

AMENDMENTS TO LB1148
(Amendments to E & R amendments, ER215)

Introduced by Vargas, 7.

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

3 Section 1. Section 28-377, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-377 Except as otherwise provided in sections 28-376 to 28-380, no
6 person, official, or agency shall have access to the records relating to
7 abuse unless in furtherance of purposes directly connected with the
8 administration of the Adult Protective Services Act and section 28-726.
9 Persons, officials, and agencies having access to such records shall
10 include, but not be limited to:

11 (1) A law enforcement agency investigating a report of known or
12 suspected abuse;

13 (2) A county attorney in preparation of an abuse petition;

14 (3) A physician who has before him or her a person whom he or she
15 reasonably suspects may be abused;

16 (4) An agency having the legal responsibility or authorization to
17 care for, treat, or supervise an abused vulnerable adult;

18 (5) Defense counsel in preparation of the defense of a person
19 charged with abuse;

20 (6) Any person engaged in bona fide research or auditing, except
21 that no information identifying the subjects of the report shall be made
22 available to the researcher or auditor. The researcher shall be charged
23 for any costs of such research incurred by the department at a rate
24 established by rules and regulations adopted and promulgated by the
25 department;

26 (7) The designated protection and advocacy system authorized

1 pursuant to the Developmental Disabilities Assistance and Bill of Rights
2 Act, 42 U.S.C. 6000, as the act existed on September 1, 2001, and the
3 Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C.
4 10801, as the act existed on September 1, 2001, acting upon a complaint
5 received from or on behalf of a person with developmental disabilities or
6 mental illness; and

7 (8) ~~The~~ For purposes of licensing providers of child care programs,
8 the department, as required or authorized by state law, federal law,
9 federal regulation, or applicable federal program provisions and in
10 furtherance of its programs.

11 Sec. 2. Section 28-378, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 28-378 The department or appropriate law enforcement agency shall
14 provide requested information to any person legally authorized by
15 sections 28-376 to 28-380 to have access to records relating to abuse
16 when ordered by a court of competent jurisdiction or upon compliance by
17 such person with identification requirements established by rules and
18 regulations of the department or law enforcement agency. Such information
19 shall not include the name and address of the person making the report,
20 except that the department may use the name and address as required or
21 authorized by state law, federal law, federal regulation, or applicable
22 federal program provisions and in furtherance of its programs and the
23 county attorney's office may request and receive the name and address of
24 the person making the report with such person's written consent. The name
25 and other identifying data of any person requesting or receiving
26 information from the registry and the dates and the circumstances under
27 which requests are made or information is released shall be entered in
28 the registry.

29 Sec. 3. Section 28-716, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 28-716 Any person participating in an investigation or the making of

1 a report of child abuse or neglect required by section 28-711 pursuant to
2 or participating in a judicial proceeding resulting therefrom or
3 providing information or assistance, including a medical evaluation or
4 consultation in connection with an investigation, a report, or a judicial
5 proceeding pursuant to a report of child abuse or neglect, shall be
6 immune from any liability, civil or criminal, that might otherwise be
7 incurred or imposed, except for maliciously false statements.

8 Sec. 4. Section 28-719, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 28-719 Upon complying with identification requirements established
11 by regulation of the department, or when ordered by a court of competent
12 jurisdiction, any person legally authorized by section 28-722, 28-726, or
13 28-727 to have access to records relating to child abuse and neglect may
14 request and shall be immediately provided the information requested in
15 accordance with the requirements of the Child Protection and Family
16 Safety Act. Except for such information provided to department personnel
17 and county attorneys, such ~~Such~~ information shall not include the name
18 and address of the person making the report of child abuse or neglect.
19 The names and other identifying data and the dates and the circumstances
20 of any persons requesting or receiving information from the central
21 registry of child protection cases maintained pursuant to section 28-718
22 shall be entered in the central registry record.

23 Sec. 5. Section 28-726, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 28-726 Except as provided in this section and sections 28-722 and
26 81-3126, no person, official, or agency shall have access to information
27 in the tracking system of child protection cases maintained pursuant to
28 section 28-715 or in records in the central registry of child protection
29 cases maintained pursuant to section 28-718 unless in furtherance of
30 purposes directly connected with the administration of the Child
31 Protection and Family Safety Act. Such persons, officials, and agencies

1 having access to such information shall include, but not be limited to:

2 (1) A law enforcement agency investigating a report of known or
3 suspected child abuse or neglect;

4 (2) A county attorney in preparation of a child abuse or neglect
5 petition or termination of parental rights petition;

6 (3) A physician who has before him or her a child whom he or she
7 reasonably suspects may be abused or neglected;

8 (4) An agency having the legal responsibility or authorization to
9 care for, treat, or supervise an abused or neglected child or a parent, a
10 guardian, or other person responsible for the abused or neglected child's
11 welfare who is the subject of the report of child abuse or neglect;

12 (5) Any person engaged in bona fide research or auditing. No
13 information identifying the subjects of the report of child abuse or
14 neglect shall be made available to the researcher or auditor;

15 (6) The Foster Care Review Office and the designated local foster
16 care review board when the information relates to a child in a foster
17 care placement as defined in section 43-1301. The information provided to
18 the office and local board shall not include the name or identity of any
19 person making a report of suspected child abuse or neglect;

20 (7) The designated protection and advocacy system authorized
21 pursuant to the Developmental Disabilities Assistance and Bill of Rights
22 Act of 2000, 42 U.S.C. 15001, as the act existed on January 1, 2005, and
23 the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C.
24 10801, as the act existed on September 1, 2001, acting upon a complaint
25 received from or on behalf of a person with developmental disabilities or
26 mental illness;

27 (8) The person or persons having custody of the abused or neglected
28 child in situations of alleged out-of-home child abuse or neglect;

29 (9) The department, as required or authorized by state law, federal
30 law, federal regulation, or applicable federal program provisions and in
31 furtherance of its ~~For purposes of licensing providers of child care~~

1 ~~programs, the Department of Health and Human Services; and~~

2 (10) A probation officer administering juvenile intake services
3 pursuant to section 29-2260.01, conducting court-ordered predispositional
4 investigations prior to disposition, or supervising a juvenile upon
5 disposition; and -

6 (11) A child advocacy center pursuant to team protocols and in
7 connection with a specific case under review or investigation by a child
8 abuse and neglect investigation team or a child abuse and neglect
9 treatment team convened by a county attorney.

10 Sec. 6. Section 28-728, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 28-728 (1) The Legislature finds that child abuse and neglect are
13 community problems requiring a coordinated response by law enforcement,
14 child advocacy centers, prosecutors, the Department of Health and Human
15 Services, and other agencies or entities designed to protect children. It
16 is the intent of the Legislature to create a child abuse and neglect
17 investigation team in each county or contiguous group of counties and to
18 create a child abuse and neglect treatment team in each county or
19 contiguous group of counties.

20 (2) Each county or contiguous group of counties will be assigned by
21 the Department of Health and Human Services to a child advocacy center.
22 The purpose of a child advocacy center is to provide a child-focused
23 location for conducting forensic interviews and medical evaluations for
24 alleged child victims of abuse and neglect and for coordinating a
25 multidisciplinary team response that supports the physical, emotional,
26 and psychological needs of children who are alleged victims of abuse or
27 neglect. Each child advocacy center shall meet accreditation criteria set
28 forth by the National Children's Alliance. Nothing in this section shall
29 prevent a child from receiving treatment or other services at a child
30 advocacy center which has received or is in the process of receiving
31 accreditation.

