

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1148

Introduced by Vargas, 7; Howard, 9; Lathrop, 12.

Read first time January 22, 2020

Committee: Judiciary

1 A BILL FOR AN ACT relating to juveniles; to amend sections 43-407,
2 43-408, 83-108.04, and 83-901, Reissue Revised Statutes of Nebraska,
3 and section 43-286, Revised Statutes Supplement, 2019; to change
4 provisions relating to the Office of Juvenile Services and to
5 placements of juveniles at a youth rehabilitation and treatment
6 center; to eliminate obsolete provisions; to harmonize provisions;
7 and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-286, Revised Statutes Supplement, 2019, is
2 amended to read:

3 43-286 (1) When any juvenile is adjudicated to be a juvenile
4 described in subdivision (1), (2), or (4) of section 43-247:

5 ~~(a)(i) This subdivision applies until October 1, 2013. The court may~~
6 ~~continue the dispositional portion of the hearing, from time to time upon~~
7 ~~such terms and conditions as the court may prescribe, including an order~~
8 ~~of restitution of any property stolen or damaged or an order requiring~~
9 ~~the juvenile to participate in community service programs, if such order~~
10 ~~is in the interest of the juvenile's reformation or rehabilitation, and,~~
11 ~~subject to the further order of the court, may:~~

12 ~~(A) Place the juvenile on probation subject to the supervision of a~~
13 ~~probation officer;~~

14 ~~(B) Permit the juvenile to remain in his or her own home or be~~
15 ~~placed in a suitable family home, subject to the supervision of the~~
16 ~~probation officer; or~~

17 ~~(C) Cause the juvenile to be placed in a suitable family home or~~
18 ~~institution, subject to the supervision of the probation officer. If the~~
19 ~~court has committed the juvenile to the care and custody of the~~
20 ~~Department of Health and Human Services, the department shall pay the~~
21 ~~costs of the suitable family home or institution which are not otherwise~~
22 ~~paid by the juvenile's parents.~~

23 ~~Under subdivision (1)(a)(i) of this section, upon a determination by~~
24 ~~the court that there are no parental, private, or other public funds~~
25 ~~available for the care, custody, and maintenance of a juvenile, the court~~
26 ~~may order a reasonable sum for the care, custody, and maintenance of the~~
27 ~~juvenile to be paid out of a fund which shall be appropriated annually by~~
28 ~~the county where the petition is filed until a suitable provision may be~~
29 ~~made for the juvenile without such payment.~~

30 ~~(a) (ii) This subdivision applies beginning October 1, 2013. The~~
31 ~~court may continue the dispositional portion of the hearing, from time to~~

1 time upon such terms and conditions as the court may prescribe, including
2 an order of restitution of any property stolen or damaged or an order
3 requiring the juvenile to participate in restorative justice programs or
4 community service programs, if such order is in the interest of the
5 juvenile's reformation or rehabilitation, and, subject to the further
6 order of the court, may:

7 (i) (A) Place the juvenile on probation subject to the supervision
8 of a probation officer; or

9 (ii) (B) Permit the juvenile to remain in his or her own home or be
10 placed in a suitable family home or institution, subject to the
11 supervision of the probation officer. ;

12 ~~(b)(i) This subdivision applies to all juveniles committed to the~~
13 ~~Office of Juvenile Services prior to July 1, 2013. The court may commit~~
14 ~~such juvenile to the Office of Juvenile Services, but a juvenile under~~
15 ~~the age of fourteen years shall not be placed at the Youth Rehabilitation~~
16 ~~and Treatment Center-Geneva or the Youth Rehabilitation and Treatment~~
17 ~~Center-Kearney unless he or she has violated the terms of probation or~~
18 ~~has committed an additional offense and the court finds that the~~
19 ~~interests of the juvenile and the welfare of the community demand his or~~
20 ~~her commitment. This minimum age provision shall not apply if the act in~~
21 ~~question is murder or manslaughter.~~

22 ~~(ii) This subdivision applies to all juveniles committed to the~~
23 ~~Office of Juvenile Services for placement at a youth rehabilitation and~~
24 ~~treatment center on or after July 1, 2013.~~

25 (b) When it is alleged that the juvenile has exhausted all levels of
26 probation supervision and options for community-based services and
27 section 43-251.01 has been satisfied, a motion for commitment to a youth
28 rehabilitation and treatment center may be filed and proceedings held as
29 follows:

30 (i) (A) The motion shall set forth specific factual allegations that
31 support the motion and a copy of such motion shall be served on all

1 persons required to be served by sections 43-262 to 43-267; and

2 (ii) ~~(B)~~ The juvenile shall be entitled to a hearing before the
3 court to determine the validity of the allegations. At such hearing the
4 burden is upon the state by a preponderance of the evidence to show that:

5 (A) ~~(I)~~ All levels of probation supervision have been exhausted;

6 (B) ~~(II)~~ All options for community-based services have been
7 exhausted; and

8 (C) ~~(III)~~ Placement at a youth rehabilitation and treatment center
9 is a matter of immediate and urgent necessity for the protection of the
10 juvenile or the person or property of another or if it appears that such
11 juvenile is likely to flee the jurisdiction of the court.

12 (c) After the hearing, the court may commit such juvenile to the
13 Office of Juvenile Services for placement at either the Youth
14 Rehabilitation and Treatment Center-Geneva or the Youth Rehabilitation
15 and Treatment Center-Kearney ~~a youth rehabilitation and treatment center~~
16 as a condition of an order of intensive supervised probation. Upon
17 commitment by the court to the Office of Juvenile Services, the court
18 shall immediately notify the Office of Juvenile Services of the
19 commitment. Intensive supervised probation for purposes of this
20 subdivision means that the Office of Juvenile Services shall be
21 responsible for the care and custody of the juvenile until the Office of
22 Juvenile Services discharges the juvenile from commitment to the Office
23 of Juvenile Services. Upon discharge of the juvenile, the court shall
24 hold a review hearing on the conditions of probation and enter any order
25 allowed under subdivision (1)(a) of this section.

26 (d) The Office of Juvenile Services shall notify those required to
27 be served by sections 43-262 to 43-267, all interested parties, and the
28 committing court of the pending discharge of a juvenile from the youth
29 rehabilitation and treatment center sixty days prior to discharge and
30 again in every case not less than thirty days prior to discharge. Upon
31 notice of pending discharge by the Office of Juvenile Services, the court

1 shall set a continued disposition hearing in anticipation of reentry. The
2 Office of Juvenile Services shall work in collaboration with the Office
3 of Probation Administration in developing an individualized reentry plan
4 for the juvenile as provided in section 43-425. The Office of Juvenile
5 Services shall provide a copy of the individualized reentry plan to the
6 juvenile, the juvenile's attorney, and the county attorney or city
7 attorney prior to the continued disposition hearing. At the continued
8 disposition hearing, the court shall review and approve or modify the
9 individualized reentry plan, place the juvenile under probation
10 supervision, and enter any other order allowed by law. No hearing is
11 required if all interested parties stipulate to the individualized
12 reentry plan by signed motion. In such a case, the court shall approve
13 the conditions of probation, approve the individualized reentry plan, and
14 place the juvenile under probation supervision.

15 (e) The Office of Juvenile Services is responsible for
16 transportation of the juvenile to and from the youth rehabilitation and
17 treatment center. The Office of Juvenile Services may contract for such
18 services. A plan for a juvenile's transport to return to the community
19 shall be a part of the individualized reentry plan. The Office of
20 Juvenile Services may approve family to provide such transport when
21 specified in the individualized reentry plan. ~~;~~

22 ~~(c) Beginning July 1, 2013, and until October 1, 2013, the court may~~
23 ~~commit such juvenile to the Office of Juvenile Services for community~~
24 ~~supervision.~~

25 (2) When any juvenile is found by the court to be a juvenile
26 described in subdivision (3)(b) of section 43-247, the court may enter
27 such order as it is empowered to enter under subdivision (1)(a) of this
28 section ~~or until October 1, 2013, enter an order committing or placing~~
29 ~~the juvenile to the care and custody of the Department of Health and~~
30 ~~Human Services.~~

31 (3) When any juvenile is adjudicated to be a juvenile described in

1 subdivision (1), (2), (3)(b), or (4) of section 43-247, the court may
2 order the juvenile to be assessed for referral to participate in a
3 restorative justice program. Factors that the judge may consider for such
4 referral include, but are not limited to: The juvenile's age,
5 intellectual capacity, and living environment; the ages of others who
6 were part of the offense; the age and capacity of the victim; and the
7 nature of the case.

