

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 488**

Introduced by Hallstrom, 1.

Read first time January 21, 2025

Committee: Judiciary

1 A BILL FOR AN ACT relating to the administration of justice; to amend  
2 sections 29-2266.01 and 29-2266.02, Reissue Revised Statutes of  
3 Nebraska, and sections 43-248 and 43-286.01, Revised Statutes  
4 Cumulative Supplement, 2024; to require a peace officer to assume  
5 custody of a probationer or temporary custody of a juvenile upon  
6 request by a probation officer as prescribed; to harmonize  
7 provisions; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           **Section 1.** Section 29-2266.01, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3           29-2266.01 (1) Whenever a probation officer has reasonable cause to  
4 believe that a probationer sentenced for a misdemeanor has committed or  
5 is about to commit a violation of a condition of probation, the probation  
6 officer shall either:

7           (a) Impose one or more administrative sanctions with the approval of  
8 his or her chief probation officer or such chief's designee. The decision  
9 to impose an administrative sanction in lieu of formal revocation  
10 proceedings rests with the probation officer and his or her chief  
11 probation officer or such chief's designee and shall be based upon the  
12 probationer's risk level, the severity of the violation, and the  
13 probationer's response to the violation. If an administrative sanction is  
14 to be imposed, the probationer shall acknowledge in writing the nature of  
15 the violation and agree upon the administrative sanction. The probationer  
16 has the right to decline to acknowledge the violation; and if he or she  
17 declines to acknowledge the violation, the probation officer shall take  
18 action pursuant to subdivision (1)(b) of this section. The probation  
19 officer shall submit a written report to the county attorney of the  
20 county where probation was imposed, outlining the nature of the probation  
21 violation and the sanction imposed; or

22           (b) Submit a written report to the sentencing court, with a copy to  
23 the county attorney of the county where probation was imposed, outlining  
24 the nature of the probation violation and request that formal revocation  
25 proceedings be initiated against the probationer in accordance with  
26 sections 29-2267 and 29-2268.

27           (2) Whenever a probation officer has reasonable cause to believe  
28 that a probationer sentenced for a misdemeanor has violated or is about  
29 to violate a condition of his or her probation and that the probationer  
30 will attempt to leave the jurisdiction or will place lives or property in  
31 danger, the probation officer shall arrest the probationer without a

1 warrant and may call on any peace officer for assistance. If called on by  
2 a probation officer, a peace officer shall arrest and assume custody of  
3 the probationer. Whenever a probationer is arrested, with or without a  
4 warrant, he or she shall be detained in a jail or other detention  
5 facility.

6 (3) Immediately after arrest and detention pursuant to subsection  
7 (2) of this section, the probation officer shall notify the county  
8 attorney of the county where probation was imposed and submit a written  
9 report of the reason for such arrest and of any violation of probation.  
10 After prompt consideration of such written report, the county attorney  
11 shall:

12 (a) Notify the probation officer and the jail or detention facility,  
13 in writing, that he or she does not intend to file a motion to revoke  
14 probation, and authorize the release of the probationer from confinement;  
15 or

16 (b) File with the sentencing court a motion or information to revoke  
17 probation in accordance with sections 29-2267 and 29-2268.

18 (4) Whenever a county attorney receives a report from a probation  
19 officer that a probationer sentenced for a misdemeanor has violated a  
20 condition of probation, the county attorney may file a motion or  
21 information to revoke probation in accordance with sections 29-2267 and  
22 29-2268.

23 (5) The administrator shall adopt and promulgate rules and  
24 regulations to carry out this section.

25 **Sec. 2.** Section 29-2266.02, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 29-2266.02 (1) Whenever a probation officer has reasonable cause to  
28 believe that a probationer sentenced for a felony has committed or is  
29 about to commit a violation while on probation, the probation officer  
30 shall consider:

31 (a) Whether the probation officer is required to arrest the

1 probationer pursuant to subsection (2) of this section;

2 (b) The probationer's risk level, the severity of the violation, and  
3 the probationer's response to the violation;

4 (c) Whether to impose administrative sanctions or seek custodial  
5 sanctions; or

6 (d) Whether to seek revocation of probation.

