

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1140

FINAL READING

Introduced by Health and Human Services Committee: Howard, 9,
Chairperson; Arch, 14; Cavanaugh, 6; Hansen, B., 16;
Murman, 38; Walz, 15; Williams, 36.

Read first time January 22, 2020

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to juveniles; to amend sections 43-401 and
2 43-403, Reissue Revised Statutes of Nebraska, and section 43-251.01,
3 Revised Statutes Cumulative Supplement, 2018; to provide
4 requirements for operating a youth rehabilitation and treatment
5 center; to require youth rehabilitation and treatment center
6 operations plans and emergency placement plans from the Department
7 of Health and Human Services under the Health and Human Services,
8 Office of Juvenile Services Act; to authorize a needs assessment and
9 cost analysis for an inpatient adolescent psychiatric unit; to
10 change provisions relating to transportation to youth rehabilitation
11 and treatment centers; to provide a duty for the Revisor of
12 Statutes; to harmonize provisions; to provide operative dates; to
13 repeal the original sections; and to declare an emergency.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Youth rehabilitation and treatment centers shall be
2 operated to provide programming and services to rehabilitate and treat
3 juveniles committed under the Nebraska Juvenile Code. Each youth
4 rehabilitation and treatment center shall be considered a separate
5 placement. Each youth rehabilitation and treatment center shall provide:
6 (a) Safe and sanitary space for sleeping, hygiene, education,
7 programming, treatment, recreation, and visitation for each juvenile;
8 (b) Health care and medical services;
9 (c) Appropriate physical separation and segregation of juveniles
10 based on gender;
11 (d) Sufficient staffing to comply with state and federal law and
12 protect the safety and security of each juvenile;
13 (e) Training that is specific to the population being served at the
14 youth rehabilitation and treatment center;
15 (f) A facility administrator for each youth rehabilitation and
16 treatment center who has the sole responsibility for administration of a
17 single youth rehabilitation and treatment center;
18 (g) An evaluation process for the development of an individualized
19 treatment plan within fourteen days after admission to the youth
20 rehabilitation and treatment center;
21 (h) An age-appropriate and developmentally appropriate education
22 program for each juvenile that can award relevant and necessary credits
23 toward high school graduation that will be accepted by the juvenile's
24 home school district;
25 (i) A case management and coordination process, designed to assure
26 appropriate reintegration of the juvenile with his or her family, school,
27 and community;
28 (j) Compliance with the requirements stated in Title XIX and Title
29 IV-E of the federal Social Security Act, as such act existed on January
30 1, 2020, the Special Education Act, or other funding guidelines as
31 appropriate;

1 (k) Research-based or evidence-based programming for all juveniles
2 that includes a strong academic program and classes in health education,
3 living skills, vocational training, behavior management and modification,
4 money management, family and parent responsibilities, substance use
5 awareness, physical education, job skills training, and job placement
6 assistance; and

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

12 (2) Each youth rehabilitation and treatment center shall be
13 accredited by a nationally recognized entity that provides accreditation
14 for juvenile facilities.

15 (3) Each youth rehabilitation and treatment center shall
16 electronically submit a report of its activities for the preceding fiscal
17 year to the Clerk of the Legislature on or before July 15 of each year
18 beginning on July 15, 2021. The annual report shall include, but not be
19 limited to, the following information:

20 (a) Data on the population served, including, but not limited to,
21 admissions, average daily census, average length of stay, race, and
22 ethnicity;

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

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

25 Sec. 2. (1) The Department of Health and Human Services shall
26 develop a five-year operations plan for the youth rehabilitation and
27 treatment centers and submit such operations plans electronically to the
28 Health and Human Services Committee of the Legislature on or before March
29 15, 2021.

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

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

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

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

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

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

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

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

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

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

22 (j) A capital improvements budget;

23 (k) An operating budget;

24 (l) A disaster recovery plan;

25 (m) A plan to segregate the juveniles by gender on separate
26 campuses;

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

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

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

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

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

7 (s) Methods and procedures for investigations at the youth
8 rehabilitation and treatment center; and

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

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

14 (4) The department shall not establish a new youth rehabilitation
15 and treatment center or establish or move a youth rehabilitation and
16 treatment center to a new or existing state or private facility until
17 March 30, 2021, after the completion of the planning process required
18 under this section. Youth committed to the Office of Juvenile Services
19 and residing at a youth rehabilitation and treatment center may be moved
20 to an existing state or private facility on a temporary basis in the
21 event of an emergency, pursuant to the emergency plans created under
22 section 6 of this act, and in compliance with the requirements and
23 restrictions in sections 7 and 8 of this act.

24 Sec. 3. Section 43-251.01, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 43-251.01 All placements and commitments of juveniles for
27 evaluations or as temporary or final dispositions are subject to the
28 following:

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

31 (2) A juvenile who is found to be a juvenile as described in

1 subdivision (3) of section 43-247 shall not be placed in an adult
2 correctional facility, the secure youth confinement facility operated by
3 the Department of Correctional Services, or a youth rehabilitation and
4 treatment center or committed to the Office of Juvenile Services;

5 (3) A juvenile who is found to be a juvenile as described in
6 subdivision (1), (2), or (4) of section 43-247 shall not be assigned or
7 transferred to an adult correctional facility or the secure youth
8 confinement facility operated by the Department of Correctional Services;

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

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

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

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

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

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

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

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

29 (C) To permit more convenient administrative access to such
30 juvenile;

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

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

3 (6) A juvenile alleged to be a juvenile as described in subdivision
4 (3) of section 43-247 shall not be placed in a juvenile detention
5 facility, including a wing labeled as staff secure at such facility,
6 unless the designated staff secure portion of the facility fully complies
7 with subdivision (5) of section 83-4,125 and the ingress and egress to
8 the facility are restricted solely through staff supervision; and

9 (7) A juvenile alleged to be a juvenile as described in subdivision
10 (1), (2), (3)(b), or (4) of section 43-247 shall not be placed out of his
11 or her home as a dispositional order of the court unless:

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

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

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

18 43-401 Sections 43-401 to 43-424 and sections 2, 6 to 8, and 10 of
19 this act shall be known and may be cited as the Health and Human
20 Services, Office of Juvenile Services Act.

