

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 595

Introduced by Albrecht, 17.

Read first time January 23, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to alternative dispute resolution; to amend
2 sections 25-2901, 25-2902, 25-2903, 25-2904, 25-2905, 25-2906,
3 25-2907, 25-2908, 25-2909, 25-2911, 25-2912, 25-2913, 25-2914,
4 25-2915, 25-2916, 25-2917, 25-2918, 25-2919, 25-2920, 25-2921,
5 25-2943, 33-155, 43-245, 43-246, 43-247.03, 43-247.04, 43-260.06,
6 43-275, 43-276, 43-2,108.01, 43-2,108.02, 43-2,108.03, 43-2,108.04,
7 43-2922, 43-2938, 43-2941, 43-2943, 79-209, and 79-258, Reissue
8 Revised Statutes of Nebraska, and sections 34-112.02, 43-274,
9 43-286, 43-4203, and 79-2104, Revised Statutes Cumulative
10 Supplement, 2018; to rename the Dispute Resolution Act, a council, a
11 director, an office, and a fund; to restate legislative findings; to
12 define and redefine terms; to change provisions relating to the
13 qualifications of the Director of the Office of Restorative Justice
14 and Dispute Resolution, the membership of the Advisory Council on
15 Restorative Justice and Dispute Resolution, and the office's and
16 director's duties; to create the position of Deputy Director for
17 Restorative Justice and provide duties for such deputy; to change
18 provisions relating to approved centers, cases accepted for
19 restorative justice and dispute resolution, and qualifications of
20 mediators and restorative justice facilitators; to provide a
21 privilege for communications made in restorative justice as
22 prescribed; to provide for immunity and reparation plan agreements;
23 to change provisions relating to tolling of statutes of limitations,

1 an annual report, and legislative intent regarding a fund; to
2 provide for restorative justice in juvenile cases as prescribed; to
3 authorize referrals to restorative justice practices or services for
4 compulsory attendance collaborative plans and under the Student
5 Discipline Act; to eliminate obsolete provisions; to harmonize
6 provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-2901, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 25-2901 Sections 25-2901 to 25-2921 and sections 9, 13, 14, and 17
4 of this act shall be known and may be cited as the Restorative Justice
5 and Dispute Resolution Act.

6 Sec. 2. Section 25-2902, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 25-2902 The Legislature finds that:

9 (1) The resolution of certain disputes and offenses can be costly
10 and time consuming in the context of a formal judicial proceeding;

11 (2) Employing restorative justice and mediation to address Mediation
12 of disputes can provide an avenue has a great potential for efficiently
13 reducing the volume of matters which burden the court system in this
14 state;

15 (3) Restorative justice practices and programs can meet the needs of
16 Nebraska's residents by providing forums in which persons may participate
17 in voluntary or court-ordered resolution of juvenile and adult offenses
18 in an informal and less adversarial atmosphere;

19 (4) Employing restorative justice can provide an avenue for repair,
20 healing, accountability, and community safety to address the harm
21 experienced by victims as a result of an offense committed by youth or
22 adult individuals;

23 (5) Restorative justice practices and programs are grounded in a
24 wide body of research and evidence showing individuals who participate in
25 restorative justice practices and programs are less likely to reoffend;

26 (6) ~~(3)~~ Unresolved disputes of those who do not have the resources
27 for formal resolution may be of small social or economic magnitude
28 individually but are collectively of enormous social and economic
29 consequences;

30 (7) ~~(4)~~ Many seemingly minor conflicts between individuals may
31 escalate into major social problems unless resolved early in an

1 atmosphere in which the persons involved ~~disputants~~ can discuss the
2 dispute or offense ~~their differences~~ through a private and informal yet
3 structured process;

4 (8) ~~(5)~~ There is a need in our society to reduce acrimony and
5 improve relationships between people in conflict which has a long-term
6 benefit of a more peaceful community of people;

7 (9) ~~(6)~~ There is a compelling need in a complex society for dispute
8 resolution and restorative justice whereby people can participate in
9 creating comprehensive, lasting, and realistic resolutions to conflicts
10 and offenses;

11 (10) ~~(7)~~ Mediation can increase the public's access ~~of the public~~ to
12 dispute resolution and thereby increase public regard and usage of the
13 legal system; and

14 (11) Office-approved nonprofit ~~(8) Nonprofit~~ dispute resolution
15 centers can make a substantial contribution to the operation and
16 maintenance of the courts of this state by preserving the court's scarce
17 resources for those disputes and offenses which cannot be resolved by
18 means other than litigation.

19 Sec. 3. Section 25-2903, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 25-2903 For purposes of the Restorative Justice and Dispute
22 Resolution Act:

23 (1) Approved center means ~~shall mean~~ a center that has applied for
24 and received approval from the director under section 25-2909;

25 (2) Center means ~~shall mean~~ a nonprofit organization or a court-
26 established program which makes dispute resolution procedures and
27 restorative justice services available;

28 (3) Council means ~~shall mean~~ the Advisory Council on Restorative
29 Justice and Dispute Resolution;

30 (4) Deputy director means the Deputy Director for Restorative
31 Justice;

1 (5) (4) Director means shall mean the Director of the Office of
2 Restorative Justice and Dispute Resolution;

3 (6) (5) Dispute resolution process means shall mean a process by
4 which the parties involved in a dispute voluntarily agree to enter into
5 informal discussion and negotiation with the assistance of a mediator;

6 (7) (6) Mediation means shall mean the intervention into a dispute
7 by a third party who has no decisionmaking authority and is impartial to
8 the issues being discussed;

9 (8) (7) Mediator means shall mean a person trained in the process of
10 mediation who assists parties in dispute to reach a mutually acceptable
11 resolution of their conflict; ~~and~~

12 (9) (8) Office means shall mean the Office of Restorative Justice
13 and Dispute Resolution; -

14 (10) Restorative justice facilitator means a person trained to
15 facilitate restorative justice practices; and

16 (11) Restorative justice means practices, programs, or services
17 described in section 13 of this act that emphasize repairing the harm
18 caused to victims and the community by persons who have caused the harm
19 or committed an offense.

20 Sec. 4. Section 25-2904, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 25-2904 The Office of Restorative Justice and Dispute Resolution is
23 hereby established in the office of the State Court Administrator. The
24 director of the office shall be hired by the Supreme Court. The director
25 may but need not be an attorney and shall be hired on the basis of his or
26 her training and experience in mediation, restorative justice, and
27 dispute resolution. The director shall administer the Restorative Justice
28 and Dispute Resolution Act and shall serve as staff to the council. The
29 director shall appoint his or her Deputy Director for Restorative
30 Justice.

31 Sec. 5. Section 25-2905, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 25-2905 The Advisory Council on Restorative Justice and Dispute
3 Resolution is hereby created. The council shall be comprised of
4 individuals from a variety of disciplines who are trained and
5 knowledgeable in mediation, restorative justice, and dispute resolution
6 and selected to be representative of the geographical and cultural
7 diversity of the state and to reflect gender fairness. The council shall
8 consist of fifteen ~~eleven~~ voting members. The membership shall include a
9 district court judge, county court judge, and juvenile court judge and a
10 representative from the Office of Probation, the Nebraska Bar
11 Association, and the Nebraska County Attorneys Association ~~a~~
12 ~~representative from the Nebraska District Court Judges Association, the~~
13 ~~Nebraska County Court Judges Association, and the Nebraska State Bar~~
14 ~~Association. The council shall be appointed by the Supreme Court or a~~
15 ~~designee. Nominations for the remaining members may shall~~ be solicited
16 from such entities and from ~~the Nebraska District Court Judges~~
17 ~~Association, the Nebraska County Court Judges Association, the Nebraska~~
18 ~~State Bar Association, the Nebraska Mediation Association Coalition, the~~
19 Public Counsel, social workers, mental health professionals, diversion
20 program administrators, educators, law enforcement entities, crime victim
21 advocates, and former participants in restorative justice programs and
22 related fields. The council shall be appointed by the Supreme Court or
23 its designee and other interested groups or individuals. The Supreme
24 Court or its designee shall not be restricted to the solicited list of
25 nominees in making its appointments. Two nonvoting, ex officio members
26 shall be appointed by the council from among the approved centers.

27 Sec. 6. Section 25-2906, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 25-2906 The initial members of the council and the new members
30 required by this legislative bill shall be appointed for terms of one,
31 two, or three years. All subsequent appointments shall be made for terms

1 of three years. Any vacancy on the council shall be filled in the same
2 manner in which the original appointment was made and shall last for the
3 duration of the term vacated. Appointments to the council required by
4 this legislative bill shall be made within ninety days after the
5 effective date of this act ~~September 6, 1991~~. The council shall select a
6 chairperson, a vice-chairperson, and such other officers as it deems
7 necessary.

8 Sec. 7. Section 25-2907, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 25-2907 (1) The council shall advise the director on the
11 administration of the Restorative Justice and Dispute Resolution Act.

12 (2) The council shall meet at least four times per year and at other
13 times deemed necessary to perform its functions. Members of the council
14 shall be reimbursed for their actual and necessary expenses as provided
15 in sections 81-1174 to 81-1177.

16 (3) The council may appoint task forces to carry out its work. Task
17 force members shall have knowledge of, responsibility for, or interest in
18 an area related to the duties of the council.

19 Sec. 8. Section 25-2908, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 25-2908 Consistent with the purposes and objectives of the
22 Restorative Justice and Dispute Resolution Act and in consultation with
23 the council, the director shall:

24 ~~(1) Make information on the formation of centers available statewide~~
25 ~~and encourage the formation of centers;~~

26 (1) ~~(2)~~ Approve centers which meet requirements for approval;

27 (2) ~~(3)~~ Develop and supervise a uniform system of reporting and
28 collecting statistical data from approved centers;

29 (3) ~~(4)~~ Develop and supervise a uniform system of evaluating
30 approved centers;

31 (4) ~~(5)~~ Prepare a yearly budget for the implementation of the act

1 and distribute funds to approved centers;

2 ~~(5) (6)~~ Develop and administer guidelines for a sliding scale of
3 fees to be charged by approved centers;

4 ~~(6) (7)~~ Develop, initiate, or approve curricula and initiate
5 training sessions for mediators and staff of approved centers and of
6 courts;

7 ~~(7) (8)~~ Establish volunteer training programs;

8 ~~(8) (9)~~ Promote public awareness of the restorative justice and
9 dispute resolution process;

10 ~~(9) (10)~~ Apply for and receive funds from public and private sources
11 for carrying out the purposes and obligations of the act; ~~and~~

12 ~~(10) (11)~~ Develop and supervise a uniform system to create and
13 maintain a roster of approved centers and victim youth conferencing and
14 other restorative justice facilitators mediators for juvenile offender
15 and victim mediation, as provided in section 43-245, and centers approved
16 under section 25-2909. The roster shall be made available to courts and
17 county attorneys; and -

18 ~~(11)~~ Enhance the sustainability of approved centers.

19 Sec. 9. Consistent with the purposes and objectives of the
20 Restorative Justice and Dispute Resolution Act and in consultation with
21 the council, the deputy director shall:

22 (1) Support approved centers in the implementation of restorative
23 justice programs;

24 (2) Coordinate the development and implementation of new restorative
25 justice programs;

26 (3) Develop and administer a uniform system for reporting and
27 collecting statistical data regarding restorative justice programs from
28 approved centers;

29 (4) Develop and administer a uniform system for evaluating
30 restorative justice programs administered by approved centers;

31 (5) Develop and administer a uniform system for evaluating quality

1 assurance and fidelity to established restorative justice principles;

2 (6) Coordinate software and data management system quality assurance
3 for the office and the approved centers;

4 (7) Coordinate restorative justice training sessions for restorative
5 justice facilitators and staff of approved centers and the courts;

6 (8) Review and provide analyses of state and federal laws and
7 policies and judicial branch policies relating to restorative justice
8 programs for juvenile populations and adult populations;

9 (9) Promote public awareness of the restorative justice and dispute
10 resolution process under the act; and

11 (10) Seek and identify funds from public and private sources for
12 carrying out new and ongoing restorative justice programs.

