

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 339

Introduced by McKinney, 11.

Read first time January 12, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to juveniles; to amend sections 28-105.02,
2 29-401, 43-248.01, and 43-249, Reissue Revised Statutes of Nebraska,
3 and sections 28-105.01, 29-2204, 43-245, 43-250, 43-253, and
4 43-2,129, Revised Statutes Cumulative Supplement, 2022; to require
5 confidentiality for criminal prosecutions of minors tried as adults
6 and certain adjudications under the Nebraska Juvenile Code; to
7 change provisions relating to sentences for crimes committed by
8 persons under twenty-two years of age; to extend jurisdiction under
9 the Nebraska Juvenile Code to twenty-two years of age; to provide
10 requirements for custodial interrogations of juveniles and young
11 adults; to define terms; to prohibit the use of certain statements
12 in court proceedings as prescribed; to provide for using and
13 reimbursing day reporting and evening reporting centers for
14 juveniles; to prohibit sending juveniles out-of-state as prescribed;
15 to establish the family resource and juvenile assessment center
16 pilot program; to eliminate obsolete provisions; to harmonize
17 provisions; and to repeal the original sections.
18 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) This section applies beginning January 1, 2024.

2 (2) Any criminal prosecution of a person who was under eighteen
3 years of age when the alleged offense was committed shall be conducted in
4 such a manner as to maintain the confidentiality of the identity of the
5 defendant. This applies to all stages of such proceedings, including
6 before, during, or after trial, sentencing, and post-conviction
7 proceedings.

8 (3) A court shall release information required to be confidential by
9 this section:

10 (a) To any individual; public or private agency, institution,
11 facility, or clinic; or governmental entity which is providing services
12 directly to the defendant;

13 (b) To any court which has jurisdiction of the defendant upon such
14 court's request;

15 (c) Upon written request by the office of Public Counsel, including
16 the office of Inspector General of Nebraska Child Welfare and office of
17 Inspector General of the Nebraska Correctional System;

18 (d) To any person, at the request of the defendant;

19 (e) To law enforcement officers, county attorneys, and city
20 attorneys;

21 (f) To the Nebraska Probation System, the Department of Correctional
22 Services, a jail, or other detention facility as necessary for the
23 custody and care of such defendant;

24 (g) To the Department of Health and Human Services or a contract
25 facility or provider when the defendant is undergoing competency
26 restoration as provided in section 29-1823;

27 (h) To persons engaged in bona fide research, with the permission of
28 the court or the State Court Administrator, only if the research results
29 in no disclosure of the defendant's identity and protects the
30 confidentiality of the defendant; and

31 (i) To a law enforcement agency if the defendant applies for

1 employment with the law enforcement agency.

2 (4) Any person receiving confidential information under subsection
3 (3) of this section shall maintain the confidentiality of such
4 information and of the defendant's identity.

5 (5) This section does not apply to presentence investigation
6 reports, the confidentiality of which are governed by section 29-2261.

7 (6) Nothing in this section shall be construed to restrict
8 dissemination of information about a defendant who is a fugitive from
9 justice or otherwise missing.

10 Sec. 2. Section 28-105.01, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 28-105.01 (1) Notwithstanding any other provision of law, the death
13 penalty or life imprisonment shall not be imposed upon any person who was
14 under the age of twenty-two ~~eighteen~~ years at the time of the commission
15 of the crime.

16 (2) Notwithstanding any other provision of law, the death penalty
17 shall not be imposed upon any person with an intellectual disability.

18 (3) As used in subsection (2) of this section, intellectual
19 disability means significantly subaverage general intellectual
20 functioning existing concurrently with deficits in adaptive behavior. An
21 intelligence quotient of seventy or below on a reliably administered
22 intelligence quotient test shall be presumptive evidence of intellectual
23 disability.

24 (4) If (a) a jury renders a verdict finding the existence of one or
25 more aggravating circumstances as provided in section 29-2520 or (b)(i)
26 the information contains a notice of aggravation as provided in section
27 29-1603 and (ii) the defendant waives his or her right to a jury
28 determination of the alleged aggravating circumstances, the court shall
29 hold a hearing prior to any sentencing determination proceeding as
30 provided in section 29-2521 upon a verified motion of the defense
31 requesting a ruling that the penalty of death be precluded under

1 subsection (2) of this section. If the court finds, by a preponderance of
2 the evidence, that the defendant is a person with an intellectual
3 disability, the death sentence shall not be imposed. A ruling by the
4 court that the evidence of diminished intelligence introduced by the
5 defendant does not preclude the death penalty under subsection (2) of
6 this section shall not restrict the defendant's opportunity to introduce
7 such evidence at the sentencing determination proceeding as provided in
8 section 29-2521 or to argue that such evidence should be given mitigating
9 significance.

10 Sec. 3. Section 28-105.02, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 28-105.02 (1) Notwithstanding any other provision of law, the
13 penalty for any person convicted of a Class IA felony for an offense
14 committed when such person was under the age of ~~twenty-two~~ eighteen years
15 shall be a maximum sentence of not greater than eighty years' ~~life~~
16 imprisonment and a minimum sentence of not ~~greater~~ less than forty years'
17 imprisonment.

