

AMENDMENTS TO LB1140

(Amendments to Standing Committee amendments, AM2663)

Introduced by Howard, 9.

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

3 Section 1. (1) Youth rehabilitation and treatment centers shall be
4 operated to provide programming and services to rehabilitate and treat
5 juveniles committed under the Nebraska Juvenile Code. Each youth
6 rehabilitation and treatment center shall be considered a separate
7 placement. Each youth rehabilitation and treatment center shall provide:

8 (a) Safe and sanitary space for sleeping, hygiene, education,
9 programming, treatment, recreation, and visitation for each juvenile;

10 (b) Health care and medical services;

11 (c) Appropriate physical separation and segregation of juveniles
12 based on gender;

13 (d) Sufficient staffing to comply with state and federal law and
14 protect the safety and security of each juvenile;

15 (e) Training that is specific to the population being served at the
16 youth rehabilitation and treatment center;

17 (f) A facility administrator for each youth rehabilitation and
18 treatment center who has the sole responsibility for administration of a
19 single youth rehabilitation and treatment center;

20 (g) An evaluation process for the development of an individualized
21 treatment plan within fourteen days after admission to the youth
22 rehabilitation and treatment center;

23 (h) An age-appropriate and developmentally appropriate education
24 program for each juvenile that can award relevant and necessary credits
25 toward high school graduation that will be accepted by the juvenile's
26 home school district;

1 (i) A case management and coordination process, designed to assure
2 appropriate reintegration of the juvenile with his or her family, school,
3 and community;

4 (j) Compliance with the requirements stated in Title XIX and Title
5 IV-E of the federal Social Security Act, as such act existed on January
6 1, 2020, the Special Education Act, or other funding guidelines as
7 appropriate;

8 (k) Research-based or evidence-based programming for all juveniles
9 that includes a strong academic program and classes in health education,
10 living skills, vocational training, behavior management and modification,
11 money management, family and parent responsibilities, substance use
12 awareness, physical education, job skills training, and job placement
13 assistance; and

14 (l) Research-based or evidence-based treatment service for
15 behavioral impairment, severe emotional disturbance, sex offender
16 behavior, other mental health or psychiatric disorder, drug and alcohol
17 addiction, physical or sexual abuse, and any other treatment indicated by
18 a juvenile's individualized treatment plan.

19 (2) Each youth rehabilitation and treatment center shall be
20 accredited by a nationally recognized entity that provides accreditation
21 for juvenile facilities.

22 (3) Each youth rehabilitation and treatment center shall
23 electronically submit a report of its activities for the preceding fiscal
24 year to the Clerk of the Legislature on or before July 15 of each year
25 beginning on July 15, 2021. The annual report shall include, but not be
26 limited to, the following information:

27 (a) Data on the population served, including, but not be limited to,
28 admissions, average daily census, average length of stay, race, and
29 ethnicity;

30 (b) An overview of programming and services; and

31 (c) An overview of any facility issues or facility improvements.

1 Sec. 2. (1) The Department of Health and Human Services shall
2 develop a five-year operations plan for the youth rehabilitation and
3 treatment centers and submit such operations plans electronically to the
4 Health and Human Services Committee of the Legislature on or before March
5 15, 2021.

6 (2) The operations plan shall be developed with input from key
7 stakeholders and shall include, but not be limited to:

8 (a) A description of the population served at each youth
9 rehabilitation and treatment center;

10 (b) An organizational chart of supervisors and operations staff. The
11 operations plan shall not allow for administrative staff to have
12 oversight over more than one youth rehabilitation and treatment center
13 and shall not allow for clinical staff to have responsibility over more
14 than one youth rehabilitation and treatment center;

15 (c) Staff who shall be centralized offsite or managed onsite,
16 including facility and maintenance staff;

17 (d) A facility plan that considers taxpayer investments already made
18 in the facility and the community support and acceptance of the juveniles
19 in the community surrounding the youth rehabilitation and treatment
20 center;

21 (e) A description of each rehabilitation program offered at the
22 youth rehabilitation and treatment center;

23 (f) A description of each mental health treatment plan offered at
24 the youth rehabilitation and treatment center;

25 (g) A description of reentry and discharge planning;

26 (h) A staffing plan that ensures adequate staffing;

27 (i) An education plan developed in collaboration with the State
28 Department of Education;

29 (j) A capital improvements budget;

30 (k) An operating budget;

31 (l) A disaster recovery plan;

1 (m) A plan to segregate the juveniles by gender on separate
2 campuses;

3 (n) A parenting plan for juveniles placed in a youth rehabilitation
4 and treatment center who are parenting;

5 (o) A statement of the rights of juveniles placed at the youth
6 rehabilitation and treatment centers, including a right to privacy, and
7 the rights of parents or guardians;

8 (p) Quality and outcome measurements for tracking outcomes for
9 juveniles when they are discharged from the youth rehabilitation and
10 treatment center, including an exit survey of such juveniles;

11 (q) Key performance indicators to be included in the annual report
12 required under this section;

13 (r) A requirement for trauma-informed training provided to staff;

14 (s) Methods and procedures for investigations at the youth
15 rehabilitation and treatment center; and

16 (t) A grievance process for juveniles placed at the youth
17 rehabilitation and treatment centers.

