

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 894

FINAL READING

Introduced by Pansing Brooks, 28; Chambers, 11; Coash, 27; Ebke, 32;
Krist, 10; McCollister, 20; Morfeld, 46; Williams, 36.

Read first time January 11, 2016

Committee: Judiciary

1 A BILL FOR AN ACT relating to juveniles; to amend sections 43-248.01,
2 43-260, 43-273, 43-279, 43-3504, 83-4,125, 83-4,126, 83-4,132, and
3 83-4,134, Reissue Revised Statutes of Nebraska, sections 43-248,
4 43-253, 43-255, 43-256, 43-260.01, and 43-3503, Revised Statutes
5 Cumulative Supplement, 2014, and sections 43-245, 43-247, 43-250,
6 43-251.01, 43-272, and 43-272.01, Revised Statutes Supplement, 2015;
7 to provide, change, and eliminate definitions; to change provisions
8 relating to court jurisdiction, temporary custody and disposition,
9 detention, and placements and commitments under the Nebraska
10 Juvenile Code; to change provisions relating to the advisement of
11 rights given to a juvenile in custody; to provide for alternatives
12 to detention and for creation of county guardian ad litem divisions;
13 to change provisions for appointment and compensation of a guardian
14 ad litem; to require and change provisions relating to the
15 appointment of counsel for juveniles; to prohibit the waiver of
16 counsel in certain circumstances; to require the Supreme Court to
17 provide guidelines for attorneys practicing in juvenile court; to
18 set forth requirements for a valid waiver of the right to counsel by
19 a juvenile; to provide requirements relating to room confinement of
20 juveniles; to provide for reports; to provide a duty for the
21 Inspector General of Nebraska Child Welfare; to harmonize

1 provisions; and to repeal the original sections.

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

1 Section 1. Section 43-245, Revised Statutes Supplement, 2015, is
2 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 3) Approved center means a center that has applied for and
21 received approval from the Director of the Office of Dispute Resolution
22 under section 25-2909;

23 (5 4) Civil citation means a noncriminal notice which cannot result
24 in a criminal record and is described in section 43-248.02;

25 (6 5) Cost or costs means (a) the sum or equivalent expended, paid,
26 or charged for goods or services, or expenses incurred, or (b) the
27 contracted or negotiated price;

28 (7 6) Criminal street gang means a group of three or more people
29 with a common identifying name, sign, or symbol whose group identity or
30 purposes include engaging in illegal activities;

31 (8 7) Criminal street gang member means a person who willingly or

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

2 (9 8) Custodian means a nonparental caretaker having physical
3 custody of the juvenile and includes an appointee described in section
4 43-294;

5 (10 9) Guardian means a person, other than a parent, who has
6 qualified by law as the guardian of a juvenile pursuant to testamentary
7 or court appointment, but excludes a person who is merely a guardian ad
8 litem;

9 (11 10) Juvenile means any person under the age of eighteen;

10 (12 11) Juvenile court means the separate juvenile court where it
11 has been established pursuant to sections 43-2,111 to 43-2,127 and the
12 county court sitting as a juvenile court in all other counties. Nothing
13 in the Nebraska Juvenile Code shall be construed to deprive the district
14 courts of their habeas corpus, common-law, or chancery jurisdiction or
15 the county courts and district courts of jurisdiction of domestic
16 relations matters as defined in section 25-2740;

17 (13 12) Juvenile detention facility has the same meaning as in
18 section 83-4,125;

19 (14 13) Legal custody has the same meaning as in section 43-2922;

20 (15 14) Mediator for juvenile offender and victim mediation means a
21 person who (a) has completed at least thirty hours of training in
22 conflict resolution techniques, neutrality, agreement writing, and ethics
23 set forth in section 25-2913, (b) has an additional eight hours of
24 juvenile offender and victim mediation training, and (c) meets the
25 apprenticeship requirements set forth in section 25-2913;

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

29 (17 16) Nonoffender means a juvenile who is subject to the
30 jurisdiction of the juvenile court for reasons other than legally
31 prohibited conduct, including, but not limited to, juveniles described in

1 subdivision (3)(a) of section 43-247;

2 ~~(17) Nonsecure detention means detention characterized by the~~
3 ~~absence of restrictive hardware, construction, and procedure. Nonsecure~~
4 ~~detention services may include a range of placement and supervision~~
5 ~~options, such as home detention, electronic monitoring, day reporting,~~
6 ~~drug court, tracking and monitoring supervision, staff secure and~~
7 ~~temporary holdover facilities, and group homes;~~

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

11 (19) Parties means the juvenile as described in section 43-247 and
12 his or her parent, guardian, or custodian;

13 (20) Physical custody has the same meaning as in section 43-2922;

14 (21) Except in proceedings under the Nebraska Indian Child Welfare
15 Act, relative means father, mother, grandfather, grandmother, brother,
16 sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt,
17 first cousin, nephew, or niece;

18 (22) Seal a record means that a record shall not be available to the
19 public except upon the order of a court upon good cause shown;

20 (23) Secure detention means detention in a highly structured,
21 residential, hardware-secured facility designed to restrict a juvenile's
22 movement;

23 (24) Staff secure juvenile facility means a juvenile residential
24 facility operated by a political subdivision (a) which does not include
25 construction designed to physically restrict the movements and activities
26 of juveniles who are in custody in the facility, (b) in which physical
27 restriction of movement or activity of juveniles is provided solely
28 through staff, (c) which may establish reasonable rules restricting
29 ingress to and egress from the facility, and (d) in which the movements
30 and activities of individual juvenile residents may, for treatment
31 purposes, be restricted or subject to control through the use of

1 intensive staff supervision. Staff secure juvenile facility does not
2 include any institution operated by the Department of Correctional
3 Services has the same meaning as in section 83-4,125;

4 (25) Status offender means a juvenile who has been charged with or
5 adjudicated for conduct which would not be a crime if committed by an
6 adult, including, but not limited to, juveniles charged under subdivision
7 (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02;

8 (26) Traffic offense means any nonfelonious act in violation of a
9 law or ordinance regulating vehicular or pedestrian travel, whether
10 designated a misdemeanor or a traffic infraction; and

11 (27) Young adult means an individual older than eighteen years of
12 age but under twenty-one years of age.