13 Sec. 10. Section 25-2909, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 25-2909 (1) The office shall annually award grants to approved
16 centers. It is the intent of the Legislature that centers be established
17 and grants distributed statewide.

18 (2) A center or an entity proposing a center may apply to the office
19 for approval to provide services under ~~participate in the dispute~~
20 ~~resolution process pursuant to the~~ Restorative Justice and Dispute
21 Resolution Act by submitting an application which includes:

22 (a) A strategic plan for the operation of the center;

23 (b) The center's objectives;

24 (c) The areas of population to be served;

25 (d) The administrative organization;

26 (e) Record-keeping procedures;

27 (f) Procedures for intake, for scheduling, and for conducting and
28 terminating restorative justice programs and dispute resolution sessions;

29 (g) Qualifications for mediators and restorative justice
30 facilitators for the center;

31 (h) An annual budget for the center; ~~and~~

1 (i) The results of an audit of the center for a period covering the
2 previous year if the center was in operation for such period; and

3 (j) (i) Proof of 501(c)(3) status under the Internal Revenue Code or
4 proof of establishment by a court.

5 (3) The office may specify additional criteria for approval and for
6 grants as it deems necessary.

7 (4) (3) Annual reports shall be required of each approved center.
8 The reports shall include the number and types of cases handled in the
9 year and a showing of continued compliance with the act. ~~Any programs~~
10 ~~existing on September 6, 1991, shall not be included in the act unless~~
11 ~~they apply and are approved under this section.~~

12 Sec. 11. Section 25-2911, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 25-2911 (1) The following types of cases may be accepted for
15 restorative justice programs and dispute resolution at an approved
16 center:

17 (a) Civil claims and disputes, including, but not limited to,
18 consumer and commercial complaints, disputes between neighbors, disputes
19 between business associates, disputes between landlords and tenants, and
20 disputes within communities;

21 (b) Disputes concerning child custody, parenting time, visitation,
22 or other access and other areas of domestic relations;

23 (c) Juvenile offenses and disputes involving juveniles when
24 appropriate, which shall be determined according to the policies and
25 procedures provided for in section 25-2918; and

26 (d) Disputes involving youth that occur in families, in educational
27 settings, and in the community at large;

28 (e) Adult criminal offenses and disputes involving juvenile, adult,
29 or community victims when appropriate, which shall be determined
30 according to the policies and procedures provided for in section 25-2918;
31 and

1 (f) ~~(d)~~ Contested guardianship and contested conservatorship
2 proceedings.

3 (2) Restorative justice practices at an approved center may be used
4 in addition to any other condition, consequence, or sentence imposed by a
5 court, a probation officer, a diversion program, a school, or another
6 community program.

7 (3) ~~(2)~~ An approved center may accept cases referred by a court, an
8 attorney, a law enforcement officer, a social service agency, a school,
9 or any other interested person or agency or upon the request of the
10 parties involved. A case may be referred prior to the commencement of
11 formal judicial proceedings or may be referred as a pending court case.
12 ~~In order for a referral to be effective, all parties involved must~~
13 ~~consent to such referral.~~ If a court refers a case to an approved center,
14 the center shall provide information to the court as to whether an
15 agreement was reached. If the court requests a copy of the agreement, the
16 center shall provide it.

17 Sec. 12. Section 25-2912, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 25-2912 Before the restorative justice or dispute resolution process
20 begins, an approved center shall provide the parties with a written
21 statement setting forth the procedures to be followed.

22 Sec. 13. Restorative justice practices, restorative justice
23 services, or restorative justice programs include, but are not limited
24 to, victim youth conferences, victim-offender mediation, family group
25 conferences, circles, peer to peer mediation, truancy mediation, victim
26 or community panels, and community conferences. Restorative justice
27 programs may involve restorative projects or classes, facilitated
28 meetings attended voluntarily by the victim, the victim's
29 representatives, or a victim surrogate and the victim's supporters, as
30 well as the youth or adult individual who caused harm and that
31 individual's supporters, whether voluntarily or by court order. These

1 meetings may also include community members, when appropriate. By
2 engaging the parties to the offense or harm in voluntary dialogue,
3 restorative justice provides an opportunity for healing for the victim
4 and the individual who harmed the victim by:

5 (1) Holding the individual who caused harm accountable and providing
6 the individual a platform to accept responsibility and gain empathy for
7 the harm he or she caused to the victim and community;

8 (2) Providing the victim a platform to describe the impact that the
9 harm had upon himself or herself or family and to identify detriments
10 experienced or any losses incurred;

11 (3) Providing the opportunity to enter into a reparation plan
12 agreement; and

13 (4) Enabling the victim and the individual who caused harm the
14 opportunity to agree on consequences to repair the harm, to the extent
15 possible. This includes, but is not limited to, apologies, community
16 service, reparation, restitution, restoration, and counseling.

17 Sec. 14. The office and the approved centers shall strive to
18 conduct restorative justice programs in accordance with best practices,
19 including evidence-based programs, and shall adopt policies and
20 procedures to accomplish this goal.

21 Sec. 15. Section 25-2913, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 25-2913 (1) Mediators and restorative justice facilitators of
24 approved centers shall have completed at least thirty hours of basic
25 mediation training, including in conflict resolution techniques,
26 neutrality, agreement writing, and ethics. For disputes involving marital
27 dissolution, mediators of approved centers shall have an additional
28 thirty hours in family mediation. An initial apprenticeship with an
29 experienced mediator shall be required for at least three sessions for
30 all mediators without prior mediation experience.

31 (2) In addition to the basic mediation training required under

1 subsection (1) of this section:

2 (a) For disputes involving marital dissolution, parenting, or child
3 custody, mediators of approved centers shall have an additional thirty
4 hours in family mediation; and

5 (b) For disputes involving harm done to others or the community,
6 restorative justice facilitators of approved centers shall have an
7 additional sixteen hours of restorative justice training that has been
8 approved by the office. Such training should include, but is not limited
9 to, topics such as restorative justice basics, trauma-informed practices,
10 juvenile developmental characteristics, and crime victimization.

11 (3) ~~(2)~~ An approved center may provide for the compensation of
12 mediators and restorative justice facilitators, or utilize the services
13 of volunteer mediators and restorative justice facilitators, or utilize
14 the services of both paid and volunteer mediators and restorative justice
15 facilitators.

16 (4) ~~(3)~~ The mediator or restorative justice facilitator shall
17 provide an opportunity for assist the parties to achieve in reaching a
18 mutually acceptable resolution of their dispute, in joint or separate
19 sessions, as appropriate, including a reparation plan agreement regarding
20 reparations through dialogue discussion and negotiation. A The mediator
21 shall be impartial, neutral, and unbiased and shall make no decisions for
22 the parties.

23 (5) ~~(4)~~ The mediator or restorative justice facilitator shall
24 officially terminate the process if the parties are unable to agree or
25 if, in the judgment of the mediator, the agreement would be
26 unconscionable. The termination shall be without prejudice to either
27 party in any other proceeding.

28 (6) ~~(5)~~ The mediator or restorative justice facilitator has no
29 authority to make or impose any adjudicatory sanction or penalty upon the
30 parties.

31 (7) ~~(6)~~ The mediator or restorative justice facilitator shall be

1 aware of and recommend outside resources to the parties whenever
2 appropriate. The mediator or restorative justice facilitator shall advise
3 participants to obtain legal review of agreements as necessary.

4 Sec. 16. Section 25-2914, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 25-2914 (1) Any verbal, written, or electronic communication made
7 in or in connection with matters referred to mediation which relates to
8 the controversy or dispute being mediated and agreements resulting from
9 the mediation, whether made to the mediator, the staff of an approved
10 center, a party, or any other person attending the mediation session,
11 shall be confidential.

12 (2) Mediation proceedings shall be regarded as settlement
13 negotiations, and no admission, representation, or statement made in
14 mediation, not otherwise discoverable or obtainable, shall be admissible
15 as evidence or subject to discovery.

16 (3) A mediator shall not be subject to process requiring the
17 disclosure of any matter discussed during mediation proceedings unless
18 all the parties consent to a waiver.

19 (4) Confidential communications and materials are subject to
20 disclosure when all parties agree in writing to waive confidentiality
21 regarding specific verbal, written, or electronic communications relating
22 to the mediation session or the agreement.

23 (5) This section shall not apply if a party brings an action against
24 the mediator or center, if the communication was made in furtherance of a
25 crime or fraud, or if this section conflicts with other legal
26 requirements.

27 Sec. 17. (1) Any verbal, written, or electronic communication made
28 in or in connection with matters referred to a restorative justice
29 program which relates to the controversy or dispute undergoing
30 restorative justice and agreements resulting from the restorative justice
31 program, whether made to the restorative justice facilitator, the staff

1 of an approved center, a party, or any other person attending the
2 restorative justice program, shall be confidential and privileged.

3 (2) No admission, confession, or incriminating information obtained
4 from a juvenile in the course of any restorative justice program that is
5 conducted in conjunction with proceedings under the Restorative Justice
6 and Dispute Resolution Act or as directed by a court, including, but not
7 limited to, school-based disciplinary proceedings, juvenile diversion,
8 court-ordered detention, or probation, shall be admitted into evidence
9 against such juvenile, except as rebuttal or impeachment evidence, in any
10 future adjudication hearing under the Nebraska Juvenile Code or in any
11 criminal proceeding. Such admission, confession, or incriminating
12 information may be considered by a court at sentencing or by a juvenile
13 court during disposition proceedings.

14 (3) Confidential communications and materials are subject to
15 disclosure when all parties to the restorative justice program agree in
16 writing to waive confidentiality regarding specific verbal, written, or
17 electronic communications relating to the restorative justice program or
18 the agreement.

19 (4) This section shall not apply if:

20 (a) A party brings an action against the restorative justice
21 facilitator or approved center;

22 (b) The communication was made in furtherance of a crime or fraud;

23 (c) The communication is required to be reported under section
24 28-711 and is a new allegation of child abuse or neglect which was not
25 previously known or reported; or

26 (d) This section conflicts with other legal requirements.

27 Sec. 18. Section 25-2915, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 25-2915 No mediator, restorative justice facilitator, staff member,
30 or member of a governing board of an approved center may be held liable
31 for civil damages for any statement or decision made in the process of

1 restorative justice or dispute resolution unless such person acted in a
2 manner exhibiting willful or wanton misconduct.

3 Sec. 19. Section 25-2916, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 25-2916 (1) If the parties involved in mediation the dispute reach
6 an agreement, the agreement may be reduced to writing and signed by the
7 parties. The agreement shall set forth the settlement of the issues and
8 the future responsibilities of each party. If a court referred the case,
9 the agreement as signed and approved by the parties may be presented to
10 the court as a stipulation and, if approved by the court, shall be
11 enforceable as an order of the court.

12 (2) If the parties involved in a restorative justice program reach a
13 reparation plan agreement, the agreement may be reduced to writing and
14 signed by the parties. The agreement shall set forth the reparations
15 agreed upon by the parties to repair the specific circumstances of the
16 offense. These may include, but are not limited to, service to the
17 victim, an apology to the victim, financial restitution, services for the
18 individual who caused the harm, community service, or any other
19 reparation agreed upon by the parties. The agreement shall specify the
20 time period during which such individual must comply with the
21 requirements specified therein.

22 Sec. 20. Section 25-2917, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 25-2917 During the period of the restorative justice or dispute
25 resolution process, any applicable civil statute of limitations shall be
26 tolled as to the parties. The tolling shall commence on the date the
27 approved center accepts the case and shall end on the date of the last
28 restorative justice or mediation session. This period shall be no longer
29 than sixty days without consent of all the parties.

