

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 428**

FINAL READING

Introduced by Health and Human Services Committee: Arch, 14, Chairperson; Cavanaugh, M., 6; Day, 49; Hansen, B., 16; Murman, 38; Walz, 15; Williams, 36; McCollister, 20.

Read first time January 15, 2021

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Department of Health and Human  
2 Services; to amend section 68-1213, Reissue Revised Statutes of  
3 Nebraska, and sections 43-427, 83-102, 83-106, and 83-107.01,  
4 Revised Statutes Cumulative Supplement, 2020; to require  
5 notification by the department to the Legislature of substantial  
6 changes to facilities and programs as prescribed; to change an  
7 evaluation period for a certain pilot project; to change educational  
8 programming provisions relating to youth rehabilitation and  
9 treatment centers; to require completion of a needs assessment and  
10 cost analysis for an inpatient adolescent psychiatric unit as  
11 prescribed; to state intent regarding substance abuse and behavioral  
12 health treatment for juveniles; to provide operative dates; to  
13 repeal the original sections; and to declare an emergency.  
14 Be it enacted by the people of the State of Nebraska,

1       Section 1. Section 43-427, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3           43-427 (1) The Department of Health and Human Services shall develop  
4 a five-year operations plan for the youth rehabilitation and treatment  
5 centers and submit such operations plans electronically to the Health and  
6 Human Services Committee of the Legislature on or before March 15, 2021.

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

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

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

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

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

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

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

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

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

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

30           (j) A capital improvements budget;

31           (k) An operating budget;

1                 (1) A disaster recovery plan;

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

3                 campuses;

4                 (n) A parenting plan for juveniles placed in a youth rehabilitation

5                 and treatment center who are parenting;

6                 (o) A statement of the rights of juveniles placed at the youth

7                 rehabilitation and treatment centers, including a right to privacy, and

8                 the rights of parents or guardians;

9                 (p) Quality and outcome measurements for tracking outcomes for

10                juveniles when they are discharged from the youth rehabilitation and

11                treatment center, including an exit survey of such juveniles;

12                 (q) Key performance indicators to be included in the annual report

13                required under this section;

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

15                 (s) Methods and procedures for investigations at the youth

16                 rehabilitation and treatment center; and

17                 (t) A grievance process for juveniles placed at the youth

18                 rehabilitation and treatment centers.

19                 (3) The department shall submit a report electronically to the Clerk

20                 of the Legislature on or before December 15, 2021, and each December 15

21                 thereafter regarding such operations plan and key performance indicators.

22                 (4) In addition to the report required in subsection (3) of this

23                 section, the department shall update the Health and Human Services

24                 Committee of the Legislature on or before each March 15, June 15, and

25                 September 15, regarding the elements of the operations plan described in

26                 subdivisions (a), (d), (e), (f), and (m) of subsection (2) of this

27                 section, of any substantial changes planned before the next report, and

28                 of any substantial changes that have occurred to such facilities or

29                 programs. Nothing in this subsection shall be construed to limit or

30                 prevent the department from acting in accordance with sections 43-428 to

31                 43-430 in the event of an emergency.

1       (4) The department shall not establish a new youth rehabilitation  
2 and treatment center or establish or move a youth rehabilitation and  
3 treatment center to a new or existing state or private facility until  
4 March 30, 2021, after the completion of the planning process required  
5 under this section. Youth committed to the Office of Juvenile Services  
6 and residing at a youth rehabilitation and treatment center may be moved  
7 to an existing state or private facility on a temporary basis in the  
8 event of an emergency, pursuant to the emergency plans created under  
9 section 43-428, and in compliance with the requirements and restrictions  
10 in sections 43-429 and 43-430.

11           Sec. 2. Section 68-1213, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13           68-1213 If the pilot project described in section 68-1212 is  
14 extended by the Department of Health and Human Services, an evaluation of  
15 the pilot project shall be completed by the Legislature prior to December  
16 31, 2021 2014. The Legislature shall utilize all necessary resources,  
17 including the hiring of a consultant if deemed necessary. The department  
18 and any child welfare entity which has contracted with the department  
19 shall provide all data and information to the Legislature to assist in  
20 the evaluation.

21           Sec. 3. Section 83-102, Revised Statutes Cumulative Supplement,  
22 2020, is amended to read:

23           83-102 (1) Youth rehabilitation and treatment centers shall be  
24 operated to provide programming and services to rehabilitate and treat  
25 juveniles committed under the Nebraska Juvenile Code. Each youth  
26 rehabilitation and treatment center shall be considered a separate  
27 placement. Each youth rehabilitation and treatment center shall provide:

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

30           (b) Health care and medical services;

31           (c) Appropriate physical separation and segregation of juveniles

1      based on gender;

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

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

6            (f) A facility administrator for each youth rehabilitation and  
7      treatment center who has the sole responsibility for administration of a  
8      single youth rehabilitation and treatment center;

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

12          (h) An age-appropriate and developmentally appropriate education  
13     program for each juvenile that can award relevant and necessary credits  
14     toward high school graduation that will be accepted by any public school  
15     district in the State of Nebraska. Juveniles committed to the youth  
16     rehabilitation and treatment centers are entitled to receive an  
17     appropriate education equivalent to educational opportunities offered  
18     within the regular settings of public school districts across the State  
19     of Nebraska the juvenile's home school district;