13 Sec. 2. Section 43-247, Revised Statutes Supplement, 2015, is
14 amended to read:

15 43-247 The juvenile court in each county shall have jurisdiction of:

16 (1) Any juvenile who has committed an act other than a traffic
17 offense which would constitute a misdemeanor or an infraction under the
18 laws of this state, or violation of a city or village ordinance, and who,
19 beginning July 1, 2017, was eleven years of age or older at the time the
20 act was committed;

21 (2) Any juvenile who has committed an act which would constitute a
22 felony under the laws of this state and who, beginning July 1, 2017, was
23 eleven years of age or older at the time the act was committed;

24 (3) Any juvenile (a) who is homeless or destitute, or without proper
25 support through no fault of his or her parent, guardian, or custodian;
26 who is abandoned by his or her parent, guardian, or custodian; who lacks
27 proper parental care by reason of the fault or habits of his or her
28 parent, guardian, or custodian; whose parent, guardian, or custodian
29 neglects or refuses to provide proper or necessary subsistence,
30 education, or other care necessary for the health, morals, or well-being
31 of such juvenile; whose parent, guardian, or custodian is unable to

1 provide or neglects or refuses to provide special care made necessary by
2 the mental condition of the juvenile; ~~or~~ who is in a situation or engages
3 in an occupation, including prostitution, dangerous to life or limb or
4 injurious to the health or morals of such juvenile; or who, beginning
5 July 1, 2017, has committed an act or engaged in behavior described in
6 subdivision (1), (2), (3)(b), or (4) of this section and who was under
7 eleven years of age at the time of such act or behavior, (b)(i) who,
8 until July 1, 2017, by reason of being wayward or habitually disobedient,
9 is uncontrolled by his or her parent, guardian, or custodian; who departs
10 himself or herself so as to injure or endanger seriously the morals or
11 health of himself, herself, or others; or who is habitually truant from
12 home or school or (ii) who, beginning July 1, 2017, is eleven years of
13 age or older and, by reason of being wayward or habitually disobedient,
14 is uncontrolled by his or her parent, guardian, or custodian; who departs
15 himself or herself so as to injure or endanger seriously the morals or
16 health of himself, herself, or others; or who is habitually truant from
17 home or school, or (c) who is mentally ill and dangerous as defined in
18 section 71-908;

19 (4) Any juvenile who has committed an act which would constitute a
20 traffic offense as defined in section 43-245 and who, beginning July 1,
21 2017, was eleven years of age or older at the time the act was committed;

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

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

25 (7) Any juvenile who has been voluntarily relinquished, pursuant to
26 section 43-106.01, to the Department of Health and Human Services or any
27 child placement agency licensed by the Department of Health and Human
28 Services;

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

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

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

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

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

12 Notwithstanding the provisions of the Nebraska Juvenile Code, the
13 determination of jurisdiction over any Indian child as defined in section
14 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and
15 the district court shall have exclusive jurisdiction in proceedings
16 brought pursuant to section 71-510.

17 Sec. 3. Section 43-248, Revised Statutes Cumulative Supplement,
18 2014, is amended to read:

19 43-248 A peace officer may take a juvenile into temporary custody
20 without a warrant or order of the court and proceed as provided in
21 section 43-250 when:

22 (1)(a) Until July 1, 2017, a A juvenile has violated a state law or
23 municipal ordinance and the officer has reasonable grounds to believe
24 such juvenile committed such violation or (b) beginning July 1, 2017, a
25 juvenile has violated a state law or municipal ordinance and such
26 juvenile was eleven years of age or older at the time of the violation,
27 and the officer has reasonable grounds to believe such juvenile committed
28 such violation and was eleven years of age or older at the time of the
29 violation;

30 (2) A juvenile is seriously endangered in his or her surroundings
31 and immediate removal appears to be necessary for the juvenile's

1 protection;

2 (3) The officer believes the juvenile to be mentally ill and
3 dangerous as defined in section 71-908 and that the harm described in
4 that section is likely to occur before proceedings may be instituted
5 before the juvenile court;

6 (4) The officer has reasonable grounds to believe that the juvenile
7 has run away from his or her parent, guardian, or custodian;

8 (5) A probation officer has reasonable cause to believe that a
9 juvenile is in violation of probation and that the juvenile will attempt
10 to leave the jurisdiction or place lives or property in danger;

11 (6) The officer has reasonable grounds to believe the juvenile is
12 truant from school; ~~or~~

13 (7) The officer has reasonable grounds to believe the juvenile is
14 immune from prosecution for prostitution under subsection (5) of section
15 28-801; ~~or~~

16 (8) Beginning July 1, 2017, the juvenile has committed an act or
17 engaged in behavior described in subdivision (1), (2), (3)(b), or (4) of
18 section 43-247 and such juvenile was under eleven years of age at the
19 time of such act or behavior, and the officer has reasonable cause to
20 believe such juvenile committed such act or engaged in such behavior and
21 was under eleven years of age at such time.

22 Sec. 4. Section 43-248.01, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 43-248.01 All law enforcement personnel or other governmental
25 officials having custody of any person under eighteen years of age ~~who~~
26 ~~has been arrested, restrained, detained, or deprived of his or her~~
27 ~~liberty for whatever reason~~ shall inform ~~permit~~ the person in custody,
28 using developmentally appropriate language and without unnecessary delay
29 after arrival at a police station or detention facility, of such person's
30 right to call or consult an attorney who is retained by or appointed on
31 behalf of such person ~~in custody~~ or whom the person ~~in custody~~ may desire

1 to consult and, except when exigent circumstances exist, shall permit
2 such person to call or consult such attorney without delay. An attorney
3 shall be permitted to see and consult with the person in custody alone
4 and in private at the place of custody.

5 Sec. 5. Section 43-250, Revised Statutes Supplement, 2015, is
6 amended to read:

7 43-250 (1) A peace officer who takes a juvenile into temporary
8 custody under section 29-401 or subdivision (1), (4), or (5) of section
9 43-248 shall immediately take reasonable measures to notify the
10 juvenile's parent, guardian, custodian, or relative and shall proceed as
11 follows:

12 (a) The peace officer may release a juvenile taken into temporary
13 custody under section 29-401 or subdivision (1) or (4) of section 43-248;

14 (b) The peace officer may require a juvenile taken into temporary
15 custody under section 29-401 or subdivision (1) or (4) of section 43-248
16 to appear before the court of the county in which such juvenile was taken
17 into custody at a time and place specified in the written notice prepared
18 in triplicate by the peace officer or at the call of the court. The
19 notice shall also contain a concise statement of the reasons such
20 juvenile was taken into custody. The peace officer shall deliver one copy
21 of the notice to such juvenile and require such juvenile or his or her
22 parent, guardian, other custodian, or relative, or both, to sign a
23 written promise that such signer will appear at the time and place
24 designated in the notice. Upon the execution of the promise to appear,
25 the peace officer shall immediately release such juvenile. The peace
26 officer shall, as soon as practicable, file one copy of the notice with
27 the county attorney or city attorney and, when required by the court,
28 also file a copy of the notice with the court or the officer appointed by
29 the court for such purpose; or

