

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 347**

FINAL READING  
(SECOND)

Introduced by Krist, 10.

Read first time January 15, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to juveniles and child welfare; to amend  
2 section 29-1926, Reissue Revised Statutes of Nebraska, and sections  
3 43-2,108, 43-3001, 43-4301, 43-4302, 43-4303, 43-4304, 43-4316,  
4 43-4318, 43-4319, 43-4320, 43-4321, 43-4324, 43-4325, 43-4326,  
5 43-4327, 43-4328, 43-4330, and 43-4331, Revised Statutes Cumulative  
6 Supplement, 2014; to change provisions relating to certain videotape  
7 depositions, dissemination of confidential record information, and  
8 court-ordered access to confidential information as prescribed; to  
9 change provisions relating to investigations, complaints, access to  
10 and disclosure of certain information, and reports under the Office  
11 of Inspector General of Nebraska Child Welfare Act; to authorize  
12 investigations and reviews of juvenile justice services; to define  
13 and redefine terms; to harmonize provisions; and to repeal the  
14 original sections.  
15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-1926, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 29-1926 (1)(a) Upon request of the prosecuting or defense attorney  
4 and upon a showing of compelling need, the court shall order the taking  
5 of a videotape deposition of a child victim of or child witness to any  
6 offense punishable as a felony. The deposition ordinarily shall be in  
7 lieu of courtroom or in camera testimony by the child. If the court  
8 orders a videotape deposition, the court shall:

9 (i) Designate the time and place for taking the deposition. The  
10 deposition may be conducted in the courtroom, the judge's chambers, or  
11 any other location suitable for videotaping;

12 (ii) Assure adequate time for the defense attorney to complete  
13 discovery before taking the deposition; and

14 (iii) Preside over the taking of the videotape deposition in the  
15 same manner as if the child were called as a witness for the prosecution  
16 during the course of the trial.

17 (b) Unless otherwise required by the court, the deposition shall be  
18 conducted in the presence of the prosecuting attorney, the defense  
19 attorney, the defendant, and any other person deemed necessary by the  
20 court, including the parent or guardian of the child victim or child  
21 witness or a counselor or other person with whom the child is familiar.  
22 Such parent, guardian, counselor, or other person shall be allowed to sit  
23 with or near the child unless the court determines that such person would  
24 be disruptive to the child's testimony.

25 (c) At any time subsequent to the taking of the original videotape  
26 deposition and upon sufficient cause shown, the court shall order the  
27 taking of additional videotape depositions to be admitted at the time of  
28 the trial.

29 (d) If the child testifies at trial in person rather than by  
30 videotape deposition, the taking of the child's testimony may, upon  
31 request of the prosecuting attorney and upon a showing of compelling

1 need, be conducted in camera.

2 (e) Unless otherwise required by the court, the child shall testify  
3 in the presence of the prosecuting attorney, the defense attorney, the  
4 defendant, and any other person deemed necessary by the court, including  
5 the parent or guardian of the child victim or child witness or a  
6 counselor or other person with whom the child is familiar. Such parent,  
7 guardian, counselor, or other person shall be allowed to sit with or near  
8 the child unless the court determines that such person would be  
9 disruptive to the child's testimony. Unless waived by the defendant, all  
10 persons in the room shall be visible on camera except the camera  
11 operator.

12 (f) If deemed necessary to preserve the constitutionality of the  
13 child's testimony, the court may direct that during the testimony the  
14 child shall at all times be in a position to see the defendant live or on  
15 camera.

16 (g) For purposes of this section, child means ~~shall mean~~ a person  
17 eleven years of age or younger at the time the motion to take the  
18 deposition is made or at the time of the taking of in camera testimony at  
19 trial.

20 (h) Nothing in this section shall restrict the court from conducting  
21 the pretrial deposition or in camera proceedings in any manner deemed  
22 likely to facilitate and preserve a child's testimony to the fullest  
23 extent possible, consistent with the right to confrontation guaranteed in  
24 the Sixth Amendment of the Constitution of the United States and Article  
25 I, section 11, of the Nebraska Constitution. In deciding whether there is  
26 a compelling need that child testimony accommodation is required by  
27 pretrial videotape deposition, in camera live testimony, in camera  
28 videotape testimony, or any other accommodation, the court shall make  
29 particularized findings on the record of:

30 (i) The nature of the offense;

31 (ii) The significance of the child's testimony to the case;

1 (iii) The likelihood of obtaining the child's testimony without  
2 modification of trial procedure or with a different modification  
3 involving less substantial digression from trial procedure than the  
4 modification under consideration;

5 (iv) The child's age;

6 (v) The child's psychological maturity and understanding; and

7 (vi) The nature, degree, and duration of potential injury to the  
8 child from testifying.

9 (i) The court may order an independent examination by a psychologist  
10 or psychiatrist if the defense attorney requests the opportunity to rebut  
11 the showing of compelling need produced by the prosecuting attorney. Such  
12 examination shall be conducted in the child's county of residence.

