

## LEGISLATIVE BILL 447

Approved by the Governor April 15, 1992

Introduced by Bernard-Stevens, 42

AN ACT relating to juveniles; to amend sections 29-2252, 43-2402 to 43-2406, 43-2409, and 43-2412 to 43-2414, Revised Statutes Supplement, 1990; to state findings and intent; to create the Youth Services Planning Commission and provide for its membership and location and for a chairperson; to provide powers and duties for the commission; to state intent relating to funds appropriated for the commission; to change provisions of the Juvenile Services Act; to transfer responsibility for administration of the act from the Office of Probation Administration to the Nebraska Commission on Law Enforcement and Criminal Justice; to harmonize provisions; and to repeal the original sections.

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

Section 1. (1) Although the Department of Correctional Services and the Division of Juvenile Services of the department have made great efforts and attempts to adequately serve troubled juveniles in Nebraska, it has long been recognized that juvenile corrections carries a mission, philosophy, and mandate substantially different than adult corrections. For the mission, philosophy, and mandate of juvenile corrections to be successfully implemented, the Legislature finds that a state juvenile services implementation plan is necessary.

(2) It is the intent of the Legislature that the Youth Services Planning Commission shall be created, the function of which shall be to provide a state juvenile services implementation plan to provide a method for the delivery of comprehensive services and programs for juveniles. Such comprehensive services and programs shall require the coordination and collaboration of state agencies and regional and local service providers. The purpose of the plan shall be to facilitate optimum service delivery, to prevent delinquency, and to reduce the incidence of recidivism among juveniles through the provision of prevention, rehabilitation, and treatment services and programs

through a system based on the prudent management of resources.

(3) It is further the intent of the Legislature that upon presentation to the Legislature and legislative approval of the state juvenile services implementation plan, the Office of Youth Services shall be established, the function of which shall be to provide comprehensive services and programs for juveniles as prescribed in the plan.

Sec. 2. There is hereby created the Youth Services Planning Commission. The commission shall consist of the following members: The Commissioner of Education, the Director of Correctional Services, the Director of the State Foster Care Review Board, the Director of Public Institutions, the Director of Social Services, the Executive Director of the Nebraska Commission on Law Enforcement and Criminal Justice, the probation administrator of the Office of Probation Administration, a judge of a separate juvenile court or of a county court sitting as a juvenile court appointed by the Governor, an advocacy representative of juveniles and families appointed by the Governor, and two members of the Legislature appointed by the Governor. The appointments to the commission shall be made no later than July 16, 1992.

The Governor shall appoint a person other than a person listed in this section to serve as an autonomous chairperson of the commission. At a minimum, the chairperson shall have administrative experience in juvenile rehabilitative and treatment programs and educational qualifications and training which enable him or her to coordinate the commission in a manner consistent with the intent and purpose of the commission. The appointment of the chairperson and the first meeting of the commission shall be no later than July 16, 1992.

The members of the commission shall assist and advise the chairperson in developing the state juvenile services implementation plan and shall consult with groups, entities, or individuals which or who may be affected by the proposed plan. The commission shall present the plan to the Legislature and the Governor by September 1, 1993.

Sec. 3. (1) The Youth Services Planning Commission shall include the following continuum of services and programs in the state juvenile services implementation plan:

(a) Intake and assessment;

(b) Case management staff, including

probation:

(c) Secure facilities and detention programs, including home detention and other alternatives to detention;

(d) Educational, vocational, and social counseling programs;

(e) Community-based services for juveniles and their families;

(f) Administration of the Youth Development Center-Kearney and the Youth Development Center-Geneva and any other secure public juvenile facilities as may become necessary in the future;

(g) Juvenile parole staff and aftercare services, including follow-up services;

(h) Other programs, services, consultants, or staff necessary to fulfill the mandate of the commission;

(i) Coordination of services and programs with the Children with Disabilities and Family Service System Act and the state plan implemented pursuant to such act; and

(j) Coordination of services and programs with the Office of Child and Family Policy.

(2) The state juvenile services implementation plan shall include, at a minimum, feasibility and cost analyses for the establishment of the Office of Youth Services, a time frame for operational responsibilities, and a complete listing of all services and programs and the geographic proximity of such services and programs, including the services and programs listed in subsection (1) of this section, and programs, facilities, and personnel which will be required for the office to commence operation. The plan shall also include an examination of existing state resources and consideration of reorganization and restructuring of such resources to meet the needs of troubled juveniles.

Sec. 4. (1) The chairperson of the Youth Services Planning Commission shall be temporarily housed with the Nebraska Commission on Law Enforcement and Criminal Justice but shall assume leadership, responsibility, and authority regarding the development of the state juvenile services implementation plan.