30 (c) The peace officer may retain temporary custody of a juvenile
31 taken into temporary custody under section 29-401 or subdivision (1),

1 (4), or (5) of section 43-248 and deliver the juvenile, if necessary, to
2 the probation officer and communicate all relevant available information
3 regarding such juvenile to the probation officer. The probation officer
4 shall determine the need for detention of the juvenile as provided in
5 section 43-260.01. Upon determining that the juvenile should be placed in
6 detention or an alternative to detention ~~a secure or nonsecure placement~~
7 and securing placement in such ~~secure or nonsecure~~ setting by the
8 probation officer, the peace officer shall implement the probation
9 officer's decision to release or to detain and place the juvenile. When
10 secure detention of a juvenile is necessary, such detention shall occur
11 within a juvenile detention facility except:

12 (i) When a juvenile described in subdivision (1) or (2) of section
13 43-247, except for a status offender, is taken into temporary custody
14 within a metropolitan statistical area and where no juvenile detention
15 facility is reasonably available, the juvenile may be delivered, for
16 temporary custody not to exceed six hours, to a secure area of a jail or
17 other facility intended or used for the detention of adults solely for
18 the purposes of identifying the juvenile and ascertaining his or her
19 health and well-being and for safekeeping while awaiting transport to an
20 appropriate juvenile placement or release to a responsible party;

21 (ii) When a juvenile described in subdivision (1) or (2) of section
22 43-247, except for a status offender, is taken into temporary custody
23 outside of a metropolitan statistical area and where no juvenile
24 detention facility is reasonably available, the juvenile may be
25 delivered, for temporary custody not to exceed twenty-four hours
26 excluding nonjudicial days and while awaiting an initial court
27 appearance, to a secure area of a jail or other facility intended or used
28 for the detention of adults solely for the purposes of identifying the
29 juvenile and ascertaining his or her health and well-being and for
30 safekeeping while awaiting transport to an appropriate juvenile placement
31 or release to a responsible party;

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

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

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

17 (vi) A status offender or nonoffender taken into temporary custody
18 shall not be held in a secure area of a jail or other facility intended
19 or used for the detention of adults. Until January 1, 2013, a status
20 offender accused of violating a valid court order may be securely
21 detained in a juvenile detention facility longer than twenty-four hours
22 if he or she is afforded a detention hearing before a court within
23 twenty-four hours, excluding nonjudicial days, and if, prior to a
24 dispositional commitment to secure placement, a public agency, other than
25 a court or law enforcement agency, is afforded an opportunity to review
26 the juvenile's behavior and possible alternatives to secure placement and
27 has submitted a written report to the court; and

28 (vii) A juvenile described in subdivision (1) or (2) of section
29 43-247, except for a status offender, may be held in a secure area of a
30 jail or other facility intended or used for the detention of adults for
31 up to six hours before and six hours after any court appearance.

1 (2) When a juvenile is taken into temporary custody pursuant to
2 subdivision (2), ~~or (7), or (8)~~ of section 43-248, the peace officer
3 shall deliver the custody of such juvenile to the Department of Health
4 and Human Services which shall make a temporary placement of the juvenile
5 in the least restrictive environment consistent with the best interests
6 of the juvenile as determined by the department. The department shall
7 supervise such placement and, if necessary, consent to any necessary
8 emergency medical, psychological, or psychiatric treatment for such
9 juvenile. The department shall have no other authority with regard to
10 such temporary custody until or unless there is an order by the court
11 placing the juvenile in the custody of the department. If the peace
12 officer delivers temporary custody of the juvenile pursuant to this
13 subsection, the peace officer shall make a full written report to the
14 county attorney within twenty-four hours of taking such juvenile into
15 temporary custody. If a court order of temporary custody is not issued
16 within forty-eight hours of taking the juvenile into custody, the
17 temporary custody by the department shall terminate and the juvenile
18 shall be returned to the custody of his or her parent, guardian,
19 custodian, or relative.

20 (3) If the peace officer takes the juvenile into temporary custody
21 pursuant to subdivision (3) of section 43-248, the peace officer may
22 place the juvenile at a mental health facility for evaluation and
23 emergency treatment or may deliver the juvenile to the Department of
24 Health and Human Services as provided in subsection (2) of this section.
25 At the time of the admission or turning the juvenile over to the
26 department, the peace officer responsible for taking the juvenile into
27 custody pursuant to subdivision (3) of section 43-248 shall execute a
28 written certificate as prescribed by the Department of Health and Human
29 Services which will indicate that the peace officer believes the juvenile
30 to be mentally ill and dangerous, a summary of the subject's behavior
31 supporting such allegations, and that the harm described in section

1 71-908 is likely to occur before proceedings before a juvenile court may
2 be invoked to obtain custody of the juvenile. A copy of the certificate
3 shall be forwarded to the county attorney. The peace officer shall notify
4 the juvenile's parents, guardian, custodian, or relative of the
5 juvenile's placement.

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

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

16 (6) In determining the appropriate temporary placement or
17 alternative to detention of a juvenile under this section, the peace
18 officer shall select the placement or alternative which is least
19 restrictive of the juvenile's freedom so long as such placement or
20 alternative is compatible with the best interests of the juvenile and the
21 safety of the community. Any alternative to detention shall cause the
22 least restriction of the juvenile's freedom of movement consistent with
23 the best interest of the juvenile and the safety of the community.

24 Sec. 6. Section 43-251.01, Revised Statutes Supplement, 2015, is
25 amended to read:

26 43-251.01 All placements and commitments of juveniles for
27 evaluations or as temporary or final dispositions are subject to the
28 following:

29 (1) No juvenile shall be confined in an adult correctional facility
30 as a disposition of the court;

31 (2) A juvenile who is found to be a juvenile as described in

1 subdivision (3) of section 43-247 shall not be placed in an adult
2 correctional facility, the secure youth confinement facility operated by
3 the Department of Correctional Services, or a youth rehabilitation and
4 treatment center or committed to the Office of Juvenile Services;

5 (3) A juvenile who is found to be a juvenile as described in
6 subdivision (1), (2), or (4) of section 43-247 shall not be assigned or
7 transferred to an adult correctional facility or the secure youth
8 confinement facility operated by the Department of Correctional Services;

9 (4) A juvenile under the age of fourteen years shall not be placed
10 with or committed to a youth rehabilitation and treatment center;