30 Sec. 21. Section 25-2918, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 25-2918 (1) The Supreme Court, upon recommendation by the director
2 in consultation with the council, shall adopt and promulgate rules and
3 regulations to carry out the Restorative Justice and Dispute Resolution
4 Act.

5 (2) The office may adopt and promulgate policies and procedures to
6 carry out the Restorative Justice and Dispute Resolution Act.

7 Sec. 22. Section 25-2919, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 25-2919 The Restorative Justice and Dispute Resolution Act shall
10 apply only to approved centers and mediators and restorative justice
11 facilitators of such centers.

12 Sec. 23. Section 25-2920, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 25-2920 The director shall provide an annual report regarding report
15 annually to the Chief Justice, the Governor, and the Legislature on the
16 implementation of the Restorative Justice and Dispute Resolution Act. The
17 report shall be available to the public on the Supreme Court's web site.
18 ~~The report submitted to the Legislature shall be submitted~~
19 ~~electronically.~~ The report shall include the number and types of disputes
20 received, the disposition of the disputes, any problems encountered, and
21 any recommendations to address problems, ~~and a comparison of the cost of~~
22 ~~mediation and litigation.~~

23 Sec. 24. Section 25-2921, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 25-2921 The Restorative Justice and Dispute Resolution Cash Fund is
26 created. The State Court Administrator shall administer the fund. The
27 fund shall consist of proceeds received pursuant to subdivision (9) ~~(10)~~
28 of section 25-2908 and section 33-155. ~~The Except as otherwise directed~~
29 ~~by the Supreme Court during the period from November 21, 2009, until June~~
30 ~~30, 2013,~~ the fund shall be used to supplement the administration of the
31 office and the support of the approved centers. ~~It is the intent of the~~

1 ~~Legislature that any General Fund money supplanted by the Dispute~~
2 ~~Resolution Cash Fund may be used for the support and maintenance of the~~
3 ~~State Library.~~ Any money in the fund available for investment shall be
4 invested by the state investment officer pursuant to the Nebraska Capital
5 Expansion Act and the Nebraska State Funds Investment Act.

6 Sec. 25. Section 25-2943, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 25-2943 A court may refer a civil case, including a contested
9 guardianship or contested conservatorship proceeding, to mediation or
10 another form of alternative dispute resolution and, unless otherwise
11 ordered following a hearing upon a motion to object to such referral, may
12 state a date for the case to return to court. Such date shall be no
13 longer than ninety days after the date the order was signed unless the
14 court grants an extension upon request of the parties. Any agreement or
15 resolution made in mediation or another form of alternative dispute
16 resolution shall be voluntarily entered into by the parties. An
17 individual trial court, an appellate court, or the Supreme Court on its
18 own initiative may adopt rules of practice governing the procedures for
19 referral of cases to mediation and other forms of dispute resolution.
20 Such services may be provided by approved centers on a sliding scale of
21 fees under the Restorative Justice and Dispute Resolution Act.

22 Sec. 26. Section 33-155, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 33-155 In addition to all other court costs assessed according to
25 law, a dispute resolution fee of seventy-five cents shall be taxed as
26 costs for each case filed in each county court and district court,
27 including appeals to such courts, and for each appeal and original action
28 filed in the Court of Appeals and the Supreme Court. The fees shall be
29 remitted to the State Treasurer on forms prescribed by the State
30 Treasurer within ten days after the end of each month. The State
31 Treasurer shall credit the fees to the Restorative Justice and Dispute

1 Resolution Cash Fund.

2 Sec. 27. Section 34-112.02, Revised Statutes Cumulative Supplement,
3 2018, is amended to read:

4 34-112.02 (1) Whenever a landowner desires to construct a division
5 fence or perform maintenance or repairs to an existing division fence,
6 such landowner shall give written notice of such intention to any person
7 who is liable for the construction, maintenance, or repair of the
8 division fence. Such notice may be served upon any nonresident by
9 delivering the written notice to the occupant of the land or the
10 landowner's agent in charge of the land. The written notice shall request
11 that the person liable for the construction, maintenance, or repair
12 satisfy his or her obligation by performance or by other manner of
13 contribution. After giving written notice, a landowner may commence
14 construction of a division fence, or commence maintenance or repair upon
15 an existing division fence, in which cases any cause of action under this
16 section and sections 34-102, 34-112, and 34-112.01 shall be an action for
17 contribution.

18 (2) If notice is given prior to commencing construction,
19 maintenance, or repair of a division fence and the person so notified
20 either fails to respond to such request or refuses such request, the
21 landowner sending notice may commence an action in the county court of
22 the county where the land is located. If the landowners cannot agree what
23 proportion of a division fence each shall construct, maintain, or repair,
24 whether by performance or by contribution, either landowner may commence
25 an action, without further written notice, in the county court of the
26 county where the land is located. An action shall be commenced by filing
27 a fence dispute complaint on a form prescribed by the State Court
28 Administrator and provided to the plaintiff by the clerk of the county
29 court. The complaint shall be executed by the plaintiff in the presence
30 of a judge, a clerk or deputy or assistant clerk of a county court, or a
31 notary public or other person authorized by law to take acknowledgments

1 and be accompanied by the fee provided in section 33-123. A party shall
2 not commence an action under this subsection until thirty days after
3 giving notice under subsection (1) of this section and shall commence the
4 action within one year after giving such notice.

5 (3) Upon filing of a fence dispute complaint, the court shall set a
6 time for hearing and shall cause notice to be served upon the defendant.
7 Notice shall be served not less than five days before the time set for
8 hearing. Notice shall consist of a copy of the complaint and a summons
9 directing the defendant to appear at the time set for hearing and
10 informing the defendant that if he or she fails to appear, judgment will
11 be entered against him or her. Notice shall be served in the manner
12 provided for service of a summons in a civil action. If the notice is to
13 be served by certified mail, the clerk shall provide the plaintiff with
14 written instructions, prepared and provided by the State Court
15 Administrator, regarding the proper procedure for service by certified
16 mail. The cost of service shall be paid by the plaintiff, but such cost
17 and filing fee shall be added to any judgment awarded to the plaintiff.

18 (4) In any proceeding under this section, subsequent to the initial
19 filing, the parties shall receive from the clerk of the court information
20 regarding availability of mediation through the farm mediation service of
21 the Department of Agriculture or the state mediation centers as
22 established through the Office of Restorative Justice and Dispute
23 Resolution. Development of the informational materials and the
24 implementation of this subsection shall be accomplished through the State
25 Court Administrator. With the consent of both parties, a court may refer
26 a case to mediation and may state a date for the case to return to court,
27 but such date shall be no longer than ninety days from the date the order
28 is signed unless the court grants an extension. If the parties consent to
29 mediate and if a mediation agreement is reached, the court shall enter
30 the agreement as the judgment in the action. The costs of mediation shall
31 be shared by the parties according to the schedule of fees established by

1 the mediation service and collected directly by the mediation service.

2 (5) If the case is not referred to mediation or if mediation is
3 terminated or fails to reach an agreement between the parties, the action
4 shall proceed as a civil action subject to the rules of civil procedure.

5 Sec. 28. Section 43-245, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 43-245 For purposes of the Nebraska Juvenile Code, unless the
8 context otherwise requires:

9 (1) Abandonment means a parent's intentionally withholding from a
10 child, without just cause or excuse, the parent's presence, care, love,
11 protection, and maintenance and the opportunity for the display of
12 parental affection for the child;

13 (2) Age of majority means nineteen years of age;

14 (3) Alternative to detention means a program or directive that
15 increases supervision of a youth in the community in an effort to ensure
16 the youth attends court and refrains from committing a new law violation.
17 Alternative to detention includes, but is not limited to, electronic
18 monitoring, day and evening reporting centers, house arrest, tracking,
19 family crisis response, and temporary shelter placement. Except for the
20 use of manually controlled delayed egress of not more than thirty
21 seconds, placements that utilize physical construction or hardware to
22 restrain a youth's freedom of movement and ingress and egress from
23 placement are not considered alternatives to detention;

24 (4) Approved center means a center that has applied for and received
25 approval from the Director of the Office of Restorative Justice and
26 Dispute Resolution under section 25-2909;

27 (5) Civil citation means a noncriminal notice which cannot result in
28 a criminal record and is described in section 43-248.02;

29 (6) Cost or costs means (a) the sum or equivalent expended, paid, or
30 charged for goods or services, or expenses incurred, or (b) the
31 contracted or negotiated price;

1 (7) Criminal street gang means a group of three or more people with
2 a common identifying name, sign, or symbol whose group identity or
3 purposes include engaging in illegal activities;

4 (8) Criminal street gang member means a person who willingly or
5 voluntarily becomes and remains a member of a criminal street gang;

6 (9) Custodian means a nonparental caretaker having physical custody
7 of the juvenile and includes an appointee described in section 43-294;

8 (10) Guardian means a person, other than a parent, who has qualified
9 by law as the guardian of a juvenile pursuant to testamentary or court
10 appointment, but excludes a person who is merely a guardian ad litem;

11 (11) Juvenile means any person under the age of eighteen;

12 (12) Juvenile court means the separate juvenile court where it has
13 been established pursuant to sections 43-2,111 to 43-2,127 and the county
14 court sitting as a juvenile court in all other counties. Nothing in the
15 Nebraska Juvenile Code shall be construed to deprive the district courts
16 of their habeas corpus, common-law, or chancery jurisdiction or the
17 county courts and district courts of jurisdiction of domestic relations
18 matters as defined in section 25-2740;

19 (13) Juvenile detention facility has the same meaning as in section
20 83-4,125;

21 (14) Legal custody has the same meaning as in section 43-2922;

22 ~~(15) Mediator for juvenile offender and victim mediation means a~~
23 ~~person who (a) has completed at least thirty hours of training in~~
24 ~~conflict resolution techniques, neutrality, agreement writing, and ethics~~
25 ~~set forth in section 25-2913, (b) has an additional eight hours of~~
26 ~~juvenile offender and victim mediation training, and (c) meets the~~
27 ~~apprenticeship requirements set forth in section 25-2913;~~

28 ~~(15)~~ (16) Mental health facility means a treatment facility as
29 defined in section 71-914 or a government, private, or state hospital
30 which treats mental illness;

31 ~~(16)~~ (17) Nonoffender means a juvenile who is subject to the

1 jurisdiction of the juvenile court for reasons other than legally
2 prohibited conduct, including, but not limited to, juveniles described in
3 subdivision (3)(a) of section 43-247;

4 (17) ~~(18)~~ Parent means one or both parents or stepparents when the
5 stepparent is married to a parent who has physical custody of the
6 juvenile as of the filing of the petition;

7 (18) ~~(19)~~ Parties means the juvenile as described in section 43-247
8 and his or her parent, guardian, or custodian;

9 (19) ~~(20)~~ Physical custody has the same meaning as in section
10 43-2922;

11 (20) ~~(21)~~ Except in proceedings under the Nebraska Indian Child
12 Welfare Act, relative means father, mother, grandfather, grandmother,
13 brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle,
14 aunt, first cousin, nephew, or niece;

15 (21) Restorative justice has the same meaning as in section 25-2903;

16 (22) Restorative justice facilitator means a restorative justice
17 facilitator as defined in section 25-2903 who has completed the training
18 required under subsection (1) and subdivision (2)(b) of section 25-2913
19 and who meets the apprenticeship requirements in such section;

20 (23) ~~(22)~~ Seal a record means that a record shall not be available
21 to the public except upon the order of a court upon good cause shown;

22 (24) ~~(23)~~ Secure detention means detention in a highly structured,
23 residential, hardware-secured facility designed to restrict a juvenile's
24 movement;

25 (25) ~~(24)~~ Staff secure juvenile facility means a juvenile
26 residential facility operated by a political subdivision (a) which does
27 not include construction designed to physically restrict the movements
28 and activities of juveniles who are in custody in the facility, (b) in
29 which physical restriction of movement or activity of juveniles is
30 provided solely through staff, (c) which may establish reasonable rules
31 restricting ingress to and egress from the facility, and (d) in which the

1 movements and activities of individual juvenile residents may, for
2 treatment purposes, be restricted or subject to control through the use
3 of intensive staff supervision. Staff secure juvenile facility does not
4 include any institution operated by the Department of Correctional
5 Services;

6 (26) ~~(25)~~ Status offender means a juvenile who has been charged with
7 or adjudicated for conduct which would not be a crime if committed by an
8 adult, including, but not limited to, juveniles charged under subdivision
9 (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02;

10 (27) ~~(26)~~ Traffic offense means any nonfelonious act in violation of
11 a law or ordinance regulating vehicular or pedestrian travel, whether
12 designated a misdemeanor or a traffic infraction; and

13 (28) ~~(27)~~ Young adult means an individual older than eighteen years
14 of age but under twenty-one years of age.