13 (j) After a finding of compelling need by the court, neither party  
14 may call the child witness to testify as a live witness at the trial  
15 before the jury unless that party demonstrates that the compelling need  
16 no longer exists.

17 (k) Nothing in this section shall limit the right of access of the  
18 media or the public to open court.

19 (l) Nothing in this section shall preclude discovery by the  
20 defendant as set forth in section 29-1912.

21 (m) The Supreme Court may adopt and promulgate rules of procedure to  
22 administer this section, which rules shall not be in conflict with laws  
23 governing such matters.

24 (2)(a) No custodian of a videotape of a child victim or child  
25 witness alleging, explaining, denying, or describing an act of sexual  
26 assault pursuant to section 28-319, 28-319.01, or 28-320.01 or child  
27 abuse pursuant to section 28-707 as part of an investigation or  
28 evaluation of the abuse or assault shall release or use a videotape or  
29 copies of a videotape or consent, by commission or omission, to the  
30 release or use of a videotape or copies of a videotape to or by any other  
31 party without a court order, notwithstanding the fact that the child

1 victim or child witness has consented to the release or use of the  
2 videotape or that the release or use is authorized under law, except as  
3 provided in section 28-730 or pursuant to an investigation under the  
4 Office of Inspector General of Nebraska Child Welfare Act. Any custodian  
5 may release or consent to the release or use of a videotape or copies of  
6 a videotape to law enforcement agencies or agencies authorized to  
7 prosecute such abuse or assault cases on behalf of the state.

8 (b) The court order may govern the purposes for which the videotape  
9 may be used, the reproduction of the videotape, the release of the  
10 videotape to other persons, the retention and return of copies of the  
11 videotape, and any other requirements reasonably necessary for the  
12 protection of the privacy and best interests of the child victim or child  
13 witness.

14 (c) Pursuant to section 29-1912, the defendant described in the  
15 videotape may petition the district court in the county where the alleged  
16 offense took place or where the custodian of the videotape resides for an  
17 order releasing to the defendant a copy of the videotape.

18 (d) Any person who releases or uses a videotape except as provided  
19 in this section shall be guilty of a Class I misdemeanor.

20 Sec. 2. Section 43-2,108, Revised Statutes Cumulative Supplement,  
21 2014, is amended to read:

22 43-2,108 (1) The juvenile court judge shall keep a minute book in  
23 which he or she shall enter minutes of all proceedings of the court in  
24 each case, including appearances, findings, orders, decrees, and  
25 judgments, and any evidence which he or she feels it is necessary and  
26 proper to record. Juvenile court legal records shall be deposited in  
27 files and shall include the petition, summons, notice, certificates or  
28 receipts of mailing, minutes of the court, findings, orders, decrees,  
29 judgments, and motions.

30 (2) Except as provided in subsections (3), ~~and~~ (4), and (5) of this  
31 section, the medical, psychological, psychiatric, and social welfare

1 reports and the records of juvenile probation officers as they relate to  
2 individual proceedings in the juvenile court shall not be open to  
3 inspection, without order of the court. Such records shall be made  
4 available to a district court of this state or the District Court of the  
5 United States on the order of a judge thereof for the confidential use of  
6 such judge or his or her probation officer as to matters pending before  
7 such court but shall not be made available to parties or their counsel;  
8 and such district court records shall be made available to a county court  
9 or separate juvenile court upon request of the county judge or separate  
10 juvenile judge for the confidential use of such judge and his or her  
11 probation officer as to matters pending before such court, but shall not  
12 be made available by such judge to the parties or their counsel.

13 (3) As used in this section subsection, confidential record  
14 information means ~~shall mean~~ all docket records, other than the  
15 pleadings, orders, decrees, and judgments; case files and records;  
16 reports and records of probation officers; and information supplied to  
17 the court of jurisdiction in such cases by any individual or any public  
18 or private institution, agency, facility, or clinic, which is compiled  
19 by, produced by, and in the possession of any court. In all cases under  
20 subdivision (3)(a) of section 43-247, access to all confidential record  
21 information in such cases shall be granted only as follows: (a) The court  
22 of jurisdiction may, subject to applicable federal and state regulations,  
23 disseminate such confidential record information to any individual, or  
24 public or private agency, institution, facility, or clinic which is  
25 providing services directly to the juvenile and such juvenile's parents  
26 or guardian and his or her immediate family who are the subject of such  
27 record information; (b) the court of jurisdiction may disseminate such  
28 confidential record information, with the consent of persons who are  
29 subjects of such information, or by order of such court after showing of  
30 good cause, to any law enforcement agency upon such agency's specific  
31 request for such agency's exclusive use in the investigation of any

1 protective service case or investigation of allegations under subdivision  
2 (3)(a) of section 43-247, regarding the juvenile or such juvenile's  
3 immediate family, who are the subject of such investigation; and (c) the  
4 court of jurisdiction may disseminate such confidential record  
5 information to any court, which has jurisdiction of the juvenile who is  
6 the subject of such information upon such court's request.