11 (5) A juvenile shall not be detained in secure detention or placed
12 at a youth rehabilitation and treatment center unless detention or
13 placement of such juvenile is a matter of immediate and urgent necessity
14 for the protection of such juvenile or the person or property of another
15 or if it appears that such juvenile is likely to flee the jurisdiction of
16 the court;

17 (6) A juvenile alleged to be a juvenile as described in subdivision
18 (3) ~~(3)(b)~~ of section 43-247 shall not be placed in a juvenile detention
19 facility, including a wing labeled as staff secure at such facility,
20 unless the designated staff secure portion of the facility fully complies
21 with subdivision (5 ~~3~~) of section 83-4,125 and the ingress and egress to
22 the facility are restricted solely through staff supervision; and

23 (7) A juvenile alleged to be a juvenile as described in subdivision
24 (1), (2), (3)(b), or (4) of section 43-247 shall not be placed out of his
25 or her home as a dispositional order of the court unless:

26 (a) All available community-based resources have been exhausted to
27 assist the juvenile and his or her family; and

28 (b) Maintaining the juvenile in the home presents a significant risk
29 of harm to the juvenile or community.

30 Sec. 7. Section 43-253, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 43-253 (1) Upon delivery to the probation officer of a juvenile who
2 has been taken into temporary custody under section 29-401, 43-248, or
3 43-250, the probation officer shall immediately investigate the situation
4 of the juvenile and the nature and circumstances of the events
5 surrounding his or her being taken into custody. Such investigation may
6 be by informal means when appropriate.

7 (2) The probation officer's decision to release the juvenile from
8 custody or place the juvenile in ~~secure or nonsecure~~ detention or an
9 alternative to detention shall be based upon the results of the
10 standardized juvenile detention screening instrument described in section
11 43-260.01.

12 (3) No juvenile who has been taken into temporary custody under
13 subdivision (1)(c) of section 43-250 shall be detained in any secure
14 detention facility or be subject to an alternative to detention
15 infringing upon the juvenile's liberty interest for longer than twenty-
16 four hours, excluding nonjudicial days, after having been taken into
17 custody unless such juvenile has appeared personally before a court of
18 competent jurisdiction for a hearing to determine if continued detention,
19 services, or supervision is necessary. The juvenile shall be represented
20 by counsel at the hearing. Whether such counsel shall be provided at the
21 cost of the county shall be determined as provided in subsection (1) of
22 section 43-272. If continued secure detention is ordered, such detention
23 shall be in a juvenile detention facility, except that a juvenile charged
24 with a felony as an adult in county or district court may be held in an
25 adult jail as set forth in subdivision (1)(c)(v) of section 43-250. A
26 juvenile placed in an alternative to detention, but not in detention, may
27 waive this hearing through counsel.

28 (4) When the probation officer deems it to be in the best interests
29 of the juvenile, the probation officer shall immediately release such
30 juvenile to the custody of his or her parent. If the juvenile has both a
31 custodial and a noncustodial parent and the probation officer deems that

1 release of the juvenile to the custodial parent is not in the best
2 interests of the juvenile, the probation officer shall, if it is deemed
3 to be in the best interests of the juvenile, attempt to contact the
4 noncustodial parent, if any, of the juvenile and to release the juvenile
5 to such noncustodial parent. If such release is not possible or not
6 deemed to be in the best interests of the juvenile, the probation officer
7 may release the juvenile to the custody of a legal guardian, a
8 responsible relative, or another responsible person.

9 (5) The court may admit such juvenile to bail by bond in such amount
10 and on such conditions and security as the court, in its sole discretion,
11 shall determine, or the court may proceed as provided in section 43-254.
12 In no case shall the court or probation officer release such juvenile if
13 it appears that further detention or placement of such juvenile is a
14 matter of immediate and urgent necessity for the protection of such
15 juvenile or the person or property of another or if it appears that such
16 juvenile is likely to flee the jurisdiction of the court.

17 Sec. 8. Section 43-255, Revised Statutes Cumulative Supplement,
18 2014, is amended to read:

19 43-255 Whenever a juvenile is detained or placed in an alternative
20 to detention infringing upon the child's liberty interest under section
21 43-250 or 43-253, the juvenile shall be released unconditionally within
22 forty-eight hours after the detention or placement order or the setting
23 of bond, excluding nonjudicial days, unless within such period of time
24 (1) a motion has been filed alleging that such juvenile has violated an
25 order of the juvenile court, (2) a juvenile court petition has been filed
26 pursuant to section 43-274, or (3) a criminal complaint has been filed in
27 a court of competent jurisdiction.

28 Sec. 9. Section 43-256, Revised Statutes Cumulative Supplement,
29 2014, is amended to read:

30 43-256 When the court enters an order continuing placement, ~~or~~
31 detention, or an alternative to detention infringing upon the juvenile's

1 liberty interest pursuant to section 43-253, upon request of the
2 juvenile, or his or her parent, guardian, or attorney, the court shall
3 hold a hearing within forty-eight hours, at which hearing the burden of
4 proof shall be upon the state to show probable cause that such juvenile
5 is within the jurisdiction of the court. Strict rules of evidence shall
6 not apply at the probable cause hearing. The juvenile shall be released
7 if probable cause is not shown. At the option of the court, it may hold
8 the adjudication hearing provided in section 43-279 as soon as possible
9 instead of the probable cause hearing if held within a reasonable period
10 of time. This section and section 43-255 shall not apply to a juvenile
11 (1) who has escaped from a commitment or (2) who has been taken into
12 custody for his or her own protection as provided in subdivision (2) of
13 section 43-248 in which case the juvenile shall be held on order of the
14 court with jurisdiction for a reasonable period of time.

15 Sec. 10. Section 43-260, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 43-260 The Office of Probation Administration shall prepare and
18 distribute to probation officers a standardized juvenile detention
19 screening instrument. The types of risk factors to be included as well as
20 the format of this standardized juvenile detention screening instrument
21 shall be determined by the office. The standardized juvenile detention
22 screening instrument shall be used as an assessment tool statewide by
23 probation officers under section 43-260.01 in order to determine if
24 detention of the juvenile is necessary and, if so, whether ~~secure~~ or
25 ~~nonsecure~~ detention or an alternative to detention is indicated.
26 Probation officers trained to administer the juvenile detention screening
27 instrument shall act as juvenile intake probation officers. Only duly
28 trained probation officers shall be authorized to administer the juvenile
29 detention screening instrument.

