NEBRASKA REVISED STATUTES:

SELECTED PROVISIONS PERTAINING TO CHILD WELFARE, JUVENILE JUSTICE, AND VULNERABLE ADULTS

2025 Edition

Compiled by the University of Nebraska-Lincoln's Center on Children, Families, and the Law

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2025 Edition

This Edition is Current through the 2025 Legislative Session

This manual is compiled by Kathryn A. Olson of the University of Nebraska-Lincoln's Center on Children, Families, and the Law, 206 S. 13th Street, Suite 1000, Lincoln, Nebraska 68588-0227, (402) 472-3479.

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Every attempt was made to ensure the accuracy of the provisions set forth in this manual, but the user is cautioned that if citing any sections or relying on complete accuracy, the official statutory source should be used. Please contact Kathryn A. Olson at the above address or kolson1@unl.edu if any errors are discovered.

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SELECTED PROVISIONS PERTAINING TO
CHILD WELFARE, JUVENILE JUSTICE, AND VULNERABLE ADULTS

(Current through the 2025 Regular Legislative Session)

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I. DUTY AND POWER OF DHHS REGARDING THE PROTECTION OF CHILDREN

43-707. Protection of children; Department of Health and Human Services; powers and duties. The Department of Health and Human Services shall have the power and it shall be its duty:

(1) To promote the enforcement of laws for the protection and welfare of children born out of wedlock, mentally and physically handicapped children, and dependent, neglected, and delinquent children, except laws the administration of which is expressly vested in some other state department or division, and to take the initiative in all matters involving such children when adequate provision therefor has not already been made;

(2) To visit and inspect public and private institutions, agencies, societies, or persons caring for, receiving, placing out, or handling children;

(3) To prescribe the form of reports required by law to be made to the departments by public officers, agencies, and institutions;

(4) To exercise general supervision over the administration and enforcement of all laws governing the placing out and adoption of children;

(5) To advise with judges and probation officers of courts of domestic relations and juvenile courts of the several counties, with a view to encouraging, standardizing, and coordinating the work of such courts and officers throughout the state; and

(6) To regulate the issuance certificates or licenses to such institutions, agencies, societies, or persons and to revoke such licenses or certificates for good cause shown. If a license is refused or revoked, the refusal or revocation may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

43-708. Parent; guardian; or custodian; powers. No official, agent, or representative of the Department of Health and Human Services shall, by virtue of sections 43-701 to 43-709, have any right to enter any home over the objection of the occupants thereof or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having the custody of such child. Nothing in sections 43-701 to 43-709 shall be construed as limiting the power of a parent or guardian to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purposes.

II. GENERAL SOCIAL SERVICES PROVISIONS

68-1202. Social services; services included. Social services may be provided on behalf of recipients with payments for such social services made directly to vendors. Social services shall include those mandatory and optional services to former, present, or potential social services recipients provided for under the federal Social Security Act, as amended, and described by the State of Nebraska in the approved State Plan for Services. Such services may include, but shall not be limited to, foster care for children, child care, family planning, treatment for alcoholism and drug addiction, treatment for persons with an intellectual disability, health-related services, protective services for children, homemaker services, employment services, foster care for adults, protective services for adults, transportation services, home management and other functional education services, housing improvement services, legal services, adult day services, home delivered or congregate meals, educational services, and secondary prevention services, including, but not limited to, home visitation, child screening and early intervention, and parenting education programs.

68-1203. Social services; provided or purchased; dependent children and families; aged, blind, or disabled persons. Social services shall be provided or purchased for dependent children and families, aged persons, blind individuals, and disabled individuals as defined by state law and to former and potential recipients as defined in federal regulations.

68-1204. Social services or specialized developmental disability services; rules and regulations; agreements; fee schedules.

(1) For the purpose of providing or purchasing social services described in section 68-1202, the state hereby accepts and assents to all applicable provisions of the federal Social Security Act, as amended. The Department of Health and Human Services may adopt and promulgate rules and regulations, enter into agreements, and adopt fee schedules with regard to social services described in section 68-1202.

(2) The department shall adopt and promulgate rules and regulations to administer funds under Title XX of the federal Social Security Act, as amended, designated for specialized developmental disability services.

68-1205. Matching funds. The matching funds required to obtain the federal share of the services described in section 68-1202 may come from either state, county, or donated sources in amounts and other provisions to be determined by the Department of Health and Human Services.

