

## LEGISLATIVE BILL 800

Approved by the Governor April 13, 2010

Introduced by Ashford, 20; Nordquist, 7; Council, 11; Mello, 5; Cook, 13.

FOR AN ACT relating to juvenile justice; to amend sections 24-313, 25-2701, 25-2728, 28-416, 29-1816, 29-2258, 29-2269, 43-246, 43-248, 43-253, 43-254, 43-254.01, 43-256, 43-258, 43-272.01, 43-278, 43-285, 43-2,106.01, 43-2,129, 43-415, 43-2404.02, 60-4,108, 79-209, and 79-527, Reissue Revised Statutes of Nebraska, sections 43-245 and 43-250, Revised Statutes Supplement, 2009, and section 29-2262.07, Reissue Revised Statutes of Nebraska, as amended by section 15, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009; to eliminate juvenile review panels; to provide for sealing of juvenile records, additional penalties for drug-related offenses by minors, sanctions for probation violations or potential violations, a transfer and distribution of funds, and a juvenile offender civil citation pilot program; to change arraignment, temporary custody, evaluation, detention, and placement provisions regarding juveniles; to provide for telephonic and videoconference communications and hearings under the Nebraska Juvenile Code; to provide for the impoundment of or prohibit obtaining a juvenile's operator's license or permit as prescribed; to provide for sanctions on parents or guardians for excessive absenteeism; to provide for expedited appeals from the juvenile court; to change provisions relating to the County Juvenile Services Aid Program, school truancy management and enforcement, and school reporting provisions; to create and provide duties for the Truancy Intervention Task Force; to change and eliminate provisions relating to setting aside adjudications; to harmonize provisions; to provide a duty for the Revisor of Statutes; to repeal the original sections; and to outright repeal sections 43-287.01, 43-287.02, 43-287.03, 43-287.04, 43-287.05, 43-287.06, 43-2,102, 43-2,103, 43-2,104, and 43-2,105, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 24-313, Reissue Revised Statutes of Nebraska, is amended to read:

24-313 The district court may by rule compel an inferior court or board to allow an appeal or to make or amend records according to law either by correcting an evident mistake or supplying an evident omission. This section shall not apply ~~to cases in which a review by a juvenile review panel may be requested under sections 43-287.01 to 43-287.06 or~~ if the Administrative Procedure Act otherwise provides.

Sec. 2. Section 25-2701, Reissue Revised Statutes of Nebraska, is amended to read:

25-2701 (1) All provisions in the codes of criminal and civil procedure governing actions and proceedings in the district court not in conflict with statutes specifically governing procedure in county courts and related to matters for which no specific provisions have been made for county courts shall govern and apply to all actions and proceedings in the county court.

(2) County courts may seal records of a person as provided under sections 26 to 30 of this act.

Sec. 3. Section 25-2728, Reissue Revised Statutes of Nebraska, is amended to read:

25-2728 (1) Any party in a civil case and any defendant in a criminal case may appeal from the final judgment or final order of the county court to the district court of the county where the county court is located. In a criminal case, a prosecuting attorney may obtain review by exception proceedings pursuant to sections 29-2317 to 29-2319.

(2) Sections 25-2728 to 25-2738 shall not apply to:

(a) Appeals in eminent domain proceedings as provided in sections 76-715 to 76-723;

(b) Appeals in proceedings in the county court sitting as a juvenile court as provided in sections ~~43-287.01 to 43-287.06,~~ 43-2,106, and 43-2,106.01;

(c) Appeals in matters arising under the Nebraska Probate Code as provided in section 30-1601;

(d) Appeals in matters arising under the Nebraska Uniform Trust Code;

- (e) Appeals in adoption proceedings as provided in section 43-112;
- (f) Appeals in inheritance tax proceedings as provided in section 77-2023; and
- (g) Appeals in domestic relations matters as provided in section 25-2739.

Sec. 4. Section 28-416, Reissue Revised Statutes of Nebraska, is amended to read:

28-416 (1) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense a controlled substance; or (b) to create, distribute, or possess with intent to distribute a counterfeit controlled substance.

(2) Except as provided in subsections (4), (5), (7), (8), (9), and (10) of this section, any person who violates subsection (1) of this section with respect to: (a) A controlled substance classified in Schedule I, II, or III of section 28-405 which is an exceptionally hazardous drug shall be guilty of a Class II felony; (b) any other controlled substance classified in Schedule I, II, or III of section 28-405 shall be guilty of a Class III felony; or (c) a controlled substance classified in Schedule IV or V of section 28-405 shall be guilty of a Class IIIA felony.

(3) A person knowingly or intentionally possessing a controlled substance, except marijuana, unless such substance was obtained directly or pursuant to a medical order issued by a practitioner authorized to prescribe while acting in the course of his or her professional practice, or except as otherwise authorized by the act, shall be guilty of a Class IV felony.

(4)(a) Except as authorized by the Uniform Controlled Substances Act, any person eighteen years of age or older who knowingly or intentionally manufactures, distributes, delivers, dispenses, or possesses with intent to manufacture, distribute, deliver, or dispense a controlled substance or a counterfeit controlled substance (i) to a person under the age of eighteen years, (ii) in, on, or within one thousand feet of the real property comprising a public or private elementary, vocational, or secondary school, a community college, a public or private college, junior college, or university, or a playground, or (iii) within one hundred feet of a public or private youth center, public swimming pool, or video arcade facility shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, depending upon the controlled substance involved, for the first violation and for a second or subsequent violation shall be punished by the next higher penalty classification than that prescribed for a first violation of this subsection, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(b) For purposes of this subsection:

(i) Playground shall mean any outdoor facility, including any parking lot appurtenant to the facility, intended for recreation, open to the public, and with any portion containing three or more apparatus intended for the recreation of children, including sliding boards, swingsets, and teeterboards;

(ii) Video arcade facility shall mean any facility legally accessible to persons under eighteen years of age, intended primarily for the use of pinball and video machines for amusement, and containing a minimum of ten pinball or video machines; and

(iii) Youth center shall mean any recreational facility or gymnasium, including any parking lot appurtenant to the facility or gymnasium, intended primarily for use by persons under eighteen years of age which regularly provides athletic, civic, or cultural activities.

(5)(a) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person eighteen years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of eighteen years to manufacture, transport, distribute, carry, deliver, dispense, prepare for delivery, offer for delivery, or possess with intent to do the same a controlled substance or a counterfeit controlled substance.

(b) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person eighteen years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of eighteen years to aid and abet any person in the manufacture, transportation, distribution, carrying, delivery, dispensing, preparation for delivery, offering for delivery, or possession with intent to do the same of a controlled substance or a counterfeit controlled substance.

(c) Any person who violates subdivision (a) or (b) of this subsection shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, depending upon the controlled substance involved, for the first violation and for a second or subsequent violation shall be punished by the next higher penalty classification than that prescribed for a first violation of this subsection, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(6) It shall not be a defense to prosecution for violation of subsection (4) or (5) of this section that the defendant did not know the age of the person through whom the defendant violated such subsection.

(7) Any person who violates subsection (1) of this section with respect to cocaine or any mixture or substance containing a detectable amount of cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(8) Any person who violates subsection (1) of this section with respect to base cocaine (crack) or any mixture or substance containing a detectable amount of base cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(9) Any person who violates subsection (1) of this section with respect to heroin or any mixture or substance containing a detectable amount of heroin in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(10) Any person who violates subsection (1) of this section with respect to amphetamine, its salts, optical isomers, and salts of its isomers, or with respect to methamphetamine, its salts, optical isomers, and salts of its isomers, in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(11) Any person knowingly or intentionally possessing marijuana weighing more than one ounce but not more than one pound shall be guilty of a Class III misdemeanor.

(12) Any person knowingly or intentionally possessing marijuana weighing more than one pound shall be guilty of a Class IV felony.

(13) Any person knowingly or intentionally possessing marijuana weighing one ounce or less shall:

(a) For the first offense, be guilty of an infraction, receive a citation, be fined three hundred dollars, and be assigned to attend a course as prescribed in section 29-433 if the judge determines that attending such course is in the best interest of the individual defendant;

(b) For the second offense, be guilty of a Class IV misdemeanor, receive a citation, and be fined four hundred dollars and may be imprisoned not to exceed five days; and

(c) For the third and all subsequent offenses, be guilty of a Class IIIA misdemeanor, receive a citation, be fined five hundred dollars, and be imprisoned not to exceed seven days.

(14) Any person convicted of violating this section, if placed on probation, shall, as a condition of probation, satisfactorily attend and complete appropriate treatment and counseling on drug abuse provided by a program authorized under the Nebraska Behavioral Health Services Act or other licensed drug treatment facility.

(15) Any person convicted of violating this section, if sentenced to the Department of Correctional Services, shall attend appropriate treatment

and counseling on drug abuse.