7 (4) The court shall provide copies of predispositional reports and  
8 evaluations of the juvenile to the juvenile's attorney and the county  
9 attorney or city attorney prior to any hearing in which the report or  
10 evaluation will be relied upon.

11 (5) In all cases under sections 43-246.01 and 43-247, the court or  
12 the probation officer shall disseminate confidential record information  
13 to (a) the office of Inspector General of Nebraska Child Welfare upon  
14 request for the exclusive use in an investigation pursuant to the Office  
15 of Inspector General of Nebraska Child Welfare Act and (b) the Foster  
16 Care Review Office pursuant to the Foster Care Review Act. Nothing in  
17 this subsection shall prevent the notification of death or serious injury  
18 of a juvenile to the Inspector General of Nebraska Child Welfare pursuant  
19 to section 43-4318 as soon as reasonably possible after the Office of  
20 Probation Administration learns of such death or serious injury.

21 (~~6~~ 5) Nothing in subsections ~~subsection~~ (3) and (5) of this section  
22 shall be construed to restrict the dissemination of confidential record  
23 information between any individual or public or private agency,  
24 institute, facility, or clinic, except any such confidential record  
25 information disseminated by the court of jurisdiction pursuant to this  
26 section shall be for the exclusive and private use of those to whom it  
27 was released and shall not be disseminated further without order of such  
28 court.

29 (7)(a) ~~(6)(a)~~ Any records concerning a juvenile court petition filed  
30 pursuant to subdivision (3)(c) of section 43-247 shall remain  
31 confidential except as may be provided otherwise by law. Such records

1 shall be accessible to (i) the juvenile except as provided in subdivision  
2 (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's  
3 parent or guardian, and (iv) persons authorized by an order of a judge or  
4 court.

5 (b) Upon application by the county attorney or by the director of  
6 the facility where the juvenile is placed and upon a showing of good  
7 cause therefor, a judge of the juvenile court having jurisdiction over  
8 the juvenile or of the county where the facility is located may order  
9 that the records shall not be made available to the juvenile if, in the  
10 judgment of the court, the availability of such records to the juvenile  
11 will adversely affect the juvenile's mental state and the treatment  
12 thereof.

13 Sec. 3. Section 43-3001, Revised Statutes Cumulative Supplement,  
14 2014, is amended to read:

15 43-3001 (1) Notwithstanding any other provision of law regarding the  
16 confidentiality of records and when not prohibited by the federal Privacy  
17 Act of 1974, as amended, juvenile court records and any other pertinent  
18 information that may be in the possession of school districts, school  
19 personnel, county attorneys, the Attorney General, law enforcement  
20 agencies, child advocacy centers, state probation personnel, state parole  
21 personnel, youth detention facilities, medical personnel, treatment or  
22 placement programs, the Department of Health and Human Services, the  
23 Department of Correctional Services, the Foster Care Review Office, local  
24 foster care review boards, child abuse and neglect investigation teams,  
25 child abuse and neglect treatment teams, or other multidisciplinary teams  
26 for abuse, neglect, or delinquency concerning a child who is in the  
27 custody of the state may be shared with individuals and agencies who have  
28 been identified in a court order authorized by this section.

29 (2) In any judicial proceeding concerning a child who is currently,  
30 or who may become at the conclusion of the proceeding, a ward of the  
31 court or state or under the supervision of the court, an order may be

1 issued which identifies individuals and agencies who shall be allowed to  
2 receive otherwise confidential information concerning the child for  
3 legitimate and official purposes. The individuals and agencies who may be  
4 identified in the court order are the child's attorney or guardian ad  
5 litem, the parents' attorney, foster parents, appropriate school  
6 personnel, county attorneys, the Attorney General, authorized court  
7 personnel, law enforcement agencies, state probation personnel, state  
8 parole personnel, youth detention facilities, medical personnel, court  
9 appointed special advocate volunteers, treatment or placement programs,  
10 the Department of Health and Human Services, the Office of Juvenile  
11 Services, the Department of Correctional Services, the Foster Care Review  
12 Office, local foster care review boards, the office of Inspector General  
13 of Nebraska Child Welfare, child abuse and neglect investigation teams,  
14 child abuse and neglect treatment teams, other multidisciplinary teams  
15 for abuse, neglect, or delinquency, and other individuals and agencies  
16 for which the court specifically finds, in writing, that it would be in  
17 the best interest of the juvenile to receive such information. Unless the  
18 order otherwise states, the order shall be effective until the child  
19 leaves the custody of the state or supervision of the court or until a  
20 new order is issued.

