

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1142

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 the Department of Health and Human
2 Services; to amend sections 43-401 and 43-403, Reissue Revised
3 Statutes of Nebraska, and section 43-251.01, Revised Statutes
4 Cumulative Supplement, 2018; to define a term; to change provisions
5 relating to the Office of Juvenile Services; to harmonize
6 provisions; to provide for youth rehabilitation and treatment center
7 emergency plans; to repeal the original sections; and to declare an
8 emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-251.01, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 43-251.01 All placements and commitments of juveniles for
4 evaluations or as temporary or final dispositions are subject to the
5 following:

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

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

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

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

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

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

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

31 (ii) A child twelve years of age or younger shall not be placed in

1 detention under any circumstances; and

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

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

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

6 (C) To permit more convenient administrative access to such
7 juvenile;

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

9 (E) Due to a lack of more appropriate facilities, except in case of
10 an emergency as defined in section 43-403 and as provided in section 4 of
11 this act;

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

18 (7) A juvenile alleged to be a juvenile as described in subdivision
19 (1), (2), (3)(b), or (4) of section 43-247 shall not be placed out of his
20 or her home as a dispositional order of the court unless:

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

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

25 Sec. 2. Section 43-401, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 43-401 Sections 43-401 to 43-424 and sections 4 and 5 of this act
28 shall be known and may be cited as the Health and Human Services, Office
29 of Juvenile Services Act.

30 Sec. 3. Section 43-403, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 43-403 For purposes of the Health and Human Services, Office of
2 Juvenile Services Act:

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

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

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

11 (4) Emergency means a situation including fire, flood, tornado,
12 natural disaster, or damage to the facilities that renders such
13 facilities uninhabitable. Emergency does not include inadequate staffing;

14 (5) ~~(4)~~ Evaluation means assessment of the juvenile's social,
15 physical, psychological, and educational development and needs, including
16 a recommendation as to an appropriate treatment plan;

17 (6) ~~(5)~~ Parole means a conditional release of a juvenile from a
18 youth rehabilitation and treatment center to aftercare or transferred to
19 Nebraska for parole supervision by way of interstate compact;

20 (7) ~~(6)~~ Placed for evaluation means a placement with the Office of
21 Juvenile Services or the Department of Health and Human Services for
22 purposes of an evaluation of the juvenile; and

23 (8) ~~(7)~~ Treatment means type of supervision, care, confinement, and
24 rehabilitative services for the juvenile.

25 Sec. 4. (1) Notwithstanding section 43-251.01, in the event of an
26 emergency, the Office of Juvenile Services may provide for the placement
27 of a juvenile at a detention facility for a period not to exceed seven
28 days.

29 (2) If an emergency plan required under section 5 of this act is
30 implemented, the Office of Juvenile Services shall notify staff at the
31 youth rehabilitation and treatment center, juveniles placed at the youth

1 rehabilitation and treatment center, families and legal guardians of
2 juveniles placed at the youth rehabilitation and treatment center, the
3 State Court Administrator, the committing court of each juvenile placed
4 at the youth rehabilitation and treatment center, the chairperson of the
5 Health and Human Services Committee of the Legislature, and the office of
6 Public Counsel and the Inspector General of Nebraska Child Welfare, at
7 least twenty-four hours prior to implementation, if practical, and within
8 twenty-four hours of implementation of such emergency plan.

9 Sec. 5. (1) The Department of Health and Human Services shall
10 develop an emergency plan for the Youth Rehabilitation and Treatment
11 Center-Geneva, the Youth Rehabilitation and Treatment Center-Kearney, and
12 any other facility being used as a youth rehabilitation and treatment
13 center in the event of an emergency.

14 (2) Each emergency plan shall:

15 (a) Identify and designate alternate placement facilities for the
16 placement of juveniles in the event a youth rehabilitation and treatment
17 center must be evacuated;

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

20 (c) Include procedures for providing reliable, effective, and timely
21 notification, by the department that an emergency plan is to be
22 implemented to:

23 (i) Staff at the youth rehabilitation and treatment center where the
24 emergency plan is implemented and staff at any alternate placement
25 facility;

26 (ii) Juveniles placed at the youth rehabilitation and treatment
27 center;

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

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

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

3 (vi) The chairperson of the Health and Human Services Committee of
4 the Legislature; and

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

7 (d) Detail the plan for transportation of juveniles to an alternate
8 placement facility; and

9 (e) Include methods and schedules for implementing the emergency
10 plan.

11 (3) Each emergency plan shall be developed on or before October 15,
12 2020.

13 Sec. 6. Original sections 43-401 and 43-403, Reissue Revised
14 Statutes of Nebraska, and section 43-251.01, Revised Statutes Cumulative
15 Supplement, 2018, are repealed.

16 Sec. 7. Since an emergency exists, this act takes effect when
17 passed and approved according to law.