18 (2) Notwithstanding any other provision of law, the penalty for any
19 person convicted of a Class IB felony for an offense committed when such
20 person was under the age of twenty-two years shall be a maximum sentence
21 of not greater than sixty years' imprisonment and a minimum sentence of
22 not greater than twenty years' imprisonment, except as provided in
23 section 28-319.01.

24 (3) (2) In determining the sentence of a convicted person under
25 ~~subsection (1)~~ of this section, the court shall consider mitigating
26 factors which led to the commission of the offense. The convicted person
27 may submit mitigating factors to the court, including, but not limited
28 to:

- 29 (a) The convicted person's age at the time of the offense;
30 (b) The impetuosity of the convicted person;
31 (c) The convicted person's family and community environment;

1 (d) The convicted person's ability to appreciate the risks and
2 consequences of the conduct;

3 (e) The convicted person's intellectual capacity; and

4 (f) The outcome of a comprehensive mental health evaluation of the
5 convicted person conducted by an adolescent mental health professional
6 licensed in this state. The evaluation shall include, but not be limited
7 to, interviews with the convicted person's family in order to learn about
8 the convicted person's prenatal history, developmental history, medical
9 history, substance abuse treatment history, if any, social history, and
10 psychological history.

11 Sec. 4. Section 29-401, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 29-401 Every sheriff, deputy sheriff, marshal, deputy marshal,
14 security guard, police officer, or peace officer as defined in
15 ~~subdivision (15) of~~ section 49-801 shall arrest and detain any person
16 found violating any law of this state or any legal ordinance of any city
17 or incorporated village until a legal warrant can be obtained, except
18 that (1) any such law enforcement officer taking a juvenile under the age
19 of eighteen years into his or her custody for any violation herein
20 defined shall proceed as set forth in sections 43-248, 43-248.01, 43-250,
21 43-251, 43-251.01, and 43-253 and (2) the court in which the juvenile is
22 to appear shall not accept a plea from the juvenile until finding that
23 the parent, guardian, or custodian ~~parents~~ of the juvenile has ~~have~~ been
24 notified or that reasonable efforts to notify such person ~~has~~ ~~parents~~
25 ~~have~~ been made as provided in section 43-250.

26 Sec. 5. (1) For purposes of this section, young adult means a
27 person who is eighteen years of age or older and younger than twenty-two
28 years of age.

29 (2) All law enforcement personnel or other governmental officials
30 having custody of any young adult shall inform the young adult, using
31 developmentally appropriate language and without unnecessary delay, of

1 such young adult's right to call or consult an attorney who is retained
2 by or appointed on behalf of such young adult or whom the young adult may
3 desire to consult and, except when exigent circumstances exist, shall
4 permit such young adult to call or consult such attorney without delay.
5 An attorney shall be permitted to see and consult with the young adult in
6 custody alone and in private at the place of custody.

7 (3) Before initiating a custodial interrogation of young adult, law
8 enforcement personnel shall provide an advisement to the young adult in
9 substantially the following form:

10 "1. You have the right to remain silent, which means you do not have
11 to say anything to me unless you want to. It is your choice.

12 2. If you choose to talk to me, whatever you tell me I can tell a
13 judge in court.

14 3. You have the right to have your parent, guardian, or custodian
15 with you while you talk to me.

16 4. You have the right to have a lawyer with you while you talk to
17 me. You may have the right to get a free lawyer. If you get a lawyer, he
18 or she can help you if you decide that you want to talk to me.

19 5. These are your rights. Do you understand what I have told you?

20 6. Do you want to talk to me?"

21 (4) A peace officer who takes a young adult into custody shall
22 immediately take reasonable measures to notify the young adult's parent,
23 guardian, custodian, or adult relative. The peace officer shall describe
24 to the young adult the efforts the peace officer has made.

25 (5) If a young adult requests to speak to a parent, guardian,
26 custodian, or attorney before or during a custodial interrogation, the
27 custodial interrogation of the young adult must cease until such other
28 person arrives.

29 (6)(a) Except as provided in subdivision (6)(b) of this section,
30 upon arrival of a parent, guardian, or custodian to whom the young adult
31 has requested to speak, the peace officer shall without unnecessary delay

1 permit such other person to see and consult with the young adult alone
2 and in private at the place of custody. Prior to any custodial
3 interrogation with such person present, the peace officer shall provide
4 the advisement described in subsection (3) of this section to the young
5 adult and such other person.

6 (b) Subdivision (6)(a) of this section does not apply when there is
7 reasonable suspicion to believe that the parent, guardian, or custodian
8 is involved in a crime related to the young adult's detention or is a
9 danger to the young adult.

10 (7) Any statement of a young adult taken in violation of this
11 section shall not be admissible against the young adult in any criminal
12 proceeding or any proceeding under the Nebraska Juvenile Code.