(16) Any person knowingly or intentionally possessing a firearm while in violation of subsection (1) of this section shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(17) A person knowingly or intentionally in possession of money used or intended to be used to facilitate a violation of subsection (1) of this section shall be guilty of a Class IV felony.

(18) In addition to the penalties provided in this section:

(a) If the person convicted or adjudicated of violating this section is eighteen years of age or younger and has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for thirty days and (B) require such person to attend a drug education class;

(ii) For a second offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for ninety days and (B) require such person to complete no fewer than twenty and no more than forty hours of community service and to attend a drug education class; and

(iii) For a third or subsequent offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for twelve months and (B) require such person to complete no fewer than sixty hours of community service, to attend a drug education class, and to submit to a drug assessment by a licensed alcohol and drug counselor; and

(b) If the person convicted or adjudicated of violating this section is eighteen years of age or younger and does not have a permit or license issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until thirty days after the date of such order and (B) require such person to attend a drug education class;

(ii) For a second offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until ninety days after the date of such order and (B) require such person to complete no fewer than twenty hours and no more than forty hours of community service and to attend a drug education class; and

(iii) For a third or subsequent offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until twelve months after the date of such order and (B) require such person to complete no fewer than sixty hours of community service, to attend a drug education class, and to submit to a drug assessment by a licensed alcohol and drug counselor.

A copy of an abstract of the court's conviction or adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04.

Sec. 5. Section 29-1816, Reissue Revised Statutes of Nebraska, is amended to read:

29-1816 (1) The accused shall be arraigned by reading to him or her the indictment or information, unless the reading is waived by the accused when the nature of the charge is made known to him or her. The accused shall then be asked whether he or she is guilty or not guilty of the offense charged. If the accused appears in person and by counsel and goes to trial before a jury regularly impaneled and sworn, he or she shall be deemed to have waived arraignment and a plea of not guilty shall be deemed to have been made.

(2)(a) At the time of the arraignment the court shall advise the defendant, accused, if he or she was less than eighteen years of age at the time of the commitment of the alleged crime, that he or she may move the county or district court at any time not later than thirty days after arraignment, unless otherwise permitted by the court for good cause shown, to waive jurisdiction in such case to the juvenile court for further proceedings under the Nebraska Juvenile Code. The court shall schedule a hearing on such motion within fifteen days. The customary rules of evidence shall not be followed at such hearing. The county attorney or city attorney shall present the evidence and reasons why such case should be retained, the defendant accused shall present the evidence and reasons why the case should be transferred, and both sides shall consider the criteria set forth in section 43-276. After considering all the evidence and reasons presented by

both parties, pursuant to section 43-276, the case shall be transferred unless a sound basis exists for retaining the case.

(b) In deciding such motion the court shall consider, among other matters, the matters set forth in section 43-276 for consideration by the county attorney or city attorney when determining the type of case to file.

(c) The court shall set forth findings for the reason for its decision, which shall not be a final order for the purpose of enabling an appeal. If the court determines that the ~~child~~ accused should be transferred to the juvenile court, the complete file in the county or district court shall be transferred to the juvenile court and the complaint, indictment, or information may be used in place of a petition therein. The court making a transfer shall order the ~~minor~~ accused to be taken forthwith to the juvenile court and designate where ~~the minor~~ he or she shall be kept pending determination by the juvenile court. The juvenile court shall then proceed as provided in the Nebraska Juvenile Code.

Sec. 6. Section 29-2258, Reissue Revised Statutes of Nebraska, is amended to read:

29-2258 A district probation officer shall:

(1) Conduct juvenile intake interviews and investigations in accordance with section 43-253 utilizing a standardized juvenile detention screening instrument described in section 43-260.01;

(2) Make presentence and other investigations, as may be required by law or directed by a court in which he or she is serving;

(3) Supervise probationers in accordance with the rules and regulations of the office and the directions of the sentencing court;

(4) Advise the sentencing court, in accordance with the Nebraska Probation Administration Act and such rules and regulations of the office, of violations of the conditions of probation by individual probationers;

(5) Advise the sentencing court, in accordance with the rules and regulations of the office and the direction of the court, when the situation of a probationer may require a modification of the conditions of probation or when a probationer's adjustment is such as to warrant termination of probation;

(6) Provide each probationer with a statement of the period and conditions of his or her probation;

(7) Whenever necessary, exercise the power of arrest or temporary custody as provided in section 29-2266 or section 7 of this act;

(8) Establish procedures for the direction and guidance of deputy probation officers under his or her jurisdiction and advise such officers in regard to the most effective performance of their duties;

(9) Supervise and evaluate deputy probation officers under his or her jurisdiction;

(10) Delegate such duties and responsibilities to a deputy probation officer as he or she deems appropriate;

(11) Make such reports as required by the administrator, the judges of the probation district in which he or she serves, or the Supreme Court;

(12) Keep accurate and complete accounts of all money or property collected or received from probationers and give receipts therefor;

(13) Cooperate fully with and render all reasonable assistance to other probation officers;

(14) In counties with a population of less than twenty-five thousand people, participate in pretrial diversion programs established pursuant to sections 29-3601 to 29-3604 and juvenile pretrial diversion programs established pursuant to sections 43-260.02 to 43-260.07 as requested by judges of the probation district in which he or she serves, except that participation in such programs shall not require appointment of additional personnel and shall be consistent with the probation officer's current caseload;

(15) Participate, at the direction of the probation administrator pursuant to an interlocal agreement which meets the requirements of section 29-2255, in non-probation-based programs and services;

(16) Perform such other duties not inconsistent with the Nebraska Probation Administration Act or the rules and regulations of the office as a court may from time to time direct; and

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

Sec. 7. (1) For purposes of this section:

(a) Administrative sanction means additional probation requirements imposed upon a juvenile subject to the supervision of a probation officer by his or her probation officer, with the full knowledge and consent of such juvenile and such juvenile's parents or guardian, designed to hold such juvenile accountable for substance abuse or noncriminal violations of conditions of probation, including, but not limited to:

(i) Counseling or reprimand by his or her probation officer;  
(ii) Increased supervision contact requirements;  
(iii) Increased substance abuse testing;  
(iv) Referral for substance abuse or mental health evaluation or other specialized assessment, counseling, or treatment;  
(v) Modification of a designated curfew for a period not to exceed thirty days;  
(vi) Community service for a specified number of hours pursuant to sections 29-2277 to 29-2279;  
(vii) Travel restrictions to stay within his or her residence or county of residence or employment unless otherwise permitted by the supervising probation officer;  
(viii) Restructuring court-imposed financial obligations to mitigate their effect on the juvenile subject to the supervision of a probation officer; and  
(ix) Implementation of educational or cognitive behavioral programming;

(b) Noncriminal violation means activities or behaviors of a juvenile subject to the supervision of a probation officer which create the opportunity for re-offending or which diminish the effectiveness of probation supervision resulting in a violation of an original condition of probation, including, but not limited to:

(i) Moving traffic violations;  
(ii) Failure to report to his or her probation officer;  
(iii) Leaving the juvenile's residence, jurisdiction of the court, or the state without the permission of the court or his or her probation officer;  
(iv) Failure to regularly attend school, vocational training, other training, counseling, treatment, programming, or employment;  
(v) Noncompliance with school rules;  
(vi) Continued violations of home rules;  
(vii) Failure to notify his or her probation officer of change of address, school, or employment;  
(viii) Frequenting places where controlled substances are illegally sold, used, distributed, or administered and association with persons engaged in illegal activity;  
(ix) Failure to perform community service as directed; and  
(x) Curfew or electronic monitoring violations; and

(c) Substance abuse violation means activities or behaviors of a juvenile subject to the supervision of a probation officer associated with the use of chemical substances or related treatment services resulting in a violation of an original condition of probation, including, but not limited to:

(i) Positive breath test for the consumption of alcohol;  
(ii) Positive urinalysis for the illegal use of drugs;  
(iii) Failure to report for alcohol testing or drug testing;  
(iv) Failure to appear for or complete substance abuse or mental health treatment evaluations or inpatient or outpatient treatment; and  
(v) Tampering with alcohol or drug testing.

(2) Whenever a probation officer has reasonable cause to believe that a juvenile subject to the supervision of a probation officer has committed or is about to commit a substance abuse violation or noncriminal violation while on probation, but that such juvenile will not attempt to leave the jurisdiction and will not place lives or property in danger, the probation officer shall either:

(a) Impose one or more administrative sanctions with the approval of his or her chief probation officer or such chief's designee. The decision to impose administrative sanctions in lieu of formal revocation proceedings rests with the probation officer and his or her chief probation officer or such chief's designee and shall be based upon such juvenile's risk level, the severity of the violation, and the juvenile's response to the violation. If administrative sanctions are to be imposed, such juvenile shall acknowledge in writing the nature of the violation and agree upon the administrative sanction with approval of such juvenile's parents or guardian. Such juvenile has the right to decline to acknowledge the violation, and if he or she declines to acknowledge the violation, the probation officer shall submit a written report pursuant to subdivision (2)(b) of this section. A copy of the report shall be submitted to the county attorney of the county where probation was imposed; or

(b) Submit a written report to the adjudicating court with a copy to the county attorney of the county where probation was imposed, outlining the nature of the probation violation and request that formal revocation proceedings be instituted against the juvenile subject to the supervision of

a probation officer.

