

E AND R AMENDMENTS TO LB 894

Introduced by Hansen, 26, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 29-3915, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 29-3915 The following persons ~~who are financially unable to obtain~~
6 ~~counsel~~ shall be entitled to be represented by a judicial district public
7 defender:

8 (1) A minor brought before the juvenile court; and

9 (2) The following persons who are financially unable to obtain
10 counsel:

11 (a 1) A person charged with a felony, including appeals from
12 convictions for a felony;

13 (b 2) A person pursuing a postconviction proceeding under sections
14 29-3001 to 29-3004 after conviction of a felony, when the public defender
15 after investigation concludes that there may be merit to such a
16 proceeding or when the court in which such proceeding is pending directs
17 the public defender to represent the person; and

18 ~~(3) A minor brought before the juvenile court when neither the minor~~
19 ~~nor his or her parent or guardian is able to afford counsel; and~~

20 (c 4) A person against whom a petition has been filed with a mental
21 health board as provided in sections 71-945 to 71-947.

22 Sec. 2. Section 43-245, Revised Statutes Supplement, 2015, is
23 amended to read:

24 43-245 For purposes of the Nebraska Juvenile Code, unless the
25 context otherwise requires:

26 (1) Abandonment means a parent's intentionally withholding from a
27 child, without just cause or excuse, the parent's presence, care, love,

1 protection, and maintenance and the opportunity for the display of
2 parental affection for the child;

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

4 (3) Alternative to detention means a program or directive that
5 increases supervision of a youth in the community in an effort to ensure
6 the youth attends court and refrains from committing a new law violation.
7 Alternative to detention includes, but is not limited to, electronic
8 monitoring, day and evening reporting centers, house arrest, tracking,
9 family crisis response, and temporary shelter placement. Placements that
10 utilize physical construction or hardware to restrain a youth's freedom
11 of movement and ingress and egress from placement are not considered
12 alternatives to detention;

13 (4 ~~3~~) Approved center means a center that has applied for and
14 received approval from the Director of the Office of Dispute Resolution
15 under section 25-2909;

16 (5 ~~4~~) Civil citation means a noncriminal notice which cannot result
17 in a criminal record and is described in section 43-248.02;

18 (6 ~~5~~) Cost or costs means (a) the sum or equivalent expended, paid,
19 or charged for goods or services, or expenses incurred, or (b) the
20 contracted or negotiated price;

21 (7 ~~6~~) Criminal street gang means a group of three or more people
22 with a common identifying name, sign, or symbol whose group identity or
23 purposes include engaging in illegal activities;

24 (8 ~~7~~) Criminal street gang member means a person who willingly or
25 voluntarily becomes and remains a member of a criminal street gang;

26 (9 ~~8~~) Custodian means a nonparental caretaker having physical
27 custody of the juvenile and includes an appointee described in section
28 43-294;

29 (10 ~~9~~) Guardian means a person, other than a parent, who has
30 qualified by law as the guardian of a juvenile pursuant to testamentary
31 or court appointment, but excludes a person who is merely a guardian ad

1 litem;

2 (11 ~~10~~) Juvenile means any person under the age of eighteen;

3 (12 ~~11~~) Juvenile court means the separate juvenile court where it
4 has been established pursuant to sections 43-2,111 to 43-2,127 and the
5 county court sitting as a juvenile court in all other counties. Nothing
6 in the Nebraska Juvenile Code shall be construed to deprive the district
7 courts of their habeas corpus, common-law, or chancery jurisdiction or
8 the county courts and district courts of jurisdiction of domestic
9 relations matters as defined in section 25-2740;

10 (13 ~~12~~) Juvenile detention facility has the same meaning as in
11 section 83-4,125;

12 (14 ~~13~~) Legal custody has the same meaning as in section 43-2922;

13 (15 ~~14~~) Mediator for juvenile offender and victim mediation means a
14 person who (a) has completed at least thirty hours of training in
15 conflict resolution techniques, neutrality, agreement writing, and ethics
16 set forth in section 25-2913, (b) has an additional eight hours of
17 juvenile offender and victim mediation training, and (c) meets the
18 apprenticeship requirements set forth in section 25-2913;

19 (16 ~~15~~) Mental health facility means a treatment facility as defined
20 in section 71-914 or a government, private, or state hospital which
21 treats mental illness;

22 (17 ~~16~~) Nonoffender means a juvenile who is subject to the
23 jurisdiction of the juvenile court for reasons other than legally
24 prohibited conduct, including, but not limited to, juveniles described in
25 subdivision (3)(a) of section 43-247;

26 ~~(17) Nonsecure detention means detention characterized by the~~
27 ~~absence of restrictive hardware, construction, and procedure. Nonsecure~~
28 ~~detention services may include a range of placement and supervision~~
29 ~~options, such as home detention, electronic monitoring, day reporting,~~
30 ~~drug court, tracking and monitoring supervision, staff secure and~~
31 ~~temporary holdover facilities, and group homes;~~

1 (18) Parent means one or both parents or stepparents when the
2 stepparent is married to a parent who has physical custody of the
3 juvenile as of the filing of the petition;

4 (19) Parties means the juvenile as described in section 43-247 and
5 his or her parent, guardian, or custodian;

6 (20) Physical custody has the same meaning as in section 43-2922;

7 (21) Except in proceedings under the Nebraska Indian Child Welfare
8 Act, relative means father, mother, grandfather, grandmother, brother,
9 sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt,
10 first cousin, nephew, or niece;

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

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

16 (24) Staff secure juvenile facility means a juvenile residential
17 facility operated by a political subdivision (a) which does not include
18 construction designed to physically restrict the movements and activities
19 of juveniles who are in custody in the facility, (b) in which physical
20 restriction of movement or activity of juveniles is provided solely
21 through staff, (c) which may establish reasonable rules restricting
22 ingress to and egress from the facility, and (d) in which the movements
23 and activities of individual juvenile residents may, for treatment
24 purposes, be restricted or subject to control through the use of
25 intensive staff supervision. Staff secure juvenile facility does not
26 include any institution operated by the Department of Correctional
27 Services has the same meaning as in section 83-4,125;

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

1 (26) Traffic offense means any nonfelonious act in violation of a
2 law or ordinance regulating vehicular or pedestrian travel, whether
3 designated a misdemeanor or a traffic infraction; and

4 (27) Young adult means an individual older than eighteen years of
5 age but under twenty-one years of age.