13 (8) For purposes of this section, custodial interrogation has the
14 meaning prescribed to it under the Fourth and Fifth Amendments to the
15 Constitution of the United States and Article I, sections 3 and 7, of the
16 Constitution of Nebraska, as interpreted by the Supreme Court of the
17 United States and the Nebraska Supreme Court.

18 Sec. 6. Section 29-2204, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 29-2204 (1) Except as provided in subsection (2) of this section and
21 except when a term of life imprisonment is required by law, in imposing a
22 sentence upon an offender for any class of felony other than a Class III,
23 IIIA, or IV felony, the court shall fix the minimum and the maximum terms
24 of the sentence to be served within the limits provided by law. The
25 maximum term shall not be greater than the maximum limit provided by law,
26 and:

27 (a) The minimum term fixed by the court shall be any term of years
28 less than the maximum term imposed by the court; or

29 (b) The minimum term shall be the minimum limit provided by law.

30 (2) In imposing a sentence for a Class IA or IB felony upon an
31 offender who was under twenty-two years of age at the time of the

1 offense, the court shall fix the minimum and the maximum terms of the
2 sentence as provided in section 28-105.02.

3 (3) (2) When a maximum term of life is imposed by the court for a
4 Class IB felony for an offender who was twenty-two years of age or older
5 at the time of the offense, the minimum term fixed by the court shall be:

6 (a) Any term of years not less than the minimum limit provided by
7 law; or

8 (b) A term of life imprisonment.

9 (4) (3) When a maximum term of life is imposed by the court for a
10 Class IA felony for an offender who was twenty-two years of age or older
11 at the time of the offense, the minimum term fixed by the court shall be
12 a ~~÷~~ (a) A term of life imprisonment, ~~÷~~ or

13 (b) Any term of years not less than the minimum limit provided by
14 law after consideration of the mitigating factors in section 28-105.02,
15 if the defendant was under eighteen years of age at the time he or she
16 committed the crime for which he or she was convicted.

17 (5) (4) When the court is of the opinion that imprisonment may be
18 appropriate but desires more detailed information as a basis for
19 determining the sentence to be imposed than has been provided by the
20 presentence report required by section 29-2261, the court may commit an
21 offender to the Department of Correctional Services. During that time,
22 the department shall conduct a complete study of the offender as provided
23 in section 29-2204.03.

24 (6) Whenever (5) Except when a term of life is required by law,
25 whenever the defendant was under eighteen years of age at the time he or
26 she committed the crime for which he or she was convicted, the court may,
27 in its discretion, instead of imposing the penalty provided for the
28 crime, make such disposition of the defendant as the court deems proper
29 under the Nebraska Juvenile Code.

30 (7)(a) (6)(a) When imposing an indeterminate sentence upon an
31 offender under this section, the court shall:

1 (i) Advise the offender on the record the time the offender will
2 serve on his or her minimum term before attaining parole eligibility
3 assuming that no good time for which the offender will be eligible is
4 lost; and

5 (ii) Advise the offender on the record the time the offender will
6 serve on his or her maximum term before attaining mandatory release
7 assuming that no good time for which the offender will be eligible is
8 lost.

9 (b) If any discrepancy exists between the statement of the minimum
10 limit of the sentence and the statement of parole eligibility or between
11 the statement of the maximum limit of the sentence and the statement of
12 mandatory release, the statements of the minimum limit and the maximum
13 limit shall control the calculation of the offender's term.

14 (c) If the court imposes more than one sentence upon an offender or
15 imposes a sentence upon an offender who is at that time serving another
16 sentence, the court shall state whether the sentences are to be
17 concurrent or consecutive.

18 Sec. 7. Section 43-245, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 43-245 For purposes of the Nebraska Juvenile Code, unless the
21 context otherwise requires:

22 (1) Abandonment means a parent's intentionally withholding from a
23 child, without just cause or excuse, the parent's presence, care, love,
24 protection, and maintenance and the opportunity for the display of
25 parental affection for the child;

26 (2) Age of majority means:

27 (a) Nineteen ~~nineteen~~ years of age; or

28 (b) Twenty-two years of age for a person who has been adjudicated in
29 juvenile court for a Class IA or IB felony;

30 (3) Alternative to detention means a program or directive that
31 increases supervision of a youth in the community in an effort to ensure

1 the youth attends court and refrains from committing a new law violation.
2 Alternative to detention includes, but is not limited to, electronic
3 monitoring, day and evening reporting centers, house arrest, tracking,
4 family crisis response, and temporary shelter placement. Except for the
5 use of manually controlled delayed egress of not more than thirty
6 seconds, placements that utilize physical construction or hardware to
7 restrain a youth's freedom of movement and ingress and egress from
8 placement are not considered alternatives to detention;

9 (4) Approved center means a center that has applied for and received
10 approval from the Director of the Office of Dispute Resolution under
11 section 25-2909;

12 (5) Civil citation means a noncriminal notice which cannot result in
13 a criminal record and is described in section 43-248.02;