21 (3) All information acquired by an individual or agency pursuant to  
22 this section shall be confidential and shall not be disclosed except to  
23 other persons who have a legitimate and official interest in the  
24 information and are identified in the court order issued pursuant to this  
25 section with respect to the child in question. A person who receives such  
26 information or who cooperates in good faith with other individuals and  
27 agencies identified in the appropriate court order by providing  
28 information or records about a child shall be immune from any civil or  
29 criminal liability. The provisions of this section granting immunity from  
30 liability shall not be extended to any person alleged to have committed  
31 an act of child abuse or neglect.

1 (4) In any proceeding under this section relating to a child of  
2 school age, certified copies of school records relating to attendance and  
3 academic progress of such child are admissible in evidence.

4 (5) Except as provided in subsection (4) of this section, any person  
5 who publicly discloses information received pursuant to this section  
6 shall be guilty of a Class III misdemeanor.

7 Sec. 4. Section 43-4301, Revised Statutes Cumulative Supplement,  
8 2014, is amended to read:

9 43-4301 Sections 43-4301 to 43-4331 and sections 8 to 11 of this act  
10 shall be known and may be cited as the Office of Inspector General of  
11 Nebraska Child Welfare Act.

12 Sec. 5. Section 43-4302, Revised Statutes Cumulative Supplement,  
13 2014, is amended to read:

14 43-4302 (1) It is the intent of the Legislature to:

15 (a) Establish a full-time program of investigation and performance  
16 review to provide increased accountability and oversight of the Nebraska  
17 child welfare system;

18 (b) Assist in improving operations of the ~~department and the~~  
19 Nebraska child welfare system;

20 (c) Provide an independent form of inquiry for concerns regarding  
21 the actions of individuals and agencies responsible for the care and  
22 protection of children and youth in the Nebraska child welfare system.  
23 Confusion of the roles, responsibilities, and accountability structures  
24 between individuals, private contractors, branches of government, and  
25 agencies in the current system make it difficult to monitor and oversee  
26 the Nebraska child welfare system; and

27 (d) Provide a process for investigation and review to determine if  
28 individual complaints and issues of investigation and inquiry reveal a  
29 problem in the child welfare system, not just individual cases, that  
30 necessitates legislative action for improved policies and restructuring  
31 of the child welfare system.

1 (2) It is not the intent of the Legislature in enacting the Office  
2 of Inspector General of Nebraska Child Welfare Act to interfere with the  
3 duties of the Legislative Auditor or the Legislative Fiscal Analyst or to  
4 interfere with the statutorily defined investigative responsibilities or  
5 prerogatives of any officer, agency, board, bureau, commission,  
6 association, society, or institution of the executive branch of state  
7 government, except that the act does not preclude an inquiry on the sole  
8 basis that another agency has the same responsibility. The act shall not  
9 be construed to interfere with or supplant the responsibilities or  
10 prerogatives of the Governor to investigate, monitor, and report on the  
11 activities of the agencies, boards, bureaus, commissions, associations,  
12 societies, and institutions of the executive branch under his or her  
13 administrative direction.

14 Sec. 6. Section 43-4303, Revised Statutes Cumulative Supplement,  
15 2014, is amended to read:

16 43-4303 For purposes of the Office of Inspector General of Nebraska  
17 Child Welfare Act, the definitions found in sections 43-4304 to 43-4316  
18 and sections 8 to 11 of this act apply.

19 Sec. 7. Section 43-4304, Revised Statutes Cumulative Supplement,  
20 2014, is amended to read:

21 43-4304 Administrator means a person charged with administration of  
22 a program, an office, or a division of the department or administration  
23 of a private agency or licensed child care facility, the probation  
24 administrator, or the executive director.

25 Sec. 8. Child welfare system means public and private agencies and  
26 parties that provide or effect services or supervision to system-involved  
27 children and their families.

28 Sec. 9. Commission means the Nebraska Commission on Law Enforcement  
29 and Criminal Justice.

30 Sec. 10. Executive director means the executive director of the  
31 commission.

1           Sec. 11. Juvenile services division means the Juvenile Services  
2 Division of the Office of Probation Administration.

3           Sec. 12. Section 43-4316, Revised Statutes Cumulative Supplement,  
4 2014, is amended to read:

5           43-4316 Responsible individual means a foster parent, a relative  
6 provider of foster care, or an employee of the department, the juvenile  
7 services division, the commission, a foster home, a private agency, a  
8 licensed child care facility, or another provider of child welfare  
9 programs and services responsible for the care or custody of records,  
10 documents, and files.