(2) It is the intent of the Legislature that any money appropriated by the Legislature for the Youth Services Planning Commission to carry out sections 1 to 4 of this act shall be appropriated to the Nebraska Commission on Law Enforcement and Criminal Justice.

Sec. 5. That section 29-2252, Revised Statutes Supplement, 1990, be amended to read as

follows:

- 29-2252. The administrator shall:
- (1) Supervise and administer the office;
  - (2) Establish and maintain policies, standards, and procedures for the system, with the concurrence of the Supreme Court;
  - (3) Prescribe and furnish such forms for records and reports for the system as shall be deemed necessary for uniformity, efficiency, and statistical accuracy;
  - (4) Establish minimum qualifications for employment as a probation officer in this state and establish and maintain such additional qualifications as he or she deems appropriate for appointment to the system. Qualifications for probation officers shall be established in accordance with subsection (4) of section 29-2253. An ex-offender released from a penal complex or a county jail may be appointed to a position of deputy probation or parole officer. Such ex-offender shall maintain a record free of arrests, except for minor traffic violations, for one year immediately preceding his or her appointment;
  - (5) Establish and maintain advanced periodic inservice training requirements for the system;
  - (6) Cooperate with all agencies, public or private, which are concerned with treatment or welfare of persons on probation;
  - (7) Organize and conduct training programs for probation officers;
  - (8) Collect, develop, and maintain statistical information concerning probationers, probation practices, and the operation of the system;
  - (9) Interpret the probation program to the public with a view toward developing a broad base of public support;
  - (10) Conduct research for the purpose of evaluating and improving the effectiveness of the system;
  - (11) Adopt and promulgate such rules and regulations as may be necessary or proper for the operation of the office or system;
  - (12) Transmit a report during each even-numbered year to the Supreme Court on the operation of the office for the preceding two calendar years, which report shall be transmitted by the Supreme Court to the Governor and the Clerk of the Legislature;
  - (13) Administer the payment by the state of all salaries, travel, and actual and necessary expenses incident to the conduct and maintenance of the office;

and

(14) Exercise all powers and perform all duties necessary and proper to carry out his or her responsibilities, and

~~(15) Administer the Juvenile Services Act-~~

Each member of the Legislature shall receive a copy of the report required by subdivision (12) of this section by making a request for it to the administrator.

Sec. 6. That section 43-2402, Revised Statutes Supplement, 1990, be amended to read as follows:

43-2402. For purposes of the Juvenile Services Act:

~~(1) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;~~

~~(1) (2) Committee shall mean the Juvenile Services Grant Committee established pursuant to section 43-2411;~~

~~(2) (3) Eligible applicant shall mean a community-based agency or organization, community team, political subdivision, school district, or federally recognized or state-recognized Indian tribe;~~

~~(3) (4) Juvenile shall mean a person who is under eighteen years of age;~~

~~(4) Office shall mean the Office of Probation Administration;~~

(5) Plan shall mean the comprehensive juvenile services plan required pursuant to section 43-2405; and

(6) Program shall mean those programs and services described in section 43-2404.

Sec. 7. That section 43-2403, Revised Statutes Supplement, 1990, be amended to read as follows:

43-2403. The Legislature hereby finds that the incarceration of juveniles in adult jails, lockups, and correctional facilities is contrary to the best interests and well-being of juveniles and frequently inconsistent with state and federal law requiring intervention by the least restrictive method. The Legislature further finds that the lack of available alternatives within local communities is a significant factor in the incarceration of juveniles in such adult jails, lockups, and correctional facilities.

To address such lack of available alternatives to the incarceration of juveniles, the Legislature declares it to be the policy of the State of Nebraska to aid local communities in the establishment of programs or services for juveniles under the jurisdiction of the juvenile or criminal justice system and to finance such

programs or services on a continuing basis with appropriations from the General Fund. The purposes of the Juvenile Services Act shall be to (1) develop statewide criteria for programs or services for juveniles, including a description of factors to be considered in making placement decisions and a description of necessary components of programs or services, (2) assist in the provision of appropriate preventive, diversionary, and dispositional alternatives for juveniles, (3) encourage coordination of the elements of the juvenile services system, and (4) provide an opportunity for local involvement in developing community programs for juveniles so that the following objectives may be obtained:

(a) Preservation of the family unit whenever the best interests of the juvenile require it;

(b) Limitation on intervention to those actions which are necessary and the utilization of the least restrictive yet most effective and appropriate resources;

(c) Encouragement of active family participation in whatever treatment is afforded a juvenile whenever the best interests of the juvenile require it;

(d) Treatment in the community rather than commitment to ~~the a~~ youth development centers center whenever the best interests of the juvenile require it; and

(e) Encouragement of and assistance to communities in the development of alternatives to secure temporary custody for juveniles who do not require secure detention.