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

23 43-403 For purposes of the Health and Human Services, Office of
24 Juvenile Services Act:

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

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

29 (3) Community supervision means the control, supervision, and care
30 exercised over juveniles committed to the Office of Juvenile Services
31 when a commitment to the level of treatment of a youth rehabilitation and

1 treatment center has not been ordered by the court;

2 (4) Emergency means a public health emergency or a situation,
3 including fire, flood, tornado, natural disaster, or damage to a youth
4 rehabilitation and treatment center, that renders the youth
5 rehabilitation and treatment center uninhabitable. Emergency does not
6 include inadequate staffing;

7 (5) (4) Evaluation means assessment of the juvenile's social,
8 physical, psychological, and educational development and needs, including
9 a recommendation as to an appropriate treatment plan;

10 (6) (5) Parole means a conditional release of a juvenile from a
11 youth rehabilitation and treatment center to aftercare or transferred to
12 Nebraska for parole supervision by way of interstate compact;

13 (7) (6) Placed for evaluation means a placement with the Office of
14 Juvenile Services or the Department of Health and Human Services for
15 purposes of an evaluation of the juvenile; and

16 (8) (7) Treatment means type of supervision, care, confinement, and
17 rehabilitative services for the juvenile.

18 Sec. 6. (1) The Department of Health and Human Services shall
19 develop an emergency plan for the Youth Rehabilitation and Treatment
20 Center-Geneva, the Youth Rehabilitation and Treatment Center-Kearney, and
21 any other facility operated and utilized as a youth rehabilitation and
22 treatment center in compliance with state law.

23 (2) Each emergency plan shall:

24 (a) Identify and designate temporary placement facilities for the
25 placement of juveniles in the event a youth rehabilitation and treatment
26 center must be evacuated due to an emergency as defined in section
27 43-403. The administrator of a proposed temporary placement facility
28 shall consent to be designated as a temporary placement facility in the
29 emergency plan. A criminal detention facility or a juvenile detention
30 facility shall only be designated as a temporary placement facility
31 pursuant to section 8 of this act;

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

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

6 (i) Staff at the youth rehabilitation and treatment center where the
7 emergency plan is implemented and the administrator and staff at the
8 temporary placement facility;

9 (ii) Juveniles placed at the youth rehabilitation and treatment
10 center;

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

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

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

17 (vi) The chairperson of the Health and Human Services Committee of
18 the Legislature; and

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

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

23 (e) Include methods and schedules for implementing the emergency
24 plan.

25 (3) Each emergency plan shall be developed on or before December 15,
26 2020.

27 Sec. 7. (1) The Department of Health and Human Services shall
28 ensure that the administrator of each temporary placement facility
29 described in an emergency plan required under section 6 of this act
30 consents to the temporary placement of juveniles placed in such facility
31 pursuant to the emergency plan. Prior to inclusion in an emergency plan

1 as a temporary placement facility, the department and the administrator
2 of the temporary placement facility shall agree on a cost-reimbursement
3 plan for the temporary placement of juveniles at such facility.

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

10 Sec. 8. In the event of an emergency and only after all other
11 temporary placement options have been exhausted, the Office of Juvenile
12 Services may provide for the placement of a juvenile for a period not to
13 exceed seven days at a criminal detention facility, if allowed by law, or
14 a juvenile detention facility, as such terms are defined in section
15 83-4,125.

16 Sec. 9. (1) The Department of Health and Human Services may conduct
17 a needs assessment and cost analysis for the establishment of an
18 inpatient adolescent psychiatric unit housed within the Lincoln Regional
19 Center. If the department chooses to conduct such needs assessment and
20 cost analysis, the department shall contract with an outside consultant
21 with expertise in needs assessment and cost analysis of health care
22 facilities for the purpose of conducting such assessment and analysis.

23 (2) If a needs assessment and cost analysis is conducted by the
24 department, the department shall submit a report electronically to the
25 Health and Human Services Committee of the Legislature and the Clerk of
26 the Legislature ninety days after the completion of such needs assessment
27 and cost analysis. Such report shall contain the following information:

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

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

1 (c) The cost of reopening the facility at the Lincoln Regional
2 Center, including the costs for necessary construction, upgrades, or
3 repairs;

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

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

9 (3) For purposes of this section, adolescent means a person under
10 the jurisdiction of the juvenile court.

11 Sec. 10. Policies and procedures of the Department of Health and
12 Human Services regarding the transportation of juveniles placed at the
13 youth rehabilitation and treatment centers shall apply to any private
14 contractor utilized by the Office of Juvenile Services to transport
15 juveniles placed at the youth rehabilitation and treatment centers.

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

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

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

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