11           Sec. 13. Section 43-4318, Revised Statutes Cumulative Supplement,  
12 2014, is amended to read:

13           43-4318 (1) The office shall investigate:

14           (a) Allegations or incidents of possible misconduct, misfeasance,  
15 malfeasance, or violations of statutes or of rules or regulations of:

16           (i) The the department by an employee of or person under contract  
17 with the department, a private agency, a licensed child care facility, a  
18 foster parent, or any other provider of child welfare services or which  
19 may provide a basis for discipline pursuant to the Uniform Credentialing  
20 Act; and

21           (ii) The juvenile services division by an employee of or person  
22 under contract with the juvenile services division, a private agency, a  
23 licensed facility, a foster parent, or any other provider of juvenile  
24 justice services;

25           (iii) The commission by an employee of or person under contract with  
26 the commission related to programs and services supported by the Nebraska  
27 County Juvenile Services Plan Act, the Community-based Juvenile Services  
28 Aid Program, juvenile pretrial diversion programs, or inspections of  
29 juvenile facilities; and

30           (iv) A juvenile detention facility and staff secure juvenile  
31 facility by an employee of or person under contract with such facilities;

1 (b) Death or serious injury in foster homes, private agencies, child  
2 care facilities, juvenile detention facilities, staff secure juvenile  
3 facilities, and other programs and facilities licensed by or under  
4 contract with the department or the juvenile services division; and  
5 ~~Office of Probation Administration and death~~

6 (c) Death or serious injury in any case in which services are  
7 provided by the department or the juvenile services division to a child  
8 or his or her parents or any case involving an investigation under the  
9 Child Protection and Family Safety Act, which case has been open for one  
10 year or less and upon review determines the death or serious injury did  
11 not occur by chance.

12 The department, the juvenile services division, each juvenile  
13 detention facility, and each staff secure juvenile facility and the  
14 ~~Office of Probation Administration~~ shall report all cases of death or  
15 serious injury of a child in a foster home, private agency, child care  
16 facility or program, or other program or facility licensed by the  
17 department or inspected through the commission to the Inspector General  
18 as soon as reasonably possible after the department or the Office of  
19 Probation Administration learns of such death or serious injury. For  
20 purposes of this subsection ~~subdivision~~, serious injury means an injury  
21 or illness caused by suspected abuse, neglect, or maltreatment which  
22 leaves a child in critical or serious condition.

23 (2) Any investigation conducted by the Inspector General shall be  
24 independent of and separate from an investigation pursuant to the Child  
25 Protection and Family Safety Act. The Inspector General and his or her  
26 staff are subject to the reporting requirements of the Child Protection  
27 and Family Safety Act.

28 (3) Notwithstanding the fact that a criminal investigation, a  
29 criminal prosecution, or both are in progress, all law enforcement  
30 agencies and prosecuting attorneys shall cooperate with any investigation  
31 conducted by the Inspector General and shall, immediately upon request by

1 the Inspector General, provide the Inspector General with copies of all  
2 law enforcement reports which are relevant to the Inspector General's  
3 investigation. All law enforcement reports which have been provided to  
4 the Inspector General pursuant to this section are not public records for  
5 purposes of sections 84-712 to 84-712.09 and shall not be subject to  
6 discovery by any other person or entity. Except to the extent that  
7 disclosure of information is otherwise provided for in the Office of  
8 Inspector General of Nebraska Child Welfare Act, the Inspector General  
9 shall maintain the confidentiality of all law enforcement reports  
10 received pursuant to its request under this section. Law enforcement  
11 agencies and prosecuting attorneys shall, when requested by the Inspector  
12 General, collaborate with the Inspector General regarding all other  
13 information relevant to the Inspector General's investigation. If the  
14 Inspector General in conjunction with the Public Counsel determines it  
15 appropriate, the Inspector General may, when requested to do so by a law  
16 enforcement agency or prosecuting attorney, suspend an investigation by  
17 the office until a criminal investigation or prosecution is completed or  
18 has proceeded to a point that, in the judgment of the Inspector General,  
19 reinstatement of the Inspector General's investigation will not impede or  
20 infringe upon the criminal investigation or prosecution. Under no  
21 circumstance shall the Inspector General interview any minor who has  
22 already been interviewed by a law enforcement agency, personnel of the  
23 Division of Children and Family Services of the department, or staff of a  
24 child advocacy center in connection with a relevant ongoing investigation  
25 of a law enforcement agency.

26 Sec. 14. Section 43-4319, Revised Statutes Cumulative Supplement,  
27 2014, is amended to read:

28 43-4319 (1) The office shall have access to all information and  
29 personnel necessary to perform the duties of the office.

30 (2) A full investigation conducted by the office shall consist of  
31 retrieval of relevant records through subpoena, request, or voluntary

1 production, review of all relevant records, and interviews of all  
2 relevant persons.

3 (3) For a request for confidential record information pursuant to  
4 subsection (5) of section 43-2,108 involving death or serious injury, the  
5 office may submit a written request to the probation administrator. The  
6 record information shall be provided to the office within five days after  
7 approval of the request by the Supreme Court.