All state agencies providing direct services to juveniles shall coordinate their efforts and work with the ~~office~~ commission, members of the judiciary, and local political subdivisions in the establishment and provision of such programs. Programs established pursuant to the act shall conform to the family policy tenets prescribed in sections 43-532 to 43-534.

Sec. 8. That section 43-2404, Revised Statutes Supplement, 1990, be amended to read as follows:

43-2404. On and after July 10, 1990 the effective date of this act, and annually thereafter, the ~~office~~ commission, solely on the recommendation of the committee, shall award grants in accordance with the Juvenile Services Act to assist communities in the implementation and operation of programs, including, but not limited to, programs for assessment and evaluation,

programs for the prevention of delinquent behavior, diversion, detention, shelter care, intensive juvenile probation services, restitution, family support services, and community centers for the care and treatment of juveniles in need of services.

Sec. 9. That section 43-2405, Revised Statutes Supplement, 1990, be amended to read as follows:

43-2405. (1) An eligible applicant may apply to the committee in a manner and form prescribed by the committee for funds made available under the Juvenile Services Act. The committee may require an eligible applicant to appear before the committee to explain its application in greater detail. The application shall include a comprehensive juvenile services plan. Grants shall be awarded to eligible applicants annually within the limits of available funds until programs are available statewide. On request, the office commission may provide consultation and technical assistance to eligible applicants to aid in the development and implementation of such plans.

(2) All plans shall comply with rules and regulations adopted and promulgated by the committee pursuant to the act and shall include, but not be limited to:

(a) An identification of the geographic area to be served by the proposed program and the target population to be served;

(b) A description of the programs of public and private agencies within the geographic area to be served which offer services to juveniles at various age levels, including those programs which have a significant prevention aspect or objective;

(c) The manner in which each proposed program in the plan will be provided and a demonstration of the need for each program and its purpose, administrative structure, staffing, proposed budget, degree of community involvement, client participation, and duration;

(d) A demonstration of the commitment of the eligible applicant and other participants in the plan, including, but not limited to, a commitment of matching funds, either in cash or in kind, by public or private resources within the community, county, or region;

(e) A description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems and the juvenile needs of the geographic area to be served;

(f) The manner in which the policies and requirements of the act will be met;

(g) The manner in which an eligible applicant will operate a coordinated program with other agencies or organizations;

(h) A detailed task plan for the first year of the plan. The task plan shall include an identification of the major goals to be accomplished, the tasks related to each goal, the agency responsible for completion of the task, and the timeframe for completion of the task;

(i) An identification of those individuals and organizations involved in the plan;

(j) A description of the manner in which the programs interrelate with other similar state or local programs;

(k) Provisions for administering money awarded under the act; and

(l) Criteria to be used by the eligible applicant in evaluating programs in the plan funded pursuant to the act.

(3) Any portion of the plan dealing with the administration, procedures, and programs of the juvenile court shall not be submitted to the effiee commission without the concurrence of the presiding judge of the court having jurisdiction in juvenile cases for the geographic area to be served.

(4) Eligible applicants may give consideration to contracting with private nonprofit agencies for the provision of programs.

(5) An eligible applicant receiving money under the act shall not make any amendment or modification which involves more than two thousand dollars of approved funding to an approved plan without first seeking approval from the effiee commission. An eligible applicant making an amendment or modification which involves two thousand dollars or less of approved funding shall notify the effiee commission within thirty days after making such amendment or modification. Failure to notify the effiee commission shall result in the withdrawal of the funding involved in the amendment or modification.

Sec. 10. That section 43-2406, Revised Statutes Supplement, 1990, be amended to read as follows:

43-2406. (1) From amounts appropriated to the effiee commission for programs by the Legislature, the effiee commission shall award grants on a competitive basis to eligible applicants based upon criteria to be determined by the committee. Such criteria shall



include, but not be limited to, the following:

(a) Availability of programs or services in the geographic area to be served;

(b) A description of the juvenile crime problems and the needs of juveniles within the geographic area to be served, including an analysis of the leading causes of juvenile crime in the geographic area to be served, trends in juvenile crime in the geographic area to be served, and proposals for addressing juvenile crime and juvenile needs in the geographic area to be served;

(c) An analysis of how well the plan will address the needs of the geographic area to be served; and

(d) An analysis of the overall commitment of the eligible applicant and other participants to the plan, including the commitment of matching funds.

(2) In awarding competitive grants, the committee shall give priority to those plans that fulfill the following minimum criteria:

(a) In rural areas, plans that are multicounty, multicounty, or regional in scope or that utilize interlocal agreements or contracts for the provision of services;

(b) Plans that demonstrate collaboration and cooperation between interested agencies or parties in the geographic area to be served;

(c) Plans that comprehensively address the needs of juveniles in the geographic area to be served as defined in the plan; and

(d) Plans that aid in reducing the number of commitments to the youth development centers or placements in other long-term, out-of-home care for juvenile offenders.

