

LEGISLATIVE BILL 305

Approved by the Governor March 29, 1995

Introduced by Vrtiska, 1; Avery, 3; Bohlke, 33; Crosby, 29; Hillman, 48;
Janssen, 15; Stuhr, 24

AN ACT relating to juveniles; to amend section 43-272.01, Reissue Revised Statutes of Nebraska; to require visitation and consultation by a guardian ad litem; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 43-272.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-272.01. (1) A guardian ad litem as provided for in subsections (2) and (3) of section 43-272 shall be appointed when a child is removed from his or her surroundings pursuant to subdivision (3) of section 43-248, subdivision (4) of section 43-250, or section 43-251. If removal has not occurred, a guardian ad litem shall be appointed at the commencement of all cases brought under subdivision (3)(a) or (8) of section 43-247 and section 28-707.

(2) In the course of discharging duties as guardian ad litem, the person so appointed shall consider, but not be limited to, the criteria provided in this subsection. The guardian ad litem:

(a) Is appointed to stand in lieu of a parent for a protected juvenile who is the subject of a juvenile court petition, shall be present at all hearings before the court in such matter unless expressly excused by the court, and may enter into such stipulations and agreements concerning adjudication and disposition deemed by him or her to be in the juvenile's best interests;

(b) Is not appointed to defend the parents or other custodian of the protected juvenile but shall defend the legal and social interests of such juvenile. Social interests shall be defined generally as the usual and reasonable expectations of society for the appropriate parental custody and protection and quality of life for juveniles without regard to the socioeconomic status of the parents or other custodians of the juvenile;

(c) May at any time after the filing of the petition move the court of jurisdiction to provide medical or psychological treatment or evaluation as set out in section 43-258. The guardian ad litem shall have access to all reports resulting from any examination ordered under section 43-258, and such reports shall be used for evaluating the status of the protected juvenile;

(d) Shall make every reasonable effort to become familiar with the needs of the protected juvenile which (i) shall include consultation with the juvenile within two weeks after the appointment and once every six months thereafter and inquiry of the most current caseworker, foster parent, or other custodian and (ii) may include inquiry of others directly involved with the juvenile or who may have information or knowledge about the circumstances which brought the juvenile court action or related cases and the development of the juvenile, including biological parents, physicians, psychologists, teachers, and clergy members;

(d) Shall make every reasonable effort to become familiar with the needs of the protected juvenile which may include (i) visitation with the juvenile within two weeks after the appointment and once every six months thereafter and (ii) consultation with caseworkers, physicians, psychologists, foster parents or other custodians, teachers, clergy members, and others directly involved with the juvenile or who may have information or knowledge about the circumstances which brought the juvenile court action or related cases and the development of the juvenile;

(e) May present evidence and witnesses and cross-examine witnesses at all evidentiary hearings;

(f) Shall be responsible for making recommendations to the court regarding the temporary and permanent placement of the protected juvenile and shall submit a written report to the court at every dispositional or review hearing, or in the alternative, the court may provide the guardian ad litem with a checklist that shall be completed and presented to the court at every dispositional or review hearing;

(g) Shall consider such other information as is warranted by the nature and circumstances of a particular case; and

(h) May file a petition in the juvenile court on behalf of the juvenile, including a supplemental petition as provided in section 43-291.

(3) Nothing in this section shall operate to limit the discretion of

the juvenile court in protecting the best interests of a juvenile who is the subject of a juvenile court petition.

(4) For purposes of subdivision (2)(d) of this section, the court may order the expense of such consultation, if any, to be paid by the county in which the juvenile court action is brought or the court may, after notice and hearing, assess the cost of such consultation, if any, in whole or in part to the parents of the juvenile. The ability of the parents to pay and the amount of the payment shall be determined by the court by appropriate examination.

Sec. 2. Original section 43-272.01, Reissue Revised Statutes of Nebraska, is repealed.