68-1206. Social services; administration; contracts; payments; duties; federal Child Care Subsidy program; participation; requirements; funding; evaluation.

(1) The Department of Health and Human Services shall administer the program of social services in this state. The department may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the department could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services.

(2)(a) As part of the provision of social services authorized by section 68-1202, the department shall participate in the federal child care assistance program under 42 U.S.C. 9857 et seq., as such sections existed on January 1, 2023, and provide child care assistance to families with incomes up to (i) one hundred eighty-five percent of the federal poverty level prior to October 1, 2026, or (ii) one hundred thirty percent of the federal poverty level on and after October 1, 2026.

(b)(i) As part of the provision of social services authorized by this section and section 68-1202, the department shall participate in the federal Child Care Subsidy program. A child care provider seeking to participate in the federal Child Care Subsidy program shall comply with the criminal history record information check requirements of the Child Care Licensing Act. In determining ongoing eligibility for this program, ten percent of a household's gross earned income shall be disregarded after twelve continuous months on the program and at each subsequent redetermination. In determining ongoing eligibility, if a family's income exceeds one hundred eighty-five percent of the federal poverty level prior to October 1, 2026, or one hundred thirty percent of the federal poverty level on and after October 1, 2026, the family shall receive transitional child care assistance through the remainder of the family's eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. When the family's eligibility period ends, the family shall continue to be eligible for transitional child care assistance if the family's income is below two hundred percent of the federal poverty level prior to October 1, 2026, or one hundred eighty-five percent of the federal poverty level on and after October 1, 2026. The family shall receive transitional child care assistance through the remainder of the transitional eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. The amount of such child care assistance shall be based on a cost-shared plan between the recipient family and the state and shall be based on a sliding-scale methodology. A recipient family may be required to contribute a percentage of such family's gross income for child care that is no more than the cost-sharing rates in the transitional child care assistance program as of January 1, 2015, for those no longer eligible for cash assistance as provided in section 68-1724.

(ii) A licensed child care program that employs a member of an eligible household shall make reasonable accommodations so that the eligible applicant or adult household member is not a primary caregiver to such applicant's or adult household member's child. If reasonable accommodation cannot be made, the department shall allow the applicant or adult household member to receive child care assistance for the applicant's or adult household member's child including when the applicant or adult household member is the primary caregiver for such child.

(iii) A licensed child care provider eligible for the child care subsidy may enroll the household member's child in a child care program other than the household member's child care program to receive child care assistance. (iv) Subdivisions (2)(b)(ii) and (2)(b)(iii) of this section shall become operative on July 1, 2025. The department shall promulgate rules and regulations consistent with these subdivisions.

(c) For the period beginning July 1, 2021, through September 30, 2026, funds provided to the State of Nebraska pursuant to the Child Care and Development Block Grant Act of 1990, 42 U.S.C. 9857 et seq., as such act and sections existed on January 1, 2023, shall be used to pay the costs to the state resulting from the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485. If the available amount of such funds is insufficient to pay such costs, then funds provided to the state for the Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq. may also be used. No General Funds shall be used to pay the costs to the state, other than administration costs, resulting from the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485, for the period beginning July 1, 2021, through September 30, 2026.

(d) The Department of Health and Human Services shall collaborate with a private nonprofit organization with expertise in early childhood care and education for an independent evaluation of the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485, if private funding is made available for such purpose. The evaluation shall be completed by July 1, 2024, and shall be submitted electronically to the department and to the Health and Human Services Committee of the Legislature.

(3) In determining the rate or rates to be paid by the department for child care as defined in section 43-2605, the department shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule may also provide tiered rates based upon a

quality scale rating of step three or higher under the Step Up to Quality Child Care Act. The schedule shall be effective on October 1 of every year and shall be revised annually by the department.

68-1207. Department of Health and Human Services; public child welfare services; supervise; department; pilot project; caseload requirements; case plan developed.