The committee may specify additional criteria as it deems necessary. It is the intent of the Legislature that competitive grants shall be distributed statewide from available funds.

(3) An eligible applicant who has received a grant may apply for continued funding by submitting a proposed budget along with an annual performance report which describes the progress of the eligible applicant in implementing programs contained in the original plan to the ~~office~~ commission by August 1 of each year. The ~~office~~ commission shall review the budget in consultation with the committee and determine whether the grant shall be continued.

Sec. 11. That section 43-2409, Revised Statutes Supplement, 1990, be amended to read as

follows:

43-2409. (1) The effiee commission shall review periodically the performance of eligible applicants participating under the Juvenile Services Act. If the effiee commission determines that there are reasonable grounds to believe that an eligible applicant is not in substantial compliance with its plan, the effiee commission, after giving the eligible applicant not less than one hundred twenty days' notice, shall conduct a public hearing to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. In its notice, the effiee commission shall identify the reasons for believing that the eligible applicant is out of compliance. After the hearing, the effiee commission may suspend any portion of those funds made available to the eligible applicant under the act until the required compliance occurs. The effiee commission, in adopting and promulgating rules and regulations pursuant to the act, shall establish criteria for defining substantial compliance.

(2) Funds received by an eligible applicant under the act shall not be used to replace or supplant any funds, other than federal or state funds, currently being used to support existing programs for juveniles.

(3) Funds received under the act shall not be used for capital construction or the lease or acquisition of facilities unless such uses have been approved.

Sec. 12. That section 43-2412, Revised Statutes Supplement, 1990, be amended to read as follows:

43-2412. (1) Consistent with the purposes and objectives of the Juvenile Services Act, the committee shall:

(a) Make recommendations to the effiee commission on the awarding of grants to eligible applicants for plans;

(b) Establish minimum statewide criteria for programs, including a description of factors to be considered in making placement decisions and a description of the necessary components of such programs;

(c) Develop a uniform system of reporting and collecting statistical data from eligible applicants and other participants in the plan;

(d) Develop or contract for the development of a statewide system to monitor and evaluate the effectiveness of plans provided under the act in preventing persons from entering the juvenile justice

system and in rehabilitating juvenile offenders;

(e) Recommend guidelines to be used for the diversion of juveniles from the juvenile justice system;

(f) Prepare an annual report to the Governor and the Legislature on the criteria, recommendations, guidelines, and rules and regulations developed under this section, including recommendations on administrative and legislative actions which would improve the juvenile justice system;

(g) Ensure widespread citizen involvement in all phases of its work;

(h) Meet at least once every three months; and

(i) Adopt and promulgate rules and regulations necessary to carry out its duties.

(2) Consistent with the purposes and objectives of the act and within the limits of available time and appropriations, the committee may:

(a) Recommend criteria for administrative procedures, including, but not limited to, procedures for intake, detention, petition filing, and probation supervision;

(b) Recommend minimum professional standards, including requirements for continuing professional training, for employees of community-based, youth-serving agencies;

(c) Recommend curricula for and cause to have conducted training sessions for juvenile court judges and employees of other community-based, youth-serving agencies;

(d) Assist and advise state and local agencies in the establishment of volunteer training programs and the utilization of volunteers;

(e) Apply for and receive funds from federal and private sources for carrying out its powers and duties; and

(f) Provide consultation services or technical assistance to eligible applicants.

(3) In formulating, adopting, and promulgating the standards, recommendations, guidelines, and rules and regulations provided for in this section, the committee shall consider the differences among counties in population, in geography, and in the availability of local resources.

Sec. 13. That section 43-2413, Revised Statutes Supplement, 1990, be amended to read as follows:

43-2413. There is hereby established within the ~~office~~ commission the position of coordinator of the Juvenile Services Act. The coordinator shall assist the

office commission in the administration of such act and shall serve as staff to the committee pursuant to section 43-2411.

Sec. 14. That section 43-2414, Revised Statutes Supplement, 1990, be amended to read as follows:

43-2414. Consistent with the purposes and objectives of the Juvenile Services Act, the Nebraska Commission on Law Enforcement and Criminal Justice shall coordinate with the office the distribution of any funds available for juvenile programs, including, but not limited to, federal funds to support the purposes of such act. The Office of Probation Administration shall transfer any books, records, reports, or other property relating to the powers and duties prescribed in the Juvenile Services Act to the commission on the effective date of this act.

Sec. 15. That original sections 29-2252, 43-2402 to 43-2406, 43-2409, and 43-2412 to 43-2414, Revised Statutes Supplement, 1990, are repealed.