1 (3) Each county attorney or the county attorney representing a
2 contiguous group of counties is responsible for convening the child abuse
3 and neglect investigation team and ensuring that protocols are
4 established and implemented. A representative of the child advocacy
5 center assigned to the team shall assist the county attorney in
6 facilitating case review, developing and updating protocols, and
7 arranging training opportunities for the team. Each team must have
8 protocols which, at a minimum, shall include procedures for:

9 (a) Mandatory reporting of child abuse and neglect as outlined in
10 section 28-711 to include training to professionals on identification and
11 reporting of abuse;

12 (b) Assigning roles and responsibilities between law enforcement and
13 the Department of Health and Human Services for the initial response;

14 (c) Outlining how reports will be shared between law enforcement and
15 the Department of Health and Human Services under sections 28-712.01 and
16 28-713;

17 (d) Coordinating the investigative response including, but not
18 limited to:

19 (i) Defining cases that require a priority response;

20 (ii) Contacting the reporting party;

21 (iii) Arranging for a video-recorded forensic interview at a child
22 advocacy center for children who are three to eighteen years of age and
23 are alleged to be victims of sexual abuse or serious physical abuse or
24 neglect, have witnessed a violent crime, are found in a drug-endangered
25 environment, or have been recovered from a kidnapping;

26 (iv) Assessing the need for and arranging, when indicated, a medical
27 evaluation of the alleged child victim;

28 (v) Assessing the need for and arranging, when indicated,
29 appropriate mental health services for the alleged child victim or
30 nonoffender caregiver;

31 (vi) Conducting collateral interviews with other persons with

1 information pertinent to the investigation including other potential
2 victims;

3 (vii) Collecting, processing, and preserving physical evidence
4 including photographing the crime scene as well as any physical injuries
5 as a result of the alleged child abuse and neglect; and

6 (viii) Interviewing the alleged perpetrator;

7 (e) Reducing the risk of harm to alleged child abuse and neglect
8 victims;

9 (f) Ensuring that the child is in safe surroundings, including
10 removing the perpetrator when necessary or arranging for temporary
11 custody of the child when the child is seriously endangered in his or her
12 surroundings and immediate removal appears to be necessary for the
13 child's protection as provided in section 43-248;

14 (g) Sharing of case information between team members; and

15 (h) Outlining what cases will be reviewed by the investigation team
16 including, but not limited to:

17 (i) Cases of sexual abuse, serious physical abuse and neglect, drug-
18 endangered children, and serious or ongoing domestic violence;

19 (ii) Cases determined by the Department of Health and Human Services
20 to be high or very high risk for further maltreatment; and

21 (iii) Any other case referred by a member of the team when a system-
22 response issue has been identified.

23 (4) Each county attorney or the county attorney representing a
24 contiguous group of counties is responsible for convening the child abuse
25 and neglect treatment team and ensuring that protocols are established
26 and implemented. A representative of the child advocacy center appointed
27 to the team shall assist the county attorney in facilitating case review,
28 developing and updating protocols, and arranging training opportunities
29 for the team. Each team must have protocols which, at a minimum, shall
30 include procedures for:

31 (a) Case coordination and assistance, including the location of

1 services available within the area;

2 (b) Case staffings and the coordination, development,
3 implementation, and monitoring of treatment or safety plans particularly
4 in those cases in which ongoing services are provided by the Department
5 of Health and Human Services or a contracted agency but the juvenile
6 court is not involved;

7 (c) Reducing the risk of harm to child abuse and neglect victims;

8 (d) Assisting those child abuse and neglect victims who are abused
9 and neglected by perpetrators who do not reside in their homes; and

10 (e) Working with multiproblem status offenders and delinquent youth.

11 (5) For purposes of sections 28-728 to 28-730 ~~this section~~, forensic
12 interview means a video-recorded interview of an alleged child victim
13 conducted at a child advocacy center by a professional with specialized
14 training designed to elicit details about alleged incidents of abuse or
15 neglect, and such interview may result in intervention in criminal or
16 juvenile court.

17 Sec. 7. Section 28-730, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 28-730 (1) Notwithstanding any other provision of law regarding the
20 confidentiality of records and when not prohibited by the federal Privacy
21 Act of 1974, as amended, juvenile court records and any other pertinent
22 information that may be in the possession of school districts, law
23 enforcement agencies, county attorneys, the Attorney General, the
24 Department of Health and Human Services, child advocacy centers, and
25 other team members concerning a child whose case is being investigated or
26 discussed by a child abuse and neglect investigation team or a child
27 abuse and neglect treatment team shall be shared with the respective team
28 members as part of the discussion and coordination of efforts for
29 investigative or treatment purposes. Upon request by a team, any
30 individual or agency with information or records concerning a particular
31 child shall share all relevant information or records with the team as

1 determined by the team pursuant to the appropriate team protocol. Only a
2 team which has accepted the child's case for investigation or treatment
3 shall be entitled to access to such information.

4 (2) All information acquired by a team member or other individuals
5 pursuant to protocols developed by the team shall be confidential and
6 shall not be disclosed except to the extent necessary to perform case
7 consultations, to carry out a treatment plan or recommendations, or for
8 use in a legal proceeding instituted by a county attorney or the Child
9 Protection Division of the office of the Attorney General. Information,
10 documents, or records otherwise available from the original sources shall
11 not be immune from discovery or use in any civil or criminal action
12 merely because the information, documents, or records were presented
13 during a case consultation if the testimony sought is otherwise
14 permissible and discoverable. Any person who presented information before
15 the team or who is a team member shall not be prevented from testifying
16 as to matters within the person's knowledge.

17 (3) Each team may review any case arising under the Nebraska
18 Criminal Code when a child is a victim or any case arising under the
19 Nebraska Juvenile Code. A member of a team who participates in good faith
20 in team discussion or any person who in good faith cooperates with a team
21 by providing information or records about a child whose case has been
22 accepted for investigation or treatment by a team shall be immune from
23 any civil or criminal liability. The provisions of this subsection or any
24 other section granting or allowing the grant of immunity from liability
25 shall not be extended to any person alleged to have committed an act of
26 child abuse or neglect.

27 (4) A member of a team who publicly discloses information regarding
28 a case consultation in a manner not consistent with sections 28-728 to
29 28-730 shall be guilty of a Class III misdemeanor.

30 (5) A child advocacy center shall maintain the video recording of
31 all forensic interviews conducted at that child advocacy center. Such

1 maintenance shall be in accordance with child abuse and neglect
2 investigation team protocols established pursuant to section 28-728. The
3 recording may be maintained digitally if adequate security measures are
4 in place to ensure no unauthorized access.

5 (6) Information obtained through forensic interviews may be shared
6 with members of child abuse and neglect investigation teams and child
7 abuse and neglect treatment teams.