(1) The Department of Health and Human Services shall supervise all public child welfare services as described by law. The department shall maintain caseloads to carry out child welfare services which provide for adequate, timely, and indepth investigations and services to children and families. Caseloads shall range between twelve and seventeen cases as determined pursuant to subsection (2) of this section. In establishing the specific caseloads within such range, the department shall (a) include the workload factors that may differ due to geographic responsibilities, office location, and the travel required to provide a timely response in the investigation of abuse and neglect, the protection of children, and the provision of services to children and families in a uniform and consistent statewide manner and (b) utilize the workload criteria of the standards established as of January 1, 2012, by the Child Welfare League of America. The average caseload shall be reduced by the department in all service areas as designated pursuant to section 81-3116 to comply with the caseload range described in this subsection by September 1, 2012. Beginning September 15, 2012, the department shall include in its annual report required pursuant to section 68-1207.01 a report on the attainment of the decrease according to such caseload standards. The department's annual report shall also include changes in the standards of the Child Welfare League of America or its successor.

(2) Caseload size shall be determined in the following manner: (a) If children are placed in the home, the family shall count as one case regardless of how many children are placed in the home; (b) if a child is placed out of the home, the child shall count as one case; (c) if, within one family, one or more children are placed in the home and one or more children are placed out of the home, the children placed in the home shall count as one case and each child placed out of the home shall count as one case; and (d) any child receiving services from the department or a private entity under contract with the department shall be counted as provided in subdivisions (a) through (c) of this subsection whether or not such child is a ward of the state. For purposes of this subsection, a child is considered to be placed in the home if the child is placed with his or her biological or adoptive parent or a legal guardian and a child is considered to be placed out of the home if the child is placed in a foster family home as defined in section 71-1901, a residential child-caring agency as defined in section 71-1926, or any other setting which is not the child's planned permanent home.

(3) To insure appropriate oversight of noncourt and voluntary cases when any child welfare services are provided by the department as a result of a child safety assessment, the department shall develop a case plan that specifies the services to be provided and the actions to be taken by the department and the family in each such case. Such case plan shall clearly indicate, when appropriate, that children are receiving services to prevent out-of-home placement and that, absent preventive services, foster care is the planned arrangement for the child.

(4) To carry out the provisions of this section, the Legislature shall provide funds for additional staff.

68-1207.01. Department of Health and Human Services; caseloads report; contents. The Department of Health and Human Services shall annually provide a report to the Legislature and Governor outlining the caseloads of child protective services, the factors considered in their establishment, and the fiscal resources necessary for their maintenance. The report submitted to the Legislature shall be submitted electronically. For 2012, 2013, and 2014, the department shall also provide electronically the report to the Health and Human Services Committee of the Legislature on or before September 15. Such report shall include:

(1) A comparison of caseloads established by the department with the workload standards recommended by national child welfare organizations along with the amount of fiscal resources necessary to maintain such caseloads in Nebraska;

(2)(a) The number of child welfare case managers employed by the State of Nebraska and child welfare services workers, providing services directly to children and families, who are under contract with the State of

Nebraska or employed by a private entity under contract with the State of Nebraska and (b) statistics on the average length of employment in such positions, statewide and by service area designated pursuant to section 81-3116;

(3)(a) The average caseload of child welfare case managers employed by the State of Nebraska and child welfare services workers, providing services directly to children and families, who are under contract with the State of Nebraska or employed by a private entity under contract with the State of Nebraska and (b) the outcomes of such cases, including the number of children reunited with their families, children adopted, children in guardianships, placement of children with relatives, and other permanent resolutions established, statewide and by service area designated pursuant to section 81-3116; and

(4) The average cost of training child welfare case managers employed by the State of Nebraska and child welfare services workers, providing child welfare services directly to children and families, who are under contract with the State of Nebraska or employed by a private entity under contract with the State of Nebraska, statewide and by service area as designated pursuant to section 81-3116.

68-1207.02. Child welfare system; suicide awareness and prevention; curriculum and training materials.
For purposes of providing training for individuals involved in the child welfare system, the Department of Health and Human Services shall develop a baseline of curriculum and training materials related to suicide awareness and prevention in consultation with statewide and national organizations and professionals with expertise in behavioral and mental health and suicide prevention, including, but not limited to, the Nebraska State Suicide Prevention Coalition and the Behavioral Health Education Center of Nebraska. All such suicide awareness and prevention training shall incorporate evidence-based practices and may include, but not be limited to, (1) identification of early warning signs and symptoms of behavioral and mental health issues for youth in the child welfare system and (2) appropriate and effective responses for behavioral and mental health issues and trauma-informed care.