30 Sec. 11. Section 43-260.01, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 43-260.01 The need for preadjudication placement, services, or
2 supervision and the need for detention of a juvenile and whether
3 detention secure or an alternative to detention nonsecure detention is
4 indicated shall be subject to subdivision (5) of section 43-251.01 and
5 may be determined as follows:

6 (1) The standardized juvenile detention screening instrument shall
7 be used to evaluate the juvenile;

8 (2) If the results indicate that ~~secure~~ detention is not required,
9 the juvenile shall be released without restriction or released to an
10 alternative to detention nonsecure detention placement or supervision
11 ~~options shall be pursued~~; and

12 (3) If the results indicate that ~~secure~~ detention is required,
13 ~~detention at the secure level as indicated by the instrument~~ shall be
14 pursued.

15 Sec. 12. Section 43-272, Revised Statutes Supplement, 2015, is
16 amended to read:

17 43-272 (1)(a) In counties having a population of less than one
18 hundred fifty thousand inhabitants, when ~~when~~ any juvenile shall be
19 brought without counsel before a juvenile court, the court shall advise
20 such juvenile and his or her parent or guardian of their right to retain
21 counsel and shall inquire of such juvenile and his or her parent or
22 guardian as to whether they desire to retain counsel. The court shall
23 inform such juvenile and his or her parent or guardian of such juvenile's
24 right to counsel at county expense if none of them is able to afford
25 counsel. If the juvenile or his or her parent or guardian desires to have
26 counsel appointed for such juvenile, or the parent or guardian of such
27 juvenile cannot be located, and the court ascertains that none of such
28 persons are able to afford an attorney, the court shall forthwith appoint
29 an attorney to represent such juvenile for all proceedings before the
30 juvenile court, except that if an attorney is appointed to represent such
31 juvenile and the court later determines that a parent of such juvenile is

1 able to afford an attorney, the court shall order such parent or juvenile
2 to pay for services of the attorney to be collected in the same manner as
3 provided by section 43-290. If the parent willfully refuses to pay any
4 such sum, the court may commit him or her for contempt, and execution may
5 issue at the request of the appointed attorney or the county attorney or
6 by the court without a request.

7 (b) In counties having a population of one hundred fifty thousand or
8 more inhabitants, when any juvenile court petition is filed alleging
9 jurisdiction of a juvenile pursuant to subdivision (1), (2), (3)(b), or
10 (4) of section 43-247, counsel shall be appointed for such juvenile. The
11 court shall inform such juvenile and his or her parent or guardian of
12 such juvenile's right to counsel at county expense if none of them is
13 able to afford counsel. If the juvenile or his or her parent or guardian
14 desires to have counsel appointed for such juvenile, or the parent or
15 guardian of such juvenile cannot be located, and the court ascertains
16 that none of such persons are able to afford an attorney, the court shall
17 forthwith appoint an attorney to represent such juvenile for all
18 proceedings before the juvenile court, except that if an attorney is
19 appointed to represent such juvenile and the court later determines that
20 a parent of such juvenile is able to afford an attorney, the court shall
21 order such parent or juvenile to pay for services of the attorney to be
22 collected in the same manner as provided by section 43-290. If the parent
23 willfully refuses to pay any such sum, the court may commit him or her
24 for contempt, and execution may issue at the request of the appointed
25 attorney or the county attorney or by the court without a request.

26 (2) The court, on its own motion or upon application of a party to
27 the proceedings, shall appoint a guardian ad litem for the juvenile: (a)
28 If the juvenile has no parent or guardian of his or her person or if the
29 parent or guardian of the juvenile cannot be located or cannot be brought
30 before the court; (b) if the parent or guardian of the juvenile is
31 excused from participation in all or any part of the proceedings; (c) if

1 the parent is a juvenile or an incompetent; (d) if the parent is
2 indifferent to the interests of the juvenile; or (e) in any proceeding
3 pursuant to the provisions of subdivision (3)(a) of section 43-247.

4 A guardian ad litem shall have the duty to protect the interests of
5 the juvenile for whom he or she has been appointed guardian, and shall be
6 deemed a parent of the juvenile as to those proceedings with respect to
7 which his or her guardianship extends.

8 (3) The court shall appoint an attorney as guardian ad litem. A
9 guardian ad litem shall act as his or her own counsel and as counsel for
10 the juvenile, unless there are special reasons in a particular case why
11 the guardian ad litem or the juvenile or both should have separate
12 counsel. In such cases the guardian ad litem shall have the right to
13 counsel, except that the guardian ad litem shall be entitled to appointed
14 counsel without regard to his or her financial ability to retain counsel.
15 Whether such appointed counsel shall be provided at the cost of the
16 county shall be determined as provided in subsection (1) of this section.

17 (4) By July 1, 2015, the Supreme Court shall provide by court rule
18 standards for guardians ad litem for juveniles in juvenile court
19 proceedings.

20 (5) By July 1, 2017, the Supreme Court shall provide guidelines
21 setting forth standards for all attorneys who practice in juvenile court.

22 Sec. 13. Section 43-272.01, Revised Statutes Supplement, 2015, is
23 amended to read:

24 43-272.01 (1) A guardian ad litem as provided for in subsections (2)
25 and (3) of section 43-272 shall be appointed when a child is removed from
26 his or her surroundings pursuant to subdivision (2) or (3) of section
27 43-248, subsection (2) of section 43-250, or section 43-251. If a county
28 has a guardian ad litem division created under section 14 of this act,
29 the court shall appoint the guardian ad litem division unless a conflict
30 of interest exists or the court determines that an appointment outside of
31 the guardian ad litem division would be more appropriate to serve the

1 child's best interests. If removal has not occurred, a guardian ad litem
2 shall be appointed at the commencement of all cases brought under
3 subdivision (3)(a) or (7) of section 43-247 and section 28-707.

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

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

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

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

26 (d) Shall make every reasonable effort to become familiar with the
27 needs of the protected juvenile which (i) shall include consultation with
28 the juvenile in his or her respective placement within two weeks after
29 the appointment and once every six months thereafter, unless the court
30 approves other methods of consultation as provided in subsection (6) of
31 this section, and inquiry of the most current caseworker, foster parent,

1 or other custodian and (ii) may include inquiry of others directly
2 involved with the juvenile or who may have information or knowledge about
3 the circumstances which brought the juvenile court action or related
4 cases and the development of the juvenile, including biological parents,
5 physicians, psychologists, teachers, and clergy members;

6 (e) May present evidence and witnesses and cross-examine witnesses
7 at all evidentiary hearings. In any proceeding under this section
8 relating to a child of school age, certified copies of school records
9 relating to attendance and academic progress of such child are admissible
10 in evidence;

11 (f) Shall be responsible for making written reports and
12 recommendations to the court at every dispositional, review, or
13 permanency planning hearing regarding the temporary and permanent
14 placement of the protected juvenile, the type and number of contacts with
15 the juvenile, the type and number of contacts with other individuals
16 described in subdivision (d) of this subsection, and any further relevant
17 information on a form prepared by the Supreme Court. As an alternative to
18 the written reports and recommendations, the court may provide the
19 guardian ad litem with a checklist that shall be completed and presented
20 to the court at every dispositional or review hearing. A copy of the
21 written reports and recommendations to the court or a copy of the
22 checklist presented to the court shall also be submitted to the Foster
23 Care Review Office for any juvenile in foster care placement as defined
24 in section 43-1301;

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

27 (h) May file a petition in the juvenile court on behalf of the
28 juvenile, including a supplemental petition as provided in section
29 43-291.

