

LEGISLATIVE BILL 640

Approved by the Governor May 31, 2001

Introduced by Jensen, 20; Brown, 6; Dw. Pedersen, 39; Thompson, 14; at the request of the Governor

AN ACT relating to juveniles; to amend section 43-413, Reissue Revised Statutes of Nebraska, and sections 43-2401 to 43-2406, 43-2408, 43-2409, 43-2412, and 43-3503, Revised Statutes Supplement, 2000; to change provisions relating to detention and evaluation costs; to change provisions of the Juvenile Services Act; to state intent; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 43-413, Reissue Revised Statutes of Nebraska, is amended to read:

43-413. (1) A court may, pursuant to section 43-281, place a juvenile with the Office of Juvenile Services or the Department of Health and Human Services for an evaluation to aid the court in the disposition.

(2) A juvenile convicted as an adult shall be placed with the Office of Juvenile Services for evaluation prior to sentencing as provided by subsection (3) of section 29-2204.

(3) All juveniles shall be evaluated prior to commitment to the Office of Juvenile Services. The court shall not commit such juvenile to the temporary custody of the Office of Juvenile Services prior to disposition. The office may place a juvenile in residential or nonresidential community-based evaluation services for purposes of evaluation to assist the court in determining the initial level of treatment for the juvenile.

(4) All costs incurred during the period in which the juvenile is being evaluated at a state facility or a program funded by the Office of Juvenile Services During any period of detention or evaluation prior to disposition:

(a) Except as provided in subdivision (4)(b) of this section, the county in which the case is pending is responsible for all detention costs incurred before and after an evaluation period prior to disposition, the cost of delivering the juvenile to the facility or institution for an evaluation, and the cost of returning the juvenile to the court for disposition; and

(b) The state is responsible for (i) the costs incurred during an evaluation unless otherwise ordered by the court pursuant to section 43-290 and (ii) the preevaluation detention costs for any days over the first ten days from the date the evaluation is ordered by the court. are the responsibility of the state unless otherwise ordered by the court pursuant to section 43-290.

(5) The Office of Juvenile Services and the Department of Health and Human Services are not responsible for predisposition costs except as provided in subdivision (4)(b) of this section.

Sec. 2. Section 43-2401, Revised Statutes Supplement, 2000, is amended to read:

43-2401. Sections 43-2401 to 43-2413 and sections 6 and 7 of this act shall be known and may be cited as the Juvenile Services Act.

Sec. 3. Section 43-2402, Revised Statutes Supplement, 2000, is amended to read:

43-2402. For purposes of the Juvenile Services Act:

(1) Coalition means the Nebraska Coalition for Juvenile Justice established pursuant to section 43-2411;

(2) Commission means the Nebraska Commission on Law Enforcement and Criminal Justice;

(3) Commission Grant Program means grants provided to eligible applicants under section 43-2406;

(4) County Juvenile Services Aid Program means aid to counties provided under section 7 of this act;

(5) Eligible applicant means a community-based agency or organization, political subdivision, school district, federally recognized or state-recognized Indian tribe, or state agency necessary to comply with the federal act;

~~(6)~~ (6) Federal act means the Juvenile Justice and Delinquency Prevention Act of 1974, ~~as amended~~, 42 U.S.C. 5601 et seq., as the act existed on the operative date of this section;

~~(7)~~ (7) Juvenile means a person who is under eighteen years of age;

and

(8) Office of Juvenile Services means the Office of Juvenile Services created in section 43-404.

~~(6) Plan means the comprehensive juvenile services plan required pursuant to section 43-2405; and~~

~~(7) Program means those programs and services described in section 43-2404.~~

Sec. 4. Section 43-2403, Revised Statutes Supplement, 2000, is amended to read:

43-2403. The Legislature hereby finds that the incarceration of juveniles in adult jails, lockups, and correctional facilities is contrary to the best interests and well-being of juveniles and frequently inconsistent with state and federal law requiring intervention by the least restrictive method. The Legislature further finds that the lack of available alternatives within local communities is a significant factor in the incarceration of juveniles in such adult jails, lockups, and correctional facilities.