8 (4) When a juvenile is placed on probation and a probation officer
9 has reasonable cause to believe that such juvenile has committed a
10 violation of a condition of his or her probation, the probation officer
11 shall take appropriate measures as provided in section 43-286.01.

12 (5)(a) When a juvenile is placed on probation or under the
13 supervision of the court and it is alleged that the juvenile is again a
14 juvenile described in subdivision (1), (2), (3)(b), or (4) of section
15 43-247, a petition may be filed and the same procedure followed and
16 rights given at a hearing on the original petition. If an adjudication is
17 made that the allegations of the petition are true, the court may make
18 any disposition authorized by this section for such adjudications and the
19 county attorney may file a motion to revoke the juvenile's probation.

20 (b) When a juvenile is placed on probation or under the supervision
21 of the court for conduct under subdivision (1), (2), (3)(b), or (4) of
22 section 43-247 and it is alleged that the juvenile has violated a term of
23 probation or supervision or that the juvenile has violated an order of
24 the court, a motion to revoke probation or supervision or to change the
25 disposition may be filed and proceedings held as follows:

26 (i) The motion shall set forth specific factual allegations of the
27 alleged violations and a copy of such motion shall be served on all
28 persons required to be served by sections 43-262 to 43-267;

29 (ii) The juvenile shall be entitled to a hearing before the court to
30 determine the validity of the allegations. At such hearing the juvenile
31 shall be entitled to those rights relating to counsel provided by section

1 43-272 and those rights relating to detention provided by sections 43-254
2 to 43-256. The juvenile shall also be entitled to speak and present
3 documents, witnesses, or other evidence on his or her own behalf. He or
4 she may confront persons who have given adverse information concerning
5 the alleged violations, may cross-examine such persons, and may show that
6 he or she did not violate the conditions of his or her probation or
7 supervision or an order of the court or, if he or she did, that
8 mitigating circumstances suggest that the violation does not warrant
9 revocation of probation or supervision or a change of disposition. The
10 hearing shall be held within a reasonable time after the juvenile is
11 taken into custody;

12 (iii) The hearing shall be conducted in an informal manner and shall
13 be flexible enough to consider evidence, including letters, affidavits,
14 and other material, that would not be admissible in an adversarial
15 criminal trial;

16 (iv) The juvenile shall not be confined, detained, or otherwise
17 significantly deprived of his or her liberty pursuant to the filing of a
18 motion described in this section unless the requirements of subdivision
19 (5) of section 43-251.01 and section 43-260.01 have been met. In all
20 cases when the requirements of subdivision (5) of section 43-251.01 and
21 section 43-260.01 have been met and the juvenile is confined, detained,
22 or otherwise significantly deprived of his or her liberty as a result of
23 his or her alleged violation of probation, supervision, or a court order,
24 the juvenile shall be given a preliminary hearing. If, as a result of
25 such preliminary hearing, probable cause is found to exist, the juvenile
26 shall be entitled to a hearing before the court in accordance with this
27 subsection;

28 (v) If the juvenile is found by the court to have violated the terms
29 of his or her probation or supervision or an order of the court, the
30 court may modify the terms and conditions of the probation, supervision,
31 or other court order, extend the period of probation, supervision, or

1 other court order, or enter any order of disposition that could have been
2 made at the time the original order was entered; and

3 (vi) In cases when the court revokes probation, supervision, or
4 other court order, it shall enter a written statement as to the evidence
5 relied on and the reasons for revocation.

6 (6) Costs incurred on behalf of a juvenile under this section shall
7 be paid as provided in section 43-290.01.

8 (7) When any juvenile is adjudicated to be a juvenile described in
9 subdivision (4) of section 43-247, the juvenile court shall within thirty
10 days of adjudication transmit to the Director of Motor Vehicles an
11 abstract of the court record of adjudication.