8 Sec. 15. Section 43-4320, Revised Statutes Cumulative Supplement,  
9 2014, is amended to read:

10 43-4320 (1) Complaints to the office may be made in writing. The  
11 office shall also maintain a toll-free telephone line for complaints. A  
12 complaint shall be evaluated to determine if it alleges possible  
13 misconduct, misfeasance, malfeasance, or violation of a statute or of  
14 rules and regulations pursuant to section 43-4318 of the department by an  
15 employee of or a person under contract with the department, a private  
16 agency, or a licensed child care facility, a foster parent, or any other  
17 provider of child welfare services or alleges a basis for discipline  
18 pursuant to the Uniform Credentialing Act. All complaints shall be  
19 evaluated to determine whether a full investigation is warranted.

20 (2) The office shall not conduct a full investigation of a complaint  
21 unless:

22 (a) The complaint alleges misconduct, misfeasance, malfeasance, or  
23 violation of a statute or of rules and regulations pursuant to section  
24 43-4318 of the department, or a basis for discipline pursuant to the  
25 Uniform Credentialing Act;

26 (b) The complaint is against a person within the jurisdiction of the  
27 office; and

28 (c) The allegations can be independently verified through  
29 investigation.

30 (3) The Inspector General shall determine within fourteen days after  
31 receipt of a complaint whether it will conduct a full investigation. A

1 complaint alleging facts which, if verified, would provide a basis for  
2 discipline under the Uniform Credentialing Act shall be referred to the  
3 appropriate credentialing board under the act.

4 (4) When a full investigation is opened on a private agency that  
5 contracts with the Office of Probation Administration, the Inspector  
6 General shall give notice of such investigation to the Office of  
7 Probation Administration.

8 Sec. 16. Section 43-4321, Revised Statutes Cumulative Supplement,  
9 2014, is amended to read:

10 43-4321 All employees of the department, the juvenile services  
11 division, or the commission, all foster parents, and all owners,  
12 operators, managers, supervisors, and employees of private agencies,  
13 licensed child care facilities, juvenile detention facilities, staff  
14 secure juvenile facilities, and other providers of child welfare services  
15 or juvenile justice services shall cooperate with the office. Cooperation  
16 includes, but is not limited to, the following:

17 (1) Provision of full access to and production of records and  
18 information. Providing access to and producing records and information  
19 for the office is not a violation of confidentiality provisions under any  
20 law, statute, rule, or regulation if done in good faith for purposes of  
21 an investigation under the Office of Inspector General of Nebraska Child  
22 Welfare Act;

23 (2) Fair and honest disclosure of records and information reasonably  
24 requested by the office in the course of an investigation under the act;

25 (3) Encouraging employees to fully comply with reasonable requests  
26 of the office in the course of an investigation under the act;

27 (4) Prohibition of retaliation by owners, operators, or managers  
28 against employees for providing records or information or filing or  
29 otherwise making a complaint to the office;

30 (5) Not requiring employees to gain supervisory approval prior to  
31 filing a complaint with or providing records or information to the

1 office;

2 (6) Provision of complete and truthful answers to questions posed by  
3 the office in the course of an investigation; and

4 (7) Not willfully interfering with or obstructing the investigation.

5 Sec. 17. Section 43-4324, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

7 43-4324 (1) In conducting investigations, the office shall access  
8 all relevant records through subpoena, compliance with a request of the  
9 office, and voluntary production. The office may request or subpoena any  
10 record necessary for the investigation from the department, the juvenile  
11 services division, the commission, a foster parent, a licensed child care  
12 facility, a juvenile detention facility, a staff secure juvenile  
13 facility, or a private agency that is pertinent to an investigation. All  
14 case files, licensing files, medical records, financial and  
15 administrative records, and records required to be maintained pursuant to  
16 applicable licensing rules shall be produced for review by the office in  
17 the course of an investigation.

18 (2) Compliance with a request of the office includes:

19 (a) Production of all records requested;

20 (b) A diligent search to ensure that all appropriate records are  
21 included; and

22 (c) A continuing obligation to immediately forward to the office any  
23 relevant records received, located, or generated after the date of the  
24 request.

25 (3) The office shall seek access in a manner that respects the  
26 dignity and human rights of all persons involved, maintains the integrity  
27 of the investigation, and does not unnecessarily disrupt child welfare  
28 programs or services. When advance notice to a foster parent or to an  
29 administrator or his or her designee is not provided, the office  
30 investigator shall, upon arrival at the departmental office, bureau, or  
31 division, the private agency, the licensed child care facility, the

1 juvenile detention facility, the staff secure juvenile facility, or the  
2 location of another provider of child welfare services, request that an  
3 onsite employee notify the administrator or his or her designee of the  
4 investigator's arrival.

5 (4) When circumstances of an investigation require, the office may  
6 make an unannounced visit to a foster home, a departmental office,  
7 bureau, or division, a licensed child care facility, a juvenile detention  
8 facility, a staff secure juvenile facility, a private agency, or another  
9 provider to request records relevant to an investigation.