8 (7) A custodian of a video recording of a forensic interview shall
9 not release or use the video recording or copies of such recording or
10 consent, by commission or omission, to the release or use of the video
11 recording or copies to or by any other party without a court order,
12 notwithstanding any consent or release by the child victim or child
13 witness, except that:

14 (a) The child advocacy center where a forensic interview is
15 conducted may use the video recording for purposes of supervision and
16 peer review required to meet national accreditation standards;

17 (b) Any custodian shall release or consent to the release or use of
18 the video recording upon request to law enforcement agencies authorized
19 to investigate, or agencies authorized to prosecute, any juvenile or
20 criminal conduct described in the forensic interview;

21 (c) Any custodian shall release or consent to the release or use of
22 the video recording upon request pursuant to a request under the Office
23 of Inspector General of Nebraska Child Welfare Act;

24 (d) Any custodian shall provide secure access to view a video
25 recording of a forensic interview upon request by a representative of the
26 Department of Health and Human Services for purposes of classifying cases
27 of child abuse and neglect pursuant to section 28-720 or determining the
28 risk of harm to the child and needed social services of the family
29 pursuant to section 28-713. Such representative shall be subject to the
30 same release and use restrictions as any custodian under this subsection;
31 and

1 (e) Any custodian shall release or consent to the release or use of
2 the video recording pursuant to a court order issued under section
3 29-1912 or 29-1926.

4 Sec. 8. Section 29-1926, Reissue Revised Statutes of Nebraska, is
5 amended to read:

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

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

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

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

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

28 (c) At any time subsequent to the taking of the original video
29 ~~videotape~~ deposition and upon sufficient cause shown, the court shall
30 order the taking of additional video ~~videotape~~ depositions to be admitted
31 at the time of the trial.

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

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

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

19 (g) For purposes of this section, child means a person eleven years
20 of age or younger at the time the motion to take the deposition is made
21 or at the time of the taking of in camera testimony at trial.

22 (h) Nothing in this section shall restrict the court from conducting
23 the pretrial deposition or in camera proceedings in any manner deemed
24 likely to facilitate and preserve a child's testimony to the fullest
25 extent possible, consistent with the right to confrontation guaranteed in
26 the Sixth Amendment of the Constitution of the United States and Article
27 I, section 11, of the Nebraska Constitution. In deciding whether there is
28 a compelling need that child testimony accommodation is required by
29 pretrial video ~~videotape~~ deposition, in camera live testimony, in camera
30 video ~~videotape~~ testimony, or any other accommodation, the court shall
31 make particularized findings on the record of:

- 1 (i) The nature of the offense;
- 2 (ii) The significance of the child's testimony to the case;
- 3 (iii) The likelihood of obtaining the child's testimony without
4 modification of trial procedure or with a different modification
5 involving less substantial digression from trial procedure than the
6 modification under consideration;
- 7 (iv) The child's age;
- 8 (v) The child's psychological maturity and understanding; and
- 9 (vi) The nature, degree, and duration of potential injury to the
10 child from testifying.

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

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

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

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

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

26 (2)(a) No custodian of a video recording ~~videotape~~ of a child victim
27 or child witness alleging, explaining, denying, or describing an act of
28 sexual assault pursuant to section 28-319, 28-319.01, or 28-320.01 or
29 child abuse pursuant to section 28-707 as part of an investigation or
30 evaluation of the abuse or assault shall release or use a video recording
31 ~~videotape~~ or copies of a video recording ~~videotape~~ or consent, by

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

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

18 (c)(i) ~~(c)~~ Pursuant to section 29-1912, the defendant described in
19 the video recording ~~videotape~~ may petition the district court in the
20 county where the alleged offense took place or where the custodian of the
21 video recording ~~videotape~~ resides for an order requiring the custodian of
22 the video recording to provide a physical copy to the defendant or the
23 defendant's attorney. Such order shall include a protective order
24 prohibiting further distribution of the video recording without a court
25 order releasing to the defendant a copy of the videotape.

26 (ii) Upon obtaining the copy of the video recording pursuant to
27 subdivision (2)(c)(i) of this section, the defendant or the defendant's
28 attorney may request that the recording be transcribed by filing a motion
29 with the court identifying the court reporter or transcriber and the
30 address or location where the transcription will occur. Upon receipt of
31 such request, the court shall enter an order authorizing the distribution

1 of a copy of the video recording to such reporter or transcriber and
2 requiring the copy of the video recording be returned by the reporter or
3 transcriber upon completion of the transcription. Such order may include
4 a protective order related to the distribution of the video recording or
5 information contained in the video recording, including an order that
6 identifying information of the child victim or child witness be redacted
7 from the transcript prepared pursuant to this subsection. Upon return of
8 such copy, the defendant or the defendant's attorney shall certify to the
9 court and the parties that such copy has been returned.

10 (iii) After obtaining the copy of the video recording pursuant to
11 subdivision (2)(c)(i) of this section, the defendant or the defendant's
12 attorney may file a motion with the court requesting permission to
13 release such copy to an expert or investigator. If the defendant or the
14 defendant's attorney believes that including the name or identifying
15 information of such expert or investigator will prejudice the defendant,
16 the court shall permit the defendant or the defendant's attorney to
17 include such information in the form of a written statement to be
18 inspected by the court alone. The statement shall be sealed and preserved
19 in the records of the court. Upon granting such motion, the court shall
20 enter an order authorizing the distribution of a copy of the video
21 recording to such expert or investigator and requiring the copy of the
22 video recording be returned by the expert or investigator upon the
23 completion of services of the expert or investigator. The order shall not
24 include the name or identifying information of the expert or
25 investigator. Such order may include a protective order related to the
26 distribution of the video recording or information contained in the video
27 recording. Upon return of such copy, the defendant or the defendant's
28 attorney shall certify to the court and the parties that such copy has
29 been returned. Such certification shall not include the name or
30 identifying information of the expert or the investigator.

31 (d) Any person who releases or uses a video recording videotape

1 except as provided in this section shall be guilty of a Class I
2 misdemeanor.

3 Sec. 9. Section 43-247.02, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 43-247.02 (1) Notwithstanding any other provision of Nebraska law,
6 on and after October 1, 2013, a juvenile court shall not:

7 (a) Place any juvenile adjudicated or pending adjudication under
8 subdivision (1), (2), (3)(b), or (4) of section 43-247 with the
9 Department of Health and Human Services or the Office of Juvenile
10 Services, other than as allowed under subsection (2) or (3) of this
11 section;

12 (b) Commit any juvenile adjudicated or pending adjudication under
13 subdivision (1), (2), (3)(b), or (4) of section 43-247 to the care and
14 custody of the Department of Health and Human Services or the Office of
15 Juvenile Services, other than as allowed under subsection (2) or (3) of
16 this section;

17 (c) Require the Department of Health and Human Services or the
18 Office of Juvenile Services to supervise any juvenile adjudicated or
19 pending adjudication under subdivision (1), (2), (3)(b), or (4) of
20 section 43-247, other than as allowed under subsection (2) or (3) of this
21 section; or

22 (d) Require the Department of Health and Human Services or the
23 Office of Juvenile Services to provide, arrange for, or pay for any
24 services for any juvenile adjudicated or pending adjudication under
25 subdivision (1), (2), (3)(b), or (4) of section 43-247, or for any party
26 to cases under those subdivisions, other than as allowed under subsection
27 (2) or (3) of this section.

28 (2) Notwithstanding any other provision of Nebraska law, on and
29 after July 1, 2013, a juvenile court shall not commit a juvenile to the
30 Office of Juvenile Services for placement at a youth rehabilitation and
31 treatment center except as part of an order of intensive supervised

1 probation under subsection (1) ~~subdivision (1)(b)(ii)~~ of section 43-286.