12 Sec. 2. Section 43-407, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 ~~43-407 (1) This subsection applies to all juveniles committed to~~
15 ~~the Office of Juvenile Services for placement at a youth rehabilitation~~
16 ~~and treatment center prior to July 1, 2013. The Office of Juvenile~~
17 ~~Services shall design and make available programs and treatment services~~
18 ~~through the Youth Rehabilitation and Treatment Center-Kearney and Youth~~
19 ~~Rehabilitation and Treatment Center-Geneva. The programs and treatment~~
20 ~~services shall be based upon the individual or family evaluation process~~
21 ~~and treatment plan. The treatment plan shall be developed within fourteen~~
22 ~~days after admission. If a juvenile placed at the Youth Rehabilitation~~
23 ~~and Treatment Center-Kearney or Youth Rehabilitation and Treatment~~
24 ~~Center-Geneva is assessed as needing inpatient or subacute substance~~
25 ~~abuse or behavioral health residential treatment, the juvenile may be~~
26 ~~transferred to a program or facility if the treatment and security needs~~
27 ~~of the juvenile can be met. The assessment process shall include~~
28 ~~involvement of both private and public sector behavioral health~~
29 ~~providers. The selection of the treatment venue for each juvenile shall~~
30 ~~include individualized case planning and incorporate the goals of the~~
31 ~~juvenile justice system pursuant to section 43-402. Juveniles committed~~

1 ~~to the Youth Rehabilitation and Treatment Center-Kearney or Youth~~
2 ~~Rehabilitation and Treatment Center-Geneva who are transferred to~~
3 ~~alternative settings for treatment remain committed to the Department of~~
4 ~~Health and Human Services and the Office of Juvenile Services until~~
5 ~~discharged from such custody. Programs and treatment services shall~~
6 ~~address:~~

7 ~~(a) Behavioral impairments, severe emotional disturbances, sex~~
8 ~~offender behaviors, and other mental health or psychiatric disorders;~~

9 ~~(b) Drug and alcohol addiction;~~

10 ~~(c) Health and medical needs;~~

11 ~~(d) Education, special education, and related services;~~

12 ~~(e) Individual, group, and family counseling services as appropriate~~
13 ~~with any treatment plan related to subdivisions (a) through (d) of this~~
14 ~~subsection. Services shall also be made available for juveniles who have~~
15 ~~been physically or sexually abused;~~

16 ~~(f) A case management and coordination process, designed to assure~~
17 ~~appropriate reintegration of the juvenile to his or her family, school,~~
18 ~~and community. This process shall follow individualized planning which~~
19 ~~shall begin at intake and evaluation. Structured programming shall be~~
20 ~~scheduled for all juveniles. This programming shall include a strong~~
21 ~~academic program as well as classes in health education, living skills,~~
22 ~~vocational training, behavior management and modification, money~~
23 ~~management, family and parent responsibilities, substance abuse~~
24 ~~awareness, physical education, job skills training, and job placement~~
25 ~~assistance. Participation shall be required of all juveniles if such~~
26 ~~programming is determined to be age and developmentally appropriate. The~~
27 ~~goal of such structured programming shall be to provide the academic and~~
28 ~~life skills necessary for a juvenile to successfully return to his or her~~
29 ~~home and community upon release; and~~

30 ~~(g) The design and delivery of treatment programs through the youth~~
31 ~~rehabilitation and treatment centers as well as any licensing or~~

1 ~~certification requirements, and the office shall follow the requirements~~
2 ~~as stated within Title XIX and Title IV-E of the federal Social Security~~
3 ~~Act, as such act existed on May 25, 2007, the Special Education Act, or~~
4 ~~other funding guidelines as appropriate. It is the intent of the~~
5 ~~Legislature that these funding sources shall be utilized to support~~
6 ~~service needs of eligible juveniles.~~

7 ~~(1) (2) This subsection applies to all juveniles committed to the~~
8 ~~Office of Juvenile Services for placement at a youth rehabilitation and~~
9 ~~treatment center on or after July 1, 2013. The Office of Juvenile~~
10 ~~Services shall design and make available programs and treatment services~~
11 ~~through the Youth Rehabilitation and Treatment Center-Kearney and Youth~~
12 ~~Rehabilitation and Treatment Center-Geneva. The programs and treatment~~
13 ~~services shall be based upon the individual or family evaluation process~~
14 ~~and treatment plan. The treatment plan shall be developed within fourteen~~
15 ~~days after admission, and provided to the committing court and interested~~
16 ~~parties. The court may, on its own motion or upon the motion of an~~
17 ~~interested party, set a hearing to review the treatment plan.~~