68-1207.03. Child welfare system; Department of Health and Human Services; staff training in suicide awareness and prevention.
All staff involved in the child welfare system of the Department of Health and Human Services that provide direct services to children or families or interact directly with children or families, and any other appropriate personnel as determined by the Division of Children and Family Services of the Department of Health and Human Services, shall have annual training in suicide awareness and prevention. Such training shall include current best practices of behavioral and mental health training with a focus on suicide awareness and prevention prior to any independent contact with youth and families. Such training shall be provided within the framework of existing training programs offered by the department.

68-1208. Rules and regulations; right of appeal and hearings. Authority to adopt rules and regulations and the right to appeal and hearing shall be the same in the program of social services as in the program of assistance to families and children and the aged, blind, or disabled.

68-1209. Applications for social services; information; safeguarded. Information regarding applicants for or recipients of social services shall be safeguarded and shall be used only for purposes connected with the administration of social services.

68-1210. Department of Health and Human Services; certain foster care children; payment rates; family care services; plan; implementation.
(1) Notwithstanding any other provision of law, the Department of Health and Human Services shall have the authority through rule or regulation to establish payment rates for children with special needs who are in foster care and in the custody of the department.

(2)(a) On or before October 1, 2022, the Division of Medicaid and Long-Term Care and the Division of Children and Family Services of the Department of Health and Human Services shall develop a plan to implement treatment family care services. The plan shall be submitted to the Health and Human Services Committee of the Legislature and the Nebraska Children's Commission.

(b) On or before October 1, 2023, the Division of Medicaid and Long-Term Care shall implement treatment family care services as allowed by federal law. The department shall seek to maximize federal funding for such program prior to utilizing state medicaid funds for eligible children.

68-1211. Case management of child welfare services; legislative findings and declarations. The Legislature finds and declares that:

(1) The State of Nebraska has the legal responsibility for children in its custody and accordingly should maintain the decisionmaking authority inherent in direct case management of child welfare services;

(2) Training and longevity of child welfare case managers directly impact the safety, permanency, and well-being of children receiving child welfare services;

(3) Meaningful reform of the child welfare system can occur only when competent, skilled case managers educated in evidence-based child welfare best practices are making determinations for the care of, and services to, children and families and providing first-hand, direct information for decisionmaking and high-quality evidence to the courts relating to the best interests of the children;

(4) Maintaining quality, well-trained, and experienced case managers is essential and will be a core component in child welfare reform, including statewide strategic planning and implementation. Additional resources and funds for training, support, and compensation may be required;

(5) Notwithstanding the outsourcing of case management, the Department of Health and Human Services retains legal custody of wards of the state and remains responsible for their care. Inherent in privatized case management is the loss of trained, skilled individuals employed by the state providing the stable workforce essential to fulfilling the state's responsibilities for children who are wards of the state, resulting in the risk of loss of a trained, experienced, and stable workforce;

(6) Privatization of case management of child welfare services can and has resulted in dependence on one or more private entities for the provision of an essential specialized service that is extremely difficult to replace. As a result, the risk of a private entity abandoning the contract, either voluntarily or involuntarily, creates a very high risk to the entire child welfare system, including essential child welfare services;

(7) Privatization of case management and child welfare services, including responsibilities for both service coordination and service delivery by private entities, may create conflicts of interest because the resulting financial incentives can undermine decisionmaking regarding the appropriate services that would be in the best interests of the children. Additionally, such privatization of child welfare services, including case management, can result in loss of services across the spectrum of child welfare services by reducing market competition and driving many providers out of the market;

(8) Privatization of case management and of child welfare services has resulted in issues relating to caseloads, placement, turnover, communication, and stability within the child welfare system that adversely affect outcomes and permanency for children and families; and

(9) Private lead agency contracts require complex monitoring capabilities to insure compliance and oversight of performance, including private case managers, to insure improved child welfare outcomes.

68-1212. Department of Health and Human Services; cases; case manager; employee of department; duties. For all cases in which a court has awarded a juvenile to the care of the Department of Health and Human Services according to subsection (1) of section 43-285 and for any noncourt and voluntary cases, the case manager shall be an employee of the department. Such case manager shall be responsible for and shall directly oversee: Case planning; service authorization; investigation of compliance; monitoring and evaluation of the care and services provided to children and families; and decisionmaking regarding the determination of visitation and the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile under subsection (1) of section 43-285. Such case manager shall be responsible for decisionmaking and direct preparation regarding the proposed plan for the care, placement, services, and permanency of the juvenile filed with the court required under subsection (2) of section 43-285. The health and safety of the juvenile shall be the paramount concern in the proposed plan.