2 (3) Nothing in this section shall be construed to limit the
3 authority or duties of the Department of Health and Human Services in
4 relation to juveniles adjudicated under subdivision (1), (2), (3)(b), or
5 (4) of section 43-247 who were committed to the care and custody of the
6 Department of Health and Human Services prior to October 1, 2013, to the
7 Office of Juvenile Services for community-based services prior to October
8 1, 2013, or to the Office of Juvenile Services for placement at a youth
9 rehabilitation and treatment center prior to July 1, 2013. The care and
10 custody of such juveniles with the Department of Health and Human
11 Services or the Office of Juvenile Services shall continue in accordance
12 with the Nebraska Juvenile Code and the Juvenile Services Act as such
13 acts existed on January 1, 2013, until:

14 (a) The juvenile reaches the age of majority;

15 (b) The juvenile is no longer under the care and custody of the
16 department pursuant to a court order or for any other reason, a guardian
17 other than the department is appointed for the juvenile, or the juvenile
18 is adopted;

19 (c) The juvenile is discharged pursuant to section 43-412, as such
20 section existed on January 1, 2013; or

21 (d) A juvenile court terminates its jurisdiction of the juvenile.

22 Sec. 10. Section 43-286, Revised Statutes Supplement, 2019, is
23 amended to read:

24 43-286 (1) When any juvenile is adjudicated to be a juvenile
25 described in subdivision (1), (2), or (4) of section 43-247:

26 ~~(a)(i) This subdivision applies until October 1, 2013. The court may~~
27 ~~continue the dispositional portion of the hearing, from time to time upon~~
28 ~~such terms and conditions as the court may prescribe, including an order~~
29 ~~of restitution of any property stolen or damaged or an order requiring~~
30 ~~the juvenile to participate in community service programs, if such order~~
31 ~~is in the interest of the juvenile's reformation or rehabilitation, and,~~

1 subject to the further order of the court, may:

2 (A) Place the juvenile on probation subject to the supervision of a
3 probation officer;

4 (B) Permit the juvenile to remain in his or her own home or be
5 placed in a suitable family home, subject to the supervision of the
6 probation officer; or

7 (C) Cause the juvenile to be placed in a suitable family home or
8 institution, subject to the supervision of the probation officer. If the
9 court has committed the juvenile to the care and custody of the
10 Department of Health and Human Services, the department shall pay the
11 costs of the suitable family home or institution which are not otherwise
12 paid by the juvenile's parents.

13 Under subdivision (1)(a)(i) of this section, upon a determination by
14 the court that there are no parental, private, or other public funds
15 available for the care, custody, and maintenance of a juvenile, the court
16 may order a reasonable sum for the care, custody, and maintenance of the
17 juvenile to be paid out of a fund which shall be appropriated annually by
18 the county where the petition is filed until a suitable provision may be
19 made for the juvenile without such payment.

20 (a) (ii) This subdivision applies beginning October 1, 2013. The
21 court may continue the dispositional portion of the hearing, from time to
22 time upon such terms and conditions as the court may prescribe, including
23 an order of restitution of any property stolen or damaged or an order
24 requiring the juvenile to participate in restorative justice programs or
25 community service programs, if such order is in the interest of the
26 juvenile's reformation or rehabilitation, and, subject to the further
27 order of the court, may:

28 (i) (A) Place the juvenile on probation subject to the supervision
29 of a probation officer; or

30 (ii) (B) Permit the juvenile to remain in his or her own home or be
31 placed in a suitable family home or institution, subject to the

1 supervision of the probation officer;

2 ~~(b)(i) This subdivision applies to all juveniles committed to the~~
3 ~~Office of Juvenile Services prior to July 1, 2013. The court may commit~~
4 ~~such juvenile to the Office of Juvenile Services, but a juvenile under~~
5 ~~the age of fourteen years shall not be placed at the Youth Rehabilitation~~
6 ~~and Treatment Center-Geneva or the Youth Rehabilitation and Treatment~~
7 ~~Center-Kearney unless he or she has violated the terms of probation or~~
8 ~~has committed an additional offense and the court finds that the~~
9 ~~interests of the juvenile and the welfare of the community demand his or~~
10 ~~her commitment. This minimum age provision shall not apply if the act in~~
11 ~~question is murder or manslaughter.~~

12 ~~(ii) This subdivision applies to all juveniles committed to the~~
13 ~~Office of Juvenile Services for placement at a youth rehabilitation and~~
14 ~~treatment center on or after July 1, 2013.~~

15 (b) When it is alleged that the juvenile has exhausted all levels of
16 probation supervision and options for community-based services and
17 section 43-251.01 has been satisfied, a motion for commitment to a youth
18 rehabilitation and treatment center may be filed and proceedings held as
19 follows:

20 (i) ~~(A)~~ The motion shall set forth specific factual allegations that
21 support the motion and a copy of such motion shall be served on all
22 persons required to be served by sections 43-262 to 43-267;~~and~~

23 (ii) The Office of Juvenile Services shall be served with a copy of
24 such motion and shall be a party to the case for all matters related to
25 the juvenile's commitment to, placement with, or discharge from the
26 Office of Juvenile Services; and

27 (iii) ~~(B)~~ The juvenile shall be entitled to a hearing before the
28 court to determine the validity of the allegations. At such hearing the
29 burden is upon the state by a preponderance of the evidence to show that:

30 (A) ~~(I)~~ All levels of probation supervision have been exhausted;

31 (B) ~~(II)~~ All options for community-based services have been

1 exhausted; and

2 (C) ~~(III)~~ Placement at a youth rehabilitation and treatment center
3 is a matter of immediate and urgent necessity for the protection of the
4 juvenile or the person or property of another or if it appears that such
5 juvenile is likely to flee the jurisdiction of the court; -

6 (c) After the hearing, the court may, as a condition of an order of
7 intensive supervised probation, commit such juvenile to the Office of
8 Juvenile Services for placement at a youth rehabilitation and treatment
9 center operated in compliance with state law ~~as a condition of an order~~
10 ~~of intensive supervised probation.~~ Upon commitment by the court to the
11 Office of Juvenile Services, the court shall immediately notify the
12 Office of Juvenile Services of the commitment. Intensive supervised
13 probation for purposes of this subdivision means that the Office of
14 Juvenile Services shall be responsible for the care and custody of the
15 juvenile until the Office of Juvenile Services discharges the juvenile
16 from commitment to the Office of Juvenile Services. Upon discharge of the
17 juvenile, the court shall hold a review hearing on the conditions of
18 probation and enter any order allowed under subdivision (1)(a) of this
19 section; -

20 (d) The Office of Juvenile Services shall notify those required to
21 be served by sections 43-262 to 43-267, all interested parties, and the
22 committing court of the pending discharge of a juvenile from the youth
23 rehabilitation and treatment center sixty days prior to discharge and
24 again in every case not less than thirty days prior to discharge. Upon
25 notice of pending discharge by the Office of Juvenile Services, the court
26 shall set a continued disposition hearing in anticipation of reentry. The
27 Office of Juvenile Services shall work in collaboration with the Office
28 of Probation Administration in developing an individualized reentry plan
29 for the juvenile as provided in section 43-425. The Office of Juvenile
30 Services shall provide a copy of the individualized reentry plan to the
31 juvenile, the juvenile's attorney, and the county attorney or city