14 (6) Cost or costs means (a) the sum or equivalent expended, paid, or
15 charged for goods or services, or expenses incurred, or (b) the
16 contracted or negotiated price;

17 (7) Criminal street gang means a group of three or more people with
18 a common identifying name, sign, or symbol whose group identity or
19 purposes include engaging in illegal activities;

20 (8) Criminal street gang member means a person who willingly or
21 voluntarily becomes and remains a member of a criminal street gang;

22 (9) Custodian means a nonparental caretaker having physical custody
23 of the juvenile and includes an appointee described in section 43-294;

24 (10) Guardian means a person, other than a parent, who has qualified
25 by law as the guardian of a juvenile pursuant to testamentary or court
26 appointment, but excludes a person who is merely a guardian ad litem;

27 (11) Juvenile means:

28 (a) Any any person under the age of eighteen; or

29 (b) Any person under the age of twenty-two who has been adjudicated
30 in juvenile court for a Class IA or IB felony;

31 (12) Juvenile court means the separate juvenile court where it has

1 been established pursuant to sections 43-2,111 to 43-2,127 and the county
2 court sitting as a juvenile court in all other counties. Nothing in the
3 Nebraska Juvenile Code shall be construed to deprive the district courts
4 of their habeas corpus, common-law, or chancery jurisdiction or the
5 county courts and district courts of jurisdiction of domestic relations
6 matters as defined in section 25-2740;

7 (13) Juvenile detention facility has the same meaning as in section
8 83-4,125;

9 (14) Legal custody has the same meaning as in section 43-2922;

10 (15) Mental health facility means a treatment facility as defined in
11 section 71-914 or a government, private, or state hospital which treats
12 mental illness;

13 (16) Nonoffender means a juvenile who is subject to the jurisdiction
14 of the juvenile court for reasons other than legally prohibited conduct,
15 including, but not limited to, juveniles described in subdivision (3)(a)
16 or (3)(b) of section 43-247;

17 (17) Parent means one or both parents or stepparents when the
18 stepparent is married to a parent who has physical custody of the
19 juvenile as of the filing of the petition;

20 (18) Parties means the juvenile as described in section 43-247 and
21 his or her parent, guardian, or custodian;

22 (19) Physical custody has the same meaning as in section 43-2922;

23 (20) Except in proceedings under the Nebraska Indian Child Welfare
24 Act, relative means father, mother, grandfather, grandmother, brother,
25 sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt,
26 first cousin, nephew, or niece;

27 (21) Restorative justice means practices, programs, or services that
28 emphasize repairing the harm caused to victims and the community by
29 persons who have caused the harm or committed an offense. Restorative
30 justice practices may include, but are not limited to, victim youth
31 conferencing, victim-offender mediation, youth or community dialogue,

1 panels, circles, and truancy mediation;

2 (22) Restorative justice facilitator means a qualified individual
3 who has been trained to facilitate restorative justice practices. A
4 qualified individual shall be approved by the referring county attorney,
5 city attorney, or juvenile or county court judge. Factors for approval
6 may include, but are not limited to, an individual's education and
7 training in restorative justice principles and practices; experience in
8 facilitating restorative justice sessions; understanding of the necessity
9 to do no harm to either the victim or the person who harmed the victim;
10 and proven commitment to ethical practices;

11 (23) Seal a record means that a record shall not be available to the
12 public except upon the order of a court upon good cause shown;

13 (24) Secure detention means detention in a highly structured,
14 residential, hardware-secured facility designed to restrict a juvenile's
15 movement;

16 (25) Staff secure juvenile facility means a juvenile residential
17 facility operated by a political subdivision or which a political
18 subdivision contracts to have operated (a) which does not include
19 construction designed to physically restrict the movements and activities
20 of juveniles who are in custody in the facility, (b) in which physical
21 restriction of movement or activity of juveniles is provided solely
22 through staff, (c) which may establish reasonable rules restricting
23 ingress to and egress from the facility, and (d) in which the movements
24 and activities of individual juvenile residents may, for treatment
25 purposes, be restricted or subject to control through the use of
26 intensive staff supervision. Staff secure juvenile facility does not
27 include any institution operated by the Department of Correctional
28 Services;

29 (26) Status offender means a juvenile who has been charged with or
30 adjudicated for conduct which would not be a crime if committed by an
31 adult, including, but not limited to, juveniles charged under subdivision

1 (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02;

2 (27) Traffic offense means any nonfelonious act in violation of a
3 law or ordinance regulating vehicular or pedestrian travel, whether
4 designated a misdemeanor or a traffic infraction; and

5 (28) Young adult means an individual older than eighteen years of
6 age but under twenty-one years of age.

7 Sec. 8. Section 43-248.01, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 43-248.01 (1) All law enforcement personnel or other governmental
10 officials having custody of any individual ~~person~~ under eighteen years of
11 age shall inform the individual ~~person in custody~~, using developmentally
12 appropriate language and without unnecessary delay, of such individual's
13 ~~person's~~ right to call or consult an attorney who is retained by or
14 appointed on behalf of such individual ~~person~~ or whom the individual
15 ~~person~~ may desire to consult and, except when exigent circumstances
16 exist, shall permit such individual ~~person~~ to call or consult such
17 attorney without delay. An attorney shall be permitted to see and consult
18 with the individual ~~person~~ in custody alone and in private at the place
19 of custody.