(3) Whenever a probation officer has reasonable cause to believe that a juvenile subject to the supervision of a probation officer has violated or is about to violate a condition of probation other than a substance abuse violation or noncriminal violation and that such juvenile will not attempt to leave the jurisdiction and will not place lives or property in danger, the probation officer shall submit a written report to the adjudicating court, with a copy to the county attorney of the county where probation was imposed, outlining the nature of the probation violation.

(4) Whenever a probation officer has reasonable cause to believe that a juvenile subject to the supervision of a probation officer has violated or is about to violate a condition of his or her probation and that such juvenile will attempt to leave the jurisdiction or will place lives or property in danger, the probation officer shall take such juvenile into temporary custody without a warrant and may call on any peace officer for assistance as provided in section 43-248.

(5) Immediately after detention pursuant to subsection (4) of this section, the probation officer shall notify the county attorney of the county where probation was imposed and submit a written report of the reason for such detention and of any violation of probation. After prompt consideration of the written report, the county attorney shall:

(a) Order the release of the juvenile from confinement subject to the supervision of a probation officer; or

(b) File with the adjudicating court a motion or information to revoke the probation.

(6) Whenever a county attorney receives a report from a probation officer that a juvenile subject to the supervision of a probation officer has violated a condition of probation, the county attorney may file a motion or information to revoke probation.

(7) The probation administrator shall adopt and promulgate rules and regulations to carry out this section.

Sec. 8. Section 29-2262.07, Reissue Revised Statutes of Nebraska, as amended by section 15, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009, is amended to read:

29-2262.07 The Probation Program Cash Fund is created. All funds collected pursuant to section 29-2262.06 shall be remitted to the State Treasurer for credit to the fund. Except as otherwise directed by the Supreme Court during the period from the effective date of this act until June 30, 2011, the fund shall be utilized by the administrator, in consultation with the Community Corrections Council, for the purposes stated in subdivision (14) of section 29-2252, except that the State Treasurer shall, on or before June 30, 2011, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, transfer the amount set forth in Legislative Bill 1, One Hundred First Legislature, First Special Session, 2009. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

On the effective date of this act, the State Treasurer shall transfer three hundred fifty thousand dollars from the Probation Program Cash Fund to the Violence Prevention Cash Fund. The Office of Violence Prevention shall distribute such funds as soon as practicable after the effective date of this act to organizations or governmental entities that have submitted violence prevention plans and that best meet the intent of reducing street and gang violence and reducing homicides and injuries caused by firearms.

Sec. 9. Section 29-2269, Reissue Revised Statutes of Nebraska, is amended to read:

29-2269 Sections 29-2246 to 29-2269 and section 7 of this act shall be known and may be cited as the Nebraska Probation Administration Act.

Sec. 10. A juvenile offender civil citation pilot program as provided in this section and section 11 of this act may be undertaken by the peace officers and county and city attorneys of a county containing a city of the metropolitan class. The pilot program shall be according to the following procedures:

(1) A peace officer, upon making contact with a juvenile whom the peace officer has reasonable grounds to believe has committed a misdemeanor offense, other than an offense involving a firearm, sexual assault, or domestic violence, may issue the juvenile a civil citation;

(2) The civil citation shall include: The juvenile's name, address, school of attendance, and contact information; contact information for the juvenile's parents or guardian; a description of the misdemeanor offense believed to have been committed; the juvenile assessment center where the juvenile cited is to appear within seventy-two hours after the issuance of the

civil citation; and a warning that failure to appear in accordance with the command of the civil citation or failure to provide the information necessary for the peace officer to complete the civil citation will result in the juvenile being taken into temporary custody as provided in sections 43-248 and 43-250;

(3) At the time of issuance of a civil citation by the peace officer, the peace officer shall advise the juvenile that the juvenile has the option to refuse the civil citation and be taken directly into temporary custody as provided in sections 43-248 and 43-250. The option to refuse the civil citation may be exercised at any time prior to compliance with any services required pursuant to subdivision (5) of this section;

(4) Upon issuing a civil citation, the peace officer shall provide or send a copy of the civil citation to the appropriate county attorney, the juvenile assessment center, and the parents or guardian of the juvenile;

(5) The juvenile shall report to the juvenile assessment center as instructed by the citation. The juvenile assessment center may require the juvenile to participate in community service or other available services appropriate to the needs of the juvenile identified by the juvenile assessment center which may include family counseling, urinalysis monitoring, or substance abuse and mental health treatment services; and

(6) If the juvenile fails to comply with any services required pursuant to subdivision (5) of this section or if the juvenile is issued a third or subsequent civil citation, a peace officer shall take the juvenile into temporary custody as provided in sections 43-248 and 43-250.

Sec. 11. To achieve uniformity, the Supreme Court shall prescribe the form of a civil citation which conforms to the requirements for a civil citation in section 10 of this act and such other matter as the court deems appropriate. The civil citation shall not include a place for the cited juvenile's social security number.

Sec. 12. Section 43-245, Revised Statutes Supplement, 2009, is amended to read:

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

(1) Age of majority means nineteen years of age;

(2) Approved center means a center that has applied for and received approval from the Director of the Office of Dispute Resolution under section 25-2909;

(3) Civil citation means a noncriminal notice which cannot result in a criminal record and is described in section 10 of this act;

~~(4)~~ (4) Cost or costs means (a) the sum or equivalent expended, paid, or charged for goods or services, or expenses incurred, or (b) the contracted or negotiated price;

~~(5)~~ (5) Criminal street gang means a group of three or more people with a common identifying name, sign, or symbol whose group identity or purposes include engaging in illegal activities;

~~(6)~~ (6) Criminal street gang member means a person who willingly or voluntarily becomes and remains a member of a criminal street gang;

~~(7)~~ (7) Juvenile means any person under the age of eighteen;

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

~~(9)~~ (9) Juvenile detention facility has the same meaning as in section 83-4,125;

~~(10)~~ (10) Mediator for juvenile offender and victim mediation means a person who (a) has completed at least thirty hours of training in conflict resolution techniques, neutrality, agreement writing, and ethics set forth in section 25-2913, (b) has an additional eight hours of juvenile offender and victim mediation training, and (c) meets the apprenticeship requirements set forth in section 25-2913;

~~(11)~~ (11) Mental health facility means a treatment facility as defined in section 71-914 or a government, private, or state hospital which treats mental illness;

~~(12)~~ (12) Nonoffender means a juvenile who is subject to the jurisdiction of the juvenile court for reasons other than legally prohibited conduct, including, but not limited to, juveniles described in subdivision (3) (a) of section 43-247;

~~(13)~~ (13) Nonsecure detention means detention characterized by the absence of restrictive hardware, construction, and procedure. Nonsecure



detention services may include a range of placement and supervision options, such as home detention, electronic monitoring, day reporting, drug court, tracking and monitoring supervision, staff secure and temporary holdover facilities, and group homes;

~~(13)~~ (14) Parent means one or both parents or a stepparent when such stepparent is married to the custodial parent as of the filing of the petition;

~~(14)~~ (15) Parties means the juvenile as described in section 43-247 and his or her parent, guardian, or custodian;

~~(15)~~ (16) Except in proceedings under the Nebraska Indian Child Welfare Act, relative means father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece;

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

~~(16)~~ (18) Secure detention means detention in a highly structured, residential, hardware-secured facility designed to restrict a juvenile's movement;

~~(17)~~ (19) Status offender means a juvenile who has been charged with or adjudicated for conduct which would not be a crime if committed by an adult, including, but not limited to, juveniles charged under subdivision (3) (b) of section 43-247 and sections 53-180.01 and 53-180.02; and

~~(18)~~ (20) Traffic offense means any nonfelonious act in violation of a law or ordinance regulating vehicular or pedestrian travel, whether designated a misdemeanor or a traffic infraction.

