 youth rehabilitation and treatment centers shall apply to any private
5 contractor utilized by the Office of Juvenile Services to transport
6 juveniles placed at the youth rehabilitation and treatment centers.

7 Sec. 11. The Revisor of Statutes shall assign sections 1 and 9 of
8 this act to Chapter 83, article 1.

9 Sec. 12. Sections 1, 2, and 10 of this act become operative three
10 calendar months after the adjournment of this legislative session. The
11 other sections of this act become operative on their effective date.

12 Sec. 13. Original sections 43-401 and 43-403, Reissue Revised
13 Statutes of Nebraska, and section 43-251.01, Revised Statutes Cumulative
14 Supplement, 2018, are repealed.

15 Sec. 14. Since an emergency exists, this act takes effect when
16 passed and approved according to law.