20 (2) Before initiating a custodial interrogation of an individual
21 under eighteen years of age, law enforcement personnel shall provide an
22 advisement to the individual in substantially the following form:

23 "1. You have the right to remain silent, which means you do not have
24 to say anything to me unless you want to. It is your choice.

25 2. If you choose to talk to me, whatever you tell me I can tell a
26 judge in court.

27 3. You have the right to have your parent, guardian, or custodian
28 with you while you talk to me.

29 4. You have the right to have a lawyer with you while you talk to
30 me. You may have the right to get a free lawyer. If you get a lawyer, he
31 or she can help you if you decide that you want to talk to me.

1 5. These are your rights. Do you understand what I have told you?

2 6. Do you want to talk to me?"

3 (3) A peace officer who takes an individual under eighteen years of
4 age into custody under section 29-401 or subdivision (1), (4), (5), or
5 (8) of section 43-248 shall describe to the individual the efforts the
6 peace officer has taken to notify the individual's parent, guardian, or
7 custodian as provided for in section 43-250.

8 (4) If an individual under eighteen years of age requests to speak
9 to a parent, guardian, custodian, or attorney before or during a
10 custodial interrogation, the custodial interrogation of the individual
11 must cease until such other person arrives.

12 (5)(a) Except as provided in subdivision (5)(b) of this section,
13 upon arrival of a parent, guardian, or custodian to whom the individual
14 under eighteen years of age has requested to speak, the peace officer
15 shall without unnecessary delay permit such other person to see and
16 consult with the individual alone and in private at the place of custody.
17 Prior to any custodial interrogation with such person present, the peace
18 officer shall provide the advisement described in subsection (3) of this
19 section to the individual and such other person.

20 (b) Subdivision (5)(a) of this section does not apply when there is
21 reasonable suspicion to believe that the parent, guardian, or custodian
22 is involved in a crime related to the individual's detention or is a
23 danger to the individual.

24 (6) Any statement of an individual taken in violation of this
25 section shall not be admissible against the individual in any criminal
26 proceeding or any proceeding under the Nebraska Juvenile Code.

27 (7) For purposes of this section, custodial interrogation has the
28 meaning prescribed to it under the Fourth and Fifth Amendments to the
29 Constitution of the United States and Article I, sections 3 and 7, of the
30 Constitution of Nebraska, as interpreted by the Supreme Court of the
31 United States and the Nebraska Supreme Court.

1 Sec. 9. Section 43-249, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 43-249 No juvenile taken into temporary custody under section 43-248
4 shall be considered to have been arrested, except for the purpose of
5 determining the validity of such custody under the Constitution of
6 Nebraska or the Constitution of the United States and determining whether
7 there has been compliance with section 43-248.01.

8 Sec. 10. Section 43-250, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 43-250 (1) A peace officer who takes a juvenile into temporary
11 custody under section 29-401 or subdivision (1), (4), (5), or (8) of
12 section 43-248 shall:

13 (a) Immediately ~~immediately~~ take reasonable measures to notify the
14 juvenile's parent, guardian, or custodian; ~~or relative~~

15 (i) That the juvenile is in custody;

16 (ii) Of the juvenile's current location and where the juvenile will
17 be transferred, if applicable; and

18 (iii) Of the reason the juvenile was taken into custody unless the
19 peace officer has a reasonable suspicion that the disclosure of such
20 reason will jeopardize public safety or the integrity of the
21 investigation; and

22 (b) Proceed ~~and shall proceed~~ as follows:

23 (i) ~~(a)~~ The peace officer may release a juvenile taken into
24 temporary custody under section 29-401 or subdivision (1), (4), or (8) of
25 section 43-248;

26 (ii) ~~(b)~~ The peace officer may require a juvenile taken into
27 temporary custody under section 29-401 or subdivision (1) or (4) of
28 section 43-248 to appear before the court of the county in which such
29 juvenile was taken into custody at a time and place specified in the
30 written notice prepared in triplicate by the peace officer or at the call
31 of the court. The notice shall also contain a concise statement of the

1 reasons such juvenile was taken into custody. The peace officer shall
2 deliver one copy of the notice to such juvenile and require such juvenile
3 or his or her parent, guardian, other custodian, or adult relative, or
4 both, to sign a written promise that such signer will appear at the time
5 and place designated in the notice. Upon the execution of the promise to
6 appear, the peace officer shall immediately release such juvenile. The
7 peace officer shall, as soon as practicable, file one copy of the notice
8 with the county attorney or city attorney and, when required by the
9 court, also file a copy of the notice with the court or the officer
10 appointed by the court for such purpose; or