18 (3) The department shall submit a report electronically to the Clerk
19 of the Legislature on or before December 15, 2021, and each December 15
20 thereafter regarding such operations plan and key performance indicators.

21 Sec. 3. Section 43-251.01, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 43-251.01 All placements and commitments of juveniles for
24 evaluations or as temporary or final dispositions are subject to the
25 following:

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

28 (2) A juvenile who is found to be a juvenile as described in
29 subdivision (3) of section 43-247 shall not be placed in an adult
30 correctional facility, the secure youth confinement facility operated by
31 the Department of Correctional Services, or a youth rehabilitation and

1 treatment center or committed to the Office of Juvenile Services;

2 (3) A juvenile who is found to be a juvenile as described in
3 subdivision (1), (2), or (4) of section 43-247 shall not be assigned or
4 transferred to an adult correctional facility or the secure youth
5 confinement facility operated by the Department of Correctional Services;

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

8 (5)(a) Before July 1, 2019, a juvenile shall not be detained in
9 secure detention or placed at a youth rehabilitation and treatment center
10 unless detention or placement of such juvenile is a matter of immediate
11 and urgent necessity for the protection of such juvenile or the person or
12 property of another or if it appears that such juvenile is likely to flee
13 the jurisdiction of the court; and

14 (b) On and after July 1, 2019:

15 (i) A juvenile shall not be detained unless the physical safety of
16 persons in the community would be seriously threatened or detention is
17 necessary to secure the presence of the juvenile at the next hearing, as
18 evidenced by a demonstrable record of willful failure to appear at a
19 scheduled court hearing within the last twelve months;

20 (ii) A child twelve years of age or younger shall not be placed in
21 detention under any circumstances; and

22 (iii) A juvenile shall not be placed into detention:

23 (A) To allow a parent or guardian to avoid his or her legal
24 responsibility;

25 (B) To punish, treat, or rehabilitate such juvenile;

26 (C) To permit more convenient administrative access to such
27 juvenile;

28 (D) To facilitate further interrogation or investigation; or

29 (E) Due to a lack of more appropriate facilities except in case of
30 an emergency as provided in section 8 of this act;

31 (6) A juvenile alleged to be a juvenile as described in subdivision

1 (3) of section 43-247 shall not be placed in a juvenile detention
2 facility, including a wing labeled as staff secure at such facility,
3 unless the designated staff secure portion of the facility fully complies
4 with subdivision (5) of section 83-4,125 and the ingress and egress to
5 the facility are restricted solely through staff supervision; and

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

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

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

13 Sec. 4. Section 43-401, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 43-401 Sections 43-401 to 43-424 and sections 2, 6 to 8, and 10 of
16 this act shall be known and may be cited as the Health and Human
17 Services, Office of Juvenile Services Act.

18 Sec. 5. Section 43-403, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 43-403 For purposes of the Health and Human Services, Office of
21 Juvenile Services Act:

22 (1) Aftercare means the control, supervision, and care exercised
23 over juveniles who have been paroled;

24 (2) Committed means an order by a court committing a juvenile to the
25 care and custody of the Office of Juvenile Services for treatment;

26 (3) Community supervision means the control, supervision, and care
27 exercised over juveniles committed to the Office of Juvenile Services
28 when a commitment to the level of treatment of a youth rehabilitation and
29 treatment center has not been ordered by the court;

30 (4) Emergency means a public health emergency or a situation,
31 including fire, flood, tornado, natural disaster, or damage to a youth

1 rehabilitation and treatment center, that renders the youth
2 rehabilitation and treatment center uninhabitable. Emergency does not
3 include inadequate staffing;

4 (5) (4) Evaluation means assessment of the juvenile's social,
5 physical, psychological, and educational development and needs, including
6 a recommendation as to an appropriate treatment plan;

7 (6) (5) Parole means a conditional release of a juvenile from a
8 youth rehabilitation and treatment center to aftercare or transferred to
9 Nebraska for parole supervision by way of interstate compact;

10 (7) (6) Placed for evaluation means a placement with the Office of
11 Juvenile Services or the Department of Health and Human Services for
12 purposes of an evaluation of the juvenile; and

13 (8) (7) Treatment means type of supervision, care, confinement, and
14 rehabilitative services for the juvenile.

15 Sec. 6. (1) The Department of Health and Human Services shall
16 develop an emergency plan for the Youth Rehabilitation and Treatment
17 Center-Geneva, the Youth Rehabilitation and Treatment Center-Kearney, and
18 any other facility operated and utilized as a youth rehabilitation and
19 treatment center in compliance with state law.