Sec. 13. Section 43-246, Reissue Revised Statutes of Nebraska, is amended to read:

43-246 Acknowledging the responsibility of the juvenile court to act to preserve the public peace and security, the Nebraska Juvenile Code shall be construed to effectuate the following:

(1) To assure the rights of all juveniles to care and protection and a safe and stable living environment and to development of their capacities for a healthy personality, physical well-being, and useful citizenship and to protect the public interest;

(2) To provide for the intervention of the juvenile court in the interest of any juvenile who is within the provisions of the Nebraska Juvenile Code, with due regard to parental rights and capacities and the availability of nonjudicial resources;

(3) To remove juveniles who are within the Nebraska Juvenile Code from the criminal justice system whenever possible and to reduce the possibility of their committing future law violations through the provision of social and rehabilitative services to such juveniles and their families;

(4) To offer selected juveniles the opportunity to take direct personal responsibility for their individual actions by reconciling with the victims through juvenile offender and victim mediation and fulfilling the terms of the resulting agreement which may require restitution and community service;

(5) To achieve the purposes of subdivisions (1) through (3) of this section in the juvenile's own home whenever possible, separating the juvenile from his or her parent when necessary for his or her welfare, the juvenile's health and safety being of paramount concern, or in the interest of public safety and, when temporary separation is necessary, to consider the developmental needs of the individual juvenile in all placements, to consider relatives as a preferred potential placement resource, and to make reasonable efforts to preserve and reunify the family if required under section 43-283.01;

(6) To promote adoption, guardianship, or other permanent arrangements for children in the custody of the Department of Health and Human Services who are unable to return home;

(7) To provide a judicial procedure through which these purposes and goals are accomplished and enforced in which the parties are assured a fair hearing and their constitutional and other legal rights are recognized and enforced; ~~and~~

(8) To assure compliance, in cases involving Indian children, with the Nebraska Indian Child Welfare Act; ~~and-~~

(9) To make any temporary placement of a juvenile in the least restrictive environment consistent with the best interests of the juvenile and the safety of the community.

Sec. 14. Section 43-248, Reissue Revised Statutes of Nebraska, is amended to read:

43-248 A peace officer may take a juvenile ~~may be taken~~ into temporary custody ~~by any peace officer~~ without a warrant or order of the court

and proceed as provided in section 43-250 when:

(1) A juvenile has violated a state law or municipal ordinance in the presence of the officer, and the officer has reasonable grounds to believe such juvenile committed such violation;

(2) A felony has been committed and the officer has reasonable grounds to believe such juvenile committed it;

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

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

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

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

(6) The officer has reasonable grounds to believe the juvenile is truant from school.

Sec. 15. Section 43-250, Revised Statutes Supplement, 2009, is amended to read:

43-250 (1) A peace officer who takes a juvenile into temporary custody under section 29-401 or subdivision (1), (4), or (5) of section 43-248 or pursuant to a legal warrant of arrest shall immediately take reasonable measures to notify the juvenile's parent, guardian, custodian, or relative and shall proceed as follows:

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

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

(3) While retaining (c) The peace officer may retain temporary custody, the peace officer shall of a juvenile taken into temporary custody under section 29-401 or subdivision (1), (4), or (5) of section 43-248 and deliver the juvenile, if necessary, to the probation officer and communicate all relevant available information regarding such juvenile to the probation officer, and shall deliver the juvenile, if necessary, to the probation officer. The probation officer shall determine the need for detention of the juvenile as provided in section 43-260.01. Upon determining that the juvenile should be placed in a secure or nonsecure placement and securing placement in such secure or nonsecure setting by the probation officer, the peace officer shall implement the probation officer's decision to release or to detain and place the juvenile. When secure detention of a juvenile is necessary, such detention shall occur within a juvenile detention facility except:

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

(b) (ii) When a juvenile described in subdivision (1) or (2) of section 43-247, except for a status offender, is taken into temporary custody outside of a metropolitan statistical area and where no juvenile detention facility is reasonably available, the juvenile may be delivered, for temporary

custody not to exceed twenty-four hours excluding nonjudicial days and while awaiting an initial court appearance, to a secure area of a jail or other facility intended or used for the detention of adults solely for the purposes of identifying the juvenile and ascertaining his or her health and well-being and for safekeeping while awaiting transport to an appropriate juvenile placement or release to a responsible party;

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

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

~~(e)~~ (v) If, within the time limits specified in subdivision ~~(3)~~~~(a)~~ ~~or~~ ~~(3)~~~~(b)~~ (1)(c)(i) or (1)(c)(ii) of this section, a felony charge is filed against the juvenile as an adult in county or district court, he or she may be securely held in a jail or other facility intended or used for the detention of adults beyond the specified time limits;

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

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

~~(4)~~ (2) When a juvenile is taken into temporary custody pursuant to subdivision ~~(3)~~ (2) of section 43-248, the peace officer shall deliver the custody of such juvenile to the Department of Health and Human Services which shall make a temporary placement of the juvenile in the least restrictive environment consistent with the best interests of the juvenile as determined by the department. The department shall supervise such placement and, if necessary, consent to any necessary emergency medical, psychological, or psychiatric treatment for such juvenile. The department shall have no other authority with regard to such temporary custody until or unless there is an order by the court placing the juvenile in the custody of the department. If the peace officer delivers temporary custody of the juvenile pursuant to this ~~subdivision,~~ subsection, the peace officer shall make a full written report to the county attorney within twenty-four hours of taking such juvenile into temporary custody. If a court order of temporary custody is not issued within forty-eight hours of taking the juvenile into custody, the temporary custody by the department shall terminate and the juvenile shall be returned to the custody of his or her parent, guardian, custodian, or relative.

~~(5)~~ (3) If the peace officer takes the juvenile into temporary custody pursuant to subdivision ~~(4)~~ (3) of section 43-248, the peace officer may place the juvenile at a mental health facility for evaluation and emergency treatment or may deliver the juvenile to the Department of Health and Human Services as provided in ~~subdivision~~ ~~(4)~~ subsection (2) of this section. At the time of the admission or turning the juvenile over to the department, the peace officer responsible for taking the juvenile into custody shall execute a written certificate as prescribed by the Department of Health and Human Services which will indicate that the peace officer believes the juvenile to be mentally ill and dangerous, a summary of the subject's behavior supporting such allegations, and that the harm described in section 71-908 is likely to occur before proceedings before a juvenile court may be invoked to obtain custody of the juvenile. A copy of the certificate shall be forwarded to the county attorney. The peace officer shall notify the juvenile's parents, guardian, custodian, or relative of the juvenile's placement.

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

~~(6)~~ Beginning July 1, 2010, a (5) A juvenile taken into custody pursuant to a legal warrant of arrest shall be delivered to the probation officer who shall determine the need for detention of the juvenile as provided in section 43-260.01. If detention is not required, the juvenile may be released without bond if such release is in the best interests of the juvenile, the safety of the community is not at risk, and the court that issued the warrant is notified that the juvenile has been taken into custody.

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

Sec. 16. Section 43-253, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) The probation officer's decision to release the juvenile from custody or place the juvenile in secure or nonsecure detention shall be based upon the results of the standardized juvenile detention screening instrument described in section 43-260.01.

(3) No juvenile who has been taken into temporary custody under subdivision ~~(3)~~ (1)(c) of section 43-250 shall be detained in any secure detention facility for longer than twenty-four hours, excluding nonjudicial days, after having been taken into custody unless such juvenile has appeared personally before a court of competent jurisdiction for a hearing to determine if continued detention is necessary. If continued secure detention is ordered, such detention shall be in a juvenile detention facility, except that a juvenile charged with a felony as an adult in county or district court may be held in an adult jail as set forth in subdivision ~~(3)(e)~~ (1)(c)(v) of section 43-250.

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

(5) The court may admit such juvenile to bail by bond in such amount and on such conditions and security as the court, in its sole discretion, shall determine, or the court may proceed as provided in section 43-254. In no case shall the court or probation officer release such juvenile if it appears that further detention or placement of such juvenile is a matter of immediate and urgent necessity for the protection of such juvenile or the person or property of another or if it appears that such juvenile is likely to flee the jurisdiction of the court.

Sec. 17. Section 43-254, Reissue Revised Statutes of Nebraska, is amended to read:

43-254 Pending the adjudication of any case, if it appears that the need for placement or further detention exists, the juvenile may be (1) placed or detained a reasonable period of time on order of the court in the temporary custody of either the person having charge of the juvenile or some other suitable person, (2) kept in some suitable place provided by the city or county authorities, (3) placed in any proper and accredited charitable institution, (4) placed in a state institution, except any adult correctional facility, when proper facilities are available and the only local facility is a city or county jail, at the expense of the committing county on a per diem basis as determined from time to time by the head of the particular institution, or (5) placed in the temporary care and custody of the Department of Health and Human Services when it does not appear that there is any need for secure detention. The court may assess the cost of such placement or detention in whole or in part to the parent of the juvenile as provided in section 43-290.

If a juvenile has been removed from his or her parent, guardian, or custodian pursuant to subdivision ~~(3)~~ (2) of section 43-248, the court may

enter an order continuing detention or placement upon a written determination that continuation of the juvenile in his or her home would be contrary to the health, safety, or welfare of such juvenile and that reasonable efforts were made to preserve and reunify the family if required under subsections (1) through (4) of section 43-283.01.

