

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1088

Introduced by Ashford, 20.

Read first time January 18, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Juvenile Code; to amend sections
2 43-262, 43-263, 43-264, 43-265, and 43-270, Reissue
3 Revised Statutes of Nebraska; to change notice, summons,
4 and warrant provisions; to require notice to both parents
5 when possible; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 43-262, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-262 (1) No summons or notice ~~shall be~~ is required to
4 be served on any person who ~~shall voluntarily appear~~ appears before
5 the court and whose appearance is noted on the records thereof.

6 (2) In actions involving a juvenile who may invoke the
7 jurisdiction of the juvenile court under the Nebraska Juvenile Code,
8 the court, in its discretion, may cause the issuance of a notice in
9 lieu of summons. Persons required to be served, as applicable to the
10 case, are the juvenile and both of the juvenile's parents, unless the
11 parental rights of the parent have been terminated, the juvenile's
12 guardian, and the person who has the custody or control of the
13 juvenile or with whom the juvenile is staying if such person is not a
14 parent or guardian of the juvenile. ~~to the juvenile and to the~~
15 ~~juvenile's parent or the person who has the custody or control of the~~
16 ~~juvenile.~~

17 (3) ~~The~~ ~~Such~~ notice in lieu of summons may be delivered
18 by mail, shall be accompanied by a copy of the petition in cases when
19 jurisdiction under subdivision (1), or (2), or (3)(b) of section
20 43-247 is alleged, and shall contain a statement that ~~(1)-(a)~~ (a) the
21 recipient is entitled by statute to have ~~the~~ a summons or notice, as
22 the case may be, served upon him or her by personnel of the sheriff's
23 office or some other person under the direction of the court, ~~(2)-(b)~~
24 service by the sheriff's office has been dispensed with for the
25 convenience of the recipient, ~~(3)-(c)~~ (c) if the recipient appears in

1 court for the hearing fixed in the notice, he or she shall be deemed
2 to have waived issuance and service of a summons or notice and the
3 seventy-two-hour waiting period, as the case may be, and ~~(4)-(d)~~ if
4 he or she does not appear, a summons or notice, as the case may be,
5 shall be served upon him or her by personnel of the sheriff's office
6 or some other suitable person under the direction of the court.

7 Sec. 2. Section 43-263, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-263 ~~Upon~~ If the court has not caused the issuance of a
10 notice in lieu of summons as provided in section 43-262, after the
11 filing of the petition, a summons with a copy of the petition
12 attached shall issue ~~requiring the person who has custody of the~~
13 ~~juvenile or with whom the juvenile may be staying to appear~~
14 ~~personally to persons required to be served in subsection (2) of~~
15 section 43-262. The summons shall require the persons served to
16 appear personally before the court at the time and place stated and,
17 unless the court orders otherwise, to bring the juvenile before the
18 court at the time and place stated. Service of the summons shall be
19 effected not less than seventy-two hours prior to the hearing set
20 therein, except that service may be waived by the parties. Every
21 summons sent shall comply with the Nebraska Indian Child Welfare Act,
22 if applicable. Summons may also be issued as provided in this section
23 to any person who did not respond to a notice in lieu of summons
24 provided under section 43-262.

25 Sec. 3. Section 43-264, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-264 ~~If~~ Except when notice in lieu of summons is used
3 as provided in section 43-262, when the petition filed under section
4 43-274 alleges that the juvenile is a juvenile as described in
5 subdivision (1), (2), or (3)(b) of section 43-247, a summons with a
6 copy of the petition attached shall be served as provided in section
7 43-263 on ~~such juvenile and his or her parent, guardian, or custodian~~
8 ~~requiring the juvenile and such parent, guardian, or custodian to~~
9 ~~appear personally at the time and place stated.~~ persons required to
10 be served in subsection (2) of section 43-262. When so ordered by the
11 court, personal service shall be obtained upon such juvenile
12 notwithstanding any other provisions of the Nebraska Juvenile Code.

13 Sec. 4. Section 43-265, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-265 (1) If the person so summoned under section 43-263
16 is other than a parent or guardian of the juvenile, ~~then the parent~~
17 ~~or guardian or both, if their residence is known, shall also be~~
18 ~~notified of the pendency of the case and of the time and place~~
19 ~~appointed; if~~ and there is neither a parent nor guardian, or if his
20 or her residence is not known, then some other relative, if there ~~be~~
21 is one and his or her residence is known, shall be notified, ~~except~~
22 ~~that in~~ of the pendency of the case and of the time and place to
23 appear.

24 (2) In any case the juvenile court may appoint a guardian
25 ad litem to act in behalf of the juvenile.

1 Sec. 5. Section 43-270, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-270 In case the summons cannot be served or the
4 parties fail to obey the summons and, in any case when it shall be
5 made to appear to the court that such summons would be ineffectual, a
6 warrant may issue on the order of the court, either against the
7 ~~parent~~parents or guardian or the person having custody of the
8 juvenile, or with whom the juvenile may be, or against the juvenile
9 himself or herself.

10 Sec. 6. Original sections 43-262, 43-263, 43-264, 43-265,
11 and 43-270, Reissue Revised Statutes of Nebraska, are repealed.