1 attorney prior to the continued disposition hearing. At the continued
2 disposition hearing, the court shall review and approve or modify the
3 individualized reentry plan, place the juvenile under probation
4 supervision, and enter any other order allowed by law. No hearing is
5 required if all interested parties stipulate to the individualized
6 reentry plan by signed motion. In such a case, the court shall approve
7 the conditions of probation, approve the individualized reentry plan, and
8 place the juvenile under probation supervision; and -

9 (e) The Office of Juvenile Services is responsible for
10 transportation of the juvenile to and from the youth rehabilitation and
11 treatment center. The Office of Juvenile Services may contract for such
12 services. A plan for a juvenile's transport to return to the community
13 shall be a part of the individualized reentry plan. The Office of
14 Juvenile Services may approve family to provide such transport when
15 specified in the individualized reentry plan. ;-or

16 ~~(c) Beginning July 1, 2013, and until October 1, 2013, the court may~~
17 ~~commit such juvenile to the Office of Juvenile Services for community~~
18 ~~supervision.~~

19 (2) When any juvenile is found by the court to be a juvenile
20 described in subdivision (3)(b) of section 43-247, the court may enter
21 such order as it is empowered to enter under subdivision (1)(a) of this
22 ~~section or until October 1, 2013, enter an order committing or placing~~
23 ~~the juvenile to the care and custody of the Department of Health and~~
24 ~~Human Services.~~

25 (3) When any juvenile is adjudicated to be a juvenile described in
26 subdivision (1), (2), (3)(b), or (4) of section 43-247, the court may
27 order the juvenile to be assessed for referral to participate in a
28 restorative justice program. Factors that the judge may consider for such
29 referral include, but are not limited to: The juvenile's age,
30 intellectual capacity, and living environment; the ages of others who
31 were part of the offense; the age and capacity of the victim; and the

1 nature of the case.

2 (4) When a juvenile is placed on probation and a probation officer
3 has reasonable cause to believe that such juvenile has committed a
4 violation of a condition of his or her probation, the probation officer
5 shall take appropriate measures as provided in section 43-286.01.

6 (5)(a) When a juvenile is placed on probation or under the
7 supervision of the court and it is alleged that the juvenile is again a
8 juvenile described in subdivision (1), (2), (3)(b), or (4) of section
9 43-247, a petition may be filed and the same procedure followed and
10 rights given at a hearing on the original petition. If an adjudication is
11 made that the allegations of the petition are true, the court may make
12 any disposition authorized by this section for such adjudications and the
13 county attorney may file a motion to revoke the juvenile's probation.

14 (b) When a juvenile is placed on probation or under the supervision
15 of the court for conduct under subdivision (1), (2), (3)(b), or (4) of
16 section 43-247 and it is alleged that the juvenile has violated a term of
17 probation or supervision or that the juvenile has violated an order of
18 the court, a motion to revoke probation or supervision or to change the
19 disposition may be filed and proceedings held as follows:

20 (i) The motion shall set forth specific factual allegations of the
21 alleged violations and a copy of such motion shall be served on all
22 persons required to be served by sections 43-262 to 43-267;

23 (ii) The juvenile shall be entitled to a hearing before the court to
24 determine the validity of the allegations. At such hearing the juvenile
25 shall be entitled to those rights relating to counsel provided by section
26 43-272 and those rights relating to detention provided by sections 43-254
27 to 43-256. The juvenile shall also be entitled to speak and present
28 documents, witnesses, or other evidence on his or her own behalf. He or
29 she may confront persons who have given adverse information concerning
30 the alleged violations, may cross-examine such persons, and may show that
31 he or she did not violate the conditions of his or her probation or

1 supervision or an order of the court or, if he or she did, that
2 mitigating circumstances suggest that the violation does not warrant
3 revocation of probation or supervision or a change of disposition. The
4 hearing shall be held within a reasonable time after the juvenile is
5 taken into custody;

6 (iii) The hearing shall be conducted in an informal manner and shall
7 be flexible enough to consider evidence, including letters, affidavits,
8 and other material, that would not be admissible in an adversarial
9 criminal trial;

10 (iv) The juvenile shall not be confined, detained, or otherwise
11 significantly deprived of his or her liberty pursuant to the filing of a
12 motion described in this section unless the requirements of subdivision
13 (5) of section 43-251.01 and section 43-260.01 have been met. In all
14 cases when the requirements of subdivision (5) of section 43-251.01 and
15 section 43-260.01 have been met and the juvenile is confined, detained,
16 or otherwise significantly deprived of his or her liberty as a result of
17 his or her alleged violation of probation, supervision, or a court order,
18 the juvenile shall be given a preliminary hearing. If, as a result of
19 such preliminary hearing, probable cause is found to exist, the juvenile
20 shall be entitled to a hearing before the court in accordance with this
21 subsection;

22 (v) If the juvenile is found by the court to have violated the terms
23 of his or her probation or supervision or an order of the court, the
24 court may modify the terms and conditions of the probation, supervision,
25 or other court order, extend the period of probation, supervision, or
26 other court order, or enter any order of disposition that could have been
27 made at the time the original order was entered; and

28 (vi) In cases when the court revokes probation, supervision, or
29 other court order, it shall enter a written statement as to the evidence
30 relied on and the reasons for revocation.

31 (6) Costs incurred on behalf of a juvenile under this section shall

1 be paid as provided in section 43-290.01.

2 (7) When any juvenile is adjudicated to be a juvenile described in
3 subdivision (4) of section 43-247, the juvenile court shall within thirty
4 days of adjudication transmit to the Director of Motor Vehicles an
5 abstract of the court record of adjudication.

6 Sec. 11. Section 43-2,108.01, Revised Statutes Supplement, 2019, is
7 amended to read:

8 43-2,108.01 (1) Sections 43-2,108.01 to 43-2,108.05 apply only to
9 persons who were under the age of eighteen years when the offense took
10 place and, after being taken into custody, arrested, cited in lieu of
11 arrest, or referred for prosecution without citation, the county attorney
12 or city attorney:

13 (a) Declined to file a juvenile petition or criminal complaint;

14 (b) Offered juvenile pretrial diversion, mediation, or restorative
15 justice to the juvenile under the Nebraska Juvenile Code;

16 (c) Filed a juvenile court petition describing the juvenile as a
17 juvenile described in subdivision (1), (2), (3)(b), or (4) of section
18 43-247;

19 (d) Filed a criminal complaint in county court against the juvenile
20 under state statute or city or village ordinance for misdemeanor or
21 infraction possession of marijuana or misdemeanor or infraction
22 possession of drug paraphernalia;

23 (e) Filed a criminal complaint in county court against the juvenile
24 for any other misdemeanor or infraction under state statute or city or
25 village ordinance, other than for a traffic offense, when all offenses in
26 the case are waiveable offenses; or

27 (f) Filed a criminal complaint in county or district court for a
28 felony offense under state law or a city or village ordinance that was
29 subsequently transferred to juvenile court for ongoing jurisdiction.