15 Sec. 29. Section 43-246, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 43-246 Acknowledging the responsibility of the juvenile court to act
18 to preserve the public peace and security, the Nebraska Juvenile Code
19 shall be construed to effectuate the following:

20 (1) To assure the rights of all juveniles to care and protection and
21 a safe and stable living environment and to development of their
22 capacities for a healthy personality, physical well-being, and useful
23 citizenship and to protect the public interest;

24 (2) To provide for the intervention of the juvenile court in the
25 interest of any juvenile who is within the provisions of the Nebraska
26 Juvenile Code, with due regard to parental rights and capacities and the
27 availability of nonjudicial resources;

28 (3) To remove juveniles who are within the Nebraska Juvenile Code
29 from the criminal justice system whenever possible and to reduce the
30 possibility of their committing future law violations through the
31 provision of social and rehabilitative services to such juveniles and

1 their families;

2 (4) To offer selected juveniles the opportunity to take direct
3 personal responsibility for their individual actions by reconciling with
4 the victims, or victim surrogates when appropriate, through restorative
5 justice practices under the Restorative Justice and Dispute Resolution
6 Act juvenile offender and victim mediation and fulfilling the terms of
7 the resulting reparation plan agreement which may require apologies,
8 restitution, and community service, or other agreed-upon means of making
9 amends;

10 (5) To achieve the purposes of subdivisions (1) through (3) of this
11 section in the juvenile's own home whenever possible, separating the
12 juvenile from his or her parent when necessary for his or her welfare,
13 the juvenile's health and safety being of paramount concern, or in the
14 interest of public safety and, when temporary separation is necessary, to
15 consider the developmental needs of the individual juvenile in all
16 placements, to consider relatives as a preferred potential placement
17 resource, and to make reasonable efforts to preserve and reunify the
18 family if required under section 43-283.01;

19 (6) To promote adoption, guardianship, or other permanent
20 arrangements for children in the custody of the Department of Health and
21 Human Services who are unable to return home;

22 (7) To provide a judicial procedure through which these purposes and
23 goals are accomplished and enforced in which the parties are assured a
24 fair hearing and their constitutional and other legal rights are
25 recognized and enforced;

26 (8) To assure compliance, in cases involving Indian children, with
27 the Nebraska Indian Child Welfare Act; and

28 (9) To make any temporary placement of a juvenile in the least
29 restrictive environment consistent with the best interests of the
30 juvenile and the safety of the community.

31 Sec. 30. Section 43-247.03, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-247.03 (1) In any juvenile case, the court may provide the
3 parties the opportunity to address issues involving the child's care and
4 placement, services to the family, ~~restorative justice,~~ and other
5 concerns through restorative justice practices. Restorative justice
6 practices facilitated conferencing or mediation. ~~Facilitated conferencing~~
7 may include, but are ~~is~~ not limited to, prehearing conferences, family
8 group conferences, expedited family group conferences, child welfare
9 mediation, permanency prehearing conferences, termination of parental
10 rights prehearing conferences, and victim youth conferencing, victim-
11 offender mediation, youth or community dialogue, panels, circles, and
12 truancy mediation. The Office of Restorative Justice and Dispute
13 Resolution shall be responsible for funding juvenile victim-offender
14 dialogue. ~~Funding and management for such services will be part of the~~
15 ~~office of the State Court Administrator.~~ All discussions taking place
16 during such restorative justice practices facilitated ~~conferences,~~
17 including plea negotiations, shall be ~~considered~~ confidential and
18 privileged communications as provided in section 17 of this act ~~, except~~
19 ~~communications required by mandatory reporting under section 28-711 for~~
20 ~~new allegations of child abuse or neglect which were not previously known~~
21 ~~or reported.~~

22 (2) For purposes of this section:

23 (a) Expedited family group conference means an expedited and
24 limited-scope facilitated planning meeting which engages a child's or
25 juvenile's parents, the child or juvenile when appropriate, other
26 critical family members, services providers, and staff members from
27 either the Department of Health and Human Services or the Office of
28 Probation Administration to address immediate placement issues for the
29 child or juvenile;

30 (b) Family group conference means a facilitated meeting involving a
31 child's or juvenile's family, the child or juvenile when appropriate,

1 available extended family members from across the United States, other
2 significant and close persons to the family, service providers, and staff
3 members from either the Department of Health and Human Services or the
4 Office of Probation Administration to develop a family-centered plan for
5 the best interests of the child and to address the essential issues of
6 safety, permanency, and well-being of the child;

7 ~~(c) Juvenile victim-offender dialogue means a court-connected~~
8 ~~process in which a facilitator meets with the juvenile offender and the~~
9 ~~victim in an effort to convene a dialogue in which the offender takes~~
10 ~~responsibility for his or her actions and the victim is able to address~~
11 ~~the offender and request an apology and restitution, with the goal of~~
12 ~~creating an agreed-upon written plan; and~~

13 ~~(c) (d) Prehearing conference means a facilitated meeting prior to~~
14 ~~appearing in court and held to gain the cooperation of the parties, to~~
15 ~~offer services and treatment, and to develop a problem-solving atmosphere~~
16 ~~in the best interests of children involved in the juvenile court system.~~
17 ~~A prehearing conference may be scheduled at any time during the child~~
18 ~~welfare or juvenile court process, from initial removal through~~
19 ~~permanency, termination of parental rights, and juvenile delinquency~~
20 ~~court processes; and -~~

21 (d) Victim youth conferencing means a process in which a restorative
22 justice facilitator meets with the juvenile and the victim, when
23 appropriate, in an effort to convene a dialogue in which the juvenile
24 takes responsibility for his or her actions and the victim or victim
25 surrogate is able to address the juvenile and create a reparation plan
26 agreement, which may include apologies, restitution, community services,
27 or other agreed-upon means of amends.

28 Sec. 31. Section 43-247.04, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 43-247.04 (1) It is the intent of the Legislature to transfer four
31 hundred fifty thousand dollars in General Funds from the Department of

1 Health and Human Services' 2014-15 budget to the office of the State
2 Court Administrator's budget for the purpose of making the State Court
3 Administrator directly responsible for contracting and paying for court-
4 connected prehearing conferences, family group conferences, expedited
5 family group conferences, child welfare mediation, permanency prehearing
6 conferences, termination of parental rights prehearing conferences,
7 victim youth conferencing ~~juvenile victim-offender dialogue~~, and other
8 restorative justice practices ~~related services~~. Such funds shall be
9 transferred on or before October 15, 2014.

10 (2) The Department of Health and Human Services shall continue to be
11 responsible for contracting with mediation centers approved by the Office
12 of Restorative Justice and Dispute Resolution to provide family group
13 conferences, mediation, and related services for non-court-involved and
14 voluntary child welfare or juvenile cases through June 30, 2017, unless
15 extended by the Legislature.

16 Sec. 32. Section 43-260.06, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 43-260.06 A juvenile diversion agreement shall include, but not be
19 limited to, one or more of the following:

20 (1) A letter of apology;

21 (2) Community service, not to be performed during school hours if
22 the juvenile offender is attending school;

23 (3) Restitution;

24 (4) Attendance at educational or informational sessions at a
25 community agency;

26 (5) Requirements to remain during specified hours at home, school,
27 and work and restrictions on leaving or entering specified geographical
28 areas; and

29 (6) Participation in an appropriate restorative justice practice or
30 service ~~Upon agreement of the victim, participation in juvenile offender~~
31 ~~and victim mediation.~~

1 Sec. 33. Section 43-274, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 43-274 (1) The county attorney or city attorney, having knowledge of
4 a juvenile within his or her jurisdiction who appears to be a juvenile
5 described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and
6 taking into consideration the criteria in section 43-276, may proceed as
7 provided in this section.

8 (2) The county attorney or city attorney may offer pretrial
9 diversion to the juvenile in accordance with a juvenile pretrial
10 diversion program established pursuant to sections 43-260.02 to
11 43-260.07.

12 (3)(a) If a juvenile appears to be a juvenile described in
13 subdivision (1), (2), (3)(b), or (4) of section 43-247, the county
14 attorney or city attorney may utilize restorative justice practices or
15 services as a form of, or condition of, diversion or plea bargaining or
16 as a recommendation as a condition of disposition, through a referral to
17 an approved center.

18 (b) The Office of Restorative Justice and Dispute Resolution and its
19 approved centers shall provide and conduct restorative justice practices
20 and services according to the office's policies and procedures.

21 (c) For victim-involved offenses, an approved center shall conduct a
22 separate individual intake and assessment session with each juvenile and
23 victim to determine which, if any, restorative justice practice is
24 appropriate. All participation by the victim shall be voluntary. If the
25 victim declines to participate in any or all parts of the restorative
26 justice practice, a victim surrogate may be invited to participate with
27 the juvenile. If, after assessment, participation by the juvenile is
28 deemed inappropriate by the approved center, the approved center shall
29 return the referral to the referring county attorney or city attorney.

30 (d) An approved center shall only be responsible for providing
31 restorative justice practices or services under this section if funding

1 for such practices or services is available. A victim or his or her
2 parent or guardian shall not be charged a fee. A juvenile or his or her
3 parent or guardian may be charged a fee according to the policies and
4 procedures of the approved center and the referring county attorney or
5 city attorney. An approved center shall use a sliding fee scale based on
6 income and shall not deny services based upon the inability of a juvenile
7 or his or her parent or guardian to pay, provided that funding is
8 otherwise available.

9 (e) Prior to participating in any restorative justice practice or
10 service under this section, the juvenile, the juvenile's parent or
11 guardian, and the victim, if he or she is participating, shall sign a
12 consent to participate form.

13 (f) If a reparation plan agreement is reached, the approved center
14 shall forward a copy of the agreement to the referring county attorney or
15 city attorney. The terms of the reparation plan agreement shall specify
16 provisions for reparation, monitoring, completion, and reporting. An
17 agreement may include, but is not limited to, one or more of the
18 following:

19 (i) Participation by the juvenile in certain community service
20 programs;

21 (ii) Payment of restitution by the juvenile to the victim;

22 (iii) Reconciliation between the juvenile and the victim;

23 (iv) Apology, when appropriate, between the juvenile and the victim;

24 and

25 (v) Any other areas of agreement.

26 (g) The county attorney or city attorney shall review any reparation
27 plan agreement developed under this section. If the county attorney or
28 city attorney determines that the agreement is contrary to public policy,
29 he or she may:

30 (i) Refer the matter back to the approved center and the parties
31 with suggestions for changes and for further restorative justice

1 practices or services; or

2 (ii) Proceed with filing a juvenile court petition or criminal
3 charge.

4 (h) If a juvenile meets the terms of the reparation plan agreement,
5 the county attorney or city attorney shall either:

6 (i) Not file a juvenile court petition or criminal charge against
7 the juvenile for the acts for which the juvenile was referred for
8 restorative justice practice or services when referred as a diversion or
9 an alternative to diversion; or

10 (ii) File a reduced charged as previously agreed when referred as a
11 part of a plea negotiation.