18 ~~(2) A juvenile may be committed by a court to the Office of Juvenile~~
19 ~~Services for placement at a youth rehabilitation and treatment center~~
20 ~~pursuant to a hearing described in subdivision (1)(b)(ii) of section~~
21 ~~43-286. The office shall not change a juvenile's placement, except as~~
22 ~~provided in this section. If a juvenile placed at the Youth~~
23 ~~Rehabilitation and Treatment Center-Kearney or Youth Rehabilitation and~~
24 ~~Treatment Center-Geneva is assessed as needing inpatient or subacute~~
25 ~~substance abuse or behavioral health residential treatment, the Office of~~
26 ~~Juvenile Services may arrange for such treatment to be provided at the~~
27 ~~Hastings Regional Center or may transition the juvenile to another~~
28 ~~inpatient or subacute residential treatment facility licensed as a~~
29 ~~treatment facility in the State of Nebraska and shall provide notice of~~
30 ~~the change in placement pursuant to subsection (3) of this section.~~
31 ~~Except in a case requiring emergency admission to an inpatient facility,~~

1 the juvenile shall not be discharged by the Office of Juvenile Services
2 until the juvenile has been returned to the court for a review of his or
3 her conditions of probation and the juvenile has been transitioned to the
4 clinically appropriate level of care. Programs and treatment services
5 shall address:

6 (a) Behavioral impairments, severe emotional disturbances, sex
7 offender behaviors, and other mental health or psychiatric disorders;

8 (b) Drug and alcohol addiction;

9 (c) Health and medical needs;

10 (d) Education, special education, and related services;

11 (e) Individual, group, and family counseling services as appropriate
12 with any treatment plan related to subdivisions (a) through (d) of this
13 subsection. Services shall also be made available for juveniles who have
14 been physically or sexually abused;

15 (f) A case management and coordination process, designed to assure
16 appropriate reintegration of the juvenile to his or her family, school,
17 and community. This process shall follow individualized planning which
18 shall begin at intake and evaluation. Structured programming shall be
19 scheduled for all juveniles. This programming shall include a strong
20 academic program as well as classes in health education, living skills,
21 vocational training, behavior management and modification, money
22 management, family and parent responsibilities, substance abuse
23 awareness, physical education, job skills training, and job placement
24 assistance. Participation shall be required of all juveniles if such
25 programming is determined to be age and developmentally appropriate. The
26 goal of such structured programming shall be to provide the academic and
27 life skills necessary for a juvenile to successfully return to his or her
28 home and community upon release; and

29 (g) The design and delivery of treatment programs through the youth
30 rehabilitation and treatment centers as well as any licensing or
31 certification requirements, and the office shall follow the requirements

1 as stated within Title XIX and Title IV-E of the federal Social Security
2 Act, as such act existed on January 1, 2013, the Special Education Act,
3 or other funding guidelines as appropriate. It is the intent of the
4 Legislature that these funding sources shall be utilized to support
5 service needs of eligible juveniles.

6 (3) When the Office of Juvenile Services has arranged for treatment
7 of a juvenile as provided in subsection (2) of this section, the office
8 shall file a report and notice of placement change with the court and
9 shall send copies of the notice to all interested parties, including any
10 parent or guardian of the juvenile, at least seven days before the
11 placement of the juvenile is changed from the order of the committing
12 court. The court, on its own motion or upon the filing of an objection to
13 the change by an interested party, may order a hearing to review such
14 change in placement and may order the change be stayed until the
15 completion of the hearing.

16 (4)(a) (3)(a) The Office of Juvenile Services shall begin
17 implementing evidence-based practices, policies, and procedures by
18 January 15, 2016, as determined by the office. Thereafter, on November 1
19 of each year, the office shall electronically submit to the Governor, the
20 Legislature, and the Chief Justice of the Supreme Court, a comprehensive
21 report on its efforts to implement evidence-based practices. ~~The report~~
22 ~~to the Legislature shall be by electronic transmission.~~ The report may be
23 attached to preexisting reporting duties. The report shall include at a
24 minimum:

25 (i) The percentage of juveniles being supervised in accordance with
26 evidence-based practices;

27 (ii) The percentage of state funds expended by each respective
28 department for programs that are evidence-based, and a list of all
29 programs which are evidence-based;

30 (iii) Specification of supervision policies, procedures, programs,
31 and practices that were created, modified, or eliminated; and

1 (iv) Recommendations of the office for any additional collaboration
2 with other state, regional, or local public agencies, private entities,
3 or faith-based and community organizations.