11 (iii) ~~(e)~~ The peace officer may retain temporary custody of a
12 juvenile taken into temporary custody under section 29-401 or subdivision
13 (1), (4), or (5) of section 43-248 and deliver the juvenile, if
14 necessary, to the probation officer and communicate all relevant
15 available information regarding such juvenile to the probation officer.
16 The probation officer shall determine the need for detention of the
17 juvenile as provided in section 43-260.01. Upon determining that the
18 juvenile should be placed in detention or an alternative to detention and
19 securing placement in such setting by the probation officer, the peace
20 officer shall implement the probation officer's decision to release or to
21 detain and place the juvenile. When secure detention of a juvenile is
22 necessary, such detention shall occur within a juvenile detention
23 facility except:

24 (A) ~~(i)~~ When a juvenile described in subdivision (1) or (2) of
25 section 43-247, except for a status offender, is taken into temporary
26 custody within a metropolitan statistical area and where no juvenile
27 detention facility is reasonably available, the juvenile may be
28 delivered, for temporary custody not to exceed six hours, to a secure
29 area of a jail or other facility intended or used for the detention of
30 adults solely for the purposes of identifying the juvenile and
31 ascertaining his or her health and well-being and for safekeeping while

1 awaiting transport to an appropriate juvenile placement or release to a
2 responsible party;

3 (B) ~~(ii)~~ When a juvenile described in subdivision (1) or (2) of
4 section 43-247, except for a status offender, is taken into temporary
5 custody outside of a metropolitan statistical area and where no juvenile
6 detention facility is reasonably available, the juvenile may be
7 delivered, for temporary custody not to exceed twenty-four hours
8 excluding nonjudicial days and while awaiting an initial court
9 appearance, to a secure area of a jail or other facility intended or used
10 for the detention of adults solely for the purposes of identifying the
11 juvenile and ascertaining his or her health and well-being and for
12 safekeeping while awaiting transport to an appropriate juvenile placement
13 or release to a responsible party;

14 (C) ~~(iii)~~ Whenever a juvenile is held in a secure area of any jail
15 or other facility intended or used for the detention of adults, there
16 shall be no verbal, visual, or physical contact between the juvenile and
17 any incarcerated adult and there shall be adequate staff to supervise and
18 monitor the juvenile's activities at all times. This subdivision shall
19 not apply to a juvenile charged with a felony as an adult in county or
20 district court if he or she is sixteen years of age or older;

21 (D) ~~(iv)~~ If a juvenile is under sixteen years of age or is a
22 juvenile as described in subdivision (3) of section 43-247, he or she
23 shall not be placed within a secure area of a jail or other facility
24 intended or used for the detention of adults;

25 ~~(v) If, within the time limits specified in subdivision (1)(c)(i) or~~
26 ~~(1)(c)(ii) of this section, a felony charge is filed against the juvenile~~
27 ~~as an adult in county or district court, he or she may be securely held~~
28 ~~in a jail or other facility intended or used for the detention of adults~~
29 ~~beyond the specified time limits;~~

30 (E) ~~(vi)~~ A status offender or nonoffender taken into temporary
31 custody shall not be held in a secure area of a jail or other facility

1 intended or used for the detention of adults. ~~Until January 1, 2013, a~~
2 ~~status offender accused of violating a valid court order may be securely~~
3 ~~detained in a juvenile detention facility longer than twenty-four hours~~
4 ~~if he or she is afforded a detention hearing before a court within~~
5 ~~twenty-four hours, excluding nonjudicial days, and if, prior to a~~
6 ~~dispositional commitment to secure placement, a public agency, other than~~
7 ~~a court or law enforcement agency, is afforded an opportunity to review~~
8 ~~the juvenile's behavior and possible alternatives to secure placement and~~
9 ~~has submitted a written report to the court; and~~

10 (F) ~~(vii)~~ A juvenile described in subdivision (1) or (2) of section
11 43-247, except for a status offender, may be held in a secure area of a
12 jail or other facility intended or used for the detention of adults for
13 up to six hours before and six hours after any court appearance.

14 (2) When a juvenile is taken into temporary custody pursuant to
15 subdivision (2), (7), or (8) of section 43-248, and not released under
16 subdivision ~~(1)(b)(i)~~ ~~(1)(a)~~ of this section, the peace officer shall
17 deliver the custody of such juvenile to the Department of Health and
18 Human Services which shall make a temporary placement of the juvenile in
19 the least restrictive environment consistent with the best interests of
20 the juvenile as determined by the department. The department shall
21 supervise such placement and, if necessary, consent to any necessary
22 emergency medical, psychological, or psychiatric treatment for such
23 juvenile. The department shall have no other authority with regard to
24 such temporary custody until or unless there is an order by the court
25 placing the juvenile in the custody of the department. If the peace
26 officer delivers temporary custody of the juvenile pursuant to this
27 subsection, the peace officer shall make a full written report to the
28 county attorney within twenty-four hours of taking such juvenile into
29 temporary custody. If a court order of temporary custody is not issued
30 within forty-eight hours of taking the juvenile into custody, the
31 temporary custody by the department shall terminate and the juvenile

1 shall be returned to the custody of his or her parent, guardian,
2 custodian, or adult relative.

