

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 492**

Introduced by Conrad, 46.

Read first time January 21, 2025

Committee: Judiciary

1 A BILL FOR AN ACT relating to truancy; to amend sections 79-206 and  
2 79-209, Reissue Revised Statutes of Nebraska, and sections 43-245,  
3 43-247, and 43-276, Revised Statutes Cumulative Supplement, 2024; to  
4 define a term; to change provisions relating to juvenile court  
5 jurisdiction relating to habitual truancy and provide a defense to  
6 adjudication; to change provisions relating to compulsory  
7 attendance; to harmonize provisions; and to repeal the original  
8 sections.  
9 Be it enacted by the people of the State of Nebraska,

1           **Section 1.** Section 43-245, Revised Statutes Cumulative Supplement,  
2 2024, is amended to read:

3           43-245 For purposes of the Nebraska Juvenile Code, unless the  
4 context otherwise requires:

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

9           (2) Age of majority means nineteen years of age;

10          (3) Alternative to detention means a program or directive that  
11 increases supervision of a youth in the community in an effort to ensure  
12 the youth attends court and refrains from committing a new law violation.  
13 Alternative to detention includes, but is not limited to, electronic  
14 monitoring, day and evening reporting centers, house arrest, tracking,  
15 family crisis response, and temporary shelter placement. Except for the  
16 use of manually controlled delayed egress of not more than thirty  
17 seconds, placements that utilize physical construction or hardware to  
18 restrain a youth's freedom of movement and ingress and egress from  
19 placement are not considered alternatives to detention;

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

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

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

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

31          (8) Criminal street gang member means a person who willingly or

1 voluntarily becomes and remains a member of a criminal street gang;

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

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

7 (11) Habitually truant from school means that a child thirteen years  
8 of age or older and younger than seventeen years of age who is enrolled  
9 in a public, private, denominational, or parochial school has accrued  
10 twenty days or more of unexcused absences from school during a school  
11 year and has a documented loss of educational attainment as a result of  
12 such absences.

13 (12) (11) Juvenile means any person under the age of eighteen;

14 (13) (12) Juvenile court means the separate juvenile court where it  
15 has been established pursuant to sections 43-2,111 to 43-2,127 and the  
16 county court sitting as a juvenile court in all other counties. Nothing  
17 in the Nebraska Juvenile Code shall be construed to deprive the district  
18 courts of their habeas corpus, common-law, or chancery jurisdiction or  
19 the county courts and district courts of jurisdiction of domestic  
20 relations matters as defined in section 25-2740;

21 (14) (13) Juvenile detention facility has the same meaning as in  
22 section 83-4,125;

23 (15) (14) Legal custody has the same meaning as in section 43-2922;

24 (16) (15) Mental health facility means a treatment facility as  
25 defined in section 71-914 or a government, private, or state hospital  
26 which treats mental illness;

27 (17) (16) Nonoffender means a juvenile who is subject to the  
28 jurisdiction of the juvenile court for reasons other than legally  
29 prohibited conduct, including, but not limited to, juveniles described in  
30 subdivision (3)(a) of section 43-247;

31 (18) (17) Parent means one or both parents or stepparents when the

1 stepparent is married to a parent who has physical custody of the  
2 juvenile as of the filing of the petition;

3 (19) ~~(18)~~ Parties means the juvenile as described in section 43-247  
4 and his or her parent, guardian, or custodian;

5 (20) ~~(19)~~ Physical custody has the same meaning as in section  
6 43-2922;

7 (21) ~~(20)~~ Except in proceedings under the Nebraska Indian Child  
8 Welfare Act, relative means father, mother, grandfather, grandmother,  
9 brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle,  
10 aunt, first cousin, nephew, or niece;

11 (22) ~~(21)~~ Restorative justice means practices, programs, or services  
12 that emphasize repairing the harm caused to victims and the community by  
13 persons who have caused the harm or committed an offense. Restorative  
14 justice practices may include, but are not limited to, victim youth  
15 conferencing, victim-offender mediation, youth or community dialogue,  
16 panels, circles, and truancy mediation;