6 Sec. 3. Section 43-247, Revised Statutes Supplement, 2015, is
7 amended to read:

8 43-247 The juvenile court in each county shall have jurisdiction of:

9 (1) Any juvenile who has committed an act other than a traffic
10 offense which would constitute a misdemeanor or an infraction under the
11 laws of this state, or violation of a city or village ordinance, and who,
12 beginning July 1, 2017, was eleven years of age or older at the time the
13 act was committed;

14 (2) Any juvenile who has committed an act which would constitute a
15 felony under the laws of this state and who, beginning July 1, 2017, was
16 eleven years of age or older at the time the act was committed;

17 (3) Any juvenile (a) who is homeless or destitute, or without proper
18 support through no fault of his or her parent, guardian, or custodian;
19 who is abandoned by his or her parent, guardian, or custodian; who lacks
20 proper parental care by reason of the fault or habits of his or her
21 parent, guardian, or custodian; whose parent, guardian, or custodian
22 neglects or refuses to provide proper or necessary subsistence,
23 education, or other care necessary for the health, morals, or well-being
24 of such juvenile; whose parent, guardian, or custodian is unable to
25 provide or neglects or refuses to provide special care made necessary by
26 the mental condition of the juvenile; ~~or~~ who is in a situation or engages
27 in an occupation, including prostitution, dangerous to life or limb or
28 injurious to the health or morals of such juvenile; or who, beginning
29 July 1, 2017, has committed an act or engaged in behavior described in
30 subdivision (1), (2), (3)(b), or (4) of this section and who was under
31 eleven years of age at the time of such act or behavior, (b)(i) who,

1 until July 1, 2017, by reason of being wayward or habitually disobedient,
2 is uncontrolled by his or her parent, guardian, or custodian; who departs
3 himself or herself so as to injure or endanger seriously the morals or
4 health of himself, herself, or others; or who is habitually truant from
5 home or school or (ii) who, beginning July 1, 2017, is eleven years of
6 age or older and, by reason of being wayward or habitually disobedient,
7 is uncontrolled by his or her parent, guardian, or custodian; who departs
8 himself or herself so as to injure or endanger seriously the morals or
9 health of himself, herself, or others; or who is habitually truant from
10 home or school, or (c) who is mentally ill and dangerous as defined in
11 section 71-908;

12 (4) Any juvenile who has committed an act which would constitute a
13 traffic offense as defined in section 43-245 and who, beginning July 1,
14 2017, was eleven years of age or older at the time the act was committed;

15 (5) The parent, guardian, or custodian of any juvenile described in
16 this section;

17 (6) The proceedings for termination of parental rights;

18 (7) Any juvenile who has been voluntarily relinquished, pursuant to
19 section 43-106.01, to the Department of Health and Human Services or any
20 child placement agency licensed by the Department of Health and Human
21 Services;

22 (8) Any juvenile who was a ward of the juvenile court at the
23 inception of his or her guardianship and whose guardianship has been
24 disrupted or terminated;

25 (9) The adoption or guardianship proceedings for a child over which
26 the juvenile court already has jurisdiction under another provision of
27 the Nebraska Juvenile Code;

28 (10) The paternity or custody determination for a child over which
29 the juvenile court already has jurisdiction;

30 (11) The proceedings under the Young Adult Bridge to Independence
31 Act; and

1 (12) Except as provided in subdivision (11) of this section, any
2 individual adjudged to be within the provisions of this section until the
3 individual reaches the age of majority or the court otherwise discharges
4 the individual from its jurisdiction.

5 Notwithstanding the provisions of the Nebraska Juvenile Code, the
6 determination of jurisdiction over any Indian child as defined in section
7 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and
8 the district court shall have exclusive jurisdiction in proceedings
9 brought pursuant to section 71-510.

10 Sec. 4. Section 43-248, Revised Statutes Cumulative Supplement,
11 2014, is amended to read:

12 43-248 A peace officer may take a juvenile into temporary custody
13 without a warrant or order of the court and proceed as provided in
14 section 43-250 when:

15 (1)(a) Until July 1, 2017, a A juvenile has violated a state law or
16 municipal ordinance and the officer has reasonable grounds to believe
17 such juvenile committed such violation or (b) beginning July 1, 2017, a
18 juvenile has violated a state law or municipal ordinance and such
19 juvenile was eleven years of age or older at the time of the violation,
20 and the officer has reasonable grounds to believe such juvenile committed
21 such violation and was eleven years of age or older at the time of the
22 violation;

23 (2) A juvenile is seriously endangered in his or her surroundings
24 and immediate removal appears to be necessary for the juvenile's
25 protection;

26 (3) The officer believes the juvenile to be mentally ill and
27 dangerous as defined in section 71-908 and that the harm described in
28 that section is likely to occur before proceedings may be instituted
29 before the juvenile court;

30 (4) The officer has reasonable grounds to believe that the juvenile
31 has run away from his or her parent, guardian, or custodian;

1 (5) A probation officer has reasonable cause to believe that a
2 juvenile is in violation of probation and that the juvenile will attempt
3 to leave the jurisdiction or place lives or property in danger;

4 (6) The officer has reasonable grounds to believe the juvenile is
5 truant from school;~~or~~

6 (7) The officer has reasonable grounds to believe the juvenile is
7 immune from prosecution for prostitution under subsection (5) of section
8 28-801; or -

9 (8) Beginning July 1, 2017, the juvenile has committed an act or
10 engaged in behavior described in subdivision (1), (2), (3)(b), or (4) of
11 section 43-247 and such juvenile was under eleven years of age at the
12 time of such act or behavior, and the officer has reasonable cause to
13 believe such juvenile committed such act or engaged in such behavior and
14 was under eleven years of age at such time.