85-2501. Department of Health and Human Services; establish program to provide stipends; funding; application process. To facilitate improved quality in the work of employees providing child welfare services, the Department of Health and Human Services, in collaboration with accredited social work education programs at Nebraska's colleges and universities, shall establish a program to provide stipends for undergraduate and graduate social work students enrolled in such colleges and universities who are committed to working in the field of child welfare services. Funds available under Title IV-E of the federal Social Security Act, as such act existed on January 1, 2015, shall be used to pay for such stipends. The department and the governing boards of such colleges and universities shall develop an application process for eligible students and, based on the amount of funds available, shall determine the amount of such stipend to be awarded to each eligible student. The department and the governing boards may adopt and promulgate rules and regulations to carry out this section.

III. FAMILY POLICY AND FAMILY FINDING

43-532. Family policy; declaration; legislative findings.

(1) The Legislature finds and declares that children develop their unique potential in relation to a caring social unit, usually the family, and other nurturing environments, especially the schools and the community. The Legislature further finds that the state shall declare a family policy to guide the actions of state government in dealing with problems and crises involving children and families.

(2) When children and families require assistance from a department, agency, institution, committee, or commission of state government, the health and safety of the child is the paramount concern and reasonable efforts shall be made to provide such assistance in the least intrusive and least restrictive method consistent with the needs of the child and to deliver such assistance as close to the home community of the child or family requiring assistance as possible. The policy set forth in this subsection shall be (a) interpreted in conjunction with all relevant laws, rules, and regulations of the state and shall apply to all children and families who have need of services or who, by their circumstances or actions, have violated the laws, rules, or regulations of the state and are found to be in need of treatment or rehabilitation and (b) implemented through the cooperative efforts of state, county, and municipal governments, legislative, judicial, and executive branches of government, and other public and private resources.

(3) The family policy objectives prescribed in this section and section 43-533 shall not be construed to mean that a child shall be left in the home when it is shown that continued residence in the home places the child at risk and does not make the health and safety of the child of paramount concern.

43-533. Family policy; guiding principles. The following principles shall guide the actions of state government and departments, agencies, institutions, committees, courts, and commissions which become involved with children and families in need of assistance or services:

(1) Prevention, early identification of problems, and early intervention shall be guiding philosophies when the state or a department, agency, institution, committee, court, or commission plans or implements services for families or children when such services are in the best interests of the child;

(2) When families or children request assistance, state and local government resources shall be utilized to complement community efforts to help meet the needs of such families or the needs and the safety and best interests of such children. The state shall encourage community involvement in the provision of services to families and children, including as an integral part, local government and public and private group participation, in order to encourage and provide innovative strategies in the development of services for families and children;

(3) To maximize resources the state shall develop methods to coordinate services and resources for families and children. Every child-serving department, agency, institution, committee, court, or commission shall recognize that the jurisdiction of such department, agency, institution, committee, court, or commission in serving multiple-need children is not mutually exclusive;

(4) When children are removed from their home, permanency planning shall be the guiding philosophy. It shall be the policy of the state (a) to make reasonable efforts to reunite the child with his or her family in a time frame appropriate to the age and developmental needs of the child so long as the best interests of the child, the health and safety of the child being of paramount concern, and the needs of the child have been given primary consideration in making a determination whether or not reunification is possible, (b) when a child cannot remain with parents, to give preference to relatives as a placement resource, and (c) to minimize the number of placement changes for children in out-of-home care so long as the needs, health, safety, and best interests of the child in care are considered; and

(5) When families cannot be reunited and when active parental involvement is absent, adoption shall be aggressively pursued. Absent the possibility of adoption other permanent settings shall be pursued. In either situation, the health, safety, and best interests of the child shall be the overriding concern. Within that context, preference shall be given to relatives for the permanent placement of the child.

43-534. Repealed. Laws 2016, LB746, § 30.