4 (b) Each report and executive summary shall be available to the
5 general public on the web site of the office.

6 (c) The Executive Board of the Legislative Council may request the
7 Consortium for Crime and Justice Research and Juvenile Justice Institute
8 at the University of Nebraska at Omaha to review, study, and make policy
9 recommendations on the reports assigned by the executive board.

10 Sec. 3. Section 43-408, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 43-408 ~~(1)(a) This subsection applies to all juveniles committed to~~
13 ~~the Office of Juvenile Services for placement at a youth rehabilitation~~
14 ~~and treatment center prior to July 1, 2013, and to all juveniles~~
15 ~~committed to the Office of Juvenile Services for community supervision~~
16 ~~prior to October 1, 2013. Whenever any juvenile is committed to the~~
17 ~~Office of Juvenile Services, to any facility operated by the Office of~~
18 ~~Juvenile Services, or to the custody of the Administrator of the Office~~
19 ~~of Juvenile Services, a superintendent of a facility, or an administrator~~
20 ~~of a program, the juvenile is deemed committed to the Office of Juvenile~~
21 ~~Services. Juveniles committed to the Office of Juvenile Services shall~~
22 ~~also be considered committed to the care and custody of the Department of~~
23 ~~Health and Human Services for the purpose of obtaining health care and~~
24 ~~treatment services.~~

25 ~~(b) The committing court shall order the initial level of treatment~~
26 ~~for a juvenile committed to the Office of Juvenile Services. Prior to~~
27 ~~determining the initial level of treatment for a juvenile, the court may~~
28 ~~solicit a recommendation regarding the initial level of treatment from~~
29 ~~the Office of Juvenile Services. Under this subsection, the committing~~
30 ~~court shall not order a specific placement for a juvenile. The court~~
31 ~~shall continue to maintain jurisdiction over any juvenile committed to~~

1 ~~the Office of Juvenile Services until such time that the juvenile is~~
2 ~~discharged from the Office of Juvenile Services. The court shall conduct~~
3 ~~review hearings every six months, or at the request of the juvenile, for~~
4 ~~any juvenile committed to the Office of Juvenile Services who is placed~~
5 ~~outside his or her home, except for a juvenile residing at a youth~~
6 ~~rehabilitation and treatment center. The court shall determine whether an~~
7 ~~out-of-home placement made by the Office of Juvenile Services is in the~~
8 ~~best interests of the juvenile, with due consideration being given by the~~
9 ~~court to public safety. If the court determines that the out-of-home~~
10 ~~placement is not in the best interests of the juvenile, the court may~~
11 ~~order other treatment services for the juvenile.~~

12 ~~(c) After the initial level of treatment is ordered by the~~
13 ~~committing court, the Office of Juvenile Services shall provide treatment~~
14 ~~services which conform to the court's level of treatment determination.~~
15 ~~Within thirty days after making an actual placement, the Office of~~
16 ~~Juvenile Services shall provide the committing court with written~~
17 ~~notification of where the juvenile has been placed. At least once every~~
18 ~~six months thereafter, until the juvenile is discharged from the care and~~
19 ~~custody of the Office of Juvenile Services, the office shall provide the~~
20 ~~committing court with written notification of the juvenile's actual~~
21 ~~placement and the level of treatment that the juvenile is receiving.~~

22 ~~(d) For transfer hearings, the burden of proof to justify the~~
23 ~~transfer is on the Office of Juvenile Services, the standard of proof is~~
24 ~~clear and convincing evidence, and the strict rules of evidence do not~~
25 ~~apply. Transfers of juveniles from one place of treatment to another are~~
26 ~~subject to section 43-251.01 and to the following:~~

27 ~~(i) Except as provided in subdivision (d)(ii) of this subsection, if~~
28 ~~the Office of Juvenile Services proposes to transfer the juvenile from a~~
29 ~~less restrictive to a more restrictive place of treatment, a plan~~
30 ~~outlining the proposed change and the reasons for the proposed change~~
31 ~~shall be presented to the court which committed the juvenile. Such change~~