17 (23) ~~(22)~~ Restorative justice facilitator means a qualified  
18 individual who has been trained to facilitate restorative justice  
19 practices. A qualified individual shall be approved by the referring  
20 county attorney, city attorney, or juvenile or county court judge.  
21 Factors for approval may include, but are not limited to, an individual's  
22 education and training in restorative justice principles and practices;  
23 experience in facilitating restorative justice sessions; understanding of  
24 the necessity to do no harm to either the victim or the person who harmed  
25 the victim; and proven commitment to ethical practices;

26 (24) ~~(23)~~ Seal a record means that a record shall not be available  
27 to the public except upon the order of a court upon good cause shown;

28 (25) ~~(24)~~ Secure detention means detention in a highly structured,  
29 residential, hardware-secured facility designed to restrict a juvenile's  
30 movement;

31 (26) ~~(25)~~ Staff secure juvenile facility means a juvenile

1 residential facility operated by a political subdivision (a) which does  
2 not include construction designed to physically restrict the movements  
3 and activities of juveniles who are in custody in the facility, (b) in  
4 which physical restriction of movement or activity of juveniles is  
5 provided solely through staff, (c) which may establish reasonable rules  
6 restricting ingress to and egress from the facility, and (d) in which the  
7 movements and activities of individual juvenile residents may, for  
8 treatment purposes, be restricted or subject to control through the use  
9 of intensive staff supervision. Staff secure juvenile facility does not  
10 include any institution operated by the Department of Correctional  
11 Services;

12 (27) ~~(26)~~ Status offender means a juvenile who has been charged with  
13 or adjudicated for conduct which would not be a crime if committed by an  
14 adult, including, but not limited to, juveniles charged under subdivision  
15 (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02;

16 (28) ~~(27)~~ Traffic offense means any nonfelonious act in violation of  
17 a law or ordinance regulating vehicular or pedestrian travel, whether  
18 designated a misdemeanor or a traffic infraction; and

19 (29) ~~(28)~~ Young adult means an individual older than eighteen years  
20 of age but under twenty-one years of age.

21 **Sec. 2.** Section 43-247, Revised Statutes Cumulative Supplement,  
22 2024, is amended to read:

23 43-247 The juvenile court in each county shall have jurisdiction of:

24 (1) Any juvenile who has committed an act other than a traffic  
25 offense which would constitute a misdemeanor or an infraction under the  
26 laws of this state, or violation of a city or village ordinance, and who  
27 was eleven years of age or older at the time the act was committed;

28 (2) Any juvenile who has committed an act which would constitute a  
29 felony under the laws of this state and who was eleven years of age or  
30 older at the time the act was committed;

31 (3) Any juvenile:

1 (a) Who is homeless or destitute, or without proper support through  
2 no fault of his or her parent, guardian, or custodian; who is abandoned  
3 by his or her parent, guardian, or custodian; who lacks proper parental  
4 care by reason of the fault or habits of his or her parent, guardian, or  
5 custodian; whose parent, guardian, or custodian neglects or refuses to  
6 provide proper or necessary subsistence, education, or other care  
7 necessary for the health, morals, or well-being of such juvenile; whose  
8 parent, guardian, or custodian is unable to provide or neglects or  
9 refuses to provide special care made necessary by the mental condition of  
10 the juvenile; who is in a situation or engages in an occupation,  
11 including prostitution, dangerous to life or limb or injurious to the  
12 health or morals of such juvenile; or who has committed an act or engaged  
13 in behavior described in subdivision (1), (2), (3)(b), or (4) of this  
14 section and who was under eleven years of age at the time of such act or  
15 behavior;

16 (b)(i) ~~(b)~~ Who is eleven years of age or older and who (A) ~~(i)~~ by  
17 reason of being wayward or habitually disobedient, is uncontrolled by his  
18 or her parent, guardian, or custodian; (B) ~~(ii)~~ departs himself or  
19 herself so as to injure or endanger seriously the morals or health of  
20 himself, herself, or others; or (C) ~~(iii)~~ is habitually truant from home;  
21 or

22 (ii) Who is habitually truant from school; or

23 (c) Who is mentally ill and dangerous as defined in section 71-908;

24 (4) Any juvenile who has committed an act which would constitute a  
25 traffic offense as defined in section 43-245 and who was eleven years of  
26 age or older at the time the act was committed;

27 (5) The parent, guardian, or custodian of any juvenile described in  
28 this section;