3 (3) If the peace officer takes the juvenile into temporary custody
4 pursuant to subdivision (3) of section 43-248, the peace officer may
5 place the juvenile at a mental health facility for evaluation and
6 emergency treatment or may deliver the juvenile to the Department of
7 Health and Human Services as provided in subsection (2) of this section.
8 At the time of the admission or turning the juvenile over to the
9 department, the peace officer responsible for taking the juvenile into
10 custody pursuant to subdivision (3) of section 43-248 shall execute a
11 written certificate as prescribed by the Department of Health and Human
12 Services which will indicate that the peace officer believes the juvenile
13 to be mentally ill and dangerous, a summary of the subject's behavior
14 supporting such allegations, and that the harm described in section
15 71-908 is likely to occur before proceedings before a juvenile court may
16 be invoked to obtain custody of the juvenile. A copy of the certificate
17 shall be forwarded to the county attorney. The peace officer shall notify
18 the juvenile's parents, guardian, custodian, or adult relative of the
19 juvenile's placement.

20 (4) When a juvenile is taken into temporary custody pursuant to
21 subdivision (6) of section 43-248, the peace officer shall deliver the
22 juvenile to the enrolled school of such juvenile.

23 (5) A juvenile taken into custody pursuant to a legal warrant of
24 arrest shall be delivered to a probation officer who shall determine the
25 need for detention of the juvenile as provided in section 43-260.01. If
26 detention is not required, the juvenile may be released without bond if
27 such release is in the best interests of the juvenile, the safety of the
28 community is not at risk, and the court that issued the warrant is
29 notified that the juvenile had been taken into custody and was released.

30 (6) In determining the appropriate temporary placement or
31 alternative to detention of a juvenile under this section, the peace

1 officer shall select the placement or alternative which is least
2 restrictive of the juvenile's freedom so long as such placement or
3 alternative is compatible with the best interests of the juvenile and the
4 safety of the community. Any alternative to detention shall cause the
5 least restriction of the juvenile's freedom of movement consistent with
6 the best interest of the juvenile and the safety of the community.

7 Sec. 11. Section 43-253, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 43-253 (1) Upon delivery to the probation officer of a juvenile who
10 has been taken into temporary custody under section 29-401, 43-248, or
11 43-250, the probation officer shall immediately investigate the situation
12 of the juvenile and the nature and circumstances of the events
13 surrounding his or her being taken into custody. Such investigation may
14 be by informal means when appropriate.

15 (2) The probation officer's decision to release the juvenile from
16 custody or place the juvenile in detention or an alternative to detention
17 shall be based upon the results of the standardized juvenile detention
18 screening instrument described in section 43-260.01.

19 (3) No juvenile who has been taken into temporary custody under
20 subdivision (1)(b)(iii) ~~(1)(e)~~ of section 43-250 or subsection (6) of
21 section 43-286.01 or pursuant to an alleged violation of an order for
22 conditional release shall be detained in any detention facility or be
23 subject to an alternative to detention infringing upon the juvenile's
24 liberty interest for longer than twenty-four hours, excluding nonjudicial
25 days, after having been taken into custody unless such juvenile has
26 appeared personally before a court of competent jurisdiction for a
27 hearing to determine if continued detention, services, or supervision is
28 necessary. The juvenile shall be represented by counsel at the hearing.
29 Whether such counsel shall be provided at the cost of the county shall be
30 determined as provided in subsection (1) of section 43-272. If continued
31 secure detention is ordered, such detention shall be in a juvenile

1 ~~detention facility, except that a juvenile charged with a felony as an~~
2 ~~adult in county or district court may be held in an adult jail as set~~
3 ~~forth in subdivision (1)(c)(v) of section 43-250.~~ A juvenile placed in an
4 alternative to detention, but not in detention, may waive this hearing
5 through counsel.

6 (4) When the probation officer deems it to be in the best interests
7 of the juvenile, the probation officer shall immediately release such
8 juvenile to the custody of his or her parent. If the juvenile has both a
9 custodial and a noncustodial parent and the probation officer deems that
10 release of the juvenile to the custodial parent is not in the best
11 interests of the juvenile, the probation officer shall, if it is deemed
12 to be in the best interests of the juvenile, attempt to contact the
13 noncustodial parent, if any, of the juvenile and to release the juvenile
14 to such noncustodial parent. If such release is not possible or not
15 deemed to be in the best interests of the juvenile, the probation officer
16 may release the juvenile to the custody of a legal guardian, a
17 responsible adult relative, or another responsible adult person.