30 (3) Nothing in this section shall operate to limit the discretion of
31 the juvenile court in protecting the best interests of a juvenile who is

1 the subject of a juvenile court petition.

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

9 (5) The guardian ad litem may be compensated on a per-case
10 appointment system or pursuant to a system of multi-case contracts or may
11 be employed by a guardian ad litem division created pursuant to section
12 14 of this act. If a county creates a guardian ad litem division,
13 guardian ad litem appointments shall be made first from the guardian ad
14 litem division unless a conflict exists or the court determines that an
15 appointment outside of the guardian ad litem division would be more
16 appropriate to serve the child's best interests. Regardless of the method
17 of compensation, billing hours and expenses for court-appointed guardian
18 ad litem services shall be submitted to the court for approval and shall
19 be recorded on a written, itemized billing statement signed by the
20 attorney responsible for the case. Billing hours and expenses for
21 guardian ad litem services rendered under a contract for such services
22 shall be submitted to the entity with whom the guardian ad litem
23 contracts in the form and manner prescribed by such entity for approval.
24 Case time for guardian ad litem services shall be scrupulously accounted
25 for by the attorney responsible for the case. Additionally, in the case
26 of a multi-lawyer firm or organization retained for guardian ad litem
27 services, the name of the attorney or attorneys assigned to each guardian
28 ad litem case shall be recorded.

29 (6) The guardian ad litem shall meet in person with the juvenile for
30 purposes of the consultation required by subdivision (2)(d) of this
31 section unless prohibited or made impracticable by exceptional

1 circumstances, including, but not limited to, situations in which an
2 unreasonable geographical distance is involved between the location of
3 the guardian ad litem and the juvenile. When such exceptional
4 circumstances exist, the guardian ad litem shall attempt such
5 consultation by other reasonable means, including, but not limited to, by
6 telephone or suitable electronic means, if the juvenile is of sufficient
7 age and capacity to participate in such means of communication and there
8 are no other barriers preventing such means of communication. If
9 consultation by telephone or suitable electronic means is not feasible,
10 the guardian ad litem shall seek direction from the court as to any other
11 acceptable method by which to accomplish consultation required by
12 subdivision (2)(d) of this section.

13 Sec. 14. (1) A county board may create a county guardian ad litem
14 division to carry out section 43-272.01.

15 (2) The county board shall appoint a division director for the
16 guardian ad litem division. The division director shall be an attorney
17 admitted to practice law in Nebraska with at least five years of Nebraska
18 juvenile court experience as a guardian ad litem for children, including
19 both trial and appellate practice experience, prior to appointment. The
20 division director may appoint assistant guardians ad litem and other
21 employees as are reasonably necessary to permit him or her to effectively
22 and competently fulfill the responsibilities of the division, subject to
23 the approval and consent of the county board. All assistant guardians ad
24 litem shall be attorneys admitted to practice law in Nebraska and shall
25 comply with all requirements of the Supreme Court relating to guardians
26 ad litem.

27 (3) All assistant guardians ad litem employed by the division shall
28 devote their full time to the work of the division and shall not engage
29 in the private practice of law so long as each assistant guardian ad
30 litem receives the same annual salary as each deputy county attorney of
31 comparable ability and experience receives in such counties.

1 (4) The director and any assistant guardian ad litem employed by the
2 division shall not solicit or accept any fee for representing a child in
3 a case in which the director or the assistant guardian ad litem is
4 already acting as the child's court-appointed guardian ad litem.

5 Sec. 15. Section 43-273, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 43-273 Counsel and guardians ad litem appointed outside of the
8 guardian ad litem division as provided in section 43-272 shall apply to
9 the court before which the proceedings were had for fees for services
10 performed. The court upon hearing the application shall fix reasonable
11 fees. The county board of the county wherein the proceedings were had
12 shall allow the account, bill, or claim presented by any attorney or
13 guardian ad litem for services performed under section 43-272 in the
14 amount determined by the court. No such account, bill, or claim shall be
15 allowed by the county board until the amount thereof shall have been
16 determined by the court.

17 Sec. 16. (1) In any court proceeding, any waiver of the right to
18 counsel by a juvenile shall be made in open court, shall be recorded, and
19 shall be confirmed in a writing signed by the juvenile.

20 (2) A court shall not accept a juvenile's waiver of the right to
21 counsel unless the waiver satisfies subsection (1) of this section and is
22 an affirmative waiver that is made intelligently, voluntarily, and
23 understandingly. In determining whether such waiver was made
24 intelligently, voluntarily, and understandingly, the court shall
25 consider, among other things: (a) The age, intelligence, and education of
26 the juvenile, (b) the juvenile's emotional stability, and (c) the
27 complexity of the proceedings.

28 (3) The court shall ensure that a juvenile represented by an
29 attorney consults with his or her attorney before any waiver of counsel.

30 (4) No parent, guardian, custodian, or other person may waive the
31 juvenile's right to counsel.

1 (5) A juvenile's right to be represented by counsel may not be
2 waived in the following circumstances:

3 (a) If the juvenile is under the age of fourteen;

4 (b) For a detention hearing;

5 (c) For any dispositional hearing where out-of-home placement is
6 sought; or

7 (d) If there is a motion to transfer the juvenile from juvenile
8 court to county court or district court.