15 Sec. 5. Section 43-248.01, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 43-248.01 All law enforcement personnel or other governmental
18 officials having custody of any person under eighteen years of age ~~who~~
19 ~~has been arrested, restrained, detained, or deprived of his or her~~
20 ~~liberty for whatever reason shall~~ inform ~~permit~~ the person in custody,
21 using developmentally appropriate language and without unnecessary delay
22 after arrival at a police station or detention facility, of such person's
23 right to call or consult an attorney who is retained by or appointed on
24 behalf of such person in custody or whom the person in custody may desire
25 to consult and, except when exigent circumstances exist, shall permit
26 such person to call or consult such attorney without delay. An attorney
27 shall be permitted to see and consult with the person in custody alone
28 and in private at the place of custody.

29 Sec. 6. Section 43-250, Revised Statutes Supplement, 2015, is
30 amended to read:

31 43-250 (1) A peace officer who takes a juvenile into temporary

1 custody under section 29-401 or subdivision (1), (4), or (5) of section
2 43-248 shall immediately take reasonable measures to notify the
3 juvenile's parent, guardian, custodian, or relative and shall proceed as
4 follows:

5 (a) The peace officer may release a juvenile taken into temporary
6 custody under section 29-401 or subdivision (1) or (4) of section 43-248;

7 (b) The peace officer may require a juvenile taken into temporary
8 custody under section 29-401 or subdivision (1) or (4) of section 43-248
9 to appear before the court of the county in which such juvenile was taken
10 into custody at a time and place specified in the written notice prepared
11 in triplicate by the peace officer or at the call of the court. The
12 notice shall also contain a concise statement of the reasons such
13 juvenile was taken into custody. The peace officer shall deliver one copy
14 of the notice to such juvenile and require such juvenile or his or her
15 parent, guardian, other custodian, or relative, or both, to sign a
16 written promise that such signer will appear at the time and place
17 designated in the notice. Upon the execution of the promise to appear,
18 the peace officer shall immediately release such juvenile. The peace
19 officer shall, as soon as practicable, file one copy of the notice with
20 the county attorney or city attorney and, when required by the court,
21 also file a copy of the notice with the court or the officer appointed by
22 the court for such purpose; or

23 (c) The peace officer may retain temporary custody of a juvenile
24 taken into temporary custody under section 29-401 or subdivision (1),
25 (4), or (5) of section 43-248 and deliver the juvenile, if necessary, to
26 the probation officer and communicate all relevant available information
27 regarding such juvenile to the probation officer. The probation officer
28 shall determine the need for detention of the juvenile as provided in
29 section 43-260.01. Upon determining that the juvenile should be placed in
30 detention or an alternative to detention ~~a secure or nonsecure placement~~
31 and securing placement in such ~~secure or nonsecure~~ setting by the

1 probation officer, the peace officer shall implement the probation
2 officer's decision to release or to detain and place the juvenile. When
3 secure detention of a juvenile is necessary, such detention shall occur
4 within a juvenile detention facility except:

5 (i) When a juvenile described in subdivision (1) or (2) of section
6 43-247, except for a status offender, is taken into temporary custody
7 within a metropolitan statistical area and where no juvenile detention
8 facility is reasonably available, the juvenile may be delivered, for
9 temporary custody not to exceed six hours, to a secure area of a jail or
10 other facility intended or used for the detention of adults solely for
11 the purposes of identifying the juvenile and ascertaining his or her
12 health and well-being and for safekeeping while awaiting transport to an
13 appropriate juvenile placement or release to a responsible party;

14 (ii) When a juvenile described in subdivision (1) or (2) of section
15 43-247, except for a status offender, is taken into temporary custody
16 outside of a metropolitan statistical area and where no juvenile
17 detention facility is reasonably available, the juvenile may be
18 delivered, for temporary custody not to exceed twenty-four hours
19 excluding nonjudicial days and while awaiting an initial court
20 appearance, to a secure area of a jail or other facility intended or used
21 for the detention of adults solely for the purposes of identifying the
22 juvenile and ascertaining his or her health and well-being and for
23 safekeeping while awaiting transport to an appropriate juvenile placement
24 or release to a responsible party;

25 (iii) Whenever a juvenile is held in a secure area of any jail or
26 other facility intended or used for the detention of adults, there shall
27 be no verbal, visual, or physical contact between the juvenile and any
28 incarcerated adult and there shall be adequate staff to supervise and
29 monitor the juvenile's activities at all times. This subdivision shall
30 not apply to a juvenile charged with a felony as an adult in county or
31 district court if he or she is sixteen years of age or older;

1 (iv) If a juvenile is under sixteen years of age or is a juvenile as
2 described in subdivision (3) of section 43-247, he or she shall not be
3 placed within a secure area of a jail or other facility intended or used
4 for the detention of adults;

5 (v) If, within the time limits specified in subdivision (1)(c)(i) or
6 (1)(c)(ii) of this section, a felony charge is filed against the juvenile
7 as an adult in county or district court, he or she may be securely held
8 in a jail or other facility intended or used for the detention of adults
9 beyond the specified time limits;

10 (vi) A status offender or nonoffender taken into temporary custody
11 shall not be held in a secure area of a jail or other facility intended
12 or used for the detention of adults. Until January 1, 2013, a status
13 offender accused of violating a valid court order may be securely
14 detained in a juvenile detention facility longer than twenty-four hours
15 if he or she is afforded a detention hearing before a court within
16 twenty-four hours, excluding nonjudicial days, and if, prior to a
17 dispositional commitment to secure placement, a public agency, other than
18 a court or law enforcement agency, is afforded an opportunity to review
19 the juvenile's behavior and possible alternatives to secure placement and
20 has submitted a written report to the court; and

21 (vii) A juvenile described in subdivision (1) or (2) of section
22 43-247, except for a status offender, may be held in a secure area of a
23 jail or other facility intended or used for the detention of adults for
24 up to six hours before and six hours after any court appearance.