7 (2) Whenever a probation officer has reasonable cause to believe  
8 that a probationer sentenced for a felony has violated or is about to  
9 violate a condition of his or her probation and that the probationer will  
10 attempt to leave the jurisdiction or will place lives or property in  
11 danger, the probation officer shall arrest the probationer without a  
12 warrant and may call on any peace officer for assistance. If called on by  
13 a probation officer, a peace officer shall arrest and assume custody of  
14 the probationer. Whenever a probationer is arrested, with or without a  
15 warrant, he or she shall be detained in a jail or other detention  
16 facility.

17 (3) Whenever a probation officer has reasonable cause to believe  
18 that a probationer sentenced for a felony has committed or is about to  
19 commit a violation of a condition of probation, the probation officer  
20 shall:

21 (a) Impose one or more administrative sanctions with the approval of  
22 his or her chief probation officer or such chief's designee. The decision  
23 to impose an administrative sanction rests with the probation officer and  
24 his or her chief probation officer or such chief's designee and shall be  
25 based upon the probationer's risk level, the severity of the violation,  
26 and the probationer's response to the violation. If an administrative  
27 sanction is to be imposed, the probationer shall acknowledge in writing  
28 the nature of the violation and agree upon the administrative sanction.  
29 The probationer has the right to decline to acknowledge the violation;  
30 and if he or she declines to acknowledge the violation, the probation  
31 officer shall take action pursuant to subdivision (3)(b) or (c) of this

1 section. The probation officer shall submit a written report to the  
2 county attorney of the county where probation was imposed, outlining the  
3 nature of the probation violation and the sanction imposed;

4 (b) Seek the imposition of a custodial sanction with the approval of  
5 his or her chief probation officer or such chief's designee. The decision  
6 to impose a custodial sanction rests with the court and shall be based  
7 upon the probationer's risk level, the severity of the violation, and the  
8 probationer's response to the violation. If a custodial sanction is to be  
9 imposed, the probationer shall acknowledge in writing the nature of the  
10 violation and agree upon the custodial sanction. The probationer has the  
11 right to decline to acknowledge the violation; and if he or she declines  
12 to acknowledge the violation, the probation officer shall take action in  
13 accordance with section 29-2266.03. If the probationer acknowledges the  
14 violation and agrees upon the custodial sanction, the probation officer  
15 shall take action in accordance with subsection (1) of section 29-2266.03  
16 and shall submit a written report to the county attorney of the county  
17 where probation was imposed, outlining the nature of the probation  
18 violation and the sanction to be imposed; or

19 (c) Submit a written report to the sentencing court, with a copy to  
20 the county attorney of the county where probation was imposed, outlining  
21 the nature of the probation violation and request that formal revocation  
22 proceedings be initiated against the probationer in accordance with  
23 sections 29-2267 and 29-2268.

24 (4) Immediately after arrest and detention pursuant to subsection  
25 (2) of this section, the probation officer shall notify the county  
26 attorney of the county where probation was imposed and submit a written  
27 report of the reason for such arrest and of any violation of probation.  
28 After prompt consideration of such written report, the county attorney  
29 shall:

30 (a) Notify the probation officer and the jail or detention facility,  
31 in writing, that he or she does not intend to file a motion to revoke

1 probation, and authorize the release of the probationer from confinement;  
2 or

3 (b) File with the sentencing court a motion or information to revoke  
4 probation in accordance with sections 29-2267 and 29-2268.

5 (5) Whenever a county attorney receives a report from a probation  
6 officer that a probationer sentenced for a felony has violated a  
7 condition of probation, the county attorney may file a motion or  
8 information to revoke probation in accordance with sections 29-2267 and  
9 29-2268.

10 (6) The administrator shall adopt and promulgate rules and  
11 regulations to carry out this section, including, but not limited to,  
12 rules and regulations to ensure prompt court review of requests for the  
13 imposition of custodial sanctions.