43-2201. Legislative intent. It is the intent of the Legislature to:

(1) Promote kinship care and lifelong connections through the process of family finding when a child has been removed from the legal custody of the child's parents;

(2) Prevent recurrence of abuse, neglect, exploitation, or other maltreatment of children;

(3) Reduce the length of time children spend in foster care;

(4) Reduce multiple placements of children in foster care;

(5) Remain in compliance with the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351; and

(6) Create a pilot project for the process of locating and engaging family members in the life of a child who is a ward of the state or is participating in the bridge to independence program as defined in section 43-4503, or both, and in need of permanency through a lifelong network of support.

43-2202. Terms, defined. For purposes of sections 43-2201 to 43-2209:

(1) Department means the Department of Health and Human Services;

(2) Family finding means the process described in section 43-2203;

(3) Family member means:

(a) A person related to a child by blood, adoption, or affinity within the fifth degree of kinship;

(b) A stepparent;

(c) A stepsibling;

(d) The spouse, widow, widower, or former spouse of any of the persons described in subdivisions (a) through (c) of this subdivision; and

(e) Any individual who is a primary caretaker or trusted adult in a kinship home and who, as a primary caretaker, has lived with the child or, as a trusted adult, has a preexisting, significant relationship with the child;

(4) Kinship home means a home in which a child receives foster care and at least one of the primary caretakers has previously lived with or is a trusted adult that has a preexisting, significant relationship with the child;

(5) Provider means an organization providing services as a child-placing agency; and

(6) Service area means a geographic area administered by the department and designated pursuant to section 81-3116.

43-2203. Pilot project participants; duties. The department, its contracted providers of family finding services, and family members of children involved in cases which are part of the pilot project created in section 43-2204 shall participate in family finding. Family finding is the process of engagement, searching, preparation, planning, decisionmaking, lifetime network creation, healing, and permanency in order to:

(1) Search for and identify family members and engage them in planning and decisionmaking;

(2) Gain commitments from family members to support a child through nurturing relationships and to support the parent or parents, when appropriate; and

(3) Achieve a safe, permanent legal home or lifelong connection for the child, either through reunification or through permanent placement through legal guardianship or adoption.

43-2204. Pilot project; created; department; duties; termination of project. A pilot project is created to provide family finding services within at least two service areas. The department shall contract with providers of family finding services to carry out the family finding services pilot project. A provider may contract within

multiple service areas. Each contracting provider shall be trained in and implement the steps described in section 43-2203. The family finding services pilot project shall terminate on June 30, 2019.

43-2205. Department; duties; collaboration.

(1) Under the pilot project created under section 43-2204, the department shall refer a portion of all cases involving children who are wards of the state in foster care or participating in the bridge to independence program as defined in section 43-4503, or both, to providers of family finding services who or which shall (a) locate family members of the children, (b) engage and empower family members, and (c) create an individualized plan to achieve a safe, permanent legal home for the children when possible.

(2) The department shall provide administrative oversight of the contracts entered into pursuant to the pilot project created under section 43-2204.

(3) A child's departmental case manager, the child's foster parents, and the provider of family finding services shall collaborate together to maximize success throughout the family finding process.

(4) The department shall carry out the requirements of the Interstate Compact for the Placement of Children when achieving out-of-state placement of a ward of the court, including prompt submission of required paperwork to ensure that the family finding process moves forward in a timely manner.

43-2206. Legislative intent. It is the intent of the Legislature to appropriate seven hundred fifty thousand dollars from the General Fund for each of fiscal years 2015-16 and 2016-17 and one million five hundred thousand dollars from the General Fund for each of fiscal years 2017-18 and 2018-19 to the department which shall pursue federal matching funds as applicable and allocate such funds to contracting providers of family finding services who or which shall use such funds to (1) provide family finding services pursuant to contracts with the department, (2) create and coordinate training initiatives for departmental case managers assigned to cases referred for family finding services to promote provider and family engagement and to train case managers on the principles of family finding services for successful outcomes, and (3) provide contract monitoring and oversight of the pilot project and pay evaluation costs.

43-2207. Data collection system. The department shall establish a data collection system and collect data from participating providers annually. Such data shall be divided by service area and shall include (1) the number of participating children and youth, (2) the ages of the participating children and youth, (3) the duration of each case, and (4) case outcomes, including permanency, guardianship, and family support. Data involving incomplete cases shall be included and identified as such.