25 (2) When a juvenile is taken into temporary custody pursuant to
26 subdivision (2), ~~or (7), or (8)~~ of section 43-248, the peace officer
27 shall deliver the custody of such juvenile to the Department of Health
28 and Human Services which shall make a temporary placement of the juvenile
29 in the least restrictive environment consistent with the best interests
30 of the juvenile as determined by the department. The department shall
31 supervise such placement and, if necessary, consent to any necessary

1 emergency medical, psychological, or psychiatric treatment for such
2 juvenile. The department shall have no other authority with regard to
3 such temporary custody until or unless there is an order by the court
4 placing the juvenile in the custody of the department. If the peace
5 officer delivers temporary custody of the juvenile pursuant to this
6 subsection, the peace officer shall make a full written report to the
7 county attorney within twenty-four hours of taking such juvenile into
8 temporary custody. If a court order of temporary custody is not issued
9 within forty-eight hours of taking the juvenile into custody, the
10 temporary custody by the department shall terminate and the juvenile
11 shall be returned to the custody of his or her parent, guardian,
12 custodian, or relative.

13 (3) If the peace officer takes the juvenile into temporary custody
14 pursuant to subdivision (3) of section 43-248, the peace officer may
15 place the juvenile at a mental health facility for evaluation and
16 emergency treatment or may deliver the juvenile to the Department of
17 Health and Human Services as provided in subsection (2) of this section.
18 At the time of the admission or turning the juvenile over to the
19 department, the peace officer responsible for taking the juvenile into
20 custody pursuant to subdivision (3) of section 43-248 shall execute a
21 written certificate as prescribed by the Department of Health and Human
22 Services which will indicate that the peace officer believes the juvenile
23 to be mentally ill and dangerous, a summary of the subject's behavior
24 supporting such allegations, and that the harm described in section
25 71-908 is likely to occur before proceedings before a juvenile court may
26 be invoked to obtain custody of the juvenile. A copy of the certificate
27 shall be forwarded to the county attorney. The peace officer shall notify
28 the juvenile's parents, guardian, custodian, or relative of the
29 juvenile's placement.

30 (4) When a juvenile is taken into temporary custody pursuant to
31 subdivision (6) of section 43-248, the peace officer shall deliver the

1 juvenile to the enrolled school of such juvenile.

2 (5) A juvenile taken into custody pursuant to a legal warrant of
3 arrest shall be delivered to a probation officer who shall determine the
4 need for detention of the juvenile as provided in section 43-260.01. If
5 detention is not required, the juvenile may be released without bond if
6 such release is in the best interests of the juvenile, the safety of the
7 community is not at risk, and the court that issued the warrant is
8 notified that the juvenile had been taken into custody and was released.

9 (6) In determining the appropriate temporary placement or
10 alternative to detention of a juvenile under this section, the peace
11 officer shall select the placement or alternative which is least
12 restrictive of the juvenile's freedom so long as such placement or
13 alternative is compatible with the best interests of the juvenile and the
14 safety of the community. Any alternative to detention shall cause the
15 least restriction of the juvenile's freedom of movement consistent with
16 the best interest of the juvenile and the safety of the community.

17 Sec. 7. Section 43-251.01, Revised Statutes Supplement, 2015, is
18 amended to read:

19 43-251.01 All placements and commitments of juveniles for
20 evaluations or as temporary or final dispositions are subject to the
21 following:

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

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

29 (3) A juvenile who is found to be a juvenile as described in
30 subdivision (1), (2), or (4) of section 43-247 shall not be assigned or
31 transferred to an adult correctional facility or the secure youth

1 confinement facility operated by the Department of Correctional Services;

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

4 (5) A juvenile shall not be detained in secure detention or placed
5 at a youth rehabilitation and treatment center unless detention or
6 placement of such juvenile is a matter of immediate and urgent necessity
7 for the protection of such juvenile or the person or property of another
8 or if it appears that such juvenile is likely to flee the jurisdiction of
9 the court;

10 (6) A juvenile alleged to be a juvenile as described in subdivision
11 ~~(3)~~ ~~(3)(b)~~ of section 43-247 shall not be placed in a juvenile detention
12 facility, including a wing labeled as staff secure at such facility,
13 unless the designated staff secure portion of the facility fully complies
14 with subdivision ~~(5)~~ 3 of section 83-4,125 and the ingress and egress to
15 the facility are restricted solely through staff supervision; and

16 (7) A juvenile alleged to be a juvenile as described in subdivision
17 ~~(1)~~, ~~(2)~~, ~~(3)(b)~~, or (4) of section 43-247 shall not be placed out of his
18 or her home as a dispositional order of the court unless:

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

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

23 Sec. 8. Section 43-253, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 43-253 (1) Upon delivery to the probation officer of a juvenile who
26 has been taken into temporary custody under section 29-401, 43-248, or
27 43-250, the probation officer shall immediately investigate the situation
28 of the juvenile and the nature and circumstances of the events
29 surrounding his or her being taken into custody. Such investigation may
30 be by informal means when appropriate.

31 (2) The probation officer's decision to release the juvenile from

1 custody or place the juvenile in ~~secure or nonsecure~~ detention or an
2 alternative to detention shall be based upon the results of the
3 standardized juvenile detention screening instrument described in section
4 43-260.01.

5 (3) No juvenile who has been taken into temporary custody under
6 subdivision (1)(c) of section 43-250 shall be detained in any ~~secure~~
7 detention facility or be subject to an alternative to detention
8 infringing upon the juvenile's liberty interest for longer than twenty-
9 four hours, excluding nonjudicial days, after having been taken into
10 custody unless such juvenile has appeared personally before a court of
11 competent jurisdiction for a hearing to determine if continued detention,
12 services, or supervision is necessary. The juvenile shall be represented
13 by counsel at the hearing. If continued secure detention is ordered, such
14 detention shall be in a juvenile detention facility, except that a
15 juvenile charged with a felony as an adult in county or district court
16 may be held in an adult jail as set forth in subdivision (1)(c)(v) of
17 section 43-250. A juvenile placed in an alternative to detention, but not
18 in detention, may waive this hearing through counsel.