20 (2) Each emergency plan shall:

21 (a) Identify and designate temporary placement facilities for the
22 placement of juveniles in the event a youth rehabilitation and treatment
23 center must be evacuated due to an emergency as defined in section
24 43-403. The administrator of a proposed temporary placement facility
25 shall consent to be designated as a temporary placement facility in the
26 emergency plan. A criminal detention facility or a juvenile detention
27 facility shall only be designated as a temporary placement facility
28 pursuant to section 8 of this act;

29 (b) Identify barriers to implementation of an effective emergency
30 plan, including necessary administrative or legislative changes;

31 (c) Include procedures for the Office of Juvenile Services to

1 provide reliable, effective, and timely notification that an emergency
2 plan is to be implemented to:

3 (i) Staff at the youth rehabilitation and treatment center where the
4 emergency plan is implemented and the administrator and staff at the
5 temporary placement facility;

6 (ii) Juveniles placed at the youth rehabilitation and treatment
7 center;

8 (iii) Families and legal guardians of juveniles placed at the youth
9 rehabilitation and treatment center;

10 (iv) The State Court Administrator, in a form and manner prescribed
11 by the State Court Administrator;

12 (v) The committing court of each juvenile placed at the youth
13 rehabilitation and treatment center;

14 (vi) The chairperson of the Health and Human Services Committee of
15 the Legislature; and

16 (vii) The office of Public Counsel and the office of Inspector
17 General of Nebraska Child Welfare;

18 (d) Detail the plan for transportation of juveniles to a temporary
19 placement facility; and

20 (e) Include methods and schedules for implementing the emergency
21 plan.

22 (3) Each emergency plan shall be developed on or before December 15,
23 2020.

24 Sec. 7. (1) The Department of Health and Human Services shall
25 ensure that the administrator of each temporary placement facility
26 described in an emergency plan required under section 6 of this act
27 consents to the temporary placement of juveniles placed in such facility
28 pursuant to the emergency plan. Prior to inclusion in an emergency plan
29 as a temporary placement facility, the department and the administrator
30 of the temporary placement facility shall agree on a cost-reimbursement
31 plan for the temporary placement of juveniles at such facility.

1 (2) If an emergency plan required under section 6 of this act is
2 implemented, the Office of Juvenile Services shall, at least twenty-four
3 hours prior to implementation, if practical, and otherwise within twenty-
4 four hours after implementation of such emergency plan, notify the
5 persons and entities listed in subdivision (2)(c) of section 6 of this
6 act.

7 Sec. 8. In the event of an emergency and only after all other
8 temporary placement options have been exhausted, the Office of Juvenile
9 Services may provide for the placement of a juvenile for a period not to
10 exceed seven days at a criminal detention facility, if allowed by law, or
11 a juvenile detention facility, as such terms are defined in section
12 83-4,125.

13 Sec. 9. (1) The Department of Health and Human Services may conduct
14 a needs assessment and cost analysis for the establishment of an
15 inpatient adolescent psychiatric unit housed within the Lincoln Regional
16 Center. If the department chooses to conduct such needs assessment and
17 cost analysis, the department shall contract with an outside consultant
18 with expertise in needs assessment and cost analysis of health care
19 facilities for the purpose of conducting such assessment and analysis.

20 (2) If a needs assessment and cost analysis is conducted by the
21 department, the department shall submit a report electronically to the
22 Health and Human Service Committee of the Legislature and the Clerk of
23 the Legislature ninety days after the completion of such needs assessment
24 and cost analysis. Such report shall contain the following information:

25 (a) A needs assessment, including the number of adolescents expected
26 to use such inpatient adolescent psychiatric unit;

27 (b) The cost of opening an existing facility at the Lincoln Regional
28 Center for use as an inpatient adolescent psychiatric unit;

29 (c) The cost of reopening the facility at the Lincoln Regional
30 Center, including the costs for necessary construction, upgrades, or
31 repairs;

1 (d) Annual operating costs of such unit, including, but not limited
2 to, any federal funds available to operate the unit in addition to
3 General Fund appropriations; and

4 (e) Cost savings realized by moving adolescents from out-of-state
5 institutions back to Nebraska for treatment at such unit.

6 (3) For purposes of this section, adolescent means a person under
7 the jurisdiction of the juvenile court.

8 Sec. 10. Policies and procedures of the Department of Health and
9 Human Services regarding the transportation of juveniles placed at the
10 youth rehabilitation and treatment centers shall apply to any private
11 contractor utilized by the Office of Juvenile Services to transport
12 juveniles placed at the youth rehabilitation and treatment centers.

13 Sec. 11. The Revisor of Statutes shall assign sections 1 and 9 of
14 this act to Chapter 83, article 1.

15 Sec. 12. Sections 1, 2, 9, and 10 of this act become operative
16 three calendar months after the adjournment of this legislative session.
17 The other sections of this act become operative on their effective date.

18 Sec. 13. Original sections 43-401 and 43-403, Reissue Revised
19 Statutes of Nebraska, and section 43-251.01, Revised Statutes Cumulative
20 Supplement, 2018, are repealed.

21 Sec. 14. Since an emergency exists, this act takes effect when
22 passed and approved according to law.