12 ~~(3)(a) If a juvenile appears to be a juvenile described in~~
13 ~~subdivision (1), (2), (3)(b), or (4) of section 43-247 because of a~~
14 ~~nonviolent act or acts, the county attorney or city attorney may offer~~
15 ~~mediation to the juvenile and the victim of the juvenile's act. If both~~
16 ~~the juvenile and the victim agree to mediation, the juvenile, his or her~~
17 ~~parent, guardian, or custodian, and the victim shall sign a mediation~~
18 ~~consent form and select a mediator or approved center from the roster~~
19 ~~made available pursuant to section 25-2908. The county attorney or city~~
20 ~~attorney shall refer the juvenile and the victim to such mediator or~~
21 ~~approved center. The mediation sessions shall occur within thirty days~~
22 ~~after the date the mediation referral is made unless an extension is~~
23 ~~approved by the county attorney or city attorney. The juvenile or his or~~
24 ~~her parent, guardian, or custodian shall pay the mediation fees. The fee~~
25 ~~shall be determined by the mediator in private practice or by the~~
26 ~~approved center. A juvenile shall not be denied services at an approved~~
27 ~~center because of an inability to pay.~~

28 ~~(b) Terms of the mediation agreement shall specify monitoring,~~
29 ~~completion, and reporting requirements. The county attorney or city~~
30 ~~attorney, the court, or the probation office shall be notified by the~~
31 ~~designated monitor if the juvenile does not complete the agreement within~~

1 ~~the agreement's specified time.~~

2 ~~(c) Terms of the agreement may include one or more of the following:~~

3 ~~(i) Participation by the juvenile in certain community service~~
4 ~~programs;~~

5 ~~(ii) Payment of restitution by the juvenile to the victim;~~

6 ~~(iii) Reconciliation between the juvenile and the victim; and~~

7 ~~(iv) Any other areas of agreement.~~

8 ~~(d) If no mediation agreement is reached, the mediator or approved~~
9 ~~center will report that fact to the county attorney or city attorney~~
10 ~~within forty-eight hours of the final mediation session excluding~~
11 ~~nonjudicial days.~~

12 ~~(e) If a mediation agreement is reached and the agreement does not~~
13 ~~violate public policy, the agreement shall be approved by the county~~
14 ~~attorney or city attorney. If the agreement is not approved and the~~
15 ~~victim agrees to return to mediation (i) the juvenile may be referred~~
16 ~~back to mediation with suggestions for changes needed in the agreement to~~
17 ~~meet approval or (ii) the county attorney or city attorney may proceed~~
18 ~~with the filing of a criminal charge or juvenile court petition. If the~~
19 ~~juvenile agrees to return to mediation but the victim does not agree to~~
20 ~~return to mediation, the county attorney or city attorney may consider~~
21 ~~the juvenile's willingness to return to mediation when determining~~
22 ~~whether or not to file a criminal charge or a juvenile court petition.~~

23 ~~(f) If the juvenile meets the terms of an approved mediation~~
24 ~~agreement, the county attorney or city attorney shall not file a criminal~~
25 ~~charge or juvenile court petition against the juvenile for the acts for~~
26 ~~which the juvenile was referred to mediation.~~

27 (4) The county attorney or city attorney shall file the petition in
28 the court with jurisdiction as outlined in section 43-246.01.

29 (5) When a transfer from juvenile court to county court or district
30 court is authorized because there is concurrent jurisdiction, the county
31 attorney or city attorney may move to transfer the proceedings. Such

1 motion shall be filed with the juvenile court petition unless otherwise
2 permitted for good cause shown. The juvenile court shall schedule a
3 hearing on such motion within fifteen days after the motion is filed. The
4 county attorney or city attorney has the burden by a preponderance of the
5 evidence to show why such proceeding should be transferred. The juvenile
6 shall be represented by counsel at the hearing and may present the
7 evidence as to why the proceeding should be retained. After considering
8 all the evidence and reasons presented by both parties, the juvenile
9 court shall retain the proceeding unless the court determines that a
10 preponderance of the evidence shows that the proceeding should be
11 transferred to the county court or district court. The court shall make a
12 decision on the motion within thirty days after the hearing. The juvenile
13 court shall set forth findings for the reason for its decision.

14 An order granting or denying transfer of the case from juvenile
15 court to county or district court shall be considered a final order for
16 the purposes of appeal. Upon the entry of an order, any party may appeal
17 to the Court of Appeals within ten days. Such review shall be advanced on
18 the court docket without an extension of time granted to any party except
19 upon a showing of exceptional cause. Appeals shall be submitted,
20 assigned, and scheduled for oral argument as soon as the appellee's brief
21 is due to be filed. The Court of Appeals shall conduct its review in an
22 expedited manner and shall render the judgment and opinion, if any, as
23 speedily as possible. During the pendency of any such appeal, the
24 juvenile court may continue to enter temporary orders in the best
25 interests of the juvenile pursuant to section 43-295.

26 If the proceeding is transferred from juvenile court to the county
27 court or district court, the county attorney or city attorney shall file
28 a criminal information in the county court or district court, as
29 appropriate, and the accused shall be arraigned as provided for a person
30 eighteen years of age or older in subdivision (1)(b) of section 29-1816.

31 Sec. 34. Section 43-275, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-275 Whenever a juvenile is detained or placed in custody under
3 the provisions of section 43-253, a petition, complaint, or restorative
4 justice program ~~mediation~~ consent form must be filed within forty-eight
5 hours excluding nonjudicial days.

6 Sec. 35. Section 43-276, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 43-276 (1) The county attorney or city attorney, in making the
9 determination whether to file a criminal charge, file a juvenile court
10 petition, offer juvenile pretrial diversion or restorative justice
11 ~~mediation~~, or transfer a case to or from juvenile court, and the juvenile
12 court, county court, or district court in making the determination
13 whether to transfer a case, shall consider: (a) The type of treatment
14 such juvenile would most likely be amenable to; (b) whether there is
15 evidence that the alleged offense included violence; (c) the motivation
16 for the commission of the offense; (d) the age of the juvenile and the
17 ages and circumstances of any others involved in the offense; (e) the
18 previous history of the juvenile, including whether he or she had been
19 convicted of any previous offenses or adjudicated in juvenile court; (f)
20 the best interests of the juvenile; (g) consideration of public safety;
21 (h) consideration of the juvenile's ability to appreciate the nature and
22 seriousness of his or her conduct; (i) whether the best interests of the
23 juvenile and the security of the public may require that the juvenile
24 continue in secure detention or under supervision for a period extending
25 beyond his or her minority and, if so, the available alternatives best
26 suited to this purpose; (j) whether the victim or juvenile agree ~~agrees~~
27 to participate in restorative justice ~~mediation~~; (k) whether there is a
28 juvenile pretrial diversion program established pursuant to sections
29 43-260.02 to 43-260.07; (l) whether the juvenile has been convicted of or
30 has acknowledged unauthorized use or possession of a firearm; (m) whether
31 a juvenile court order has been issued for the juvenile pursuant to

1 section 43-2,106.03; (n) whether the juvenile is a criminal street gang
2 member; and (o) such other matters as the parties deem relevant to aid in
3 the decision.

4 (2) Prior to filing a petition alleging that a juvenile is a
5 juvenile as described in subdivision (3)(b) of section 43-247, the county
6 attorney shall make reasonable efforts to refer the juvenile and family
7 to community-based resources available to address the juvenile's
8 behaviors, provide crisis intervention, and maintain the juvenile safely
9 in the home. Failure to describe the efforts required by this subsection
10 shall be a defense to adjudication.

11 Sec. 36. Section 43-286, Revised Statutes Cumulative Supplement,
12 2018, is amended to read:

13 43-286 (1) When any juvenile is adjudicated to be a juvenile
14 described in subdivision (1), (2), or (4) of section 43-247:

15 (a)(i) This subdivision applies until October 1, 2013. The court may
16 continue the dispositional portion of the hearing, from time to time upon
17 such terms and conditions as the court may prescribe, including an order
18 of restitution of any property stolen or damaged or an order requiring
19 the juvenile to participate in community service programs, if such order
20 is in the interest of the juvenile's reformation or rehabilitation, and,
21 subject to the further order of the court, may:

22 (A) Place the juvenile on probation subject to the supervision of a
23 probation officer;

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

27 (C) Cause the juvenile to be placed in a suitable family home or
28 institution, subject to the supervision of the probation officer. If the
29 court has committed the juvenile to the care and custody of the
30 Department of Health and Human Services, the department shall pay the
31 costs of the suitable family home or institution which are not otherwise

1 paid by the juvenile's parents.

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

9 (ii) This subdivision applies beginning October 1, 2013. The court
10 may continue the dispositional portion of the hearing, from time to time
11 upon such terms and conditions as the court may prescribe, including an
12 order of restitution of any property stolen or damaged or an order
13 requiring the juvenile to participate in restorative justice programs or
14 community service programs, if such order is in the interest of the
15 juvenile's reformation or rehabilitation, and, subject to the further
16 order of the court, may:

17 (A) Place the juvenile on probation subject to the supervision of a
18 probation officer; or

19 (B) Permit the juvenile to remain in his or her own home or be
20 placed in a suitable family home or institution, subject to the
21 supervision of the probation officer;

22 (b)(i) This subdivision applies to all juveniles committed to the
23 Office of Juvenile Services prior to July 1, 2013. The court may commit
24 such juvenile to the Office of Juvenile Services, but a juvenile under
25 the age of fourteen years shall not be placed at the Youth Rehabilitation
26 and Treatment Center-Geneva or the Youth Rehabilitation and Treatment
27 Center-Kearney unless he or she has violated the terms of probation or
28 has committed an additional offense and the court finds that the
29 interests of the juvenile and the welfare of the community demand his or
30 her commitment. This minimum age provision shall not apply if the act in
31 question is murder or manslaughter.

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

4 When it is alleged that the juvenile has exhausted all levels of
5 probation supervision and options for community-based services and
6 section 43-251.01 has been satisfied, a motion for commitment to a youth
7 rehabilitation and treatment center may be filed and proceedings held as
8 follows:

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

12 (B) The juvenile shall be entitled to a hearing before the court to
13 determine the validity of the allegations. At such hearing the burden is
14 upon the state by a preponderance of the evidence to show that:

15 (I) All levels of probation supervision have been exhausted;

16 (II) All options for community-based services have been exhausted;
17 and

18 (III) Placement at a youth rehabilitation and treatment center is a
19 matter of immediate and urgent necessity for the protection of the
20 juvenile or the person or property of another or if it appears that such
21 juvenile is likely to flee the jurisdiction of the court.

22 After the hearing, the court may commit such juvenile to the Office
23 of Juvenile Services for placement at a youth rehabilitation and
24 treatment center as a condition of an order of intensive supervised
25 probation. Upon commitment by the court to the Office of Juvenile
26 Services, the court shall immediately notify the Office of Juvenile
27 Services of the commitment. Intensive supervised probation for purposes
28 of this subdivision means that the Office of Juvenile Services shall be
29 responsible for the care and custody of the juvenile until the Office of
30 Juvenile Services discharges the juvenile from commitment to the Office
31 of Juvenile Services. Upon discharge of the juvenile, the court shall

1 hold a review hearing on the conditions of probation and enter any order
2 allowed under subdivision (1)(a) of this section.

3 The Office of Juvenile Services shall notify those required to be
4 served by sections 43-262 to 43-267, all interested parties, and the
5 committing court of the pending discharge of a juvenile from the youth
6 rehabilitation and treatment center sixty days prior to discharge and
7 again in every case not less than thirty days prior to discharge. Upon
8 notice of pending discharge by the Office of Juvenile Services, the court
9 shall set a continued disposition hearing in anticipation of reentry. The
10 Office of Juvenile Services shall work in collaboration with the Office
11 of Probation Administration in developing an individualized reentry plan
12 for the juvenile as provided in section 43-425. The Office of Juvenile
13 Services shall provide a copy of the individualized reentry plan to the
14 juvenile, the juvenile's attorney, and the county attorney or city
15 attorney prior to the continued disposition hearing. At the continued
16 disposition hearing, the court shall review and approve or modify the
17 individualized reentry plan, place the juvenile under probation
18 supervision, and enter any other order allowed by law. No hearing is
19 required if all interested parties stipulate to the individualized
20 reentry plan by signed motion. In such a case, the court shall approve
21 the conditions of probation, approve the individualized reentry plan, and
22 place the juvenile under probation supervision.