19 (4) When the probation officer deems it to be in the best interests
20 of the juvenile, the probation officer shall immediately release such
21 juvenile to the custody of his or her parent. If the juvenile has both a
22 custodial and a noncustodial parent and the probation officer deems that
23 release of the juvenile to the custodial parent is not in the best
24 interests of the juvenile, the probation officer shall, if it is deemed
25 to be in the best interests of the juvenile, attempt to contact the
26 noncustodial parent, if any, of the juvenile and to release the juvenile
27 to such noncustodial parent. If such release is not possible or not
28 deemed to be in the best interests of the juvenile, the probation officer
29 may release the juvenile to the custody of a legal guardian, a
30 responsible relative, or another responsible person.

31 (5) The court may admit such juvenile to bail by bond in such amount

1 and on such conditions and security as the court, in its sole discretion,
2 shall determine, or the court may proceed as provided in section 43-254.
3 In no case shall the court or probation officer release such juvenile if
4 it appears that further detention or placement of such juvenile is a
5 matter of immediate and urgent necessity for the protection of such
6 juvenile or the person or property of another or if it appears that such
7 juvenile is likely to flee the jurisdiction of the court.

8 Sec. 9. Section 43-255, Revised Statutes Cumulative Supplement,
9 2014, is amended to read:

10 43-255 Whenever a juvenile is detained or placed in an alternative
11 to detention infringing upon the child's liberty interest under section
12 43-250 or 43-253, the juvenile shall be released unconditionally within
13 forty-eight hours after the detention or placement order or the setting
14 of bond, excluding nonjudicial days, unless within such period of time
15 (1) a motion has been filed alleging that such juvenile has violated an
16 order of the juvenile court, (2) a juvenile court petition has been filed
17 pursuant to section 43-274, or (3) a criminal complaint has been filed in
18 a court of competent jurisdiction.

19 Sec. 10. Section 43-256, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 43-256 When the court enters an order continuing placement, ~~or~~
22 detention, or an alternative to detention infringing upon the juvenile's
23 liberty interest pursuant to section 43-253, upon request of the
24 juvenile, or his or her parent, guardian, or attorney, the court shall
25 hold a hearing within forty-eight hours, at which hearing the burden of
26 proof shall be upon the state to show probable cause that such juvenile
27 is within the jurisdiction of the court. Strict rules of evidence shall
28 not apply at the probable cause hearing. The juvenile shall be released
29 if probable cause is not shown. At the option of the court, it may hold
30 the adjudication hearing provided in section 43-279 as soon as possible
31 instead of the probable cause hearing if held within a reasonable period

1 of time. This section and section 43-255 shall not apply to a juvenile
2 (1) who has escaped from a commitment or (2) who has been taken into
3 custody for his or her own protection as provided in subdivision (2) of
4 section 43-248 in which case the juvenile shall be held on order of the
5 court with jurisdiction for a reasonable period of time.

6 Sec. 11. Section 43-260, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 43-260 The Office of Probation Administration shall prepare and
9 distribute to probation officers a standardized juvenile detention
10 screening instrument. The types of risk factors to be included as well as
11 the format of this standardized juvenile detention screening instrument
12 shall be determined by the office. The standardized juvenile detention
13 screening instrument shall be used as an assessment tool statewide by
14 probation officers under section 43-260.01 in order to determine if
15 detention of the juvenile is necessary and, if so, whether ~~secure~~
16 ~~nonsecure~~ detention or an alternative to detention is indicated.
17 Probation officers trained to administer the juvenile detention screening
18 instrument shall act as juvenile intake probation officers. Only duly
19 trained probation officers shall be authorized to administer the juvenile
20 detention screening instrument.

21 Sec. 12. Section 43-260.01, Revised Statutes Cumulative Supplement,
22 2014, is amended to read:

23 43-260.01 The need for preadjudication placement, services, or
24 supervision and the need for detention of a juvenile and whether
25 detention ~~secure~~ or an alternative to detention ~~nonsecure~~ ~~detention~~ is
26 indicated shall be subject to subdivision (5) of section 43-251.01 and
27 may be determined as follows:

28 (1) The standardized juvenile detention screening instrument shall
29 be used to evaluate the juvenile;

30 (2) If the results indicate that ~~secure~~ detention is not required,
31 the juvenile shall be released without restriction or released to an

1 ~~alternative to detention nonsecure detention placement or supervision~~
2 ~~options shall be pursued; and~~

3 (3) If the results indicate that secure detention is required,
4 ~~detention at the secure level as indicated by the instrument shall be~~
5 ~~pursued.~~

6 Sec. 13. Section 43-272, Revised Statutes Supplement, 2015, is
7 amended to read:

8 43-272 (1) When any juvenile court petition is filed alleging
9 jurisdiction of a juvenile pursuant to subdivision (1), (2), (3)(b), or
10 (4) of section 43-247, counsel shall be appointed for such juvenile shall
11 ~~be brought without counsel before a juvenile court, the court shall~~
12 ~~advise such juvenile and his or her parent or guardian of their right to~~
13 ~~retain counsel and shall inquire of such juvenile and his or her parent~~
14 ~~or guardian as to whether they desire to retain counsel. The court shall~~
15 ~~inform such juvenile and his or her parent or guardian of such juvenile's~~
16 ~~right to counsel at county expense if none of them is able to afford~~
17 ~~counsel. If the juvenile or his or her parent or guardian desires to have~~
18 ~~counsel appointed for such juvenile, or the parent or guardian of such~~
19 ~~juvenile cannot be located, and the court ascertains that none of such~~
20 ~~persons are able to afford an attorney, the court shall forthwith appoint~~
21 ~~an attorney to represent such juvenile for all proceedings before the~~
22 ~~juvenile court, except that if an attorney is appointed to represent such~~
23 ~~juvenile and the court later determines that a parent of such juvenile is~~
24 ~~able to afford an attorney, the court shall order such parent or juvenile~~
25 ~~to pay for services of the attorney to be collected in the same manner as~~
26 ~~provided by section 43-290. If the parent willfully refuses to pay any~~
27 ~~such sum, the court may commit him or her for contempt, and execution may~~
28 ~~issue at the request of the appointed attorney or the county attorney or~~
29 ~~by the court without a request.~~

30 (2) The court, on its own motion or upon application of a party to
31 the proceedings, shall appoint a guardian ad litem for the juvenile: (a)

1 If the juvenile has no parent or guardian of his or her person or if the
2 parent or guardian of the juvenile cannot be located or cannot be brought
3 before the court; (b) if the parent or guardian of the juvenile is
4 excused from participation in all or any part of the proceedings; (c) if
5 the parent is a juvenile or an incompetent; (d) if the parent is
6 indifferent to the interests of the juvenile; or (e) in any proceeding
7 pursuant to the provisions of subdivision (3)(a) of section 43-247.