10 (5) A responsible individual or an administrator may be asked to  
11 sign a statement of record integrity and security when a record is  
12 secured by request as the result of a visit by the office, stating:

13 (a) That the responsible individual or the administrator has made a  
14 diligent search of the office, bureau, division, private agency, licensed  
15 child care facility, juvenile detention facility, staff secure juvenile  
16 facility, or other provider's location to determine that all appropriate  
17 records in existence at the time of the request were produced;

18 (b) That the responsible individual or the administrator agrees to  
19 immediately forward to the office any relevant records received, located,  
20 or generated after the visit;

21 (c) The persons who have had access to the records since they were  
22 secured; and

23 (d) Whether, to the best of the knowledge of the responsible  
24 individual or the administrator, any records were removed from or added  
25 to the record since it was secured.

26 (6) The office shall permit a responsible individual, an  
27 administrator, or an employee of a departmental office, bureau, or  
28 division, a private agency, a licensed child care facility, a juvenile  
29 detention facility, a staff secure juvenile facility, or another provider  
30 to make photocopies of the original records within a reasonable time in  
31 the presence of the office for purposes of creating a working record in a

1 manner that assures confidentiality.

2 (7) The office shall present to the responsible individual or the  
3 administrator or other employee of the departmental office, bureau, or  
4 division, private agency, licensed child care facility, juvenile  
5 detention facility, staff secure juvenile facility, or other service  
6 provider a copy of the request, stating the date and the titles of the  
7 records received.

8 (8) If an original record is provided during an investigation, the  
9 office shall return the original record as soon as practical but no later  
10 than ten working days after the date of the compliance request.

11 (9) All investigations conducted by the office shall be conducted in  
12 a manner designed to ensure the preservation of evidence for possible use  
13 in a criminal prosecution.

14 Sec. 18. Section 43-4325, Revised Statutes Cumulative Supplement,  
15 2014, is amended to read:

16 43-4325 (1) Reports of investigations conducted by the office shall  
17 not be distributed beyond the entity that is the subject of the report  
18 without the consent of the Inspector General.

19 (2) Except when a report is provided to a guardian ad litem or an  
20 attorney in the juvenile court pursuant to subsection (2) of section  
21 43-4327, the office shall redact confidential information before  
22 distributing a report of an investigation. The office may disclose  
23 confidential information to the chairperson of the Health and Human  
24 Services Committee of the Legislature or the chairperson of the Judiciary  
25 Committee of the Legislature when such disclosure is, in the judgment of  
26 the Public Counsel, desirable to keep the chairperson informed of  
27 important events, issues, and developments in the Nebraska child welfare  
28 system.

29 (3) Records and documents, regardless of physical form, that are  
30 obtained or produced by the office in the course of an investigation are  
31 not public records for purposes of sections 84-712 to 84-712.09. Reports

1 of investigations conducted by the office are not public records for  
2 purposes of sections 84-712 to 84-712.09.

3 (4) The office may withhold the identity of sources of information  
4 to protect from retaliation any person who files a complaint or provides  
5 information in good faith pursuant to the Office of Inspector General of  
6 Nebraska Child Welfare Act.

7 Sec. 19. Section 43-4326, Revised Statutes Cumulative Supplement,  
8 2014, is amended to read:

9 43-4326 (1) The department shall provide the Public Counsel and the  
10 Inspector General with direct computer access to all computerized  
11 records, reports, and documents maintained by the department in  
12 connection with administration of the Nebraska child welfare system.

13 (2) The juvenile services division and the commission shall provide  
14 the Inspector General with direct computer access to all computerized  
15 records, reports, and documents maintained by the juvenile services  
16 division in connection with administration of juvenile justice services.

17 Sec. 20. Section 43-4327, Revised Statutes Cumulative Supplement,  
18 2014, is amended to read:

19 43-4327 (1) The Inspector General's report of an investigation shall  
20 be in writing to the Public Counsel and shall contain recommendations.  
21 The report may recommend systemic reform or case-specific action,  
22 including a recommendation for discharge or discipline of employees or  
23 for sanctions against a foster parent, private agency, licensed child  
24 care facility, or other provider of child welfare services or juvenile  
25 justice services. All recommendations to pursue discipline shall be in  
26 writing and signed by the Inspector General. A report of an investigation  
27 shall be presented to the director, the probation administrator, or the  
28 executive director within fifteen days after the report is presented to  
29 the Public Counsel.

30 (2) Any person receiving a report under this section shall not  
31 further distribute the report or any confidential information contained

1 in the report. The Inspector General, upon notifying the Public Counsel  
2 and the director, the probation administrator, or the executive director,  
3 may distribute the report, to the extent that it is relevant to a child's  
4 welfare, to the guardian ad litem and attorneys in the juvenile court in  
5 which a case is pending involving the child or family who is the subject  
6 of the report. The report shall not be distributed beyond the parties  
7 except through the appropriate court procedures to the judge.