30 (2) The changes made by Laws 2019, LB354, to the relief set forth in
31 sections 43-2,108.03 to 43-2,108.05 shall apply to all persons described

1 in this section, as amended by Laws 2019, LB354, and this legislative
2 bill, for offenses occurring prior to, on, or after September 1, 2019.

3 Sec. 12. Section 43-407, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 ~~43-407 (1) This subsection applies to all juveniles committed to~~
6 ~~the Office of Juvenile Services for placement at a youth rehabilitation~~
7 ~~and treatment center prior to July 1, 2013. The Office of Juvenile~~
8 ~~Services shall design and make available programs and treatment services~~
9 ~~through the Youth Rehabilitation and Treatment Center-Kearney and Youth~~
10 ~~Rehabilitation and Treatment Center-Geneva. The programs and treatment~~
11 ~~services shall be based upon the individual or family evaluation process~~
12 ~~and treatment plan. The treatment plan shall be developed within fourteen~~
13 ~~days after admission. If a juvenile placed at the Youth Rehabilitation~~
14 ~~and Treatment Center-Kearney or Youth Rehabilitation and Treatment~~
15 ~~Center-Geneva is assessed as needing inpatient or subacute substance~~
16 ~~abuse or behavioral health residential treatment, the juvenile may be~~
17 ~~transferred to a program or facility if the treatment and security needs~~
18 ~~of the juvenile can be met. The assessment process shall include~~
19 ~~involvement of both private and public sector behavioral health~~
20 ~~providers. The selection of the treatment venue for each juvenile shall~~
21 ~~include individualized case planning and incorporate the goals of the~~
22 ~~juvenile justice system pursuant to section 43-402. Juveniles committed~~
23 ~~to the Youth Rehabilitation and Treatment Center-Kearney or Youth~~
24 ~~Rehabilitation and Treatment Center-Geneva who are transferred to~~
25 ~~alternative settings for treatment remain committed to the Department of~~
26 ~~Health and Human Services and the Office of Juvenile Services until~~
27 ~~discharged from such custody. Programs and treatment services shall~~
28 ~~address:~~

29 ~~(a) Behavioral impairments, severe emotional disturbances, sex~~
30 ~~offender behaviors, and other mental health or psychiatric disorders;~~

31 ~~(b) Drug and alcohol addiction;~~

1 ~~(c) Health and medical needs;~~

2 ~~(d) Education, special education, and related services;~~

3 ~~(e) Individual, group, and family counseling services as appropriate~~
4 ~~with any treatment plan related to subdivisions (a) through (d) of this~~
5 ~~subsection. Services shall also be made available for juveniles who have~~
6 ~~been physically or sexually abused;~~

7 ~~(f) A case management and coordination process, designed to assure~~
8 ~~appropriate reintegration of the juvenile to his or her family, school,~~
9 ~~and community. This process shall follow individualized planning which~~
10 ~~shall begin at intake and evaluation. Structured programming shall be~~
11 ~~scheduled for all juveniles. This programming shall include a strong~~
12 ~~academic program as well as classes in health education, living skills,~~
13 ~~vocational training, behavior management and modification, money~~
14 ~~management, family and parent responsibilities, substance abuse~~
15 ~~awareness, physical education, job skills training, and job placement~~
16 ~~assistance. Participation shall be required of all juveniles if such~~
17 ~~programming is determined to be age and developmentally appropriate. The~~
18 ~~goal of such structured programming shall be to provide the academic and~~
19 ~~life skills necessary for a juvenile to successfully return to his or her~~
20 ~~home and community upon release; and~~

21 ~~(g) The design and delivery of treatment programs through the youth~~
22 ~~rehabilitation and treatment centers as well as any licensing or~~
23 ~~certification requirements, and the office shall follow the requirements~~
24 ~~as stated within Title XIX and Title IV-E of the federal Social Security~~
25 ~~Act, as such act existed on May 25, 2007, the Special Education Act, or~~
26 ~~other funding guidelines as appropriate. It is the intent of the~~
27 ~~Legislature that these funding sources shall be utilized to support~~
28 ~~service needs of eligible juveniles.~~

29 ~~(1) (2) This subsection applies to all juveniles committed to the~~
30 ~~Office of Juvenile Services for placement at a youth rehabilitation and~~
31 ~~treatment center on or after July 1, 2013. The Office of Juvenile~~

1 Services shall design and make available programs and treatment services
2 through youth rehabilitation and treatment centers ~~the Youth~~
3 ~~Rehabilitation and Treatment Center-Kearney and Youth Rehabilitation and~~
4 ~~Treatment Center-Geneva~~. The programs and treatment services shall be
5 based upon the individual or family evaluation process and treatment
6 plan. The treatment plan shall be developed within fourteen days after
7 admission and provided to the committing court and interested parties.
8 The court may, on its own motion or upon the motion of an interested
9 party, set a hearing to review the treatment plan.

10 (2) A juvenile may be committed by a court to the Office of Juvenile
11 Services for placement at a youth rehabilitation and treatment center
12 operated and utilized in compliance with state law pursuant to a hearing
13 described in subdivision (1)(b)(iii) of section 43-286. The office shall
14 not change a juvenile's placement except as provided in this section. If
15 a juvenile placed at a youth rehabilitation and treatment center the
16 ~~Youth Rehabilitation and Treatment Center-Kearney or Youth Rehabilitation~~
17 ~~and Treatment Center-Geneva~~ is assessed as needing inpatient or subacute
18 substance abuse or behavioral health residential treatment, the Office of
19 Juvenile Services may arrange for such treatment to be provided at the
20 Hastings Regional Center or may transition the juvenile to another
21 inpatient or subacute residential treatment facility licensed as a
22 treatment facility in the State of Nebraska and shall provide notice of
23 the change in placement pursuant to subsection (3) of this section.
24 Except in a case requiring emergency admission to an inpatient facility,
25 the juvenile shall not be discharged by the Office of Juvenile Services
26 until the juvenile has been returned to the court for a review of his or
27 her conditions of probation and the juvenile has been transitioned to the
28 clinically appropriate level of care. Programs and treatment services
29 shall address:

30 (a) Behavioral impairments, severe emotional disturbances, sex
31 offender behaviors, and other mental health or psychiatric disorders;

1 (b) Drug and alcohol addiction;

2 (c) Health and medical needs;

3 (d) Education, special education, and related services;

4 (e) Individual, group, and family counseling services as appropriate
5 with any treatment plan related to subdivisions (a) through (d) of this
6 subsection. Services shall also be made available for juveniles who have
7 been physically or sexually abused;

8 (f) A case management and coordination process, designed to assure
9 appropriate reintegration of the juvenile to his or her family, school,
10 and community. This process shall follow individualized planning which
11 shall begin at intake and evaluation. Structured programming shall be
12 scheduled for all juveniles. This programming shall include a strong
13 academic program as well as classes in health education, living skills,
14 vocational training, behavior management and modification, money
15 management, family and parent responsibilities, substance abuse
16 awareness, physical education, job skills training, and job placement
17 assistance. Participation shall be required of all juveniles if such
18 programming is determined to be age and developmentally appropriate. The
19 goal of such structured programming shall be to provide the academic and
20 life skills necessary for a juvenile to successfully return to his or her
21 home and community upon release; and

22 (g) The design and delivery of treatment programs through the youth
23 rehabilitation and treatment centers as well as any licensing or
24 certification requirements, and the office shall follow the requirements
25 as stated within Title XIX and Title IV-E of the federal Social Security
26 Act, as such act existed on January 1, 2013, the Special Education Act,
27 or other funding guidelines as appropriate. It is the intent of the
28 Legislature that these funding sources shall be utilized to support
29 service needs of eligible juveniles.