43-2208. Independent evaluation of pilot project. The department shall contract with an academic institution to complete an independent evaluation of the pilot project created under section 43-2204. The evaluation shall assess the effectiveness of the pilot project in achieving the purposes described in section 43-2201 and the overall fiscal impact. The evaluation shall begin after completion of the second year of the pilot project and shall be completed in the third year of the pilot project. The department shall electronically transmit the evaluation to the Health and Human Services Committee of the Legislature.

43-2209. Rules and regulations. The department may adopt and promulgate rules and regulations to carry out sections 43-2201 to 43-2208.

IV. CHILD PROTECTION AND FAMILY SAFETY ACT (Includes Alternative Response Provisions)

A. CHILD ABUSE MANDATORY REPORTING PROVISIONS

28-710. Act, how cited; terms, defined.

(1) Sections 28-710 to 28-727 shall be known and may be cited as the Child Protection and Family Safety Act.

(2) For purposes of the Child Protection and Family Safety Act:

(a) Alternative response means a comprehensive assessment of (i) child safety, (ii) the risk of future child abuse or neglect, (iii) family strengths and needs, and (iv) the provision of or referral for necessary services and support. Alternative response is an alternative to traditional response and does not include an investigation or a formal determination as to whether child abuse or neglect has occurred, and the subject of the report shall not be entered into the central registry of child protection cases maintained pursuant to section 28-718;

(b) Child abuse or neglect means knowingly, intentionally, or negligently causing or permitting a minor child to be:

(i) Placed in a situation that endangers his or her life or physical or mental health;

(ii) Cruelly confined or cruelly punished;

(iii) Deprived of necessary food, clothing, shelter, or care;

(iv) Left unattended in a motor vehicle if such minor child is six years of age or younger;

(v) Placed in a situation to be sexually abused;

(vi) Placed in a situation to be sexually exploited through sex trafficking of a minor as defined in section 28-830 or by allowing, encouraging, or forcing such person to engage in debauchery, public indecency, or obscene or pornographic photography, films, or depictions; or

(vii) Placed in a situation to be a trafficking victim as defined in section 28-830;

(c) Child advocacy center means a community-based organization that (i) provides an appropriate site for conducting forensic interviews as defined in section 28-728 and referring victims of child abuse or neglect and appropriate caregivers for such victims to needed evaluation, services, and supports, (ii) assists county attorneys in facilitating case reviews, developing and updating protocols, and arranging training opportunities for the teams established pursuant to sections 28-728 and 28-729, and (iii) is a member, in good standing, of a state chapter as defined in 34 U.S.C. 20302;

(d) Comprehensive assessment means an analysis of child safety, risk of future child abuse or neglect, and family strengths and needs on a report of child abuse or neglect using an evidence-informed and validated tool. Comprehensive assessment does not include a finding as to whether the child abuse or neglect occurred but does determine the need for services and support, if any, to address the safety of children and the risk of future abuse or neglect;

(e) Department means the Department of Health and Human Services;

(f) Investigation means fact gathering by the department, using an evidence-informed and validated tool, or by law enforcement related to the current safety of a child and the risk of future child abuse or neglect that determines whether child abuse or neglect has occurred and whether child protective services are needed;

(g) Kin caregiver means a person with whom a child in foster care has been placed or with whom a child is residing pursuant to a temporary living arrangement in a non-court-involved case, who has previously lived with or is a trusted adult that has a preexisting, significant relationship with the child or with a sibling of such child placed pursuant to section 43-1311.02;

(h) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol;

(i) Member of a military family means an individual who is:

(i) Serving active duty service in the armed forces of the United States, including any reserve component or the National Guard; or

(ii) Is a dependent, as defined in 50 U.S.C. 3911, of a person described in subdivision (2)(i)(i) of this section;

(j) Non-court-involved case means an ongoing case opened by the department following a report of child abuse or neglect in which the department has determined that ongoing services are required to maintain the safety of a

child or alleviate the risk of future abuse or neglect and in which the family voluntarily engages in child protective services without a filing in a juvenile court;

(k) Out-of-home child abuse or neglect means child abuse or neglect occurring outside of a child's family home, including in day care homes, foster homes, day care centers, residential child-caring agencies as defined in section 71-1926, other child care facilities or institutions, and the community. Out-of-home child abuse or neglect also includes cases in which the subject of the report of child abuse or neglect is not a member of the child's household, no longer has access to the child, is unknown, or cannot be identified;