To address such lack of available alternatives to the incarceration of juveniles, the Legislature declares it to be the policy of the State of Nebraska to aid local communities in the establishment of programs or services for juveniles under the jurisdiction of the juvenile or criminal justice system and to finance such programs or services with appropriations from the General Fund and with funds acquired by participation in the federal act. The purposes of the Juvenile Services Act shall be to (1) assist in the provision of appropriate preventive, diversionary, and dispositional alternatives for juveniles, (2) encourage coordination of the elements of the juvenile services system, and (3) provide an opportunity for local involvement in developing community programs for juveniles so that the following objectives may be obtained:

(a) Preservation of the family unit whenever the best interests of the juvenile are served and such preservation does not place the juvenile at imminent risk;

(b) Limitation on intervention to those actions which are necessary and the utilization of the least restrictive yet most effective and appropriate resources;

(c) Encouragement of active family participation in whatever treatment is afforded a juvenile whenever the best interests of the juvenile require it;

(d) Treatment in the community rather than commitment to a youth rehabilitation and treatment center whenever the best interests of the juvenile require it; and

(e) ~~Encouragement of and assistance to communities~~ Assistance in the development of alternatives to secure temporary custody for juveniles who do not require secure detention.

~~All state agencies providing direct services to juveniles shall coordinate their efforts and work with the commission, members of the judiciary, and local political subdivisions in the development of a comprehensive juvenile services plan and the establishment and provision of programs or services in such plan. Programs or services established pursuant to the Juvenile Services Act and the federal act shall conform to the family policy tenets prescribed in sections 43-532 to 43-534.~~

Sec. 5. Section 43-2404, Revised Statutes Supplement, 2000, is amended to read:

43-2404. The coalition shall make award recommendations to the commission, at least annually, in accordance with the Juvenile Services Act and the federal act for grants made under the Commission Grant Program. Such grants shall be used to assist communities in the implementation and operation of programs or services identified in their comprehensive juvenile services plan, including, but not limited to, programs for assessment and evaluation, the prevention of delinquent behavior, diversion, detention, shelter care, intensive juvenile probation services, restitution, family support services, and community centers for the care and treatment of juveniles in need of services.

Sec. 6. (1) To be eligible for participation in either the Commission Grant Program or the County Juvenile Services Aid Program, counties shall develop and adopt a comprehensive juvenile services plan and submit such plan to the Office of Juvenile Services in accordance with the federal act and rules and regulations adopted and promulgated by the office. Such plan may be developed by individual counties or by multiple counties. Any portion of the comprehensive juvenile services plan dealing with administration, procedures, and programs of the juvenile court shall not be submitted to the Office of Juvenile Services without the concurrence of the presiding judge or judges of the court or courts having jurisdiction in juvenile cases for the geographic

area to be served. Programs or services established by such plans shall conform to the family policy tenets prescribed in sections 43-532 to 43-534.

(2) Counties may apply to the commission for fiscal year 2001-02 and fiscal year 2002-03 for planning grants from funds appropriated by the Legislature to aid in the development and adoption of the comprehensive juvenile services plans. A separate and distinct budgetary program is created within the commission which shall only be used for county planning grants in the development of comprehensive juvenile services plans. The annual appropriation to the program shall not exceed one hundred twenty-five thousand dollars. A county or multiple counties may apply for a comprehensive juvenile services planning grant. Such grant shall be limited to two thousand five hundred dollars per county for a consecutive two-year period. No administrative costs shall be paid from funds appropriated to the county planning grant program.

(3) The Office of Juvenile Services shall develop or contract for the development of a statewide system to monitor and evaluate the effectiveness of plans and programs receiving funds from: (a) The Commission Grant Program and (b) the County Juvenile Services Aid Program in preventing persons from entering the juvenile justice system and in rehabilitating juvenile offenders.

Sec. 7. (1) There is created a separate and distinct budgetary program within the Office of Juvenile Services to be known as the County Juvenile Services Aid Program. The annual appropriation for this program shall not exceed four million dollars of General Funds. Funding acquired from participation in the federal act, state General Funds, and funding acquired from other sources which may be used for purposes consistent with the Juvenile Services Act and the federal act shall be used to aid counties in the establishment and provision of community-based services for accused and adjudicated juvenile offenders and to increase capacity for community-based services to juveniles.