23 The Office of Juvenile Services is responsible for transportation of
24 the juvenile to and from the youth rehabilitation and treatment center.
25 The Office of Juvenile Services may contract for such services. A plan
26 for a juvenile's transport to return to the community shall be a part of
27 the individualized reentry plan. The Office of Juvenile Services may
28 approve family to provide such transport when specified in the
29 individualized reentry plan; or

30 (c) Beginning July 1, 2013, and until October 1, 2013, the court may
31 commit such juvenile to the Office of Juvenile Services for community

1 supervision.

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

8 (3) When any juvenile is adjudicated to be a juvenile described in
9 subdivision (1), (2), (3)(b), or (4) of section 43-247 ~~because of a~~
10 ~~nonviolent act or acts and the juvenile has not previously been~~
11 ~~adjudicated to be such a juvenile because of a violent act or acts,~~ the
12 court may order the juvenile to participate in an appropriate restorative
13 justice practice or service with an approved center pursuant to the
14 Restorative Justice and Dispute Resolution Act , ~~with the agreement of~~
15 ~~the victim, order the juvenile to attend juvenile offender and victim~~
16 ~~mediation with a mediator or at an approved center selected from the~~
17 ~~roster made available pursuant to section 25-2908.~~

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

22 (5)(a) When a juvenile is placed on probation or under the
23 supervision of the court and it is alleged that the juvenile is again a
24 juvenile described in subdivision (1), (2), (3)(b), or (4) of section
25 43-247, a petition may be filed and the same procedure followed and
26 rights given at a hearing on the original petition. If an adjudication is
27 made that the allegations of the petition are true, the court may make
28 any disposition authorized by this section for such adjudications and the
29 county attorney may file a motion to revoke the juvenile's probation.

30 (b) When a juvenile is placed on probation or under the supervision
31 of the court for conduct under subdivision (1), (2), (3)(b), or (4) of

1 section 43-247 and it is alleged that the juvenile has violated a term of
2 probation or supervision or that the juvenile has violated an order of
3 the court, a motion to revoke probation or supervision or to change the
4 disposition may be filed and proceedings held as follows:

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

8 (ii) The juvenile shall be entitled to a hearing before the court to
9 determine the validity of the allegations. At such hearing the juvenile
10 shall be entitled to those rights relating to counsel provided by section
11 43-272 and those rights relating to detention provided by sections 43-254
12 to 43-256. The juvenile shall also be entitled to speak and present
13 documents, witnesses, or other evidence on his or her own behalf. He or
14 she may confront persons who have given adverse information concerning
15 the alleged violations, may cross-examine such persons, and may show that
16 he or she did not violate the conditions of his or her probation or
17 supervision or an order of the court or, if he or she did, that
18 mitigating circumstances suggest that the violation does not warrant
19 revocation of probation or supervision or a change of disposition. The
20 hearing shall be held within a reasonable time after the juvenile is
21 taken into custody;

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

26 (iv) The juvenile shall not be confined, detained, or otherwise
27 significantly deprived of his or her liberty pursuant to the filing of a
28 motion described in this section unless the requirements of subdivision
29 (5) of section 43-251.01 and section 43-260.01 have been met. In all
30 cases when the requirements of subdivision (5) of section 43-251.01 and
31 section 43-260.01 have been met and the juvenile is confined, detained,

1 or otherwise significantly deprived of his or her liberty as a result of
2 his or her alleged violation of probation, supervision, or a court order,
3 the juvenile shall be given a preliminary hearing. If, as a result of
4 such preliminary hearing, probable cause is found to exist, the juvenile
5 shall be entitled to a hearing before the court in accordance with this
6 subsection;

7 (v) If the juvenile is found by the court to have violated the terms
8 of his or her probation or supervision or an order of the court, the
9 court may modify the terms and conditions of the probation, supervision,
10 or other court order, extend the period of probation, supervision, or
11 other court order, or enter any order of disposition that could have been
12 made at the time the original order was entered; and

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

16 (6) Costs incurred on behalf of a juvenile under this section shall
17 be paid as provided in section 43-290.01.

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

22 Sec. 37. Section 43-2,108.01, Reissue Revised Statutes of Nebraska,
23 is amended to read:

24 43-2,108.01 Sections 43-2,108.01 to 43-2,108.05 apply only to
25 persons who were under the age of eighteen years when the offense took
26 place and, after being taken into custody, arrested, cited in lieu of
27 arrest, or referred for prosecution without citation, the county attorney
28 or city attorney (1) released the juvenile without filing a juvenile
29 petition or criminal complaint, (2) offered juvenile pretrial diversion,
30 ~~or~~ mediation, or restorative justice to the juvenile under the Nebraska
31 Juvenile Code, (3) filed a juvenile court petition describing the

1 juvenile as a juvenile described in subdivision (1), (2), (3)(b), or (4)
2 of section 43-247, (4) filed a criminal complaint in county court against
3 the juvenile under state statute or city or village ordinance for
4 misdemeanor or infraction possession of marijuana or misdemeanor or
5 infraction possession of drug paraphernalia, or (5) filed a criminal
6 complaint in county court against the juvenile for any other misdemeanor
7 or infraction under state statute or city or village ordinance, other
8 than for a traffic offense that may be waived.

9 Sec. 38. Section 43-2,108.02, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 43-2,108.02 For a juvenile described in section 43-2,108.01, the
12 county attorney or city attorney shall provide the juvenile with written
13 notice that:

14 (1) States in plain language that the juvenile or the juvenile's
15 parent or guardian may file a motion to seal the record with the court
16 when the juvenile has satisfactorily completed the diversion, mediation,
17 restorative justice, probation, supervision, or other treatment or
18 rehabilitation program provided under the Nebraska Juvenile Code or has
19 satisfactorily completed the diversion or sentence ordered by a county
20 court; and

21 (2) Explains in plain language what sealing the record means.

22 Sec. 39. Section 43-2,108.03, Reissue Revised Statutes of Nebraska,
23 is amended to read:

24 43-2,108.03 (1) If a juvenile described in section 43-2,108.01 was
25 taken into custody, arrested, cited in lieu of arrest, or referred for
26 prosecution without citation but no juvenile petition or criminal
27 complaint was filed against the juvenile with respect to the arrest or
28 custody, the county attorney or city attorney shall notify the government
29 agency responsible for the arrest, custody, citation in lieu of arrest,
30 or referral for prosecution without citation that no criminal charge or
31 juvenile court petition was filed.

1 (2) If the county attorney or city attorney offered and a juvenile
2 described in section 43-2,108.01 has agreed to pretrial diversion, ~~or~~
3 mediation, restorative justice, the county attorney or city attorney
4 shall notify the government agency responsible for the arrest or custody
5 when the juvenile has satisfactorily completed the resulting diversion, ~~or~~
6 mediation, or restorative justice practice.

7 (3) If the juvenile was taken into custody, arrested, cited in lieu
8 of arrest, or referred for prosecution without citation and charges were
9 filed but later dismissed and any required pretrial diversion, ~~or~~
10 mediation, or restorative justice practice for any related charges have
11 been completed and no related charges remain under the jurisdiction of
12 the court, the county attorney or city attorney shall notify the
13 government agency responsible for the arrest, custody, citation in lieu
14 of arrest, or referral for prosecution without citation and the court
15 where the charge or petition was filed that the charge or juvenile court
16 petition was dismissed.

17 (4) Upon receiving notice under subsection (1), (2), or (3) of this
18 section, the government agency or court shall immediately seal all
19 records housed at that government agency or court pertaining to the
20 citation, arrest, record of custody, complaint, disposition, diversion,
21 ~~or~~ mediation, or restorative justice practice.

22 (5) If a juvenile described in section 43-2,108.01 has
23 satisfactorily completed such juvenile's probation, supervision, or other
24 treatment or rehabilitation program provided under the Nebraska Juvenile
25 Code or has satisfactorily completed such juvenile's diversion or
26 sentence in county court:

27 (a) The court may initiate proceedings pursuant to section
28 43-2,108.04 to seal the record pertaining to such disposition or
29 adjudication under the juvenile code or sentence of the county court; and

30 (b) If the juvenile has attained the age of seventeen years, the
31 court shall initiate proceedings pursuant to section 43-2,108.04 to seal

1 the record pertaining to such disposition or adjudication under the
2 juvenile code or diversion or sentence of the county court, except that
3 the court is not required to initiate proceedings to seal a record
4 pertaining to a misdemeanor or infraction not described in subdivision
5 (4) of section 43-2,108.01 under a city or village ordinance that has no
6 possible jail sentence. Such a record may be sealed under subsection (6)
7 of this section.

8 (6) If a juvenile described in section 43-2,108.01 has
9 satisfactorily completed diversion, mediation, restorative justice,
10 probation, supervision, or other treatment or rehabilitation program
11 provided under the Nebraska Juvenile Code or has satisfactorily completed
12 the diversion or sentence ordered by a county court, the juvenile or the
13 juvenile's parent or guardian may file a motion in the court of record
14 asking the court to seal the record pertaining to the offense which
15 resulted in such disposition, adjudication, or diversion of the juvenile
16 court or diversion or sentence of the county court.

17 Sec. 40. Section 43-2,108.04, Reissue Revised Statutes of Nebraska,
18 is amended to read:

19 43-2,108.04 (1) When a proceeding to seal the record is initiated,
20 the court shall promptly notify the county attorney or city attorney
21 involved in the case that is the subject of the proceeding to seal the
22 record of the proceedings, and shall promptly notify the Department of
23 Health and Human Services of the proceedings if the juvenile whose record
24 is the subject of the proceeding is a ward of the state at the time the
25 proceeding is initiated or if the department was a party in the
26 proceeding.

27 (2) A party notified under subsection (1) of this section may file a
28 response with the court within thirty days after receiving such notice.

29 (3) If a party notified under subsection (1) of this section does
30 not file a response with the court or files a response that indicates
31 there is no objection to the sealing of the record, the court may: (a)

1 Order the record of the juvenile under consideration be sealed without
2 conducting a hearing on the motion; or (b) decide in its discretion to
3 conduct a hearing on the motion. If the court decides in its discretion
4 to conduct a hearing on the motion, the court shall conduct the hearing
5 within sixty days after making that decision and shall give notice, by
6 regular mail, of the date, time, and location of the hearing to the
7 parties receiving notice under subsection (1) of this section and to the
8 juvenile who is the subject of the record under consideration.

9 (4) If a party receiving notice under subsection (1) of this section
10 files a response with the court objecting to the sealing of the record,
11 the court shall conduct a hearing on the motion within sixty days after
12 the court receives the response. The court shall give notice, by regular
13 mail, of the date, time, and location of the hearing to the parties
14 receiving notice under subsection (1) of this section and to the juvenile
15 who is the subject of the record under consideration.

16 (5) After conducting a hearing in accordance with this section, the
17 court may order the record of the juvenile that is the subject of the
18 motion be sealed if it finds that the juvenile has been rehabilitated to
19 a satisfactory degree. In determining whether the juvenile has been
20 rehabilitated to a satisfactory degree, the court may consider all of the
21 following:

22 (a) The age of the juvenile;

23 (b) The nature of the offense and the role of the juvenile in the
24 offense;

25 (c) The behavior of the juvenile after the disposition,
26 adjudication, diversion, or sentence and the juvenile's response to
27 diversion, mediation, restorative justice, probation, supervision, other
28 treatment or rehabilitation program, or sentence;

29 (d) The education and employment history of the juvenile; and

30 (e) Any other circumstances that may relate to the rehabilitation of
31 the juvenile.