14 **Sec. 3.** Section 43-248, Revised Statutes Cumulative Supplement,  
15 2024, is amended to read:

16 43-248 A peace officer shall take a juvenile into temporary custody  
17 upon the request for assistance from a probation officer as provided in  
18 subsection (6) of section 43-286.01. A peace officer may take a juvenile  
19 into temporary custody without a warrant or order of the court and  
20 proceed as provided in section 43-250 when:

21 (1) A juvenile has violated a state law or municipal ordinance and  
22 such juvenile was eleven years of age or older at the time of the  
23 violation, and the officer has reasonable grounds to believe such  
24 juvenile committed such violation and was eleven years of age or older at  
25 the time of the violation;

26 (2) The officer has reasonable grounds to believe that the juvenile  
27 has run away from his or her parent, guardian, or custodian;

28 (3) A probation officer has reasonable cause to believe that a  
29 juvenile is in violation of probation and that the juvenile will attempt  
30 to leave the jurisdiction or place lives or property in danger;

31 (4) The officer has reasonable grounds to believe the juvenile is

1 truant from school;

2 (5) The officer has reasonable grounds to believe the juvenile is  
3 immune from prosecution for prostitution under subsection (5) of section  
4 28-801;

5 (6) A juvenile is seriously endangered in his or her surroundings  
6 and immediate removal appears to be necessary for the juvenile's  
7 protection;

8 (7) A juvenile has committed an act or engaged in behavior described  
9 in subdivision (1), (2), (3)(b), or (4) of section 43-247 and such  
10 juvenile was under eleven years of age at the time of such act or  
11 behavior, and the officer has reasonable cause to believe such juvenile  
12 committed such act or engaged in such behavior and was under eleven years  
13 of age at such time; or

14 (8) The officer believes the juvenile to be mentally ill and  
15 dangerous as defined in section 71-908 and that the harm described in  
16 that section is likely to occur before proceedings may be instituted  
17 before the juvenile court.

18 **Sec. 4.** Section 43-286.01, Revised Statutes Cumulative Supplement,  
19 2024, is amended to read:

20 43-286.01 (1) For purposes of this section, graduated response means  
21 an accountability-based series of sanctions, incentives, and services  
22 designed to facilitate the juvenile's continued progress in changing  
23 behavior, ongoing compliance, and successful completion of probation.  
24 Graduated response does not include restrictions of liberty that would  
25 otherwise require a hearing under subsection (3) of section 43-253.

26 (2) The Office of Probation Administration may establish a statewide  
27 standardized graduated response matrix of incentives for compliance and  
28 positive behaviors and sanctions for probationers who violate the terms  
29 and conditions of a court order. The graduated response system shall use  
30 recognized best practices and be developed with the input of  
31 stakeholders, including judges, probation officers, county attorneys,

1 defense attorneys, juveniles, and parents. The office shall provide  
2 implementation and ongoing training to all probation officers on the  
3 graduated response options.

4 (3) Graduated response sanctions should be immediate, certain,  
5 consistent, and fair to appropriately address the behavior. Failure to  
6 complete a sanction may result in repeating the sanction, increasing the  
7 duration, or selecting a different sanction similar in nature. Continued  
8 failure to comply could result in a request for a motion to revoke  
9 probation. Once a sanction is successfully completed the alleged  
10 probation violation is deemed resolved and cannot be alleged as a  
11 violation in future proceedings.

12 (4) Graduated response incentives should provide positive  
13 reinforcement to encourage and support positive behavior change and  
14 compliance with court-ordered conditions of probation.

15 (5) Whenever a probation officer has reasonable cause to believe  
16 that a juvenile subject to the supervision of a probation officer has  
17 committed a violation of the terms of the juvenile's probation while on  
18 probation, but that such juvenile will not attempt to leave the  
19 jurisdiction and will not place lives or property in danger, the  
20 probation officer shall either:

21 (a) Impose one or more graduated response sanctions with the  
22 approval of his or her chief probation officer or such chief's designee.  
23 The decision to impose graduated response sanctions in lieu of formal  
24 revocation proceedings rests with the probation officer and his or her  
25 chief probation officer or such chief's designee and shall be based upon  
26 such juvenile's risk level, the severity of the violation, and the  
27 juvenile's response to the violation. If graduated response sanctions are  
28 to be imposed, such juvenile shall acknowledge in writing the nature of  
29 the violation and agree upon the graduated response sanction with  
30 approval of such juvenile's parents or guardian. Such juvenile has the  
31 right to decline to acknowledge the violation, and if he or she declines