8 (3) A report that identifies misconduct, misfeasance, malfeasance,  
9 or violation of statute, rules, or regulations by an employee of the  
10 department, the juvenile services division, the commission, a private  
11 agency, a licensed child care facility, or another provider that is  
12 relevant to providing appropriate supervision of an employee may be  
13 shared with the employer of such employee. The employer may not further  
14 distribute the report or any confidential information contained in the  
15 report.

16 Sec. 21. Section 43-4328, Revised Statutes Cumulative Supplement,  
17 2014, is amended to read:

18 43-4328 (1) Within fifteen days after a report is presented to the  
19 director, the probation administrator, or the executive director under  
20 section 43-4327, he or she shall determine whether to accept, reject, or  
21 request in writing modification of the recommendations contained in the  
22 report. The Inspector General, with input from the Public Counsel, may  
23 consider the director's, probation administrator's, or executive  
24 director's request for modifications but is not obligated to accept such  
25 request. Such report shall become final upon the decision of the  
26 director, the probation administrator, or the executive director to  
27 accept or reject the recommendations in the report or, if the director,  
28 the probation administrator, or the executive director requests  
29 modifications, within fifteen days after such request or after the  
30 Inspector General incorporates such modifications, whichever occurs  
31 earlier.

1           (2) Within fifteen days after the report is presented to the  
2 director, the probation administrator, or the executive director, the  
3 report shall be presented to the foster parent, private agency, licensed  
4 child care facility, or other provider of child welfare services or  
5 juvenile justice services that is the subject of the report and to  
6 persons involved in the implementation of the recommendations in the  
7 report. Within forty-five days after receipt of the report, the foster  
8 parent, private agency, licensed child care facility, or other provider  
9 may submit a written response to the office to correct any factual errors  
10 in the report. The Inspector General, with input from the Public Counsel,  
11 shall consider all materials submitted under this subsection to determine  
12 whether a corrected report shall be issued. If the Inspector General  
13 determines that a corrected report is necessary, the corrected report  
14 shall be issued within fifteen days after receipt of the written  
15 response.

16           (3) If the Inspector General does not issue a corrected report  
17 pursuant to subsection (2) of this section, or if the corrected report  
18 does not address all issues raised in the written response, the foster  
19 parent, private agency, licensed child care facility, or other provider  
20 may request that its written response, or portions of the response, be  
21 appended to the report or corrected report.

22           (4) A report which raises issues related to credentialing under the  
23 Uniform Credentialing Act shall be submitted to the appropriate  
24 credentialing board under the act.

25           Sec. 22. Section 43-4330, Revised Statutes Cumulative Supplement,  
26 2014, is amended to read:

27           43-4330 The Office of Inspector General of Nebraska Child Welfare  
28 Act does not require the Inspector General to investigate all complaints.  
29 The Inspector General, with input from the Public Counsel, shall  
30 prioritize and select investigations and inquiries that further the  
31 intent of the act and assist in legislative oversight of the Nebraska

1 child welfare system and juvenile justice system. If the Inspector  
2 General determines that he or she will not investigate a complaint, the  
3 Inspector General may recommend to the parties alternative means of  
4 resolution of the issues in the complaint.

5 Sec. 23. Section 43-4331, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

7 43-4331 On or before September 15 of each year, the Inspector  
8 General shall provide to the Health and Human Services Committee of the  
9 Legislature, the Judiciary Committee of the Legislature, the Supreme  
10 Court, and the Governor a summary of reports and investigations made  
11 under the Office of Inspector General of Nebraska Child Welfare Act for  
12 the preceding year. The summary provided to the committees ~~committee~~  
13 shall be provided electronically. The summaries shall detail  
14 recommendations and the status of implementation of recommendations and  
15 may also include recommendations to the committees ~~committee~~ regarding  
16 issues discovered through investigation, audits, inspections, and reviews  
17 by the office that will increase accountability and legislative oversight  
18 of the Nebraska child welfare system, improve operations of the  
19 department, the juvenile services division, the commission, and the  
20 Nebraska child welfare system, or deter and identify fraud, abuse, and  
21 illegal acts. Such summary shall include summaries of alternative  
22 response cases under alternative response demonstration projects  
23 implemented in accordance with sections 28-710.01, 28-712, and 28-712.01  
24 reviewed by the Inspector General. The summaries shall not contain any  
25 confidential or identifying information concerning the subjects of the  
26 reports and investigations.

27 Sec. 24. Original section 29-1926, Reissue Revised Statutes of  
28 Nebraska, and sections 43-2,108, 43-3001, 43-4301, 43-4302, 43-4303,  
29 43-4304, 43-4316, 43-4318, 43-4319, 43-4320, 43-4321, 43-4324, 43-4325,  
30 43-4326, 43-4327, 43-4328, 43-4330, and 43-4331, Revised Statutes  
31 Cumulative Supplement, 2014, are repealed.