1 (6) If, after conducting the hearing in accordance with this
2 section, the juvenile is not found to be satisfactorily rehabilitated
3 such that the record is not ordered to be sealed, a juvenile who is a
4 person described in section 43-2,108.01 or such juvenile's parent or
5 guardian may not move the court to seal the record for one year after the
6 court's decision not to seal the record is made, unless such time
7 restriction is waived by the court.

8 Sec. 41. Section 43-2922, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 43-2922 For purposes of the Parenting Act:

11 (1) Appropriate means reflective of the developmental abilities of
12 the child taking into account any cultural traditions that are within the
13 boundaries of state and federal law;

14 (2) Approved mediation center means a mediation center approved by
15 the Office of Restorative Justice and Dispute Resolution;

16 (3) Best interests of the child means the determination made taking
17 into account the requirements stated in section 43-2923 or the Uniform
18 Deployed Parents Custody and Visitation Act if such act applies;

19 (4) Child means a minor under nineteen years of age;

20 (5) Child abuse or neglect has the same meaning as in section
21 28-710;

22 (6) Court conciliation program means a court-based conciliation
23 program under the Conciliation Court Law;

24 (7) Custody includes legal custody and physical custody;

25 (8) Domestic intimate partner abuse means an act of abuse as defined
26 in section 42-903 and a pattern or history of abuse evidenced by one or
27 more of the following acts: Physical or sexual assault, threats of
28 physical assault or sexual assault, stalking, harassment, mental cruelty,
29 emotional abuse, intimidation, isolation, economic abuse, or coercion
30 against any current or past intimate partner, or an abuser using a child
31 to establish or maintain power and control over any current or past

1 intimate partner, and, when they contribute to the coercion or
2 intimidation of an intimate partner, acts of child abuse or neglect or
3 threats of such acts, cruel mistreatment or cruel neglect of an animal as
4 defined in section 28-1008, or threats of such acts, and other acts of
5 abuse, assault, or harassment, or threats of such acts against other
6 family or household members. A finding by a child protection agency shall
7 not be considered res judicata or collateral estoppel regarding an act of
8 child abuse or neglect or a threat of such act, and shall not be
9 considered by the court unless each parent is afforded the opportunity to
10 challenge any such determination;

11 (9) Economic abuse means causing or attempting to cause an
12 individual to be financially dependent by maintaining total control over
13 the individual's financial resources, including, but not limited to,
14 withholding access to money or credit cards, forbidding attendance at
15 school or employment, stealing from or defrauding of money or assets,
16 exploiting the victim's resources for personal gain of the abuser, or
17 withholding physical resources such as food, clothing, necessary
18 medications, or shelter;

19 (10) Emotional abuse means a pattern of acts, threats of acts, or
20 coercive tactics, including, but not limited to, threatening or
21 intimidating to gain compliance, destruction of the victim's personal
22 property or threats to do so, violence to an animal or object in the
23 presence of the victim as a way to instill fear, yelling, screaming,
24 name-calling, shaming, mocking, or criticizing the victim,
25 possessiveness, or isolation from friends and family. Emotional abuse can
26 be verbal or nonverbal;

27 (11) Joint legal custody means mutual authority and responsibility
28 of the parents for making mutual fundamental decisions regarding the
29 child's welfare, including choices regarding education and health;

30 (12) Joint physical custody means mutual authority and
31 responsibility of the parents regarding the child's place of residence

1 and the exertion of continuous blocks of parenting time by both parents
2 over the child for significant periods of time;

3 (13) Legal custody means the authority and responsibility for making
4 fundamental decisions regarding the child's welfare, including choices
5 regarding education and health;

6 (14) Mediation means a method of nonjudicial intervention in which a
7 trained, neutral third-party mediator, who has no decisionmaking
8 authority, provides a structured process in which individuals and
9 families in conflict work through parenting and other related family
10 issues with the goal of achieving a voluntary, mutually agreeable
11 parenting plan or related resolution;

12 (15) Mediator means a mediator meeting the qualifications of section
13 43-2938 and acting in accordance with the Parenting Act;

14 (16) Office of Restorative Justice and Dispute Resolution means the
15 office established under section 25-2904;

16 (17) Parenting functions means those aspects of the relationship in
17 which a parent or person in the parenting role makes fundamental
18 decisions and performs fundamental functions necessary for the care and
19 development of a child. Parenting functions include, but are not limited
20 to:

21 (a) Maintaining a safe, stable, consistent, and nurturing
22 relationship with the child;

23 (b) Attending to the ongoing developmental needs of the child,
24 including feeding, clothing, physical care and grooming, health and
25 medical needs, emotional stability, supervision, and appropriate conflict
26 resolution skills and engaging in other activities appropriate to the
27 healthy development of the child within the social and economic
28 circumstances of the family;

29 (c) Attending to adequate education for the child, including
30 remedial or other special education essential to the best interests of
31 the child;

1 (d) Assisting the child in maintaining a safe, positive, and
2 appropriate relationship with each parent and other family members,
3 including establishing and maintaining the authority and responsibilities
4 of each party with respect to the child and honoring the parenting plan
5 duties and responsibilities;

6 (e) Minimizing the child's exposure to harmful parental conflict;

7 (f) Assisting the child in developing skills to maintain safe,
8 positive, and appropriate interpersonal relationships; and

9 (g) Exercising appropriate support for social, academic, athletic,
10 or other special interests and abilities of the child within the social
11 and economic circumstances of the family;

12 (18) Parenting plan means a plan for parenting the child that takes
13 into account parenting functions;

14 (19) Parenting time, visitation, or other access means communication
15 or time spent between the child and parent or stepparent, the child and a
16 court-appointed guardian, or the child and another family member or
17 members including stepbrothers or stepsisters;

18 (20) Physical custody means authority and responsibility regarding
19 the child's place of residence and the exertion of continuous parenting
20 time for significant periods of time;

21 (21) Provisions for safety means a plan developed to reduce risks of
22 harm to children and adults who are victims of child abuse or neglect,
23 domestic intimate partner abuse, or unresolved parental conflict;

24 (22) Remediation process means the method established in the
25 parenting plan which maintains the best interests of the child and
26 provides a means to identify, discuss, and attempt to resolve future
27 circumstantial changes or conflicts regarding the parenting functions and
28 which minimizes repeated litigation and utilizes judicial intervention as
29 a last resort;

30 (23) Specialized alternative dispute resolution means a method of
31 nonjudicial intervention in high conflict or domestic intimate partner

1 abuse cases in which an approved specialized mediator facilitates
2 voluntary mutual development of and agreement to a structured parenting
3 plan, provisions for safety, a transition plan, or other related
4 resolution between the parties;

5 (24) Transition plan means a plan developed to reduce exposure of
6 the child and the adult to ongoing unresolved parental conflict during
7 parenting time, visitation, or other access for the exercise of parental
8 functions; and

9 (25) Unresolved parental conflict means persistent conflict in which
10 parents are unable to resolve disputes about parenting functions which
11 has a potentially harmful impact on a child.

12 Sec. 42. Section 43-2938, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 43-2938 (1) A mediator under the Parenting Act may be a court
15 conciliation program counselor, a court conciliation program mediator, an
16 approved mediation center affiliated mediator, or a mediator in private
17 practice.

18 (2) To qualify as a Parenting Act mediator, a person shall have
19 basic mediation training and family mediation training, approved by the
20 Office of Restorative Justice and Dispute Resolution, and shall have
21 served as an apprentice to a mediator as defined in section 25-2903. The
22 training shall include, but not be limited to:

23 (a) Knowledge of the court system and procedures used in contested
24 family matters;

25 (b) General knowledge of family law, especially regarding custody,
26 parenting time, visitation, and other access, and support, including
27 calculation of child support using the child support guidelines pursuant
28 to section 42-364.16;

29 (c) Knowledge of other resources in the state to which parties and
30 children can be referred for assistance;

31 (d) General knowledge of child development, the potential effects of

1 dissolution or parental separation upon children, parents, and extended
2 families, and the psychology of families;

3 (e) Knowledge of child abuse or neglect and domestic intimate
4 partner abuse and their potential impact upon the safety of family
5 members, including knowledge of provisions for safety, transition plans,
6 domestic intimate partner abuse screening protocols, and mediation safety
7 measures; and

8 (f) Knowledge in regard to the potential effects of domestic
9 violence on a child; the nature and extent of domestic intimate partner
10 abuse; the social and family dynamics of domestic intimate partner abuse;
11 techniques for identifying and assisting families affected by domestic
12 intimate partner abuse; interviewing, documentation of, and appropriate
13 recommendations for families affected by domestic intimate partner abuse;
14 and availability of community and legal domestic violence resources.

15 (3) To qualify as an approved specialized mediator for parents
16 involved in high conflict and situations in which abuse is present, the
17 mediator shall apply to an approved mediation center or court
18 conciliation program for consideration to be listed as an approved
19 specialized mediator. The approved mediation center or court conciliation
20 program shall submit its list of approved specialized mediators to the
21 Office of Restorative Justice and Dispute Resolution on an annual basis.
22 Minimum requirements to be listed as an approved specialized mediator
23 include:

24 (a) Affiliation with a court conciliation program or an approved
25 mediation center;

26 (b) Meeting the minimum standards for a Parenting Act mediator under
27 this section;

28 (c) Meeting additional relevant standards and qualifications as
29 determined by the State Court Administrator; and

30 (d) Satisfactorily completing an additional minimum twenty-four-hour
31 specialized alternative dispute resolution domestic mediation training

1 course developed by entities providing domestic abuse services and
2 mediation services for children and families and approved by the State
3 Court Administrator. This course shall include advanced education in
4 regard to the potential effects of domestic violence on the child; the
5 nature and extent of domestic intimate partner abuse; the social and
6 family dynamics of domestic intimate partner abuse; techniques for
7 identifying and assisting families affected by domestic intimate partner
8 abuse; and appropriate and safe mediation strategies to assist parties in
9 developing a parenting plan, provisions for safety, and a transition
10 plan, as necessary and relevant.

11 Sec. 43. Section 43-2941, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 43-2941 Mediation of a parenting plan shall be subject to the
14 Uniform Mediation Act and the Restorative Justice and Dispute Resolution
15 Act, to the extent such acts are not in conflict with the Parenting Act.
16 Unsigned mediated agreements under the Parenting Act are not subject to a
17 claim of privilege under subdivision (a)(1) of section 25-2935. In
18 addition to disclosures permitted in section 25-2936, a mediator under
19 the Parenting Act may also disclose a party's failure to schedule an
20 individual initial screening session or a mediation session.

21 Sec. 44. Section 43-2943, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 43-2943 (1) The State Court Administrator may develop rules to
24 implement the Parenting Act.

25 (2) The Parenting Act Fund is created. The State Court
26 Administrator, through the Office of Restorative Justice and Dispute
27 Resolution, approved mediation centers, and court conciliation programs,
28 shall use the fund to carry out the Parenting Act. Any money in the fund
29 available for investment shall be invested by the state investment
30 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
31 State Funds Investment Act.

1 Sec. 45. Section 43-4203, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 43-4203 (1) The Nebraska Children's Commission shall work with
4 administrators from each of the service areas designated pursuant to
5 section 81-3116, the teams created pursuant to section 28-728, local
6 foster care review boards, child advocacy centers, the teams created
7 pursuant to the Supreme Court's Through the Eyes of the Child Initiative,
8 community stakeholders, and advocates for child welfare programs and
9 services to establish networks in each of such service areas. Such
10 networks shall permit collaboration to strengthen the continuum of
11 services available to child welfare agencies and to provide resources for
12 children and juveniles outside the child protection system. Each service
13 area shall develop its own unique strategies to be included in the
14 statewide strategic plan. The Department of Health and Human Services
15 shall assist in identifying the needs of each service area.