8 A guardian ad litem shall have the duty to protect the interests of
9 the juvenile for whom he or she has been appointed guardian, and shall be
10 deemed a parent of the juvenile as to those proceedings with respect to
11 which his or her guardianship extends.

12 (3) The court shall appoint an attorney as guardian ad litem. A
13 guardian ad litem shall act as his or her own counsel and as counsel for
14 the juvenile, unless there are special reasons in a particular case why
15 the guardian ad litem or the juvenile or both should have separate
16 counsel. In such cases the guardian ad litem shall have the right to
17 counsel, except that the guardian ad litem shall be entitled to appointed
18 counsel without regard to his or her financial ability to retain counsel.
19 ~~Such whether such~~ appointed counsel shall be provided at the cost of the
20 county ~~shall be determined as provided in subsection (1) of this section.~~

21 (4) By July 1, 2015, the Supreme Court shall provide by court rule
22 standards for guardians ad litem for juveniles in juvenile court
23 proceedings.

24 (5) By July 1, 2017, the Supreme Court shall provide guidelines
25 setting forth standards for all attorneys who practice in juvenile court.

26 Sec. 14. (1) In any court proceeding, any waiver of the right to
27 counsel by a juvenile shall be made in open court, shall be recorded, and
28 shall be confirmed in a writing signed by the juvenile.

29 (2) A court shall not accept a juvenile's waiver of the right to
30 counsel unless the waiver satisfies subsection (1) of this section and is
31 an affirmative waiver that is made intelligently, voluntarily, and

1 understandingly. In determining whether such waiver was made
2 intelligently, voluntarily, and understandingly, the court shall
3 consider, among other things: (a) The age, intelligence, and education of
4 the juvenile, (b) the juvenile's emotional stability, and (c) the
5 complexity of the proceedings.

6 (3) The court shall ensure that a juvenile consults with his or her
7 attorney before any waiver of counsel.

8 (4) No parent, guardian, custodian, or other person may waive the
9 juvenile's right to counsel.

10 (5) A juvenile's right to be represented by counsel may not be
11 waived in the following circumstances:

12 (a) If the juvenile is under the age of fourteen;

13 (b) For a detention hearing;

14 (c) For any dispositional hearing where out-of-home placement is
15 sought; or

16 (d) If there is a motion to transfer the juvenile from juvenile
17 court to county court or district court.

18 Sec. 15. Section 43-279, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 43-279 (1) The adjudication portion of hearings shall be conducted
21 before the court without a jury, applying the customary rules of evidence
22 in use in trials without a jury. When the petition alleges the juvenile
23 to be within the provisions of subdivision (1), (2), (3)(b), or (4) of
24 section 43-247 and the juvenile or his or her parent, guardian, or
25 custodian appears with or without counsel, the court shall inform the
26 parties:

27 (a) Of the nature of the proceedings and the possible consequences
28 or dispositions pursuant to sections 43-284 to 43-286, 43-289, and 43-290
29 that may apply to the juvenile's case following an adjudication of
30 jurisdiction;

31 (b) Of such juvenile's right to counsel as provided in sections

1 43-272 and 43-273;

2 (c) Of the privilege against self-incrimination by advising the
3 juvenile, parent, guardian, or custodian that the juvenile may remain
4 silent concerning the charges against the juvenile and that anything said
5 may be used against the juvenile;

6 (d) Of the right to confront anyone who testifies against the
7 juvenile and to cross-examine any persons who appear against the
8 juvenile;

9 (e) Of the right of the juvenile to testify and to compel other
10 witnesses to attend and testify in his or her own behalf;

11 (f) Of the right of the juvenile to a speedy adjudication hearing;
12 and

13 (g) Of the right to appeal and have a transcript for such purpose.

14 After giving such warnings and admonitions, the court may accept an
15 in-court admission by the juvenile of all or any part of the allegations
16 in the petition if the court has determined from examination of the
17 juvenile and those present that such admission is intelligently,
18 voluntarily, and understandingly made and with an affirmative waiver of
19 rights and that a factual basis for such admission exists. The waiver of
20 the right to counsel shall satisfy section 14 of this act. The court may
21 base its adjudication provided in subsection (2) of this section on such
22 admission.

23 (2) If the juvenile denies the petition or stands mute the court
24 shall first allow a reasonable time for preparation if needed and then
25 consider only the question of whether the juvenile is a person described
26 by section 43-247. After hearing the evidence on such question, the court
27 shall make a finding and adjudication, to be entered on the records of
28 the court, whether or not the juvenile is a person described by
29 subdivision (1), (2), (3)(b), or (4) of section 43-247 based upon proof
30 beyond a reasonable doubt. If an Indian child is involved, the standard
31 of proof shall be in compliance with the Nebraska Indian Child Welfare

1 Act, if applicable.

2 (3) If the court shall find that the juvenile named in the petition
3 is not within the provisions of section 43-247, it shall dismiss the
4 case. If the court finds that the juvenile named in the petition is such
5 a juvenile, it shall make and enter its findings and adjudication
6 accordingly, designating which subdivision or subdivisions of section
7 43-247 such juvenile is within; the court shall allow a reasonable time
8 for preparation if needed and then proceed to an inquiry into the proper
9 disposition to be made of such juvenile.

10 Sec. 16. Section 43-3503, Revised Statutes Cumulative Supplement,
11 2014, is amended to read:

12 43-3503 (1) It is the intent of the Legislature to encourage
13 counties to develop a continuum of alternatives to detention ~~nonsecure~~
14 ~~detention~~ ~~services~~ for the purpose of enhancing, developing, and
15 expanding the availability of such services to juveniles requiring
16 alternatives to detention ~~nonsecure detention~~.