(2) The annual General Fund appropriation to the County Juvenile Services Aid Program shall be apportioned to the counties as aid in accordance with the formula promulgated by the Office of Juvenile Services in rule and regulation. The formula shall be solely based upon the total number of residents per county who are twelve years of age through eighteen years of age as provided by the most recently available federal census data. Aid provided to a county under this subsection shall be reduced by the cost to the state of care for juveniles from such county who, as determined by a risk and needs assessment instrument of the Office of Juvenile Services, do not meet the criteria established by rule and regulation under section 43-406 that identifies the types of offenders appropriate for youth rehabilitation and treatment centers or more restrictive placement, but who are in fact committed to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center or more restrictive level placement.

(3) Funds provided to counties under the County Juvenile Services Aid Program shall be used exclusively to assist counties in implementation and operation of programs or services identified in their comprehensive juvenile services plan, including programs for assessment and evaluation, prevention of delinquent behavior, diversion, shelter care, intensive juvenile probation services, restitution, family support services, and family group conferencing. No funds available under the County Juvenile Services Aid Program shall be used for construction of secure detention facilities, secure youth treatment facilities, or secure youth confinement facilities. Aid received under this section shall not be used for capital construction or the lease or acquisition of facilities.

(4) Counties shall provide a minimum of a forty percent local match from nonstate sources for aid funds received from the state under the County Juvenile Services Aid Program. Any local expenditures for community-based programs for juveniles may be applied toward the local match requirement of this subsection.

(5) Any county receiving funding under the County Juvenile Services Aid Program shall file an annual report as required by rules and regulations adopted and promulgated by the Office of Juvenile Services. The report shall include, but not be limited to, information on the total number of juveniles served, the units of service provided, a listing of the county's annual juvenile justice budgeted and actual expenditures, and a listing of expenditures for detention, residential treatment, and nonresidential treatment.

(6) The Office of Juvenile Services shall report annually to the Governor and the Legislature on the distribution and use of funds appropriated under the County Juvenile Services Aid Program. On or before December 1, 2002, the Office of Juvenile Services, in consultation with county

representatives, shall recommend to the Governor and the Legislature a statewide structure for the delivery of juvenile services.

Sec. 8. Section 43-2405, Revised Statutes Supplement, 2000, is amended to read:

43-2405. (1) An eligible applicant may apply to the coalition for a grant under the Commission Grant Program in a manner and form prescribed by the commission for funds made available under the Juvenile Services Act from the Commission Grant Program or the federal act. The application shall include a comprehensive juvenile services plan. Grants shall be awarded to eligible applicants at least annually within the limits of available funds until programs are available statewide. ~~On request, the commission may provide technical assistance to eligible applicants to aid in the development and implementation of such plans.~~

(2) All plans shall comply with rules and regulations adopted and promulgated by the commission pursuant to the Juvenile Services Act or the federal act.

~~(3) Any portion of the plan dealing with the administration, procedures, and programs of the juvenile court shall not be submitted to the commission without the concurrence of the presiding judge of the court having jurisdiction in juvenile cases for the geographic area to be served.~~

~~(4) Eligible applicants may give consideration to contracting with private nonprofit agencies for the provision of programs.~~

Sec. 9. Section 43-2406, Revised Statutes Supplement, 2000, is amended to read:

43-2406. From amounts appropriated to the commission for the Commission Grant Program the Juvenile Services Act or funds available through the federal act, the commission shall award grants on a competitive basis to eligible applicants based upon criteria determined by the commission.

Sec. 10. Section 43-2408, Revised Statutes Supplement, 2000, is amended to read:

43-2408. (1) Grants provided under ~~section 43-2406~~ the Commission Grant Program may be used for developing programs ~~and for acquiring, developing, or improving local facilities for juveniles if the development and use of the facilities are prescribed in the approved plan under the Juvenile Services Act.~~

(2) ~~No funds awarded under section 43-2406 grants from the Commission Grant Program shall be used to acquire, develop, build, or improve local correctional facilities. which are not specifically utilized for juveniles.~~

Sec. 11. Section 43-2409, Revised Statutes Supplement, 2000, is amended to read:

43-2409. (1) The coalition shall review periodically the performance of eligible applicants participating under the ~~Juvenile Services Act~~ Commission Grant Program and the federal act to determine if substantial compliance criteria are being met. The commission shall establish criteria for defining substantial compliance.