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

23          (j) Compliance with the requirements stated in Title XIX and Title  
24     IV-E of the federal Social Security Act, as such act existed on January  
25     1, 2020, the Special Education Act, or other funding guidelines as  
26     appropriate;

27          (k) Research-based or evidence-based programming for all juveniles  
28     that includes a strong academic program and classes in health education,  
29     living skills, vocational training, behavior management and modification,  
30     money management, family and parent responsibilities, substance use  
31     awareness, physical education, job skills training, and job placement

1 assistance; and

2 (1) Research-based or evidence-based treatment service for  
3 behavioral impairment, severe emotional disturbance, sex offender  
4 behavior, other mental health or psychiatric disorder, drug and alcohol  
5 addiction, physical or sexual abuse, and any other treatment indicated by  
6 a juvenile's individualized treatment plan.

7 (2) Each youth rehabilitation and treatment center shall be  
8 accredited by a nationally recognized entity that provides accreditation  
9 for juvenile facilities and shall maintain accreditation as provided in  
10 section 79-703 to provide an age-appropriate and developmentally  
appropriate education program.

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

16 (a) Data on the population served, including, but not limited to,  
17 admissions, average daily census, average length of stay, race, and  
18 ethnicity;

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

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

21 Sec. 4. Section 83-106, Revised Statutes Cumulative Supplement,  
22 2020, is amended to read:

23 83-106 (1) The Department of Health and Human Services shall  
24 contract for the completion of may conduct a needs assessment and cost  
25 analysis for the establishment of an inpatient adolescent psychiatric  
26 unit housed within the Lincoln Regional Center. The If the department  
27 chooses to conduct such needs assessment and cost analysis, the  
28 department shall contract with an outside consultant with expertise in  
29 needs assessment and cost analysis of health care facilities within sixty  
30 days after the operative date of this section for the purpose of

1 conducting such assessment and analysis.

2 (2) ~~The If a needs assessment and cost analysis is conducted by the~~  
3 ~~department, the department shall submit a report electronically to the~~  
4 ~~Health and Human Services Committee of the Legislature and the Clerk of~~  
5 ~~the Legislature on or before December 1, 2021 ninety days after the~~  
6 ~~completion of such needs assessment and cost analysis. Such report shall~~  
7 ~~contain the following information:~~

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

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

12 (c) The cost of reopening the facility at the Lincoln Regional  
13 Center, including the costs for necessary construction, upgrades, or  
14 repairs;

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

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

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

22 Sec. 5. Section 83-107.01, Revised Statutes Cumulative Supplement,  
23 2020, is amended to read:

24 83-107.01 (1) The official names of the state institutions under the  
25 supervision of the Department of Health and Human Services shall be as  
26 follows: (a) Beatrice State Developmental Center, (b) Lincoln Regional  
27 Center, (c) Norfolk Regional Center, (d) Hastings Regional Center, (e)  
28 Youth Rehabilitation and Treatment Center-Kearney, and (f) Youth  
29 Rehabilitation and Treatment Center-Geneva.

30 (2)(a) This subsection applies beginning July 1, 2021.

31 (b) Except as provided in subdivision (2)(e) of this section, so

1 long as the department operates the Youth Rehabilitation and Treatment  
2 Center-Kearney, such institution shall be used for the treatment of boys  
3 only.

4 (c) Except as provided in subdivision (2)(e) of this section, so  
5 long as the department operates the Youth Rehabilitation and Treatment  
6 Center-Geneva, such institution shall be used for the treatment of girls  
7 only.

8 (d) For any other facility operated and utilized as a youth  
9 rehabilitation and treatment center in compliance with state law, the  
10 department shall ensure safe and appropriate gender separation.

11 (e) In the event of an emergency, the department may use either the  
12 Youth Rehabilitation and Treatment Center-Kearney or the Youth  
13 Rehabilitation and Treatment Center-Geneva for the treatment of juveniles  
14 of both genders for up to seven days. During any such use the department  
15 shall ensure safe and appropriate gender separation.

16 (f) For purposes of this section, emergency means a public health  
17 emergency or a situation including fire, flood, tornado, natural  
18 disaster, or damage to the institution that renders an institution  
19 uninhabitable. Emergency does not include inadequate staffing.

20 (3) It is the intent of the Legislature that no institution under  
21 the supervision of the Department of Health and Human Services at which  
22 the department provides inpatient or subacute substance abuse or  
23 behavioral health residential treatment for juveniles under the  
24 jurisdiction of a juvenile court shall delay such treatment to a juvenile  
25 when such treatment has been determined necessary under subsection (2) of  
26 section 43-407 or has been ordered by a juvenile court.

27 Sec. 6. Sections 1, 3, 5, and 7 of this act become operative three  
28 calendar months after adjournment of this legislative session. The other  
29 sections of this act become operative on their effective date.

30 Sec. 7. Original sections 43-427, 83-102, and 83-107.01, Revised  
31 Statutes Cumulative Supplement, 2020, are repealed.

1           Sec. 8. Original section 68-1213, Reissue Revised Statutes of  
2 Nebraska, and section 83-106, Revised Statutes Cumulative Supplement,  
3 2020, are repealed.

4           Sec. 9. Since an emergency exists, this act takes effect when  
5 passed and approved according to law.