17 (2) A county may enhance, develop, or expand alternatives to
18 detention ~~nonsecure detention~~ ~~services~~ as needed with private or public
19 providers. Grants from the Commission Grant Program and aid from the
20 Community-based Juvenile Services Aid Program under the Juvenile Services
21 Act and the federal Juvenile Justice and Delinquency Prevention Act of
22 1974 may be used to fund alternatives to detention ~~nonsecure detention~~
23 ~~services~~. Each county shall routinely review services provided by
24 contract providers and modify services as needed.

25 Sec. 17. Section 43-3504, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 43-3504 (1) Each county shall develop a county juvenile services
28 plan by January 1, 2003. Two or more counties may establish a multicounty
29 juvenile services plan. Such plan should include input from individuals
30 comprising a local juvenile justice advisory committee as provided for in
31 subdivision (1) of section 43-3505 or a similar committee or group of

1 individuals. The plan shall be submitted to the Nebraska Commission on
2 Law Enforcement and Criminal Justice and shall include:

3 (a) Identification of the risk factors for delinquency that exist in
4 the county or counties and service needs;

5 (b) Identification of juvenile services available within the county
6 or counties, including, but not limited to, programs for assessment and
7 evaluation, the prevention of delinquent behavior, diversion, detention,
8 shelter care, intensive juvenile probation services, restitution, family
9 support services, and community centers for the care and treatment of
10 juveniles in need of services;

11 (c) Identification of juvenile services within close proximity of
12 the county or counties that may be utilized if community-based programs
13 are not available within the county or counties;

14 (d) Identification of the programs, services, facilities, and
15 providers facilities the county primarily uses for juvenile secure
16 detention and for nonsecure detention or alternatives to detention,
17 including the costs associated with the use of such programs, services,
18 facilities, and providers facilities; and

19 (e) A coordination plan and an enhancement, development, and
20 expansion plan of community services within the county, counties, or
21 region to help prevent delinquency by providing intervention services
22 when behavior that leads to delinquency is first exhibited. Examples of
23 intervention services include, but are not limited to, alternative
24 schools, school truancy programs, volunteer programs, family preservation
25 and counseling, drug and alcohol counseling, diversion programs, and
26 Parents Anonymous.

27 (2) Following or in conjunction with the development of a county
28 juvenile services plan, each county may develop regional service plans
29 and establish regional juvenile services boards when appropriate. The
30 regional service plan shall be submitted to the Nebraska Commission on
31 Law Enforcement and Criminal Justice.

1 (3) Plans developed under this section shall be updated no less than
2 every five years after the date the plan is submitted to the commission.

3 Sec. 18. Section 83-4,125, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 83-4,125 For purposes of sections 83-4,124 to 83-4,134 and section
6 22 of this act:

7 (1) Criminal detention facility means any institution operated by a
8 political subdivision or a combination of political subdivisions for the
9 careful keeping or rehabilitative needs of adult or juvenile criminal
10 offenders or those persons being detained while awaiting disposition of
11 charges against them. Criminal detention facility does not include any
12 institution operated by the Department of Correctional Services. Criminal
13 detention facilities shall be classified as follows:

14 (a) Type I Facilities means criminal detention facilities used for
15 the detention of persons for not more than twenty-four hours, excluding
16 nonjudicial days;

17 (b) Type II Facilities means criminal detention facilities used for
18 the detention of persons for not more than ninety-six hours, excluding
19 nonjudicial days; and

20 (c) Type III Facilities means criminal detention facilities used for
21 the detention of persons beyond ninety-six hours;

22 (2) Juvenile detention facility means an institution operated by a
23 political subdivision or political subdivisions for the secure detention
24 and treatment of persons younger than eighteen years of age, including
25 persons under the jurisdiction of a juvenile court, who are serving a
26 sentence pursuant to a conviction in a county or district court or who
27 are detained while waiting disposition of charges against them. Juvenile
28 detention facility does not include any institution operated by the
29 department; ~~and~~

30 (3) Juvenile facility means a residential child-caring agency as
31 defined in section 71-1926, a juvenile detention facility or staff secure

1 juvenile facility as defined in section 83-4,125, a facility operated by
2 the Department of Correctional Services that houses youth under the age
3 of majority, or a youth rehabilitation and treatment center;

4 (4) Room confinement means the involuntary restriction of a juvenile
5 to a cell, room, or other area, alone, including a juvenile's own room,
6 except during normal sleeping hours; and

7 (5 3) Staff secure juvenile facility means a juvenile residential
8 facility operated by a political subdivision (a) which does not include
9 construction designed to physically restrict the movements and activities
10 of juveniles who are in custody in the facility, (b) in which physical
11 restriction of movement or activity of juveniles is provided solely
12 through staff, (c) which may establish reasonable rules restricting
13 ingress to and egress from the facility, and (d) in which the movements
14 and activities of individual juvenile residents may, for treatment
15 purposes, be restricted or subject to control through the use of
16 intensive staff supervision. Staff secure juvenile facility does not
17 include any institution operated by the department.

18 Sec. 19. Section 83-4,126, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 83-4,126 (1) Except as provided in subsection (2) of this section,
21 the Jail Standards Board shall have the authority and responsibility:

22 (a) To develop minimum standards for the construction, maintenance,
23 and operation of criminal detention facilities;

24 (b) To perform other duties as may be necessary to carry out the
25 policy of the state regarding criminal detention facilities, juvenile
26 detention facilities, and staff secure juvenile facilities as stated in
27 sections 83-4,124 to 83-4,134 and section 22 of this act; and

28 (c) Consistent with the purposes and objectives of the Juvenile
29 Services Act, to develop standards for juvenile detention facilities and
30 staff secure juvenile facilities, including, but not limited to,
31 standards for physical facilities, care, programs, and disciplinary

1 procedures, and to develop guidelines pertaining to the operation of such
2 facilities.