(2) Grants received by an eligible applicant under ~~section 43-2406~~ the Commission Grant Program shall not be used to replace or supplant any funds currently being used to support existing programs for juveniles.

(3) Grants received under ~~section 43-2406~~ the Commission Grant Program shall not be used for capital construction or the lease or acquisition of facilities. ~~unless such uses have been approved by the commission.~~

Sec. 12. Section 43-2412, Revised Statutes Supplement, 2000, is amended to read:

43-2412. (1) Consistent with the purposes and objectives of the Juvenile Services Act and the federal act, the coalition shall:

(a) Make recommendations to the commission on the awarding of grants under the Commission Grant Program to eligible applicants;

(b) Identify juvenile justice issues, share information, and monitor and evaluate programs in the juvenile justice system;

~~(c) Develop or contract for the development of a statewide system to monitor and evaluate the effectiveness of plans and programs receiving grants under section 43-2406 in preventing persons from entering the juvenile justice system and in rehabilitating juvenile offenders;~~

~~(d) Recommend guidelines and supervision procedures to the Office of Juvenile Services to be used to develop or expand local diversion programs for juveniles from the juvenile justice system;~~

~~(e) (d) Prepare an annual report to the Governor, and the Legislature, and the Office of Juvenile Services including recommendations on administrative and legislative actions which would improve the juvenile justice system;~~

~~(f) (e) Ensure widespread citizen involvement in all phases of its~~

work; and

~~(g)~~ (f) Meet at least four times each year.

(2) Consistent with the purposes and objectives of the acts and within the limits of available time and appropriations, the coalition may:

(a) Recommend criteria to the Office of Juvenile Services for administrative procedures, including, but not limited to, procedures for intake, detention, petition filing, and probation supervision;

(b) Recommend to the Office of Juvenile Services minimum professional standards, including requirements for continuing professional training, for employees of community-based, youth-serving agencies;

(c) Recommend to the Office of Juvenile Services curricula for and cause to have conducted training sessions for juvenile court judges and employees of other community-based, youth-serving agencies;

(d) Assist and advise state and local agencies in the establishment of volunteer training programs and the utilization of volunteers;

(e) Apply for and receive funds from federal and private sources for carrying out its powers and duties; and

(f) Provide technical assistance to eligible applicants.

(3) In formulating, adopting, and promulgating the standards, recommendations, and guidelines provided for in this section, the coalition shall consider the differences among counties in population, in geography, and in the availability of local resources.

Sec. 13. Section 43-3503, Revised Statutes Supplement, 2000, is amended to read:

43-3503. (1) It is the intent of the Legislature to encourage counties to develop a continuum of nonsecure detention services for the purpose of enhancing, developing, and expanding the availability of such services to juveniles requiring nonsecure detention.

(2) A county may enhance, develop, or expand nonsecure detention services as needed with private or public providers. Grants from the Commission Grant Program and aid from the County Juvenile Services Aid Program under the Juvenile Services Act and the federal Juvenile Justice and Delinquency Prevention Act of 1974 may be used to fund nonsecure detention services. Each county shall routinely review services provided by contract providers and modify services as needed.

Sec. 14. It is the intent of the Legislature to appropriate \$1,545,000 from the General Fund for FY2001-02 and \$3,555,000 from the General Fund for FY2002-03 to the Department of Health and Human Services, for Program No. 324, County Juvenile Services Aid Program, for distribution to eligible counties as determined by rules and regulations adopted and promulgated by the Office of Juvenile Services pursuant to section 7 of this act.

Sec. 15. It is the intent of the Legislature to appropriate \$125,000 from the General Fund for FY2001-02 and \$125,000 from the General Fund for FY2002-03 to the Nebraska Commission on Law Enforcement and Criminal Justice, for Program No. 155, County Planning Grants, for the development of comprehensive juvenile services plans.

Sec. 16. Sections 1, 16, 17, and 19 of this act become operative on their effective date. The other sections of this act become operative on July 1, 2001.

Sec. 17. Original section 43-413, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 18. Original sections 43-2401 to 43-2406, 43-2408, 43-2409, 43-2412, and 43-3503, Revised Statutes Supplement, 2000, are repealed.

Sec. 19. Since an emergency exists, this act takes effect when passed and approved according to law.