1 ~~shall occur only after a hearing and a finding by the committing court~~
2 ~~that the change is in the best interests of the juvenile, with due~~
3 ~~consideration being given by the court to public safety. At the hearing,~~
4 ~~the juvenile has the right to be represented by counsel;~~

5 ~~(ii) The Office of Juvenile Services may make an immediate temporary~~
6 ~~change without prior approval by the committing court only if the~~
7 ~~juvenile is in a harmful or dangerous situation, is suffering a medical~~
8 ~~emergency, is exhibiting behavior which warrants temporary removal, or~~
9 ~~has been placed in a non-state-owned facility and such facility has~~
10 ~~requested that the juvenile be removed. Approval of the committing court~~
11 ~~shall be sought within fifteen days of making an immediate temporary~~
12 ~~change, at which time a hearing shall occur before the court. The court~~
13 ~~shall determine whether it is in the best interests of the juvenile to~~
14 ~~remain in the new place of treatment, with due consideration being given~~
15 ~~by the court to public safety. At the hearing, the juvenile has the right~~
16 ~~to be represented by counsel; and~~

17 ~~(iii) If the proposed change seeks to transfer the juvenile from a~~
18 ~~more restrictive to a less restrictive place of treatment or to transfer~~
19 ~~the juvenile from the juvenile's current place of treatment to another~~
20 ~~which has the same level of restriction as the current place of~~
21 ~~treatment, the Office of Juvenile Services shall notify the juvenile, the~~
22 ~~juvenile's parents, custodian, or legal guardian, the committing court,~~
23 ~~the county attorney, the counsel for the juvenile, and the guardian ad~~
24 ~~litem of the proposed change. The juvenile has fifteen days after the~~
25 ~~date of the notice to request an administrative hearing with the Office~~
26 ~~of Juvenile Services, at which time the Office of Juvenile Services shall~~
27 ~~determine whether it is in the best interests of the juvenile for the~~
28 ~~proposed change to occur, with due consideration being given by the~~
29 ~~office to public safety. The juvenile may be represented by counsel at~~
30 ~~the juvenile's own expense. If the juvenile is aggrieved by the~~
31 ~~administrative decision of the Office of Juvenile Services, the juvenile~~

1 ~~may appeal that decision to the committing court within fifteen days~~
2 ~~after the Office of Juvenile Services' decision. At the hearing before~~
3 ~~the committing court, the juvenile has the right to be represented by~~
4 ~~counsel.~~

5 ~~(e) If a juvenile is placed in detention after the initial level of~~
6 ~~treatment is determined by the committing court, the committing court~~
7 ~~shall hold a hearing every fourteen days to review the status of the~~
8 ~~juvenile. Placement of a juvenile in detention shall not be considered as~~
9 ~~a treatment service.~~

10 ~~(f) The committing court's review of a change of place of treatment~~
11 ~~pursuant to this subsection does not apply to parole revocation hearings.~~

12 ~~(1) (2)(a) This subsection applies to all juveniles committed to the~~
13 ~~Office of Juvenile Services for placement at a youth rehabilitation and~~
14 ~~treatment center on or after July 1, 2013. Whenever any juvenile is~~
15 ~~committed to the Office of Juvenile Services, the juvenile shall also be~~
16 ~~considered committed to the care and custody of the Department of Health~~
17 ~~and Human Services for the purpose of obtaining health care and treatment~~
18 ~~services.~~

19 ~~(2) (b) The committing court may shall order placement at a youth~~
20 ~~rehabilitation and treatment center for a juvenile committed to the~~
21 ~~Office of Juvenile Services following a commitment hearing pursuant to~~
22 ~~subsection (1)(b)(ii) of section 43-286. The court shall continue to~~
23 ~~maintain jurisdiction over any juvenile committed to the Office of~~
24 ~~Juvenile Services, and the office shall provide the court with the~~
25 ~~initial treatment plan and monthly updates regarding the progress of the~~
26 ~~juvenile for the purpose of reviewing the juvenile's probation upon~~
27 ~~discharge from the care and custody of the Office of Juvenile Services.~~

28 ~~(3) In addition to the hearings set forth in section 43-285, during~~
29 ~~a juvenile's term of commitment, any party may file a motion for~~
30 ~~commitment review to bring the case before the court for consideration of~~
31 ~~the juvenile's progress in treatment at a youth rehabilitation and~~