18 (5) The court may admit such juvenile to bail by bond in such amount
19 and on such conditions and security as the court, in its sole discretion,
20 shall determine, or the court may proceed as provided in section 43-254.
21 In no case shall the court or probation officer release such juvenile if
22 it appears that: ~~(a) Before July 1, 2019, further detention or placement~~
23 ~~of such juvenile is a matter of immediate and urgent necessity for the~~
24 ~~protection of such juvenile or the person or property of another or if it~~
25 ~~appears that such juvenile is likely to flee the jurisdiction of the~~
26 ~~court; and (b) On or after July 1, 2019, the physical safety of persons~~
27 in the community would be seriously threatened or that detention is
28 necessary to secure the presence of the juvenile at the next hearing, as
29 evidenced by a demonstrable record of willful failure to appear at a
30 scheduled court hearing within the last twelve months.

31 Sec. 12. The Department of Health and Human Services and Office of

1 Probation Administrator shall use day reporting and evening reporting
2 centers as appropriate for juveniles who are being provided services
3 under the Nebraska Juvenile Code. The department and office may adopt and
4 promulgate rules and regulations as necessary to select, oversee, and
5 reimburse such centers.

6 Sec. 13. A juvenile who has been adjudicated under the Nebraska
7 Juvenile Code shall not be transferred out of state by a county or any
8 state agency unless necessary for emergency medical or mental treatment
9 services.

10 Sec. 14. (1) This section applies beginning January 1, 2024.

11 (2) Any adjudication of a juvenile under subdivision (1) or (2) of
12 section 43-247 shall be conducted in such a manner as to maintain the
13 confidentiality of the identity of the juvenile. This applies to all
14 stages of such proceedings, including before, during, or after
15 adjudication and disposition and during any post-disposition proceedings.

16 (3) A court shall release information required to be confidential by
17 this section:

18 (a) To any individual; public or private agency, institution,
19 facility, or clinic; or governmental entity which is providing services
20 directly to the juvenile;

21 (b) To any court which has jurisdiction of the juvenile upon such
22 court's request;

23 (c) Upon written request by the office of Public Counsel, including
24 the office of Inspector General of Nebraska Child Welfare and office of
25 Inspector General of the Nebraska Correctional System;

26 (d) To any person, at the request of the juvenile;

27 (e) To law enforcement officers, county attorneys, and city
28 attorneys;

29 (f) To any person as necessary for the custody and care of such
30 juvenile;

31 (g) To the Department of Health and Human Services;

1 (h) To persons engaged in bona fide research, with the permission of
2 the court or the State Court Administrator, only if the research results
3 in no disclosure of the juvenile's identity and protects the
4 confidentiality of the juvenile; and

5 (i) To a law enforcement agency if the juvenile applies for
6 employment with the law enforcement agency.

7 (4) Any person receiving confidential information under subsection
8 (3) of this section shall maintain the confidentiality of such
9 information and of the juvenile's identity.

10 (5) Nothing in this section shall be construed to restrict
11 dissemination of information about a juvenile who is a fugitive from
12 justice or otherwise missing.

13 Sec. 15. Section 43-2,129, Revised Statutes Cumulative Supplement,
14 2022, is amended to read:

15 43-2,129 Sections 43-245 to 43-2,129 and sections 12 to 14 of this
16 act shall be known and may be cited as the Nebraska Juvenile Code.

17 Sec. 16. (1) The Department of Health and Human Services shall
18 establish a family resource and juvenile assessment center pilot program
19 for cities of the metropolitan class and provide funds for services at
20 such centers twenty-four hours a day, seven days per week.

21 (2) The goals of the pilot program are to (a) provide resources to
22 at-risk youth to prevent incarceration and (b) minimize individual and
23 community harm by keeping youths from becoming more involved in the
24 juvenile justice system, social services, family services, and the adult
25 criminal justice system.

26 (3) Family resource and juvenile assessment centers shall: (a) House
27 multiple community providers under one roof and provide assessments and
28 services to youth and families to address their immediate and ongoing
29 needs; (b) provide assessments to youth at no charge to families; and (c)
30 maintain membership in the National Assessment Center Association.

31 (4) The purpose of the assessment shall be to (a) give juveniles and

1 families the opportunity to provide a comprehensive description of their
2 unique family structure and (b) identify the presenting issue's origin
3 and provide service referrals in areas that include, but are not limited
4 to:

- 5 (a) Tutoring;
- 6 (b) Mentoring;
- 7 (c) Drug and substance abuse education and intervention;
- 8 (d) Conflict resolution;
- 9 (e) Mental health services and support;
- 10 (f) Anger management;
- 11 (g) Social skills training;
- 12 (h) Job skills development;
- 13 (i) Financial literacy;
- 14 (j) Individual and family therapy sessions;
- 15 (k) Cognitive behavioral therapy;
- 16 (l) Truancy prevention;
- 17 (m) Parenting skills;
- 18 (n) Food and clothing assistance; and
- 19 (o) Referrals to court diversion programs.

20 Sec. 17. Original sections 28-105.02, 29-401, 43-248.01, and
21 43-249, Reissue Revised Statutes of Nebraska, and sections 28-105.01,
22 29-2204, 43-245, 43-250, 43-253, and 43-2,129, Revised Statutes
23 Cumulative Supplement, 2022, are repealed.