9 Sec. 17. Section 43-279, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 43-279 (1) The adjudication portion of hearings shall be conducted
12 before the court without a jury, applying the customary rules of evidence
13 in use in trials without a jury. When the petition alleges the juvenile
14 to be within the provisions of subdivision (1), (2), (3)(b), or (4) of
15 section 43-247 and the juvenile or his or her parent, guardian, or
16 custodian appears with or without counsel, the court shall inform the
17 parties:

18 (a) Of the nature of the proceedings and the possible consequences
19 or dispositions pursuant to sections 43-284 to 43-286, 43-289, and 43-290
20 that may apply to the juvenile's case following an adjudication of
21 jurisdiction;

22 (b) Of such juvenile's right to counsel as provided in sections
23 43-272 and 43-273;

24 (c) Of the privilege against self-incrimination by advising the
25 juvenile, parent, guardian, or custodian that the juvenile may remain
26 silent concerning the charges against the juvenile and that anything said
27 may be used against the juvenile;

28 (d) Of the right to confront anyone who testifies against the
29 juvenile and to cross-examine any persons who appear against the
30 juvenile;

31 (e) Of the right of the juvenile to testify and to compel other

1 witnesses to attend and testify in his or her own behalf;

2 (f) Of the right of the juvenile to a speedy adjudication hearing;
3 and

4 (g) Of the right to appeal and have a transcript for such purpose.

5 After giving such warnings and admonitions, the court may accept an
6 in-court admission by the juvenile of all or any part of the allegations
7 in the petition if the court has determined from examination of the
8 juvenile and those present that such admission is intelligently,
9 voluntarily, and understandingly made and with an affirmative waiver of
10 rights and that a factual basis for such admission exists. The waiver of
11 the right to counsel shall satisfy section 16 of this act. The court may
12 base its adjudication provided in subsection (2) of this section on such
13 admission.

14 (2) If the juvenile denies the petition or stands mute the court
15 shall first allow a reasonable time for preparation if needed and then
16 consider only the question of whether the juvenile is a person described
17 by section 43-247. After hearing the evidence on such question, the court
18 shall make a finding and adjudication, to be entered on the records of
19 the court, whether or not the juvenile is a person described by
20 subdivision (1), (2), (3)(b), or (4) of section 43-247 based upon proof
21 beyond a reasonable doubt. If an Indian child is involved, the standard
22 of proof shall be in compliance with the Nebraska Indian Child Welfare
23 Act, if applicable.

24 (3) If the court shall find that the juvenile named in the petition
25 is not within the provisions of section 43-247, it shall dismiss the
26 case. If the court finds that the juvenile named in the petition is such
27 a juvenile, it shall make and enter its findings and adjudication
28 accordingly, designating which subdivision or subdivisions of section
29 43-247 such juvenile is within; the court shall allow a reasonable time
30 for preparation if needed and then proceed to an inquiry into the proper
31 disposition to be made of such juvenile.

1 Sec. 18. Section 43-3503, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 43-3503 (1) It is the intent of the Legislature to encourage
4 counties to develop a continuum of alternatives to detention ~~nonsecure~~
5 ~~detention~~ services for the purpose of enhancing, developing, and
6 expanding the availability of such services to juveniles requiring
7 alternatives to detention ~~nonsecure detention~~.

8 (2) A county may enhance, develop, or expand alternatives to
9 detention ~~nonsecure detention~~ services as needed with private or public
10 providers. Grants from the Commission Grant Program and aid from the
11 Community-based Juvenile Services Aid Program under the Juvenile Services
12 Act and the federal Juvenile Justice and Delinquency Prevention Act of
13 1974 may be used to fund alternatives to detention ~~nonsecure detention~~
14 services. Each county shall routinely review services provided by
15 contract providers and modify services as needed.

16 Sec. 19. Section 43-3504, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 43-3504 (1) Each county shall develop a county juvenile services
19 plan by January 1, 2003. Two or more counties may establish a multicounty
20 juvenile services plan. Such plan should include input from individuals
21 comprising a local juvenile justice advisory committee as provided for in
22 subdivision (1) of section 43-3505 or a similar committee or group of
23 individuals. The plan shall be submitted to the Nebraska Commission on
24 Law Enforcement and Criminal Justice and shall include:

25 (a) Identification of the risk factors for delinquency that exist in
26 the county or counties and service needs;

27 (b) Identification of juvenile services available within the county
28 or counties, including, but not limited to, programs for assessment and
29 evaluation, the prevention of delinquent behavior, diversion, detention,
30 shelter care, intensive juvenile probation services, restitution, family
31 support services, and community centers for the care and treatment of

1 juveniles in need of services;

2 (c) Identification of juvenile services within close proximity of
3 the county or counties that may be utilized if community-based programs
4 are not available within the county or counties;

5 (d) Identification of the programs, services, facilities, and
6 providers facilities the county primarily uses for juvenile secure
7 ~~detention and for nonsecure detention or alternatives to detention,~~
8 including the costs associated with the use of such programs, services,
9 facilities, and providers facilities; and

10 (e) A coordination plan and an enhancement, development, and
11 expansion plan of community services within the county, counties, or
12 region to help prevent delinquency by providing intervention services
13 when behavior that leads to delinquency is first exhibited. Examples of
14 intervention services include, but are not limited to, alternative
15 schools, school truancy programs, volunteer programs, family preservation
16 and counseling, drug and alcohol counseling, diversion programs, and
17 Parents Anonymous.

18 (2) Following or in conjunction with the development of a county
19 juvenile services plan, each county may develop regional service plans
20 and establish regional juvenile services boards when appropriate. The
21 regional service plan shall be submitted to the Nebraska Commission on
22 Law Enforcement and Criminal Justice.

23 (3) Plans developed under this section shall be updated no less than
24 every five years after the date the plan is submitted to the commission.

25 Sec. 20. Section 83-4,125, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 83-4,125 For purposes of sections 83-4,124 to 83-4,134 and section
28 24 of this act:

29 (1) Criminal detention facility means any institution operated by a
30 political subdivision or a combination of political subdivisions for the
31 careful keeping or rehabilitative needs of adult or juvenile criminal

1 offenders or those persons being detained while awaiting disposition of
2 charges against them. Criminal detention facility does not include any
3 institution operated by the Department of Correctional Services. Criminal
4 detention facilities shall be classified as follows:

5 (a) Type I Facilities means criminal detention facilities used for
6 the detention of persons for not more than twenty-four hours, excluding
7 nonjudicial days;

8 (b) Type II Facilities means criminal detention facilities used for
9 the detention of persons for not more than ninety-six hours, excluding
10 nonjudicial days; and

11 (c) Type III Facilities means criminal detention facilities used for
12 the detention of persons beyond ninety-six hours;

13 (2) Juvenile detention facility means an institution operated by a
14 political subdivision or political subdivisions for the secure detention
15 and treatment of persons younger than eighteen years of age, including
16 persons under the jurisdiction of a juvenile court, who are serving a
17 sentence pursuant to a conviction in a county or district court or who
18 are detained while waiting disposition of charges against them. Juvenile
19 detention facility does not include any institution operated by the
20 department; ~~and~~