Sec. 18. Section 43-254.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-254.01 (1) Any time a juvenile is temporarily placed at a mental health facility pursuant to ~~subdivision (5)~~ subsection (3) of section 43-250 or by a court as a juvenile who is mentally ill and dangerous, a mental health professional as defined in section 71-906 shall evaluate the mental condition of the juvenile as soon as reasonably possible but not later than thirty-six hours after the juvenile's admission, unless the juvenile was evaluated by a mental health professional immediately prior to the juvenile being placed in temporary custody and the temporary custody is based upon the conclusions of that evaluation. The mental health professional who performed the evaluation prior to the temporary custody or immediately after the temporary custody shall, without delay, convey the results of his or her evaluation to the county attorney.

(2) If it is the judgment of the mental health professional that the juvenile is not mentally ill and dangerous or that the harm described in section 71-908 is not likely to occur before the matter may be heard by a juvenile court, the mental health professional shall immediately notify the county attorney of that conclusion and the county attorney shall either proceed to hearing before the court within twenty-four hours or order the immediate release of the juvenile from temporary custody. Such release shall not prevent the county attorney from proceeding on the petition if he or she so chooses.

(3) A juvenile taken into temporary protective custody under ~~subdivision (5)~~ subsection (3) of section 43-250 shall have the opportunity to proceed to adjudication hearing within seven days unless the matter is continued. Continuances shall be liberally granted at the request of the juvenile, his or her guardian ad litem, attorney, parents, or guardian. Continuances may be granted to permit the juvenile an opportunity to obtain voluntary treatment.

Sec. 19. Section 43-256, Reissue Revised Statutes of Nebraska, is amended to read:

43-256 When the court enters an order continuing placement or detention pursuant to section 43-253, upon request of the juvenile, or his or her parent, guardian, or attorney, the court shall hold a hearing within forty-eight hours, at which hearing the burden of proof shall be upon the state to show probable cause that such juvenile is within the jurisdiction of the court. Strict rules of evidence shall not apply at the probable cause hearing. The juvenile shall be released if probable cause is not shown. At the option of the court, it may hold the adjudication hearing provided in section 43-279 as soon as possible instead of the probable cause hearing if held within a reasonable period of time. This section and section 43-255 shall not apply to a juvenile (1) who has escaped from a commitment or (2) who has been taken into custody for his or her own protection as provided in ~~subdivision (3)~~ (2) of section 43-248 in which case the juvenile shall be held on order of the court with jurisdiction for a reasonable period of time.

Sec. 20. Section 43-258, Reissue Revised Statutes of Nebraska, is amended to read:

43-258 (1) Pending the adjudication of any case under the Nebraska Juvenile Code, the court may order the juvenile examined by a physician, surgeon, psychiatrist, duly authorized community mental health service program, or psychologist to aid the court in determining (a) a material allegation in the petition relating to the juvenile's physical or mental condition, (b) the juvenile's competence to participate in the proceedings, (c) the juvenile's responsibility for his or her acts, or (d) whether or not to provide emergency medical treatment.

(2) Pending the adjudication of any case under the Nebraska Juvenile Code and after a showing of probable cause that the juvenile is within the court's jurisdiction, for the purposes of subsection (1) of this section, the court may order such juvenile to be placed in one of the facilities or institutions of the State of Nebraska. Such juvenile shall not be placed in an adult correctional facility, the secure youth confinement facility operated by the Department of Correctional Services, or a youth rehabilitation and treatment center. Any placement for evaluation may be made on a residential or nonresidential basis for a period not to exceed thirty days except as provided by section 43-415. The head of any facility or institution shall make a complete evaluation of the juvenile, including any authorized area of inquiry

requested by the court. Any temporary placement of a juvenile made under this section shall be in the least restrictive environment consistent with the best interests of the juvenile and the safety of the community.

(3) Upon completion of the evaluation, the juvenile shall be returned to the court together with a written report of the results of the evaluation. Such report shall include an assessment of the basic needs of the juvenile and recommendations for continuous and long-term care and shall be made to effectuate the purposes in subdivision (1) of section 43-246. The juvenile shall appear before the court for a hearing on the report of the evaluation results within ten days after the court receives the evaluation.

(4) In order to encourage the use of the procedure provided in this section, all costs incurred during the period the juvenile is being evaluated at a state facility or program funded by the Office of Juvenile Services shall be the responsibility of the state unless otherwise ordered by the court pursuant to section 43-290. The county in which the case is pending shall be liable only for the cost of delivering the juvenile to the facility or institution and the cost of returning him or her to the court for disposition.

Sec. 21. Section 43-272.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-272.01 (1) A guardian ad litem as provided for in subsections (2) and (3) of section 43-272 shall be appointed when a child is removed from his or her surroundings pursuant to subdivision ~~(3)~~ ~~or~~ ~~(4)~~ (2) or (3) of section 43-248, ~~subdivision (4)~~ subsection (2) of section 43-250, or section 43-251. If removal has not occurred, a guardian ad litem shall be appointed at the commencement of all cases brought under subdivision (3)(a) or (8) of section 43-247 and section 28-707.

(2) In the course of discharging duties as guardian ad litem, the person so appointed shall consider, but not be limited to, the criteria provided in this subsection. The guardian ad litem:

(a) Is appointed to stand in lieu of a parent for a protected juvenile who is the subject of a juvenile court petition, shall be present at all hearings before the court in such matter unless expressly excused by the court, and may enter into such stipulations and agreements concerning adjudication and disposition deemed by him or her to be in the juvenile's best interests;

(b) Is not appointed to defend the parents or other custodian of the protected juvenile but shall defend the legal and social interests of such juvenile. Social interests shall be defined generally as the usual and reasonable expectations of society for the appropriate parental custody and protection and quality of life for juveniles without regard to the socioeconomic status of the parents or other custodians of the juvenile;

(c) May at any time after the filing of the petition move the court of jurisdiction to provide medical or psychological treatment or evaluation as set out in section 43-258. The guardian ad litem shall have access to all reports resulting from any examination ordered under section 43-258, and such reports shall be used for evaluating the status of the protected juvenile;

(d) Shall make every reasonable effort to become familiar with the needs of the protected juvenile which (i) shall include consultation with the juvenile within two weeks after the appointment and once every six months thereafter and inquiry of the most current caseworker, foster parent, or other custodian and (ii) may include inquiry of others directly involved with the juvenile or who may have information or knowledge about the circumstances which brought the juvenile court action or related cases and the development of the juvenile, including biological parents, physicians, psychologists, teachers, and clergy members;

(e) May present evidence and witnesses and cross-examine witnesses at all evidentiary hearings. In any proceeding under this section relating to a child of school age, certified copies of school records relating to attendance and academic progress of such child are admissible in evidence;

(f) Shall be responsible for making recommendations to the court regarding the temporary and permanent placement of the protected juvenile and shall submit a written report to the court at every dispositional or review hearing, or in the alternative, the court may provide the guardian ad litem with a checklist that shall be completed and presented to the court at every dispositional or review hearing;

(g) Shall consider such other information as is warranted by the nature and circumstances of a particular case; and

(h) May file a petition in the juvenile court on behalf of the juvenile, including a supplemental petition as provided in section 43-291.

(3) Nothing in this section shall operate to limit the discretion of the juvenile court in protecting the best interests of a juvenile who is the subject of a juvenile court petition.

(4) For purposes of subdivision (2)(d) of this section, the court may order the expense of such consultation, if any, to be paid by the county in which the juvenile court action is brought or the court may, after notice and hearing, assess the cost of such consultation, if any, in whole or in part to the parents of the juvenile. The ability of the parents to pay and the amount of the payment shall be determined by the court by appropriate examination.

Sec. 22. Section 43-278, Reissue Revised Statutes of Nebraska, is amended to read:

43-278 Except as provided in sections 43-254.01 and 43-277.01, all cases filed under subdivision (3) of section 43-247 shall have an adjudication hearing not more than ninety days after a petition is filed. Upon a showing of good cause, the court may continue the case beyond the ninety-day period. The court shall also review every case filed under such subdivision which has been adjudicated or transferred to it for disposition not less than once every six months. All communications, notices, orders, authorizations, and requests authorized or required in the Nebraska Juvenile Code; all nonevidentiary hearings; and any evidentiary hearings approved by the court and by stipulation of all parties may be heard by the court telephonically or by videoconferencing in a manner that ensures the preservation of an accurate record. ~~with the exception of any adjudication hearing, disposition hearing, or hearing to terminate parental rights, may be made by telephone when other means of communication are impractical as determined by the court.~~ All of the orders generated by way of a telephonic or videoconference hearing shall be recorded as if the judge were conducting a hearing on the record. Telephonic and videoconference hearings allowed under this section shall not be in conflict with section 24-734.

