

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1070

Introduced by Dubas, 34.

Read first time January 22, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Nebraska Juvenile Code; to amend
2 section 43-250, Reissue Revised Statutes of Nebraska, and
3 section 43-2,129, Revised Statutes Cumulative Supplement,
4 2006; to provide for a child placement resources form;
5 to provide duties for the department; to harmonize
6 provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-250, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-250 A peace officer who takes a juvenile into
4 temporary custody under section 43-248 shall immediately take
5 reasonable measures to notify the juvenile's parent, guardian,
6 custodian, or relative and shall proceed as follows:

7 (1) The peace officer shall release such juvenile;

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

24 (3) While retaining temporary custody, the peace officer
25 shall communicate all relevant available information regarding such

1 juvenile to the probation officer and shall deliver the juvenile,
2 if necessary, to the probation officer. The probation officer shall
3 determine the need for detention of the juvenile as provided in
4 section 43-260.01. Upon determining that the juvenile should be
5 placed in a secure or nonsecure placement and securing placement
6 in such secure or nonsecure setting by the probation officer, the
7 peace officer shall implement the probation officer's decision to
8 release or to detain and place the juvenile. When secure detention
9 of a juvenile is necessary, such detention shall occur within a
10 juvenile detention facility except:

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

21 (b) When a juvenile described in subdivision (1) or (2)
22 of section 43-247, except for a status offender, is taken into
23 temporary custody outside of a metropolitan statistical area and
24 where no juvenile detention facility is reasonably available, the
25 juvenile may be delivered, for temporary custody not to exceed

1 twenty-four hours excluding nonjudicial days and while awaiting an
2 initial court appearance, to a secure area of a jail or other
3 facility intended or used for the detention of adults solely for
4 the purposes of identifying the juvenile and ascertaining his
5 or her health and well-being and for safekeeping while awaiting
6 transport to an appropriate juvenile placement or release to a
7 responsible party;

8 (c) Whenever a juvenile is held in a secure area of
9 any jail or other facility intended or used for the detention
10 of adults, there shall be no verbal, visual, or physical contact
11 between the juvenile and any incarcerated adult and there shall be
12 adequate staff to supervise and monitor the juvenile's activities
13 at all times. This subdivision shall not apply to a juvenile
14 charged with a felony as an adult in county or district court if he
15 or she is sixteen years of age or older;

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

20 (e) If, within the time limits specified in subdivision
21 (3) (a) or (3) (b) of this section, a felony charge is filed against
22 the juvenile as an adult in county or district court, he or she may
23 be securely held in a jail or other facility intended or used for
24 the detention of adults beyond the specified time limits;

25 (f) A status offender or nonoffender taken into temporary

1 custody shall not be held in a secure area of a jail or other
2 facility intended or used for the detention of adults. A status
3 offender accused of violating a valid court order may be securely
4 detained in a juvenile detention facility longer than twenty-four
5 hours if he or she is afforded a detention hearing before a
6 court within twenty-four hours, excluding nonjudicial days, and if,
7 prior to a dispositional commitment to secure placement, a public
8 agency, other than a court or law enforcement agency, is afforded
9 an opportunity to review the juvenile's behavior and possible
10 alternatives to secure placement and has submitted a written report
11 to the court; and

12 (g) A juvenile described in subdivision (1) or (2) of
13 section 43-247, except for a status offender, may be held in a
14 secure area of a jail or other facility intended or used for the
15 detention of adults for up to six hours before and six hours after
16 any court appearance;

17 (4) When a juvenile is taken into temporary custody
18 pursuant to subdivision (3) of section 43-248, the peace officer
19 shall deliver the custody of such juvenile to the Department of
20 Health and Human Services which shall make a temporary placement of
21 the juvenile in the least restrictive environment consistent with
22 the best interests of the juvenile as determined by the department.
23 The department shall supervise such placement and, if necessary,
24 consent to any necessary emergency medical, psychological, or
25 psychiatric treatment for such juvenile. ~~The~~ Except as provided in

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

13 (5) If the peace officer takes the juvenile into
14 temporary custody pursuant to subdivision (4) of section 43-248,
15 the peace officer may place the juvenile at a mental health
16 facility for evaluation and emergency treatment or may deliver
17 the juvenile to the Department of Health and Human Services as
18 provided in subdivision (4) of this section. At the time of the
19 admission or turning the juvenile over to the department, the
20 peace officer responsible for taking the juvenile into custody
21 shall execute a written certificate as prescribed by the Department
22 of Health and Human Services which will indicate that the peace
23 officer believes the juvenile to be mentally ill and dangerous,
24 a summary of the subject's behavior supporting such allegations,
25 and that the harm described in section 71-908 is likely to occur

1 before proceedings before a juvenile court may be invoked to
2 obtain custody of the juvenile. A copy of the certificate shall be
3 forwarded to the county attorney. The peace officer shall notify
4 the juvenile's parents, guardian, custodian, or relative of the
5 juvenile's placement.

6 In determining the appropriate temporary placement of a
7 juvenile under this section, the peace officer shall select the
8 placement which is least restrictive of the juvenile's freedom so
9 long as such placement is compatible with the best interests of the
10 juvenile and the safety of the community.

11 Sec. 2. (1) Not more than five working days after
12 placement of a juvenile with the department after he or she is
13 taken into custody pursuant to section 43-248 or 43-266, the
14 department shall provide to the custodial parent of the juvenile
15 a child placement resources form developed by the department. The
16 form shall instruct the parent to provide (a) the names and contact
17 information for any persons who are relatives of the juvenile who
18 may be suitable for out-of-home placement of the juvenile and (b)
19 the name and contact information of any noncustodial parent of the
20 juvenile.

21 (2) Within thirty days after the date of taking such
22 juvenile into custody pursuant to such section, the department
23 shall conduct a diligent search to locate the persons named on the
24 child placement resources form and investigate whether placement
25 of the juvenile with any of such persons would be a safe and

1 appropriate placement.

2 (3) The department shall develop written procedures for
3 additional efforts to identify and locate relatives of the juvenile
4 with whom the juvenile could be placed for out-of-home placement.
5 Such efforts may include, but need not be limited to, locating
6 and interviewing other known relatives, friends, teachers, and
7 other identified community members who may have knowledge of the
8 juvenile's extended family.

9 (4) The department shall document results of
10 investigations and outreach efforts pursuant to this section
11 and shall file such documentation with the juvenile court at the
12 time of the juvenile's initial review hearing.

13 Sec. 3. Section 43-2,129, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 43-2,129 Sections 43-245 to 43-2,129 and section 2 of
16 this act shall be known and may be cited as the Nebraska Juvenile
17 Code.

18 Sec. 4. Original section 43-250, Reissue Revised Statutes
19 of Nebraska, and section 43-2,129, Revised Statutes Cumulative
20 Supplement, 2006, are repealed.