30 (3) When the Office of Juvenile Services has arranged for treatment
31 of a juvenile as provided in subsection (2) of this section, the office

1 shall file a report and notice of placement change with the court and
2 shall send copies of the notice to all interested parties, including any
3 parent or guardian of the juvenile, at least seven days before the
4 placement of the juvenile is changed from the order of the committing
5 court. The court, on its own motion or upon the filing of an objection to
6 the change by an interested party, may order a hearing to review such
7 change in placement and may order the change be stayed until the
8 completion of the hearing.

9 (4)(a) ~~(3)(a)~~ The Office of Juvenile Services shall begin
10 implementing evidence-based practices, policies, and procedures by
11 January 15, 2016, as determined by the office. Thereafter, on November 1
12 of each year, the office shall electronically submit to the Governor, the
13 Legislature, and the Chief Justice of the Supreme Court, a comprehensive
14 report on its efforts to implement evidence-based practices. ~~The report~~
15 ~~to the Legislature shall be by electronic transmission.~~ The report may be
16 attached to preexisting reporting duties. The report shall include at a
17 minimum:

18 (i) The percentage of juveniles being supervised in accordance with
19 evidence-based practices;

20 (ii) The percentage of state funds expended by each respective
21 department for programs that are evidence-based, and a list of all
22 programs which are evidence-based;

23 (iii) Specification of supervision policies, procedures, programs,
24 and practices that were created, modified, or eliminated; and

25 (iv) Recommendations of the office for any additional collaboration
26 with other state, regional, or local public agencies, private entities,
27 or faith-based and community organizations.

28 (b) Each report and executive summary shall be available to the
29 general public on the web site of the office.

30 (c) The Executive Board of the Legislative Council may request the
31 Consortium for Crime and Justice Research and Juvenile Justice Institute

1 at the University of Nebraska at Omaha to review, study, and make policy
2 recommendations on the reports assigned by the executive board.

3 Sec. 13. Section 43-408, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 ~~43-408 (1)(a) This subsection applies to all juveniles committed to~~
6 ~~the Office of Juvenile Services for placement at a youth rehabilitation~~
7 ~~and treatment center prior to July 1, 2013, and to all juveniles~~
8 ~~committed to the Office of Juvenile Services for community supervision~~
9 ~~prior to October 1, 2013. Whenever any juvenile is committed to the~~
10 ~~Office of Juvenile Services, to any facility operated by the Office of~~
11 ~~Juvenile Services, or to the custody of the Administrator of the Office~~
12 ~~of Juvenile Services, a superintendent of a facility, or an administrator~~
13 ~~of a program, the juvenile is deemed committed to the Office of Juvenile~~
14 ~~Services. Juveniles committed to the Office of Juvenile Services shall~~
15 ~~also be considered committed to the care and custody of the Department of~~
16 ~~Health and Human Services for the purpose of obtaining health care and~~
17 ~~treatment services.~~

18 ~~(b) The committing court shall order the initial level of treatment~~
19 ~~for a juvenile committed to the Office of Juvenile Services. Prior to~~
20 ~~determining the initial level of treatment for a juvenile, the court may~~
21 ~~solicit a recommendation regarding the initial level of treatment from~~
22 ~~the Office of Juvenile Services. Under this subsection, the committing~~
23 ~~court shall not order a specific placement for a juvenile. The court~~
24 ~~shall continue to maintain jurisdiction over any juvenile committed to~~
25 ~~the Office of Juvenile Services until such time that the juvenile is~~
26 ~~discharged from the Office of Juvenile Services. The court shall conduct~~
27 ~~review hearings every six months, or at the request of the juvenile, for~~
28 ~~any juvenile committed to the Office of Juvenile Services who is placed~~
29 ~~outside his or her home, except for a juvenile residing at a youth~~
30 ~~rehabilitation and treatment center. The court shall determine whether an~~
31 ~~out-of-home placement made by the Office of Juvenile Services is in the~~

1 ~~best interests of the juvenile, with due consideration being given by the~~
2 ~~court to public safety. If the court determines that the out-of-home~~
3 ~~placement is not in the best interests of the juvenile, the court may~~
4 ~~order other treatment services for the juvenile.~~

5 ~~(c) After the initial level of treatment is ordered by the~~
6 ~~committing court, the Office of Juvenile Services shall provide treatment~~
7 ~~services which conform to the court's level of treatment determination.~~
8 ~~Within thirty days after making an actual placement, the Office of~~
9 ~~Juvenile Services shall provide the committing court with written~~
10 ~~notification of where the juvenile has been placed. At least once every~~
11 ~~six months thereafter, until the juvenile is discharged from the care and~~
12 ~~custody of the Office of Juvenile Services, the office shall provide the~~
13 ~~committing court with written notification of the juvenile's actual~~
14 ~~placement and the level of treatment that the juvenile is receiving.~~

15 ~~(d) For transfer hearings, the burden of proof to justify the~~
16 ~~transfer is on the Office of Juvenile Services, the standard of proof is~~
17 ~~clear and convincing evidence, and the strict rules of evidence do not~~
18 ~~apply. Transfers of juveniles from one place of treatment to another are~~
19 ~~subject to section 43-251.01 and to the following:~~

20 ~~(i) Except as provided in subdivision (d)(ii) of this subsection, if~~
21 ~~the Office of Juvenile Services proposes to transfer the juvenile from a~~
22 ~~less restrictive to a more restrictive place of treatment, a plan~~
23 ~~outlining the proposed change and the reasons for the proposed change~~
24 ~~shall be presented to the court which committed the juvenile. Such change~~
25 ~~shall occur only after a hearing and a finding by the committing court~~
26 ~~that the change is in the best interests of the juvenile, with due~~
27 ~~consideration being given by the court to public safety. At the hearing,~~
28 ~~the juvenile has the right to be represented by counsel;~~

29 ~~(ii) The Office of Juvenile Services may make an immediate temporary~~
30 ~~change without prior approval by the committing court only if the~~
31 ~~juvenile is in a harmful or dangerous situation, is suffering a medical~~

1 ~~emergency, is exhibiting behavior which warrants temporary removal, or~~
2 ~~has been placed in a non-state-owned facility and such facility has~~
3 ~~requested that the juvenile be removed. Approval of the committing court~~
4 ~~shall be sought within fifteen days of making an immediate temporary~~
5 ~~change, at which time a hearing shall occur before the court. The court~~
6 ~~shall determine whether it is in the best interests of the juvenile to~~
7 ~~remain in the new place of treatment, with due consideration being given~~
8 ~~by the court to public safety. At the hearing, the juvenile has the right~~
9 ~~to be represented by counsel; and~~