Sec. 23. Section 43-285, Reissue Revised Statutes of Nebraska, is amended to read:

43-285 (1) When the court awards a juvenile to the care of the Department of Health and Human Services, an association, or an individual in accordance with the Nebraska Juvenile Code, the juvenile shall, unless otherwise ordered, become a ward and be subject to the guardianship of the department, association, or individual to whose care he or she is committed. Any such association and the department shall have authority, by and with the assent of the court, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it. Such guardianship shall not include the guardianship of any estate of the juvenile.

(2) Following an adjudication hearing at which a juvenile is adjudged to be under subdivision (3) of section 43-247, the court may order the department to prepare and file with the court a proposed plan for the care, placement, services, and permanency which are to be provided to such juvenile and his or her family. The health and safety of the juvenile shall be the paramount concern in the proposed plan. The department shall include in the plan for a juvenile who is sixteen years of age or older and subject to the guardianship of the department a written proposal describing programs and services designed to assist the juvenile in acquiring independent living skills. If any other party, including, but not limited to, the guardian ad litem, parents, county attorney, or custodian, proves by a preponderance of the evidence that the department's plan is not in the juvenile's best interests, the court shall disapprove the department's plan. The court may modify the plan, order that an alternative plan be developed, or implement another plan that is in the juvenile's best interests. In its order the court shall include a finding regarding the appropriateness of the programs and services described in the proposal designed to assist the juvenile in acquiring independent living skills. Rules of evidence shall not apply at the dispositional hearing when the court considers the plan that has been presented. ~~The department or any other party may request a review of the court's order concerning the plan by a juvenile review panel as provided in section 43-287.04.~~

(3) Within thirty days after an order awarding a juvenile to the care of the department, an association, or an individual and until the juvenile reaches the age of majority, the department, association, or individual shall file with the court a report stating the location of the juvenile's placement and the needs of the juvenile in order to effectuate the purposes of subdivision (1) of section 43-246. The department, association, or individual shall file a report with the court once every six months or at shorter intervals if ordered by the court or deemed appropriate by the department, association, or individual. The department, association, or individual shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties at least seven

days before the placement of the juvenile is changed from what the court originally considered to be a suitable family home or institution to some other custodial situation in order to effectuate the purposes of subdivision (1) of section 43-246. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change in placement and may order that the change be stayed until the completion of the hearing. Nothing in this section shall prevent the court on an ex parte basis from approving an immediate change in placement upon good cause shown. The department may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation or when the foster parents request that the juvenile be removed from their home. Approval of the court shall be sought within twenty-four hours after making the change in placement or as soon thereafter as possible. ~~The department or any other party may request a review of the change in placement by a juvenile review panel in the manner set out in section 43-287.04.~~ The department shall provide the juvenile's guardian ad litem with a copy of any report filed with the court by the department pursuant to this subsection.

(4) The court shall also hold a permanency hearing if required under section 43-1312.

(5) When the court awards a juvenile to the care of the department, an association, or an individual, then the department, association, or individual shall have standing as a party to file any pleading or motion, to be heard by the court with regard to such filings, and to be granted any review or relief requested in such filings consistent with the Nebraska Juvenile Code.

(6) Whenever a juvenile is in a foster care placement as defined in section 43-1301, the State Foster Care Review Board may participate in proceedings concerning the juvenile as provided in section 43-1313 and notice shall be given as provided in section 43-1314.

(7) Any written findings or recommendations of the State Foster Care Review Board or any designated local foster care review board with regard to a juvenile in a foster care placement submitted to a court having jurisdiction over such juvenile shall be admissible in any proceeding concerning such juvenile if such findings or recommendations have been provided to all other parties of record.

(8) Any member of the State Foster Care Review Board, any of its agents or employees, or any member of any local foster care review board participating in an investigation or making any report pursuant to the Foster Care Review Act or participating in a judicial proceeding pursuant to this section shall be immune from any civil liability that would otherwise be incurred except for false statements negligently made.

Sec. 24. (1) When a juvenile is adjudged to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, the juvenile court may:

(a) If such juvenile has one or more licenses or permits issued under the Motor Vehicle Operator's License Act, impound any such licenses or permits for thirty days; or

(b) If such juvenile does not have a permit or license issued under the Motor Vehicle Operator's License Act, prohibit such juvenile from obtaining any permit or any license pursuant to the act for which such juvenile would otherwise be eligible until thirty days after the date of such order.

(2) A copy of an abstract of the juvenile court's adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04 if a license or permit is impounded or a juvenile is prohibited from obtaining a license or permit under subsection (1) of this section. If a juvenile whose operator's license or permit has been impounded by a juvenile court operates a motor vehicle during any period that he or she is subject to the court order not to operate any motor vehicle or after a period of impoundment but before return of the license or permit, such violation shall be handled in the juvenile court and not as a violation of section 60-4,108.

(3) When a juvenile is adjudged to be a juvenile described in subdivision (3)(a) of section 43-247 for excessive absenteeism from school, the juvenile court may issue the parents or guardians of such juvenile a fine not to exceed five hundred dollars for each offense or order such parents or guardians to complete specified hours of community service. For community service ordered under this subsection, the juvenile court may require that all or part of the service be performed for a public school district or nonpublic school if the court finds that service in the school is appropriate under the circumstances.

Sec. 25. Section 43-2,106.01, Reissue Revised Statutes of Nebraska,



is amended to read:

43-2,106.01 (1) Any final order or judgment entered by a juvenile court may be appealed to the Court of Appeals in the same manner as an appeal from district court to the Court of Appeals. The appellate court shall conduct its review within the same time and in the same manner prescribed by law for review of an order or judgment of the district court, except as provided in sections 43-287.01 to 43-287.06 and except that when appeal is taken from a finding by the juvenile court terminating parental rights, the cause shall be advanced for argument before the appellate court and the appellate court shall, in order to expedite the preferred disposition of the case and the juvenile, in an expedited manner and shall render the judgment and write its opinion, if any, as speedily as possible.

(2) An appeal may be taken by:

(a) The juvenile;

(b) The guardian ad litem;

(c) The juvenile's parent, custodian, or guardian. For purposes of this subdivision, custodian or guardian shall include, but not be limited to, the Department of Health and Human Services, an association, or an individual to whose care the juvenile has been awarded pursuant to the Nebraska Juvenile Code; or

(d) The county attorney or petitioner, except that in any case determining delinquency issues in which the juvenile has been placed legally in jeopardy, an appeal of such issues may only be taken by exception proceedings pursuant to sections 29-2317 to 29-2319.

(3) In all appeals from the county court sitting as a juvenile court, the judgment of the appellate court shall be certified without cost to the juvenile court for further proceedings consistent with the determination of the appellate court.

Sec. 26. Sections 26 to 30 of this act apply only to persons who were under the age of eighteen years when the offense took place and the county attorney or city attorney offered juvenile pretrial diversion or mediation to the juvenile under the Nebraska Juvenile Code or filed a juvenile court petition describing the juvenile as a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 or the county attorney or city attorney filed a criminal complaint in county court against such juvenile for a misdemeanor or infraction, other than for a traffic offense that may be waived, under the laws of this state or a city or village ordinance.

Sec. 27. For a juvenile described in section 26 of this act, the county attorney or city attorney shall, in addition to the filings or actions described in such section, provide the juvenile with written notice that:

(1) States in plain language that the juvenile may petition the court to seal the record when the juvenile has satisfactorily completed the diversion, mediation, probation, supervision, or other treatment or rehabilitation program provided to the juvenile under the Nebraska Juvenile Code or has satisfactorily completed the diversion or sentence ordered by a county court; and

(2) Explains in plain language what sealing the record means.

Sec. 28. (1) Notwithstanding subsection (2) of this section, if the juvenile was taken into custody or arrested but no juvenile petition or criminal complaint was filed against the juvenile with respect to the arrest or custody, the county attorney or city attorney shall notify the appropriate public office or agency responsible for the arrest or custody that no criminal charge or juvenile court petition was filed.

(2) If the county attorney or city attorney has offered and the juvenile has agreed to pretrial diversion or mediation, the county attorney or city attorney shall notify the appropriate public office or agency responsible for the arrest or custody that the juvenile has satisfactorily completed the resulting diversion or mediation.

(3) Upon receiving notice under subsection (1) or (2) of this section, the public office or agency shall immediately seal all original records housed at that public office or agency pertaining to the citation, arrest, record of custody, complaint, disposition, diversion, or mediation.

(4) If a juvenile described in section 26 of this act has satisfactorily completed such juvenile's probation, supervision, or other treatment or rehabilitation program provided under the Nebraska Juvenile Code or has satisfactorily completed such juvenile's diversion or sentence in county court and the juvenile has attained at least the age of seventeen years, the court shall initiate proceedings to seal the record pertaining to such disposition, adjudication, or diversion or sentence of the county court.