1 treatment center. A hearing shall be scheduled no later than thirty days
2 after the filing of such motion. No later than five days prior to the
3 hearing, the office shall provide information to the parties regarding
4 the juvenile's individualized treatment plan and progress. A
5 representative of the office or facility shall be physically present at
6 the hearing to provide information to the court. The juvenile and the
7 juvenile's parent or guardian shall also be physically present at the
8 hearing. The court may enter such orders regarding the juvenile's care
9 and treatment as are necessary and in the best interests of the juvenile,
10 including an order for early discharge from commitment when appropriate.
11 In entering an order for early discharge from commitment to intensive
12 supervised probation in the community, the court shall consider to what
13 extent:

14 (a) The juvenile has completed the goals of the juvenile's
15 individual treatment plan or received maximum benefit from institutional
16 treatment;

17 (b) The juvenile would benefit from continued services under
18 community supervision;

19 (c) The juvenile can function in a community setting with
20 appropriate supports; and

21 (d) There is reason to believe that the juvenile will not commit
22 further violations of law and will comply with the terms of intensive
23 supervised probation.

24 (4) Each juvenile committed to the Office of Juvenile Services for
25 placement at a youth rehabilitation and treatment center shall also be
26 entitled to an annual review of such commitment and placement for as long
27 as the juvenile remains so committed and placed. At an annual review
28 hearing, the court shall consider the factors described in subdivision
29 (3) of this section to assess the juvenile's progress and determine
30 whether commitment remains in the best interests of the juvenile.

31 (5) (e) If a juvenile is placed in detention while awaiting

1 placement at a youth rehabilitation and treatment center and the
2 placement has not occurred within fourteen days, the committing court
3 shall hold a hearing every fourteen days to review the status of the
4 juvenile. Placement of a juvenile in detention shall not be considered a
5 treatment service. A secure detention facility shall not be utilized as a
6 youth rehabilitation and treatment center, nor considered to be an
7 inpatient or a subacute residential treatment facility licensed by the
8 state for the purpose of emergency placement.

9 Sec. 4. Section 83-108.04, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 83-108.04 ~~(1) In addition to the institutions established by law,~~
12 ~~the Department of Health and Human Services may maintain or use the~~
13 ~~following facilities for the care of children in its legal custody who~~
14 ~~have been adjudged to be as described in subdivision (1), (2), (3)(b), or~~
15 ~~(4) of section 43-247: (a) Receiving homes to be used for the temporary~~
16 ~~care of children; (b) foster homes; (c) residential child-caring agencies~~
17 ~~as defined in section 71-1926; and (d) other facilities and services,~~
18 ~~including forestry or conservation camps for the training and treatment~~
19 ~~of children.~~

20 ~~(2) The Department of Health and Human Services also may use other~~
21 ~~public facilities or contract for the use of private facilities for the~~
22 ~~care and treatment of children in its legal custody who have been~~
23 ~~adjudged to be as described in subdivision (3)(a) of section 43-247.~~
24 Placement of children in private or public facilities not under its
25 jurisdiction shall not terminate the legal custody of the department. No
26 state funds may be paid for care of a child in the home of a parent. This
27 section shall not apply to children placed in the legal custody of the
28 Office of Juvenile Services for placement at a youth rehabilitation and
29 treatment center.

30 Sec. 5. Section 83-901, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 83-901 The purpose of sections 49-617, 68-621, 72-249, 72-1302 to
2 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01, 83-108,
3 ~~83-108.04~~, 83-112, 83-135, 83-139, 83-140, 83-144, 83-145, 83-147 to
4 83-150, 83-153 to 83-156, 83-170 to 83-173, 83-186, 83-188, 83-443, and
5 83-901 to 83-916 is to establish an agency of state government for the
6 custody, study, care, discipline, training, and treatment of persons in
7 the correctional and detention institutions and for the study, training,
8 and treatment of persons under the supervision of other correctional
9 services of the state so that they may be prepared for lawful community
10 living. Correctional services shall be so diversified in program and
11 personnel as to facilitate individualization of treatment.

12 Sec. 6. Original sections 43-407, 43-408, 83-108.04, and 83-901,
13 Reissue Revised Statutes of Nebraska, and section 43-286, Revised
14 Statutes Supplement, 2019, are repealed.