16 (2)(a) The commission shall create a committee to examine state
17 policy regarding the prescription of psychotropic drugs for children who
18 are wards of the state and the administration of such drugs to such
19 children. Such committee shall review the policy and procedures for
20 prescribing and administering such drugs and make recommendations to the
21 commission for changes in such policy and procedures.

22 (b) The commission shall create a committee to examine the Office of
23 Juvenile Services and the Juvenile Services Division of the Office of
24 Probation Administration. Such committee shall review the role and
25 effectiveness of out-of-home placements utilized in the juvenile justice
26 system, including the youth rehabilitation and treatment centers, and
27 make recommendations to the commission on the juvenile justice continuum
28 of care, including what populations should be served in out-of-home
29 placements and what treatment services should be provided at the centers
30 in order to appropriately serve those populations. Such committee shall
31 also review how mental and behavioral health services are provided to

1 juveniles in residential placements and the need for such services
2 throughout Nebraska and make recommendations to the commission relating
3 to those systems of care in the juvenile justice system. The committee
4 shall collaborate with the University of Nebraska at Omaha, Juvenile
5 Justice Institute, the University of Nebraska Medical Center, Center for
6 Health Policy, the behavioral health regions as established in section
7 71-807, and state and national juvenile justice experts to develop
8 recommendations. The recommendations shall include a plan to implement a
9 continuum of care in the juvenile justice system to meet the needs of
10 Nebraska families, including specific recommendations for the
11 rehabilitation and treatment model. The recommendations shall be
12 delivered to the commission and electronically to the Judiciary Committee
13 of the Legislature annually by September 1.

14 (c) The commission may organize committees as it deems necessary.
15 Members of the committees may be members of the commission or may be
16 appointed, with the approval of the majority of the commission, from
17 individuals with knowledge of the committee's subject matter,
18 professional expertise to assist the committee in completing its assigned
19 responsibilities, and the ability to collaborate within the committee and
20 with the commission to carry out the powers and duties of the commission.
21 No member of any committee created pursuant to this section shall have
22 any private financial interest, profit, or benefit from any work of such
23 committee.

24 (d) The Title IV-E Demonstration Project Committee created pursuant
25 to section 43-4208 and the Foster Care Reimbursement Rate Committee
26 appointed pursuant to section 43-4216 are under the jurisdiction of the
27 commission.

28 (3) The commission shall work with the office of the State Court
29 Administrator, as appropriate, and entities which coordinate facilitated
30 conferencing as described in section 43-247.03. Facilitated conferencing
31 shall be included in statewide strategic plan discussions by the

1 commission. Facilitated conferencing shall continue to be utilized and
2 maximized, as determined by the court of jurisdiction, during the
3 development of the statewide strategic plan. Funding and contracting with
4 mediation centers approved by the Office of Restorative Justice and
5 Dispute Resolution to provide facilitated conferencing shall continue to
6 be provided by the office of the State Court Administrator at an amount
7 of no less than the General Fund transfer under subsection (1) of section
8 43-247.04.

9 (4) The commission shall gather information and communicate with
10 juvenile justice specialists of the Office of Probation Administration
11 and county officials with respect to any county-operated practice model
12 participating in the Crossover Youth Program of the Center for Juvenile
13 Justice Reform at Georgetown University.

14 (5) The commission shall coordinate and gather information about the
15 progress and outcomes of the Nebraska Juvenile Service Delivery Project
16 established pursuant to section 43-4101.

17 (6) The commission shall develop a system-of-care plan beginning
18 with prevention services through treatment services for the child welfare
19 system based on relevant data and evidence-based practices to meet the
20 specific needs of each area of the state. Such system-of-care plan shall
21 include services that are goal-driven and outcome-based and shall
22 evaluate the feasibility of utilizing performance-based contracting for
23 specific child welfare services, including the feasibility of additional
24 contractual requirements for service providers requiring services to all
25 children without an option to deny service.

26 (7) The commission shall analyze case management workforce issues
27 and make recommendations to the Health and Human Services Committee of
28 the Legislature regarding:

29 (a) Salary comparisons with other states and the current pay
30 structure based on job descriptions;

31 (b) Utilization of incentives for persons who work in the area of

1 child welfare;

2 (c) Evidence-based training requirements for persons who work in the
3 area of child welfare and their supervisors; and

4 (d) Collaboration with the University of Nebraska to increase and
5 sustain such workforce.

6 Sec. 46. Section 79-209, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 79-209 (1) In all school districts in this state, any
9 superintendent, principal, teacher, or member of the school board who
10 knows of any violation of subsection (2) of section 79-201 shall within
11 three days report such violation to the attendance officer of the school,
12 who shall immediately investigate the case. When of his or her personal
13 knowledge or by report or complaint from any resident of the district,
14 the attendance officer believes that there is a violation of subsection
15 (2) of section 79-201, the attendance officer shall immediately
16 investigate such alleged violation.

17 (2) All school boards shall have a written policy on attendance
18 developed and annually reviewed in collaboration with the county attorney
19 of the county in which the principal office of the school district is
20 located. The policy shall include a provision indicating how the school
21 district will handle cases in which excessive absences are due to
22 illness. The policy shall also state the circumstances and number of
23 absences or the hourly equivalent upon which the school shall render all
24 services to address barriers to attendance. Such services shall include,
25 but not be limited to:

26 (a) Verbal or written communication by school officials with the
27 person or persons who have legal or actual charge or control of any
28 child; and

29 (b) One or more meetings between, at a minimum, a school attendance
30 officer, a school social worker, or a school administrator or his or her
31 designee, the person who has legal or actual charge or control of the

1 child, and the child, when appropriate, to attempt to address the
2 barriers to attendance. The result of the meeting or meetings shall be to
3 develop a collaborative plan to reduce barriers identified to improve
4 regular attendance. The plan shall consider, but not be limited to:

- 5 (i) Illness related to physical or behavioral health of the child;
- 6 (ii) Educational counseling;
- 7 (iii) Educational evaluation;
- 8 (iv) Referral to community agencies for economic services;
- 9 (v) Family or individual counseling;~~and~~
- 10 (vi) Assisting the family in working with other community services;

11 and -

12 (vii) Referral to restorative justice practices or services with an
13 approved center pursuant to the Restorative Justice and Dispute
14 Resolution Act.

15 (3) The school may report to the county attorney of the county in
16 which the person resides when the school has documented the efforts it
17 has made as required by subsection (2) of this section that the
18 collaborative plan to reduce barriers identified to improve regular
19 attendance has not been successful and that the child has been absent
20 more than twenty days per year. The school shall notify the child's
21 family in writing prior to referring the child to the county attorney.
22 Failure by the school to document the efforts required by subsection (2)
23 of this section is a defense to prosecution under section 79-201 and
24 adjudication for educational neglect under subdivision (3)(a) of section
25 43-247 and habitual truancy under subdivision (3)(b) of section 43-247.
26 Illness that makes attendance impossible or impracticable shall not be
27 the basis for referral to the county attorney.

28 (4) Nothing in this section shall preclude a county attorney from
29 being involved at any stage in the process to address excessive
30 absenteeism.

31 Sec. 47. Section 79-258, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 79-258 Administrative and teaching personnel may take actions
3 regarding student behavior, other than those specifically provided in the
4 Student Discipline Act, which are reasonably necessary to aid the
5 student, further school purposes, or prevent interference with the
6 educational process. Such actions may include, but need not be limited
7 to, counseling of students, parent conferences, referral to restorative
8 justice practices or services pursuant to the Restorative Justice and
9 Dispute Resolution Act, rearrangement of schedules, requirements that a
10 student remain in school after regular hours to do additional work,
11 restriction of extracurricular activity, or requirements that a student
12 receive counseling, psychological evaluation, or psychiatric evaluation
13 upon the written consent of a parent or guardian to such counseling or
14 evaluation.

15 Sec. 48. Section 79-2104, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

17 79-2104 A learning community coordinating council shall have the
18 authority to:

19 (1) For fiscal years prior to fiscal year 2017-18, levy a common
20 levy for the general funds of member school districts pursuant to
21 sections 77-3442 and 79-1073;

22 (2) Levy for elementary learning center facility leases, for
23 remodeling of leased elementary learning center facilities, and for up to
24 fifty percent of the estimated cost for focus school or program capital
25 projects approved by the learning community coordinating council pursuant
26 to subdivision (2)(f) of section 77-3442 and section 79-2111;

27 (3) Levy for early childhood education programs for children in
28 poverty, for elementary learning center employees, for contracts with
29 other entities or individuals who are not employees of the learning
30 community for elementary learning center programs and services, and for
31 pilot projects pursuant to subdivision (2)(g) of section 77-3442, except

1 that not more than ten percent of such levy may be used for elementary
2 learning center employees;

3 (4) Develop, submit, administer, and evaluate community achievement
4 plans in collaboration with the advisory committee, educational service
5 units serving member school districts, member school districts, and the
6 student achievement coordinator or other department staff designated by
7 the Commissioner of Education;

8 (5) Collect, analyze, and report data and information, including,
9 but not limited to, information provided by a school district pursuant to
10 subsection (5) of section 79-201;

11 (6) Approve focus schools and focus programs to be operated by
12 member school districts;

13 (7) Adopt, approve, and implement a diversity plan pursuant to
14 sections 79-2110 and 79-2118;

15 (8) Through school year 2016-17, administer the open enrollment
16 provisions in section 79-2110 for the learning community as part of a
17 diversity plan developed by the council to provide educational
18 opportunities which will result in increased diversity in schools across
19 the learning community;

20 (9) Annually conduct school fairs to provide students and parents
21 the opportunity to explore the educational opportunities available at
22 each school in the learning community and develop other methods for
23 encouraging access to such information and promotional materials;

24 (10) Develop procedures for determining best practices for
25 addressing student achievement barriers and for disseminating such
26 practices within the learning community and to other school districts;

27 (11) Establish and administer elementary learning centers through
28 achievement subcouncils pursuant to sections 79-2112 to 79-2114;

29 (12) Administer the learning community funds distributed to the
30 learning community pursuant to section 79-2111;

31 (13) Establish a procedure for receiving community input and

1 complaints regarding the learning community;

2 (14) Establish a procedure to assist parents, citizens, and member
3 school districts in accessing an approved center pursuant to the
4 Restorative Justice and Dispute Resolution Act to resolve disputes
5 involving member school districts or the learning community. Such
6 procedure may include payment by the learning community for some
7 mediation services;

8 (15) Establish and administer pilot projects related to enhancing
9 the academic achievement of elementary students, particularly students
10 who face challenges in the educational environment due to factors such as
11 poverty, limited English skills, and mobility;

12 (16) Provide funding to public or private entities engaged in the
13 juvenile justice system providing prefilng and diversion programming
14 designed to reduce excessive absenteeism and unnecessary involvement with
15 the juvenile justice system; and

16 (17) Hold public hearings at its discretion in response to issues
17 raised by residents regarding the learning community, a member school
18 district, and academic achievement.

19 Sec. 49. Original sections 25-2901, 25-2902, 25-2903, 25-2904,
20 25-2905, 25-2906, 25-2907, 25-2908, 25-2909, 25-2911, 25-2912, 25-2913,
21 25-2914, 25-2915, 25-2916, 25-2917, 25-2918, 25-2919, 25-2920, 25-2921,
22 25-2943, 33-155, 43-245, 43-246, 43-247.03, 43-247.04, 43-260.06, 43-275,
23 43-276, 43-2,108.01, 43-2,108.02, 43-2,108.03, 43-2,108.04, 43-2922,
24 43-2938, 43-2941, 43-2943, 79-209, and 79-258, Reissue Revised Statutes
25 of Nebraska, and sections 34-112.02, 43-274, 43-286, 43-4203, and
26 79-2104, Revised Statutes Cumulative Supplement, 2018, are repealed.