

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB1140

Hearing Date: Wednesday February 05, 2020
Committee On: Health and Human Services
Introducer: Health and Human Services
One Liner: Provide requirements for youth rehabilitation and treatment centers

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 7 Senators Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Sara Howard
Juliet Summers

Representing:

Introducer (on behalf of the HHS Committee)
Voices for Children in Nebraska

Opponents:

Dannette Smith

Representing:

Department of Health and Human Services

Neutral:

Payne Ackerman

Representing:

Self

Summary of purpose and/or changes:

LB 1140 creates a definition of youth rehabilitation and treatment centers in Nebraska.

Under LB 1140, youth rehabilitation and treatment centers (YRTC) are defined as "facilities operated to provide programming and services to rehabilitate and treat juveniles." Each YRTC is considered a separate placement.

LB 1140 requires each YRTC to provide: (1) safe and sanitary space for sleeping, hygiene, education, programming, treatment, recreation, and visitation; (2) health care and medical services; (3) appropriate physical separation and segregation of juveniles based on gender; (4) sufficient staffing to comply with law and to protect the safety and security of each juvenile; (5) training that is specific to the population being served at the YRTC; (6) a facility administrator for each YRTC who has the sole responsibility for the administration of a single YRTC; (7) an evaluation process for the development of an individualized treatment plan within 14 days of admission to a YRTC; (8) an age-appropriate and developmentally-appropriate education program for each juvenile that can award relevant and necessary credits toward high school graduation that will be accepted by the juvenile's home district; (9) a case management and coordination process, designed to assure appropriate reintegration of the juvenile to his or her family, school, and community; (10) compliance with federal programs and funding such as Medicaid, child welfare funding, the Special Education Act, and other funding guidelines as appropriate; (11) research-based or evidence-based programming that includes living skills, vocational training, behavior management and modification, substance abuse awareness, job training and job placement assistance; and (12) research-based or evidence-based treatment services for behavioral and mental health issues, sex

offender behaviors, substance abuse, and victims of physical or sexual abuse.

Each YRTC is required to file an annual report with the Clerk of the Legislature on or before July 15 of each year under section 1(2) of LB 1140. The annual report should include: data on the populations served, an overview of programming and services, and an overview of any facility issues or facility improvements.

The provisions of LB 1140 are included in section 1 of AM 2663.

Explanation of amendments:

AM 2663 incorporates LB 1141, LB 1142, LB 1143, and LB 1145 into LB 1140.

LB 1141 - Require the Department of Health and Human Services to develop operations plans for the youth rehabilitation and treatment centers

The provisions of LB 1141, as amended, can be found in section 2 of AM 2663. Section 2 requires the Department of Health and Human Services (DHHS or the department) to develop a five year operations plan for the YRTCs by November 15, 2020 and submit the plan electronically to the Health and Human Services Committee of the Legislature.

Under section 2(2) the operations plan must be developed with input from key stakeholders. The operations plan must include: (1) a description of the population served at each YRTC; (2) an organizational chart of supervisor and staff and a plan that does not allow for administrative staff to have oversight over more than one YRTC or clinical staff to have responsibility for more than one YRTC; (3) a plan for staff who shall be centralized off-site or managed onsite; (4) a facilities plan that considers taxpayer investments already made in the facilities and the community support and acceptance of the juveniles in the community where the YRTC is located; (5) a description of programming offered at the YRTCs; (6) a description of each mental health treatment plan offered at the YRTCs; (7) a description of reentry and discharge planning; (8) staffing plan that ensures adequate staffing; (9) an education plan developed in collaboration with the Nebraska Department of Education; (10) a capital improvements budget; (11) an operating budget; (12) a disaster recovery plan; (13) a plan to segregate the juveniles by gender on separate campuses; (14) a parenting plan for juveniles placed in a YRTC who are parenting; (15) a statement of the rights of juveniles placed at a YRTC including a right to privacy, and the rights of parents or guardians; (16) quality and outcome measurements for tracking outcomes when youth are discharged from a YRTC, including an exit survey; (17) key performance indicators to be included in the annual report required under this section; (18) a requirement for trauma-informed training of staff; (19) methods and procedures for investigations at the YRTCs; and (20) a grievance process for the youth at the YRTCs. (AM 2663, section 2, pgs. 2-4.)

Beginning on December 15, 2021, and each year thereafter on or before December 15, the department shall submit a report electronically to the Clerk of the regarding the operations plan and key performance indicators.

Motion to include LB 1141, as amended, into the committee amendment AM2663:

Vote: 7-0-0-0

Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walk, Williams

Voting Nay: None

Absent: None

Present Not Voting: None

Public Hearing (February 5, 2020) testifiers

Proponents:

Senator John Arch - Introducer (on behalf of the HHS Committee)

Juliet Summers - Voices for Children in Nebraska

Payne Ackerman - Self

Rich Wergin - Nebraska State Education Association

Brian Halstead - Nebraska Department of Education

Opponents:

Dannette Smith - Department of Health and Human Services

Neutral: None

LB 1142 - Provide for emergency plans at the Youth Rehabilitation and Treatment Centers

The provisions of LB 1142, as amended, are found in sections 3 through 8 of AM 2663. These provisions amend the Health and Human Services, Office of Juvenile Services Act to require the DHHS to develop an emergency plan for the YRTCs and amends the juvenile code to allow for the placement of a juvenile at a detention facility in the event of an emergency.

Section 4 of AM 2663 adds a definition of "emergency" to Neb. Rev. Stat. Section 43-403. Emergency is defined as "a situation including fire, flood, tornado, natural disaster, or damage to a youth rehabilitation and treatment center that renders such [YRTC] uninhabitable." Emergency does not include inadequate staffing under the definition. (AM 2663, sec. 4, p. 6, lines 26-29.)