1 to acknowledge the violation, the probation officer shall submit a  
2 written report pursuant to subdivision (5)(b) of this section. If the  
3 juvenile fails to satisfy the graduated response sanctions and the office  
4 determines that a motion to revoke probation should be pursued, the  
5 probation officer shall submit a written report pursuant to subdivision  
6 (5)(b) of this section. A copy of the report shall be submitted to the  
7 county attorney of the county where probation was imposed; or

8 (b) Submit a written report to the county attorney of the county  
9 where probation was imposed and to the juvenile's attorney of record,  
10 outlining the nature of the probation violation and request that formal  
11 revocation proceedings be instituted against the juvenile subject to the  
12 supervision of a probation officer. The report shall also include a  
13 statement regarding why graduated response sanctions were not utilized or  
14 were ineffective. If there is no attorney of record for the juvenile, the  
15 office shall notify the court and counsel for the juvenile shall be  
16 appointed.

17 (6) Whenever a probation officer has reasonable cause to believe  
18 that a juvenile subject to the supervision of a probation officer has  
19 violated a condition of his or her probation and that such juvenile will  
20 attempt to leave the jurisdiction or will place lives or property in  
21 danger, the probation officer shall take such juvenile into temporary  
22 custody without a warrant and may call on any peace officer for  
23 assistance as provided in section 43-248. If called on by a probation  
24 officer, a peace officer shall take the juvenile into temporary custody.  
25 Continued detention or deprivation of liberty shall be subject to the  
26 criteria and requirements of sections 43-251.01, 43-260, and 43-260.01  
27 and subdivision (5)(b)(iv) of section 43-286, and a hearing shall be held  
28 before the court within twenty-four hours as provided in subsection (3)  
29 of section 43-253.

30 (7) Immediately after detention or deprivation of liberty pursuant  
31 to subsection (6) of this section, the probation officer shall notify the

1 county attorney of the county where probation was imposed and the  
2 juvenile's attorney of record and submit a written report describing the  
3 risk of harm to lives or property or of fleeing the jurisdiction which  
4 precipitated the need for such detention or deprivation of liberty and of  
5 any violation of probation. If there is no attorney of record for the  
6 juvenile, the office shall notify the court and counsel for the juvenile  
7 shall be appointed. After prompt consideration of the written report, the  
8 county attorney shall:

9 (a) Order the release of the juvenile from confinement or  
10 alternative to detention subject to the supervision of a probation  
11 officer; or

12 (b) File with the adjudicating court a motion to revoke the  
13 probation.

14 (8) Whenever a county attorney receives a report from a probation  
15 officer that a juvenile subject to the supervision of a probation officer  
16 has violated a condition of probation and the probation officer is  
17 seeking revocation of probation, the county attorney may file a motion to  
18 revoke probation.

19 (9) Whenever a juvenile subject to supervision of a probation  
20 officer is engaging in positive behavior, completion of goals, and  
21 compliance with the terms of probation, the probation officer shall use  
22 graduated incentives to provide positive reinforcement and encouragement  
23 of such behavior. The office shall keep records of all incentives and  
24 provide such records to the county attorney or the juvenile's attorney  
25 upon request.

26 (10) During the term of probation, the court, on application of a  
27 probation officer or of the juvenile or on its own motion, may reduce or  
28 eliminate any of the conditions imposed on the juvenile. Upon completion  
29 of the term of probation or the earlier discharge of the juvenile, the  
30 juvenile shall be relieved of any obligations imposed by the order of the  
31 court and his or her record shall be sealed pursuant to section

1 43-2,108.04.

2 (11) The probation administrator shall adopt and promulgate rules  
3 and regulations to carry out this section.

4 **Sec. 5.** Original sections 29-2266.01 and 29-2266.02, Reissue  
5 Revised Statutes of Nebraska, and sections 43-248 and 43-286.01, Revised  
6 Statutes Cumulative Supplement, 2024, are repealed.