(5) At any time after a juvenile described in section 26 of this act has satisfactorily completed probation, supervision, or other treatment or rehabilitation program under the code or has satisfactorily completed

diversion or sentence of the county court, the court may, upon the motion of the juvenile or the court's own motion, initiate proceedings to seal the record pertaining to such disposition, dismissal following pretrial diversion under section 43-260.04, or disposition under section 43-286 or any county court records pertaining to such county court diversion or sentence.

Sec. 29. (1) The county attorney or city attorney involved in the case that is the subject of the proceeding to seal the record shall be promptly notified of the proceedings, and the Department of Health and Human Services shall also be promptly notified of the proceedings if the juvenile whose record is the subject of the proceeding to seal the record is a ward of the state or if the department was a party in the case.

(2) A party notified under subsection (1) of this section may file a response with the court within thirty days after receiving such notice.

(3) If a party notified under subsection (1) of this section does not file a response with the court or files a response that indicates there is no objection to the sealing of the record, the court may order the record of the juvenile under consideration be sealed without conducting a hearing on the motion. If the court decides in its discretion to conduct a hearing on the motion, the court shall conduct the hearing within thirty days after making that decision and shall give notice, by regular mail, of the date, time, and location of the hearing to the parties receiving notice under subsection (1) of this section and to the juvenile who is the subject of the record under consideration.

(4) If a party receiving notice under subsection (1) of this section files a response with the court objecting to the sealing of the record, the court shall conduct a hearing on the motion within thirty days after the court receives the response. The court shall give notice, by regular mail, of the date, time, and location of the hearing to the parties receiving notice under subsection (1) of this section and to the juvenile who is the subject of the record under consideration.

(5) After conducting a hearing in accordance with this section, the court may order the record of the juvenile that is the subject of the motion to be sealed if it finds that the juvenile has been rehabilitated to a satisfactory degree. In determining whether the juvenile has been rehabilitated to a satisfactory degree, the court may consider all of the following:

- (a) The age of the juvenile;
- (b) The nature of the offense and the role of the juvenile in the offense;
- (c) The behavior of the juvenile after the adjudication and the juvenile's response to treatment and rehabilitation programs;
- (d) The education and employment history of the juvenile; and
- (e) Any other circumstances that may relate to the rehabilitation of the juvenile who is the subject of the record under consideration.

(6) If, after conducting the hearing in accordance with this section, the juvenile is not found to be satisfactorily rehabilitated such that the record is not ordered to be sealed, a juvenile who is a person described in section 26 of this act may not move the court to seal the record for a period of one year, unless waived by the court.

(7) The juvenile court or county court shall provide verbal notice to a juvenile whose record is sealed, if that juvenile is present in the court at the time the court issues a sealing order, and explain what sealing a record means.

(8) The juvenile court or county court shall provide written notice to a juvenile whose record is sealed under this section by regular mail to the juvenile's last-known address, if that juvenile is not present in the court at the time the court issues a sealing order, that explains what sealing a record means.

Sec. 30. (1) If the court orders the records of a juvenile sealed pursuant to section 29 of this act, the juvenile who is the subject of the order properly may, and the court, county attorneys, city attorneys, and institutions, persons, or agencies shall, reply that no record exists with respect to the juvenile upon any public inquiry in the matter, and the court shall do all of the following:

- (a) Order that any information or other data concerning any proceedings relating to the arrest, taking into custody, petition, complaint, indictment, information, trial, hearing, adjudication, correctional supervision, dismissal, or disposition be deemed never to have occurred; and
- (b) Send notice of the order to seal the record to the Nebraska Commission on Law Enforcement and Criminal Justice and, if the record includes impoundment or prohibition to obtain a license or permit pursuant to section 24 of this act, to the Department of Motor Vehicles and to any law enforcement

agencies and county attorneys or city attorneys and institutions, persons, or agencies, including treatment providers, therapists, or other service providers, referenced in the court record and order that all original records of the case be sealed.

(2) Except as provided in subsection (3) of this section, an order to seal the record applies to every public office or agency that has a record relating to the case, regardless of whether it receives notice of the hearing on the sealing of the record or a copy of the order. Upon the written request of a person whose record has been sealed and the presentation of a copy of such order, a public office or agency shall seal all original records relating to the case.

(3) A sealed record is still accessible to law enforcement officers, county attorneys, city attorneys, and the sentencing judge in the investigation of crimes and in the prosecution and sentencing of criminal defendants. Inspection of records that have been ordered sealed under section 29 of this act may be made only by the following persons or for the following purposes:

(a) By the court or by any person allowed to inspect such records by an order of the court for good cause shown;

(b) By the Nebraska Probation System for purposes of juvenile intake services, for presentence and other probation investigations, and for the direct supervision of persons placed on probation;

(c) By the Department of Health and Human Services for purposes of juvenile intake services, the preparation of case plans and reports, the preparation of evaluations, or the supervision and protection of persons placed with the department or for licensing or certification purposes under sections 71-1901 to 71-1906.01 or the Child Care Licensing Act;

(d) Upon application, by the juvenile who is the subject of the sealed record and by the person that is named in that application;

(e) At the request of a party in a civil action that is based on a case the record for which is the subject of a sealing order issued under section 29 of this act, as needed for the civil action. The party also may copy the record as needed for the civil action. The sealed record shall be used solely in the civil action and is otherwise confidential and subject to this section; or

(f) By persons engaged in bona fide research, with the permission of the court, only if the research results in no disclosure of a juvenile's identity and protects the confidentiality of the record.

(4) No person shall knowingly release, disseminate, or make available, for any purpose involving employment, bonding, licensing, or education, to any person or to any department, agency, or other instrumentality of the state or of any of its political subdivisions, any information or other data concerning any arrest, taking into custody, petition, complaint, indictment, information, trial, hearing, adjudication, correctional supervision, dismissal, or disposition, the record of which has been sealed pursuant to section 29 of this act and the release, dissemination, or making available of which is not expressly permitted by this section or court order. Nothing in this section shall prohibit the Department of Health and Human Services from releasing, disseminating, or making available information from sealed records in the performance of its duties with respect to the supervision and protection of persons served by the department. Any person who violates this section may be held in contempt of court.

(5) In any application for employment, license, or other right or privilege, any appearance as a witness, or any other inquiry, a person cannot be questioned with respect to any arrest or taking into custody for which the record is sealed. If an inquiry is made in violation of this subsection, the person may respond as if the sealed arrest or taking into custody did not occur, and the person is not subject to any adverse action because of the arrest or taking into custody or the response. Applications for employment shall contain specific language that states that the applicant is not obligated to disclose a sealed juvenile record or sentence. Employers shall not ask if an applicant has had a juvenile record sealed. The Department of Labor shall develop a link on the department's web site to inform employers that employers cannot ask if an applicant had a juvenile record sealed and that an application for employment shall contain specific language that states that the applicant is not obligated to disclose a sealed juvenile record of arrest, custody, complaint, disposition, diversion, adjudication, or sentence.

Sec. 31. Section 43-2,129, Reissue Revised Statutes of Nebraska, is amended to read:

43-2,129 Sections 43-245 to 43-2,129 and sections 10, 11, 24, 26, 27, 28, 29, and 30 of this act shall be known and may be cited as the Nebraska Juvenile Code.

Sec. 32. Section 43-415, Reissue Revised Statutes of Nebraska, is amended to read:

43-415 A juvenile placed for evaluation with the Office of Juvenile Services shall be returned to the court upon the completion of the evaluation or at the end of thirty days, whichever comes first. When the office finds that an extension of the thirty-day period is necessary to complete the evaluation, the court may order an extension not to exceed an additional thirty days. The court shall hold a hearing within ten days after the evaluation is completed and returned to the court by the office.

Sec. 33. Section 43-2404.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-2404.02 (1) There is created a separate and distinct budgetary program within the commission to be known as the County Juvenile Services Aid Program. Funding acquired from participation in the federal act, state General Funds, and funding acquired from other sources which may be used for purposes consistent with the Juvenile Services Act and the federal act shall be used to aid counties in the establishment and provision of community-based services for accused and adjudicated juvenile offenders and to increase capacity for community-based services to juveniles.

(2) The annual General Fund appropriation to the County Juvenile Services Aid Program shall be apportioned to the counties as aid in accordance with a formula established in rules and regulations adopted and promulgated by the commission. The formula shall be based on the total number of residents per county who are twelve years of age through eighteen years of age and other relevant factors as determined by the commission. The commission may require a local match of up to forty percent from counties receiving aid under such program. Any local expenditures for community-based programs for juveniles may be applied toward such match requirement.