21 (3) Juvenile facility means a residential child-caring agency as
22 defined in section 71-1926, a juvenile detention facility or staff secure
23 juvenile facility as defined in section 83-4,125, a facility operated by
24 the Department of Correctional Services that houses youth under the age
25 of majority, or a youth rehabilitation and treatment center;

26 (4) Room confinement means the involuntary restriction of a juvenile
27 to a cell, room, or other area, alone, including a juvenile's own room,
28 except during normal sleeping hours; and

29 (5 3) Staff secure juvenile facility means a juvenile residential
30 facility operated by a political subdivision (a) which does not include
31 construction designed to physically restrict the movements and activities

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

9 Sec. 21. Section 83-4,126, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 83-4,126 (1) Except as provided in subsection (2) of this section,
12 the Jail Standards Board shall have the authority and responsibility:

13 (a) To develop minimum standards for the construction, maintenance,
14 and operation of criminal detention facilities;

15 (b) To perform other duties as may be necessary to carry out the
16 policy of the state regarding criminal detention facilities, juvenile
17 detention facilities, and staff secure juvenile facilities as stated in
18 sections 83-4,124 to 83-4,134 and section 24 of this act; and

19 (c) Consistent with the purposes and objectives of the Juvenile
20 Services Act, to develop standards for juvenile detention facilities and
21 staff secure juvenile facilities, including, but not limited to,
22 standards for physical facilities, care, programs, and disciplinary
23 procedures, and to develop guidelines pertaining to the operation of such
24 facilities.

25 (2) The Jail Standards Board shall not have authority over or
26 responsibility for correctional facilities that are accredited by a
27 nationally recognized correctional association. A correctional facility
28 that is accredited by a nationally recognized correctional association
29 shall show proof of accreditation annually to the Jail Standards Board.
30 For purposes of this subsection, nationally recognized correctional
31 association includes, but is not limited to, the American Correctional

1 Association or its successor.

2 Sec. 22. Section 83-4,132, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 83-4,132 If an inspection under sections 83-4,124 to 83-4,134 and
5 section 24 of this act discloses that the criminal detention facility,
6 juvenile detention facility, or staff secure juvenile facility does not
7 meet the minimum standards established by the Jail Standards Board, the
8 board shall send notice, together with the inspection report, to the
9 governing body responsible for the facility. The appropriate governing
10 body shall promptly meet to consider the inspection report, and the
11 inspection personnel shall appear before the governing body to advise and
12 consult concerning appropriate corrective action. The governing body
13 shall then initiate appropriate corrective action within six months after
14 the receipt of such inspection report or may voluntarily close the
15 facility or the objectionable portion thereof.

16 Sec. 23. Section 83-4,134, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 83-4,134 Sections 83-4,124 to 83-4,134 and section 24 of this act
19 shall be implemented upon completion of the development of minimum
20 standards by the Jail Standards Board. Thereafter, inspections shall
21 begin, but no criminal detention facility, juvenile detention facility,
22 or staff secure juvenile facility shall be closed within one year of the
23 date of first filing of the minimum standards in the office of the
24 Secretary of State. After one year from the date of first filing of the
25 minimum standards, a facility may be closed for any violation of the
26 minimum standards. Those standards relating to the construction of the
27 facility itself and its plumbing, heating, and wiring systems shall not
28 be enforced so as to require the closing of any facility for a period of
29 two years from the date of the first filing of the minimum standards
30 unless such violations are of immediate danger to the safety of the
31 persons confined in the facility or facility personnel, in which case

1 such period shall be one year.

2 Sec. 24. (1) It is the intent of the Legislature to establish a
3 system of investigation and performance review in order to provide
4 increased accountability and oversight regarding the use of room
5 confinement for juveniles in a juvenile facility.

6 (2) The following shall apply regarding placement in room
7 confinement of a juvenile in a juvenile facility:

8 (a) Room confinement of a juvenile for longer than one hour shall be
9 documented and approved in writing by a supervisor in the juvenile
10 facility. Documentation of the room confinement shall include the date of
11 the occurrence; the race, ethnicity, age, and gender of the juvenile; the
12 reason for placement of the juvenile in room confinement; an explanation
13 of why less restrictive means were unsuccessful; the ultimate duration of
14 the placement in room confinement; facility staffing levels at the time
15 of confinement; and any incidents of self-harm or suicide committed by
16 the juvenile while he or she was isolated;

17 (b) If any physical or mental health clinical evaluation was
18 performed during the time the juvenile was in room confinement for longer
19 than one hour, the results of such evaluation shall be considered in any
20 decision to place a juvenile in room confinement or to continue room
21 confinement;

22 (c) The juvenile facility shall submit a report quarterly to the
23 Legislature on the number of juveniles placed in room confinement; the
24 length of time each juvenile was in room confinement; the race,
25 ethnicity, age, and gender of each juvenile placed in room confinement;
26 facility staffing levels at the time of confinement; and the reason each
27 juvenile was placed in room confinement. The report shall specifically
28 address each instance of room confinement of a juvenile for more than
29 four hours, including all reasons why attempts to return the juvenile to
30 the general population of the juvenile facility were unsuccessful. The
31 report shall also detail all corrective measures taken in response to

1 noncompliance with this section. The report shall be delivered
2 electronically to the Legislature. The initial quarterly report shall be
3 submitted within two weeks after the quarter ending on September 30,
4 2016. Subsequent reports shall be submitted for the ensuing quarters
5 within two weeks after the end of each quarter; and

6 (d) The Inspector General of Nebraska Child Welfare shall review all
7 data collected pursuant to this section in order to assess the use of
8 room confinement for juveniles in each juvenile facility and prepare an
9 annual report of his or her findings, including, but not limited to,
10 identifying changes in policy and practice which may lead to decreased
11 use of such confinement as well as model evidence-based criteria to be
12 used to determine when a juvenile should be placed in room confinement.
13 The report shall be delivered electronically to the Legislature on an
14 annual basis.

15 Sec. 25. Original sections 43-248.01, 43-260, 43-273, 43-279,
16 43-3504, 83-4,125, 83-4,126, 83-4,132, and 83-4,134, Reissue Revised
17 Statutes of Nebraska, sections 43-248, 43-253, 43-255, 43-256, 43-260.01,
18 and 43-3503, Revised Statutes Cumulative Supplement, 2014, and sections
19 43-245, 43-247, 43-250, 43-251.01, 43-272, and 43-272.01, Revised
20 Statutes Supplement, 2015, are repealed.