Section 6 of AM 2663 requires DHHS to develop an emergency plan for YRTC-Geneva, YRTC-Kearney, and any other facility being used as a YRTC. The emergency plan must: (1) identify and designate alternative placement facilities for the placement of juveniles in the event a YRTC must be evacuated and the administrator of the proposed alternative placement must agree to be designated as such in the emergency plan; (2) identify barriers to implementation of an effective emergency plan, including necessary administrative or legislative changes; (3) include procedures for providing reliable, effective, and timely notice that an emergency plan is being implemented to various parties including staff, the juveniles, the families and legal guardians of the juveniles, the courts, the HHS Committee, the Ombudsman and the Office of Inspector General for Child Welfare; and (4) detail the plan for transportation of juveniles to a temporary placement facility. (Sec. 6, p. 7, lines 10-31 and p. 8, lines 1-18.)

Section 7(1) of AM 2663 requires DHHS to ensure that the administrator of each temporary placement facility in the emergency plan consents to the temporary placement of the juveniles and that there is an agreement on cost-reimbursement between DHHS and the temporary placement facility. (P. 8, lines 19-26.)

In the event an emergency plan is implemented, section 7(2) requires the Office of Juvenile Services, to provide notice to the persons listed in the plan 24 hours prior to the plan's implementation, if practical, or within 24 hours after implementation. (P. 8, lines 27-31.)

Section 8 creates an exception to the prohibition in Neb. Rev. Stat. Section 43-251.01(5)(b)(iii) which states that a juvenile may not be placed into detention: "(E) due to a lack of more appropriate facilities." (AM 2663, p. 5, lines 25-26.) Section 8 inserts new language to allow for the placement of a juvenile at a criminal detention facility, if allowed by law, and a juvenile detention facility for no more than seven days in the event of an emergency, as defined in section 4. (Sec. 8, p. 9, lines 2-7.)

The emergency plans shall be developed on or before October 15, 2020. (Sec. 6(3), p. 8, lines 17-18.)

LB 1142 contained an emergency clause. (Sec. 12 and sec. 14, p. 10.)

Motion to include LB 1142, as amended, into the committee amendment AM2663:

Vote: 7-0-0-0

Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams

Voting Nay: None

Absent: None

Present Not Voting: None

Public Hearing (February 5, 2020) testifiers

Proponents:

Senator Dave Murman - Introducer (on behalf of the HHS Committee)

Opponents: None

Neutral:

Shawn Eatherton - Buffalo County Attorney; and Buffalo County Sheriff's Office

Elaine Menzel - Nebraska Association of County Officials

Juliet Summers - Voices for Children in Nebraska

Mark LaBouchardiere - Department of Health and Human Services

LB 1143 - Provide duties to the Department of Health and Human Services with respect to the establishment of an inpatient adolescent psychiatric unit.

The provisions of LB 1143, as amended, are included in section 9 of AM 2663. Section 9 inserts new language requiring DHHS to contract for the completion of a needs assessment and cost analysis for the establishment of an inpatient adolescent psychiatric unit at the Lincoln Regional Center. The contract must be with an outside consultant with expertise in cost and needs analysis of health care facilities within 60 days after the effective date of the act.

Section 9 also requires DHHS to submit a report electronically to the HHS Committee on or before October 15, 2020 which shall include: (1) a needs assessment including the number of adolescents expected to use such an inpatient psychiatric facility; (2) the cost of opening an existing facility at the Lincoln Regional Center for use as an inpatient psychiatric unit; (3) the cost of necessary construction, upgrades, or repairs if a facility at the Lincoln Regional Center was re-opened; (4) the annual operating costs of an inpatient adolescent psychiatric unit including any federal funds available; and (5) the cost savings realized by moving adolescents from out-of-state institutions back to Nebraska for treatment at an inpatient adolescent psychiatric unit.

Adolescent is defined as "a juvenile under the jurisdiction of the juvenile court."

LB 1143 included an emergency clause. (Sec. 12 and sec. 14, p. 10.)

Motion to include LB 1143, as amended, into the committee amendment AM2663:

Vote: 7-0-0-0

Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams

Voting Nay: None

Absent: None

Present Not Voting: None

Public Hearing (February 5, 2020) testifiers

Proponents:

Senator Lynn Walz - Introducer (on behalf of the HHS Committee)

William Reay - OMNI Inventive Care

Annette Dubas - Nebraska Association of Behavioral Health Organizations

Katherine Bass - Foster Care Review Office

Opponents: None

Neutral: None

LB 1145 - Require the Department of Health and Human Services to develop and implement policies regarding the use of mechanical restraints and transportation of juveniles.

The provisions of LB 1145, as amended, appear in section 10 of AM 2663. That section inserts new language which requires that DHHS policies and procedures regarding the transportation of juveniles placed at the YRTC's shall apply to any private contractor utilized by the Office of Juvenile Services to transport juveniles placed at the YRTC's. (Sec. 10, p.

10, lines 2-6.)

Motion to include LB 1145, as amended, into the committee amendment AM2663:

Vote: 7-0-0-0

Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams

Voting Nay: None

Absent: None

Present Not Voting: None

Public Hearing (February 5, 2020) testifiers

Proponents:

Senator Machaela Cavanaugh - Introducer (on behalf of the HHS Committee)

Opponents:

Mark LaBouchardiere - Department of Health and Human Services

Neutral:

Juliet Summers - Voices for Children in Nebraska

Sara Howard, Chairperson