29 (6) The proceedings for termination of parental rights;

30 (7) Any juvenile who has been voluntarily relinquished, pursuant to  
31 section 43-106.01, to the Department of Health and Human Services or any

1 child placement agency licensed by the Department of Health and Human  
2 Services;

3 (8) Any juvenile who was a ward of the juvenile court at the  
4 inception of his or her guardianship and whose guardianship has been  
5 disrupted or terminated;

6 (9) The adoption or guardianship proceedings for a child over which  
7 the juvenile court already has jurisdiction under another provision of  
8 the Nebraska Juvenile Code;

9 (10) The paternity or custody determination for a child over which  
10 the juvenile court already has jurisdiction;

11 (11) The proceedings under the Young Adult Bridge to Independence  
12 Act; and

13 (12) Except as provided in subdivision (11) of this section, any  
14 individual adjudged to be within the provisions of this section until the  
15 individual reaches the age of majority or the court otherwise discharges  
16 the individual from its jurisdiction.

17 Notwithstanding the provisions of the Nebraska Juvenile Code, the  
18 determination of jurisdiction over any Indian child as defined in section  
19 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and  
20 the district court shall have exclusive jurisdiction in proceedings  
21 brought pursuant to section 71-510.

22 **Sec. 3.** Section 43-276, Revised Statutes Cumulative Supplement,  
23 2024, is amended to read:

24 43-276 (1) The county attorney or city attorney, in making the  
25 determination whether to file a criminal charge, file a juvenile court  
26 petition, offer juvenile pretrial diversion or restorative justice, or  
27 transfer a case to or from juvenile court, and the juvenile court, county  
28 court, or district court in making the determination whether to transfer  
29 a case, shall consider: (a) The type of treatment such juvenile would  
30 most likely be amenable to; (b) whether there is evidence that the  
31 alleged offense included violence; (c) the motivation for the commission

1 of the offense; (d) the age of the juvenile and the ages and  
2 circumstances of any others involved in the offense; (e) the previous  
3 history of the juvenile, including whether he or she had been convicted  
4 of any previous offenses or adjudicated in juvenile court; (f) the best  
5 interests of the juvenile; (g) consideration of public safety; (h)  
6 consideration of the juvenile's ability to appreciate the nature and  
7 seriousness of his or her conduct; (i) whether the best interests of the  
8 juvenile and the security of the public may require that the juvenile  
9 continue in secure detention or under supervision for a period extending  
10 beyond his or her minority and, if so, the available alternatives best  
11 suited to this purpose; (j) whether the victim or juvenile agree to  
12 participate in restorative justice; (k) whether there is a juvenile  
13 pretrial diversion program established pursuant to sections 43-260.02 to  
14 43-260.07; (l) whether the juvenile has been convicted of or has  
15 acknowledged unauthorized use or possession of a firearm; (m) whether a  
16 juvenile court order has been issued for the juvenile pursuant to section  
17 43-2,106.03; (n) whether the juvenile is a criminal street gang member;  
18 and (o) such other matters as the parties deem relevant to aid in the  
19 decision.

20 (2) Prior to filing a petition alleging that a juvenile is a  
21 juvenile as described in subdivision (3)(b) of section 43-247, the county  
22 attorney shall make reasonable efforts to refer the juvenile and family  
23 to community-based resources available to address the juvenile's  
24 behaviors, provide crisis intervention, and maintain the juvenile safely  
25 in the home. Failure to describe the efforts required by this subsection  
26 shall be a defense to adjudication.

27 (3)(a) It shall be a defense to adjudication of a petition alleging  
28 that a juvenile is a juvenile as described in subdivision (3)(b)(ii) of  
29 section 43-247, if, after subtracting any absences that are excludable  
30 under subdivision (3)(b) of this section, the child has accrued less than  
31 twenty days of unexcused absences from school during the school year.



- 1           (b) An absence shall not be counted for purposes of subdivision (3)  
2 (b)(ii) of section 43-247 if such absence:  
3           (i) Was caused by:  
4           (A) A lack of adequate transportation;  
5           (B) Failure by the school to coordinate necessary interventions or  
6 attendance supports agreed upon by the school and the child's family; or  
7           (C) Physical or mental illness excused by a parent or guardian, with  
8 or without a note from a doctor or physician; or  
9           (ii) Is otherwise excused by the school or the court.

