

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 598
FINAL READING

Introduced by Dw. Pedersen, 39; at the request of the Governor

Read first time January 12, 2001

Committee: Judiciary

A BILL

1 FOR AN ACT relating to juveniles; to amend section 43-408, Reissue
2 Revised Statutes of Nebraska, and section 43-3602,
3 Revised Statutes Supplement, 2000; to change provisions
4 relating to determination of placement and treatment
5 services; to provide for an examination of juvenile
6 evaluation practices and a report; and to repeal the
7 original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-408, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-408. (1) Whenever any juvenile is committed under any
4 provision of law to the Office of Juvenile Services, to any
5 facility operated by the Office of Juvenile Services, or to the
6 custody of the Administrator of the Office of Juvenile Services, a
7 superintendent of a facility, or an administrator of a program, the
8 juvenile is deemed committed to the Office of Juvenile Services.
9 Juveniles committed to the Office of Juvenile Services shall also
10 be considered committed to the care and custody of the Department
11 of Health and Human Services for the purpose of obtaining health
12 care and treatment services.

13 (2) The committing court shall order the initial level of
14 treatment for a juvenile committed to the Office of Juvenile
15 Services. Prior to determining the initial level of treatment for
16 a juvenile, the court may solicit a recommendation regarding the
17 initial level of treatment from the Office of Juvenile Services.
18 Under this section, the committing court shall not order a specific
19 placement for a juvenile. The court shall continue to maintain
20 jurisdiction over any juvenile committed to the Office of Juvenile
21 Services until such time that the juvenile is discharged from the
22 Office of Juvenile Services. The court shall conduct review
23 hearings every six months, or at the request of the juvenile, for
24 any juvenile committed to the Office of Juvenile Services who is
25 placed outside his or her home, except for a juvenile residing at a
26 youth rehabilitation and treatment center. The court shall
27 determine whether ~~the~~ an out-of-home placement made by the Office
28 of Juvenile Services is in the best interests of the juvenile, with

1 due consideration being given by the court to public safety. If
2 the court determines that the out-of-home placement is not in the
3 best interests of the juvenile, the court may order other treatment
4 services for the juvenile.

5 (3) After the initial level of treatment is ordered by
6 the committing court, the Office of Juvenile Services shall
7 ~~designate suitable placement and treatment services to be provided~~
8 provide treatment services which conform to the court's level of
9 treatment determination. Within thirty days after making an actual
10 placement, the Office of Juvenile Services shall provide the
11 committing court with written notification of where the juvenile
12 has been placed. At least once every six months thereafter, until
13 the juvenile is discharged from the care and custody of the Office
14 of Juvenile Services, the office shall provide the committing court
15 with written notification of the juvenile's actual placement and
16 the level of treatment that the juvenile is receiving.

17 (4) For transfer hearings, the burden of proof to justify
18 the transfer is on the Office of Juvenile Services, the standard of
19 proof is clear and convincing evidence, and the strict rules of
20 evidence do not apply. Transfers of juveniles from one place of
21 treatment to another ~~is~~ are subject to section 43-251.01 and to the
22 following:

23 (a) Except as provided in subdivision (b) of this
24 subsection, if the Office of Juvenile Services proposes to transfer
25 the juvenile from a less restrictive to a more restrictive place of
26 treatment, a plan outlining the proposed change and the reasons for
27 the proposed change shall be presented to the court which committed
28 the juvenile. Such change shall occur only after a hearing and a

1 finding by the committing court that the change is in the best
2 interests of the juvenile, with due consideration being given by
3 the court to public safety. At the hearing, the juvenile has the
4 right to be represented by counsel;

5 (b) The Office of Juvenile Services may make an
6 immediate temporary change without prior approval by the committing
7 court only if the juvenile is in a harmful or dangerous situation,
8 is suffering a medical emergency, is exhibiting behavior which
9 warrants temporary removal, or has been placed in a non-state-owned
10 facility and such facility has requested that the juvenile be
11 removed. Approval of the committing court shall be sought within
12 fifteen days of making an immediate temporary change, at which time
13 a hearing shall occur before the court. The court shall determine
14 whether it is in the best interests of the juvenile to remain in
15 the new place of treatment, with due consideration being given by
16 the court to public safety. At the hearing, the juvenile has the
17 right to be represented by counsel; and

18 (c) If the proposed change seeks to transfer the juvenile
19 from a more restrictive to a less restrictive place of treatment or
20 to transfer the juvenile from the juvenile's current place of
21 treatment to another which has the same level of restriction as the
22 current place of treatment, the Office of Juvenile Services shall
23 notify the juvenile, the juvenile's parents, custodian, or legal
24 guardian, the committing court, the county attorney, the counsel
25 for the juvenile, and the guardian ad litem of the proposed change.
26 The juvenile has fifteen days after the date of the notice to
27 request an administrative hearing with the Office of Juvenile
28 Services, at which time the Office of Juvenile Services shall

1 determine whether it is in the best interests of the juvenile for
2 the proposed change to occur, with due consideration being given by
3 the office to public safety. The juvenile may be represented by
4 counsel at the juvenile's own expense. If the juvenile is
5 aggrieved by the administrative decision of the Office of Juvenile
6 Services, the juvenile may appeal that decision to the committing
7 court within fifteen days after the Office of Juvenile Services'
8 decision. At the hearing before the committing court, the juvenile
9 has the right to be represented by counsel.

10 (5) The committing court's review of a change of place of
11 treatment pursuant to this section does not apply to parole
12 revocation hearings.

13 Sec. 2. Section 43-3602, Revised Statutes Supplement,
14 2000, is amended to read:

15 43-3602. The Juvenile Diversion, Detention, and
16 Probation Services Implementation Team shall:

17 (1) Examine juvenile detention practices, identify risk
18 factors that should be considered in making a detention decision,
19 and recommend a standardized juvenile detention screening
20 instrument to the Office of Probation Administration no later than
21 December 15, 2000;

22 (2) Develop a plan for regional secure juvenile detention
23 facilities and detention services, including transportation
24 services, and recommend a funding strategy;

25 (3) Develop standards for juvenile diversion services
26 throughout the state;

27 (4) Review the structure, purpose, and function of
28 juvenile probation; analyze juvenile probation offender

1 characteristics; determine the level of staffing and types of
2 program services needed in order for juvenile probation to fulfill
3 its core responsibilities within the juvenile justice system; and
4 recommend needed system changes;

5 (5) Provide an appropriation request for expenses of team
6 members and the hiring of consultant services; ~~and~~

7 (6) In consultation with the Office of Juvenile Services,
8 examine the effectiveness, accuracy, and trends of juvenile
9 evaluation practices utilized currently by the Department of Health
10 and Human Services;

11 (7) Submit a report to the Legislature and the Governor
12 on subdivision (6) of this section no later than December 1, 2001;
13 and

14 (8) Submit a final report to the Governor and the
15 Legislature.

16 Sec. 3. Original section 43-408, Reissue Revised
17 Statutes of Nebraska, and section 43-3602, Revised Statutes
18 Supplement, 2000, are repealed.