(3) Funds provided to counties under the County Juvenile Services Aid Program shall be used exclusively to assist counties in implementation and operation of programs or services identified in their comprehensive juvenile services plan, including, but not limited to, programs for assessment and evaluation, prevention of delinquent behavior, diversion, shelter care, intensive juvenile probation services, restitution, family support services, and family group conferencing. In distributing funds provided under the County Juvenile Services Aid Program, counties shall prioritize programs and services that will reduce the juvenile detention population. No funds appropriated or distributed under the County Juvenile Services Aid Program shall be used for construction of secure detention facilities, secure youth treatment facilities, or secure youth confinement facilities. Aid received under this section shall not be used for capital construction or the lease or acquisition of facilities and shall not be used to replace existing funding for programs or services. Any funds not distributed to counties under this subsection shall be retained by the commission to be distributed on a competitive basis under the County Juvenile Services Aid Program.

(4) Any county receiving funding under the County Juvenile Services Aid Program shall file an annual report as required by rules and regulations adopted and promulgated by the commission. The report shall include, but not be limited to, information on the total number of juveniles served, the units of service provided, a listing of the county's annual juvenile justice budgeted and actual expenditures, and a listing of expenditures for detention, residential treatment, and nonresidential treatment.

(5) The commission shall report annually to the Governor and the Legislature on the distribution and use of funds appropriated under the County Juvenile Services Aid Program.

(6) The commission shall adopt and promulgate rules and regulations to implement this section.

Sec. 34. Section 60-4,108, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,108 (1) It shall be unlawful for any person to operate a motor vehicle during any period that he or she is subject to a court order not to operate any motor vehicle for any purpose or during any period that his or her operator's license has been revoked or impounded pursuant to conviction or convictions for violation of any law or laws of this state, by an order of any court, or by an administrative order of the director. Except as otherwise provided by subsection (3) of this section or by other law, any person so offending shall (a) for a first such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court and also order the operator's license of such person to be revoked for a like period and (b) for each subsequent such offense, be guilty of a Class II misdemeanor, and the

court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

(2) It shall be unlawful for any person to operate a motor vehicle (a) during any period that his or her operator's license has been suspended, (b) after a period of revocation but before issuance of a new license, or (c) after a period of impoundment but before the return of the license. Any Except as provided in subsection (3) of this section, any person so offending shall be guilty of a Class III misdemeanor, and the court may, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court, except that if the person at the time of sentencing shows proof of reinstatement of his or her suspended operator's license, proof of issuance of a new license, or proof of return of the impounded license, the person shall only be fined in an amount not to exceed one hundred dollars. If the court orders the person not to operate a motor vehicle for a period of one year from the date ordered by the court, the court shall also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

(3) If a juvenile whose operator's license or permit has been impounded by a juvenile court operates a motor vehicle during any period that he or she is subject to the court order not to operate any motor vehicle or after a period of impoundment but before return of the license or permit, such violation shall be handled in the juvenile court and not as a violation of this section.

Sec. 35. Section 79-209, Reissue Revised Statutes of Nebraska, is amended to read:

79-209 In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of section 79-201 on the part of any child of school age, his or her parent, the person in actual or legal control of such child, or any other person shall within three days report such violation to the attendance officer of the school, who shall investigate the case. When of his or her personal knowledge, by report or complaint from any resident of the district, or by report or complaint as provided in this section, the attendance officer believes that any child is unlawfully absent from school, the attendance officer shall immediately investigate.

All school districts shall have a written policy on excessive absenteeism developed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall state the number of absences or the hourly equivalent upon the occurrence of which the school shall render all services in its power to compel such child to attend some public, private, denominational, or parochial school, which the person having control of the child shall designate, in an attempt to ~~remediate the child's truant behavior.~~ address the problem of excessive absenteeism. The number of absences in the policy shall not exceed five days per quarter or the hourly equivalent. School districts may use excused and unexcused absences for purposes of the policy. Such services shall include, but need not be limited to:

(1) One or more meetings between a school attendance officer, school social worker or ~~other person~~ the school principal or a member of the school administrative staff designated by the school administration if such school does not have a school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the ~~truancy~~ problem, unless the officer or worker has documented the refusal of the parent or guardian to participate in such meetings; of excessive absenteeism;

(2) Educational counseling to determine whether curriculum changes, including, but not limited to, enrolling the child in an alternative education program that meets the specific educational and behavioral needs of the child, would help solve the ~~truancy~~ problem of excessive absenteeism;

(3) Educational evaluation, which may include a psychological evaluation, to assist in determining the specific condition, if any, contributing to the ~~truancy~~ problem of excessive absenteeism, supplemented by specific efforts by the school to help remedy any condition diagnosed; and

(4) Investigation of the ~~truancy~~ problem of excessive absenteeism by the school social worker, or if such school does not have a school social worker, by ~~another person~~ the school principal or a member of the school administrative staff designated by the school administration, to identify

conditions which may be contributing to the truancy problem. If services for the child and his or her family are determined to be needed, the school social worker or ~~other person~~ the school principal or a member of the school administrative staff performing the investigation shall meet with the parent or guardian and the child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truancy problem of excessive absenteeism.

If the child ~~continues to be or becomes habitually truant,~~ the attendance officer shall serve a written notice to the person violating section 79-201, warning him or her to comply with its provisions. If within one week after the time such notice is given such person is still violating the section, is absent more than twenty days per year or the hourly equivalent, the attendance officer shall file a report with the county attorney of the county in which such person resides. All school districts shall have a written policy describing notification of habitual truancy to the county attorney. The number of absences in the policy shall not exceed twenty days cumulative per year or the hourly equivalent. School districts may use excused and unexcused absences for purposes of the policy. The county attorney may file a complaint against such person a person violating section 79-201 before the judge of the county court of the county in which such person resides charging such person with violation of section 79-201. If after such notice has been sent to any person violating such section such person again violates the same section, no written notice shall be required but a complaint may be filed at once, or may file a petition under the Nebraska Juvenile Code alleging the person violating section 79-201 is a juvenile described in subdivision (3)(a) or (3)(b) of section 43-247. Nothing in this section shall preclude a county attorney from being involved at any stage in the process to address excessive absenteeism.

Sec. 36. Section 79-527, Reissue Revised Statutes of Nebraska, is amended to read:

79-527 (1) The superintendent or head administrator of a public school district or a nonpublic school system shall annually report to the Commissioner of Education in such detail and on such date as required by the commissioner the number of students who have dropped out of school, or were for any reason suspended, expelled, or excluded from school during the year. School districts that are members of learning communities shall also provide the learning community coordinating council with a copy of the such report to the commissioner on or before the date the report is due to the commissioner. Each learning community coordinating council shall annually report to the commissioner in such detail and on such date as required by the commissioner the number of students who have dropped out of school or were for any reason suspended, expelled, or excluded from school during the year for all of the member school districts. The due date for reports from learning communities shall be established by the commissioner to provide a reasonable period of time for the learning community coordinating councils to compile the information from the member school district reports.

(2) The superintendent or head administrator of a public school district or a nonpublic school system shall report on a monthly basis to the Commissioner of Education as directed by the commissioner regarding the number of and reason for any long-term suspension, expulsion, or excessive absenteeism of a student; referral of a student to the office of the county attorney for excessive absenteeism; or contacting of law enforcement officials, other than law enforcement officials employed by or contracted with by the school district as school resource officers, by the district or system relative to a student enrolled in the district or system. A school district that is a member of a learning community shall also provide the learning community coordinating council with a copy of such report on or before the date the report is due to the commissioner.

Sec. 37. (1) The Truancy Intervention Task Force is created. The task force shall consist of:

- (a) The probation administrator or his or her designee;
- (b) The Commissioner of Education or his or her designee; and
- (c) The chief executive officer of the Department of Health and Human Services or his or her designee.

(2) The task force shall study and evaluate the data contained in the reports required by subsection (2) of section 79-527 and shall develop recommendations to reduce incidents of excessive absenteeism. The task force may contact a school district or a county attorney for additional information. The task force shall report to the Legislature on or before July 1, 2011, and each July 1 thereafter.

Sec. 38. The Revisor of Statutes shall assign section 37 of this act

within Chapter 79, article 5.

Sec. 39. Original sections 24-313, 25-2701, 25-2728, 28-416, 29-1816, 29-2258, 29-2269, 43-246, 43-248, 43-253, 43-254, 43-254.01, 43-256, 43-258, 43-272.01, 43-278, 43-285, 43-2,106.01, 43-2,129, 43-415, 43-2404.02, 60-4,108, 79-209, and 79-527, Reissue Revised Statutes of Nebraska, sections 43-245 and 43-250, Revised Statutes Supplement, 2009, and section 29-2262.07, Reissue Revised Statutes of Nebraska, as amended by section 15, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009, are repealed.

Sec. 40. The following sections are outright repealed: Sections 43-287.01, 43-287.02, 43-287.03, 43-287.04, 43-287.05, 43-287.06, 43-2,102, 43-2,103, 43-2,104, and 43-2,105, Reissue Revised Statutes of Nebraska.