3 (2) The Jail Standards Board shall not have authority over or
4 responsibility for correctional facilities that are accredited by a
5 nationally recognized correctional association. A correctional facility
6 that is accredited by a nationally recognized correctional association
7 shall show proof of accreditation annually to the Jail Standards Board.
8 For purposes of this subsection, nationally recognized correctional
9 association includes, but is not limited to, the American Correctional
10 Association or its successor.

11 Sec. 20. Section 83-4,132, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 83-4,132 If an inspection under sections 83-4,124 to 83-4,134 and
14 section 22 of this act discloses that the criminal detention facility,
15 juvenile detention facility, or staff secure juvenile facility does not
16 meet the minimum standards established by the Jail Standards Board, the
17 board shall send notice, together with the inspection report, to the
18 governing body responsible for the facility. The appropriate governing
19 body shall promptly meet to consider the inspection report, and the
20 inspection personnel shall appear before the governing body to advise and
21 consult concerning appropriate corrective action. The governing body
22 shall then initiate appropriate corrective action within six months after
23 the receipt of such inspection report or may voluntarily close the
24 facility or the objectionable portion thereof.

25 Sec. 21. Section 83-4,134, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 83-4,134 Sections 83-4,124 to 83-4,134 and section 22 of this act
28 shall be implemented upon completion of the development of minimum
29 standards by the Jail Standards Board. Thereafter, inspections shall
30 begin, but no criminal detention facility, juvenile detention facility,
31 or staff secure juvenile facility shall be closed within one year of the

1 date of first filing of the minimum standards in the office of the
2 Secretary of State. After one year from the date of first filing of the
3 minimum standards, a facility may be closed for any violation of the
4 minimum standards. Those standards relating to the construction of the
5 facility itself and its plumbing, heating, and wiring systems shall not
6 be enforced so as to require the closing of any facility for a period of
7 two years from the date of the first filing of the minimum standards
8 unless such violations are of immediate danger to the safety of the
9 persons confined in the facility or facility personnel, in which case
10 such period shall be one year.

11 Sec. 22. (1) It is the intent of the Legislature to establish a
12 system of investigation and performance review in order to provide
13 increased accountability and oversight regarding the use of room
14 confinement for juveniles in a juvenile facility.

15 (2) The following shall apply regarding placement in room
16 confinement of a juvenile in a juvenile facility:

17 (a) Room confinement of a juvenile for longer than one hour shall be
18 documented and approved in writing by a supervisor in the juvenile
19 facility. Documentation of the room confinement shall include the date of
20 the occurrence; the race, ethnicity, age, and gender of the juvenile; the
21 reason for placement of the juvenile in room confinement; an explanation
22 of why less restrictive means were unsuccessful; the ultimate duration of
23 the placement in room confinement; and any incidents of self-harm or
24 suicide committed by the juvenile while he or she was isolated;

25 (b) If any physical or mental health clinical evaluation was
26 performed during the time the juvenile was in room confinement for longer
27 than one hour, the results of such evaluation shall be considered in any
28 decision to place a juvenile in room confinement or to continue room
29 confinement;

30 (c) The juvenile facility shall submit a report quarterly to the
31 Legislature on the number of juveniles placed in room confinement; the

1 length of time each juvenile was in room confinement; the race,
2 ethnicity, age, and gender of each juvenile placed in room confinement;
3 and the reason each juvenile was placed in room confinement. The report
4 shall specifically address each instance of room confinement of a
5 juvenile for more than four hours, including all reasons why attempts to
6 return the juvenile to the general population of the juvenile facility
7 were unsuccessful. The report shall also detail all corrective measures
8 taken in response to noncompliance with this section. The report shall be
9 delivered electronically to the Legislature. The initial quarterly report
10 shall be submitted within two weeks after the quarter ending on September
11 30, 2016. Subsequent reports shall be submitted for the ensuing quarters
12 within two weeks after the end of each quarter; and

13 (d) The Inspector General of Nebraska Child Welfare shall review all
14 data collected pursuant to this section in order to assess the use of
15 room confinement for juveniles in each juvenile facility and prepare an
16 annual report of his or her findings, including, but not limited to,
17 identifying changes in policy and practice which may lead to decreased
18 use of such confinement as well as model evidence-based criteria to be
19 used to determine when a juvenile should be placed in room confinement.
20 The report shall be delivered electronically to the Legislature on an
21 annual basis.

22 Sec. 23. Original sections 29-3915, 43-248.01, 43-260, 43-279,
23 43-3504, 83-4,125, 83-4,126, 83-4,132, and 83-4,134, Reissue Revised
24 Statutes of Nebraska, sections 43-248, 43-253, 43-255, 43-256, 43-260.01,
25 and 43-3503, Revised Statutes Cumulative Supplement, 2014, and sections
26 43-245, 43-247, 43-250, 43-251.01, and 43-272, Revised Statutes
27 Supplement, 2015, are repealed.

28 2. On page 1, strike lines 2 through 11 and insert "43-260, 43-279,
29 43-3504, 83-4,125, 83-4,126, 83-4,132, and 83-4,134, Reissue Revised
30 Statutes of Nebraska, sections 43-248, 43-253, 43-255, 43-256, 43-260.01,
31 and 43-3503, Revised Statutes Cumulative Supplement, 2014, and sections

1 43-245, 43-247, 43-250, 43-251.01, and 43-272, Revised Statutes
2 Supplement, 2015; to change provisions relating to the appointment of
3 counsel; to provide, change, and eliminate definitions; to change
4 provisions relating to court jurisdiction, temporary custody and
5 disposition, detention, and placements and commitments under the Nebraska
6 Juvenile Code; to change provisions relating to the advisement of rights
7 given to a juvenile in custody; to provide for alternatives to detention;
8 to require the appointment of counsel for juveniles; to prohibit the
9 waiver of counsel in certain circumstances; to require the Supreme Court
10 to provide guidelines for attorneys practicing in juvenile court; to set
11 forth requirements for a valid waiver of the right to counsel by a
12 juvenile; to provide requirements relating to room confinement of
13 juveniles; to provide for reports; to provide a duty for the Inspector
14 General of Nebraska Child Welfare; to harmonize provisions; and to repeal
15 the original sections."