10           **Sec. 4.** Section 79-206, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12           79-206 Each superintendent of a school district, using the list  
13 specified in section 79-205, ~~shall~~ (1) shall compare the names of the  
14 children enrolled with the last census report on file in his or her  
15 office from such district, (2) shall prepare a list of all children  
16 resident in such district under his or her jurisdiction who are not  
17 attending school as provided in section 79-201, and (3) may transmit the  
18 list to the officer or officers in such district whose duty it is to  
19 enforce the provisions of such section.

20           **Sec. 5.** Section 79-209, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22           79-209 (1) In all school districts in this state, any  
23 superintendent, principal, teacher, or member of the school board who  
24 knows of any violation of subsection (2) of section 79-201 shall within  
25 three days report such violation to the attendance officer of the school,  
26 who shall immediately investigate the case. When of his or her personal  
27 knowledge or by report or complaint from any resident of the district,  
28 the attendance officer believes that there is a violation of subsection  
29 (2) of section 79-201, the attendance officer shall immediately  
30 investigate such alleged violation.

31           (2) All school boards shall have a written policy on attendance

1 developed and annually reviewed in collaboration with the county attorney  
2 of the county in which the principal office of the school district is  
3 located. The policy shall include a provision indicating how the school  
4 district will handle cases in which excessive absences are due to  
5 illness. The policy shall also state the circumstances and number of  
6 absences or the hourly equivalent upon which the school shall render all  
7 services to address barriers to attendance. Such services shall be  
8 provided prior to ~~upon~~ twenty days of absence, and shall include, but not  
9 be limited to:

10 (a) Written communication by school officials with the person or  
11 persons who have legal or actual charge or control of any child; and

12 (b) One or more meetings between, at a minimum, a school attendance  
13 officer, a school social worker, or a school administrator or his or her  
14 designee, the person who has legal or actual charge or control of the  
15 child, the person who is responsible for making educational decisions on  
16 behalf of the child if that person is someone other than the person who  
17 has legal or actual charge or control of the child, and the child, when  
18 appropriate, to address the barriers to attendance. The result of the  
19 meeting or meetings shall be to develop a collaborative plan to reduce  
20 barriers identified to improve regular attendance. The plan shall  
21 include, if agreed to by the person who is responsible for making  
22 educational decisions on behalf of the child, an educational evaluation  
23 to determine whether any intellectual, academic, physical, or social-  
24 emotional barriers are contributing factors to the lack of attendance.  
25 The plan shall also consider, but not be limited to:

- 26 (i) The physical, mental, or behavioral health of the child;  
27 (ii) Educational counseling;  
28 (iii) Referral to community agencies for economic services;  
29 (iv) Family or individual counseling;  
30 (v) Assisting the family in working with other community services;

31 and

1 (vi) Referral to restorative justice practices or services.

2 (3) The school may report to the county attorney of the county in  
3 which the person resides when the school has documented the efforts it  
4 has made as required by subsection (2) of this section that the  
5 collaborative plan to reduce barriers identified to improve regular  
6 attendance has not been successful and that the child has accrued twenty  
7 days or more of unexcused absences during the school year with a  
8 documented loss of educational attainment as a result of such absences  
9 ~~been absent more than twenty days per school year. Such referral shall~~  
10 indicate which of the unexcused absences during the school year, if any,  
11 were absences excused by a parent or guardian for physical or mental  
12 illness. The school shall notify the child's family in writing prior to  
13 referring the child to the county attorney. Failure by the school to  
14 document the efforts required by subsection (2) of this section is a  
15 defense to prosecution under section 79-201 and to adjudication under  
16 subdivision (3)(a) or (3)(b) of section 43-247 based upon such absences.  
17 Illness that makes attendance impossible or impracticable shall not be  
18 the basis for referral to the county attorney.

19 (4) Nothing in this section shall preclude a county attorney from  
20 being involved at any stage in the process to address excessive  
21 absenteeism.

22 **Sec. 6.** Original sections 79-206 and 79-209, Reissue Revised  
23 Statutes of Nebraska, and sections 43-245, 43-247, and 43-276, Revised  
24 Statutes Cumulative Supplement, 2024, are repealed.