10 ~~(iii) If the proposed change seeks to transfer the juvenile from a~~
11 ~~more restrictive to a less restrictive place of treatment or to transfer~~
12 ~~the juvenile from the juvenile's current place of treatment to another~~
13 ~~which has the same level of restriction as the current place of~~
14 ~~treatment, the Office of Juvenile Services shall notify the juvenile, the~~
15 ~~juvenile's parents, custodian, or legal guardian, the committing court,~~
16 ~~the county attorney, the counsel for the juvenile, and the guardian ad~~
17 ~~litem of the proposed change. The juvenile has fifteen days after the~~
18 ~~date of the notice to request an administrative hearing with the Office~~
19 ~~of Juvenile Services, at which time the Office of Juvenile Services shall~~
20 ~~determine whether it is in the best interests of the juvenile for the~~
21 ~~proposed change to occur, with due consideration being given by the~~
22 ~~office to public safety. The juvenile may be represented by counsel at~~
23 ~~the juvenile's own expense. If the juvenile is aggrieved by the~~
24 ~~administrative decision of the Office of Juvenile Services, the juvenile~~
25 ~~may appeal that decision to the committing court within fifteen days~~
26 ~~after the Office of Juvenile Services' decision. At the hearing before~~
27 ~~the committing court, the juvenile has the right to be represented by~~
28 ~~counsel.~~

29 ~~(e) If a juvenile is placed in detention after the initial level of~~
30 ~~treatment is determined by the committing court, the committing court~~
31 ~~shall hold a hearing every fourteen days to review the status of the~~

1 ~~juvenile. Placement of a juvenile in detention shall not be considered as~~
2 ~~a treatment service.~~

3 ~~(f) The committing court's review of a change of place of treatment~~
4 ~~pursuant to this subsection does not apply to parole revocation hearings.~~

5 ~~(1) (2)(a) This subsection applies to all juveniles committed to the~~
6 ~~Office of Juvenile Services for placement at a youth rehabilitation and~~
7 ~~treatment center on or after July 1, 2013. Whenever any juvenile is~~
8 ~~committed to the Office of Juvenile Services, the juvenile shall also be~~
9 ~~considered committed to the care and custody of the Department of Health~~
10 ~~and Human Services for the purpose of obtaining health care and treatment~~
11 ~~services.~~

12 ~~(2) (b) The committing court may ~~shall~~ order placement at a youth~~
13 ~~rehabilitation and treatment center for a juvenile committed to the~~
14 ~~Office of Juvenile Services following a commitment hearing pursuant to~~
15 ~~subdivision (1)(b)(iii) of section 43-286. The court shall continue to~~
16 ~~maintain jurisdiction over any juvenile committed to the Office of~~
17 ~~Juvenile Services, and the office shall provide the court and parties of~~
18 ~~record with the initial treatment plan and monthly updates regarding the~~
19 ~~progress of the juvenile for the purpose of reviewing the juvenile's~~
20 ~~probation upon discharge from the care and custody of the Office of~~
21 ~~Juvenile Services.~~

22 ~~(3) In addition to the hearings set forth in section 43-285, during~~
23 ~~a juvenile's term of commitment, any party may file a motion for~~
24 ~~commitment review to bring the case before the court for consideration of~~
25 ~~the juvenile's commitment to a youth rehabilitation and treatment center.~~
26 ~~A hearing shall be scheduled no later than thirty days after the filing~~
27 ~~of such motion. No later than five days prior to the hearing, the office~~
28 ~~shall provide information to the parties regarding the juvenile's~~
29 ~~individualized treatment plan and progress. A representative of the~~
30 ~~office or facility shall be physically present at the hearing to provide~~
31 ~~information to the court unless the court allows the representative to~~

1 appear telephonically or by video. The juvenile and the juvenile's parent
2 or guardian shall have the right to be physically present at the hearing.
3 The court may enter such orders regarding the juvenile's care and
4 treatment as are necessary and in the best interests of the juvenile,
5 including an order for early discharge from commitment when appropriate.
6 In entering an order for early discharge from commitment to intensive
7 supervised probation in the community, the court shall consider to what
8 extent:

9 (a) The juvenile has completed the goals of the juvenile's
10 individualized treatment plan or received maximum benefit from
11 institutional treatment;

12 (b) The juvenile would benefit from continued services under
13 community supervision;

14 (c) The juvenile can function in a community setting with
15 appropriate supports; and

16 (d) There is reason to believe that the juvenile will not commit
17 further violations of law and will comply with the terms of intensive
18 supervised probation.

19 (4) Each juvenile committed to the Office of Juvenile Services for
20 placement at a youth rehabilitation and treatment center shall also be
21 entitled to an annual review of such commitment and placement for as long
22 as the juvenile remains so committed and placed. At an annual review
23 hearing, the court shall consider the factors described in subsection (3)
24 of this section to assess the juvenile's progress and determine whether
25 commitment remains in the best interests of the juvenile.

26 (5) ~~(e)~~ If a juvenile is placed in detention while awaiting
27 placement at a youth rehabilitation and treatment center and the
28 placement has not occurred within fourteen days, the committing court
29 shall hold a hearing every fourteen days to review the status of the
30 juvenile. Placement of a juvenile in detention shall not be considered a
31 treatment service.

1 Sec. 14. Section 83-108.04, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 ~~83-108.04 (1) In addition to the institutions established by law,~~
4 ~~the Department of Health and Human Services may maintain or use the~~
5 ~~following facilities for the care of children in its legal custody who~~
6 ~~have been adjudged to be as described in subdivision (1), (2), (3)(b), or~~
7 ~~(4) of section 43-247: (a) Receiving homes to be used for the temporary~~
8 ~~care of children; (b) foster homes; (c) residential child caring agencies~~
9 ~~as defined in section 71-1926; and (d) other facilities and services,~~
10 ~~including forestry or conservation camps for the training and treatment~~
11 ~~of children.~~

12 (1) (2) The Department of Health and Human Services also may use
13 other public facilities or contract for the use of private facilities for
14 the care and treatment of children in its legal custody who have been
15 adjudged to be as described in subdivision (3)(a) of section 43-247.
16 Placement of children in private or public facilities not under its
17 jurisdiction shall not terminate the legal custody of the department. No
18 state funds may be paid for care of a child in the home of a parent.

19 (2) For children committed to the Office of Juvenile Services, the
20 Department of Health and Human Services may use other public facilities
21 operated by the Department of Health and Human Services for the care and
22 treatment of such children or may contract for the use of space in
23 another facility operated and utilized as a youth rehabilitation and
24 treatment center in compliance with state law.

25 Sec. 15. Section 83-901, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 83-901 The purpose of sections 49-617, 68-621, 72-249, 72-1302 to
28 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01, 83-108,
29 ~~83-108.04~~, 83-112, 83-135, 83-139, 83-140, 83-144, 83-145, 83-147 to
30 83-150, 83-153 to 83-156, 83-170 to 83-173, 83-186, 83-188, 83-443, and
31 83-901 to 83-916 is to establish an agency of state government for the

1 custody, study, care, discipline, training, and treatment of persons in
2 the correctional and detention institutions and for the study, training,
3 and treatment of persons under the supervision of other correctional
4 services of the state so that they may be prepared for lawful community
5 living. Correctional services shall be so diversified in program and
6 personnel as to facilitate individualization of treatment.

7 Sec. 16. Original sections 28-377, 28-378, 28-716, 28-719, 28-726,
8 28-728, 28-730, 29-1926, 43-247.02, 43-407, 43-408, 83-108.04, and
9 83-901, Reissue Revised Statutes of Nebraska, and sections 43-286 and
10 43-2,108.01, Revised Statutes Supplement, 2019, are repealed.