(l) Relative caregiver means a person with whom a child is placed by the department and who is related to the child, or to a sibling of such child pursuant to section 43-1311.02, by blood, marriage, or adoption or, in the case of an Indian child, is an extended family member as defined in section 43-1503;

(m) Report means any communication received by the department or a law enforcement agency pursuant to the Child Protection and Family Safety Act that describes child abuse or neglect and contains sufficient content to identify the child who is the alleged victim of child abuse or neglect;

(n) Review, Evaluate, and Decide Team means an internal team of staff within the department and shall include no fewer than two supervisors or administrators and two staff members knowledgeable on the policies and practices of the department, including, but not limited to, the structured review process. County attorneys, child advocacy centers, or law enforcement agency personnel may attend team reviews upon request of a party;

(o) School employee means a person nineteen years of age or older who is employed by a public, private, denominational, or parochial school approved or accredited by the State Department of Education;

(p) Student means a person less than nineteen years of age enrolled in or attending a public, private, denominational, or parochial school approved or accredited by the State Department of Education, or who was such a person enrolled in or who attended such a school within ninety days of any violation of section 28-316.01;

(q) Traditional response means an investigation by a law enforcement agency or the department pursuant to section 28-713 which requires a formal determination of whether child abuse or neglect has occurred; and

(r) Subject of the report of child abuse or neglect or subject of the report means the person or persons identified in the report as responsible for the child abuse or neglect.

28-710.01. Legislative declarations.

(1) The Legislature declares that the public policy of the State of Nebraska is to protect children whose health or welfare may be jeopardized by abuse or neglect. The Legislature recognizes that most families want to keep their children safe, but circumstances or conditions sometimes interfere with their ability to do so. Families and children are best served by interventions that engage their protective capacities and address immediate safety concerns and ongoing risks of child abuse or neglect. In furtherance of this public policy and the family policy and principles set forth in sections 43-532 and 43-533, it is the intent of the Legislature to strengthen the family and make the home, school, and community safe for children by promoting responsible child care in all settings and to provide, when necessary, a safe temporary or permanent home environment for abused or neglected children.

(2) In addition, it is the policy of this state to: Require the reporting of child abuse or neglect in home, school, and community settings; provide for alternative response to reports as permitted by law and the rules and regulations of the department; provide for traditional response to reports as required by law and the rules and regulations of the department; and provide protective and supportive services designed to preserve and strengthen the family in appropriate cases.

28-711. Child subjected to abuse or neglect; report; contents; toll-free number.

(1) When any physician, any medical institution, any nurse, any school employee, any social worker, the Inspector General appointed under section 50-1805, or any other person has reasonable cause to believe that a child has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department on the toll-free

number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the child abuse or neglect or the conditions and circumstances which would reasonably result in such child abuse or neglect, any evidence of previous child abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such child abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of child abuse or neglect under this subsection shall notify the department pursuant to section 28-718 on the next working day by telephone or mail.

(2) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night, any day of the week, to make reports of child abuse or neglect. Reports of child abuse or neglect not previously made to or by a law enforcement agency shall be made immediately to such agency by the department.

28-712. Reports of child abuse or neglect; department; determination; alternative response; department; use; advisory committee; recommendations; rules and regulations.

(1) Upon receipt of a report pursuant to section 28-711, the department shall determine whether to (a) accept the report for traditional response and an investigation pursuant to section 28-713, (b) accept the report for alternative response pursuant to section 28-712.01, (c) accept the report for screening by the Review, Evaluate, and Decide Team to determine eligibility for alternative response, or (d) classify the report as requiring no further action by the department.

(2)(a) The Nebraska Children's Commission shall appoint an advisory committee to examine the department's alternative response to reports of child abuse or neglect and to make recommendations to the Legislature, the department, and the commission regarding (i) the receipt and screening of reports of child abuse or neglect by the department, (ii) the ongoing use of alternative response, (iii) the ongoing use of traditional response, and (iv) the provision of services within alternative response and non-court-involved cases to ensure child safety, to reduce the risk of child abuse or neglect, and to engage families. The advisory committee may request, receive, and review data from the department regarding such processes.

(b) The members of the advisory committee shall include, but not be limited to, a representative of (i) the department, (ii) law enforcement agencies, (iii) county attorneys or other prosecutors, (iv) the state chapter of child advocacy centers as defined in 34 U.S.C. 20302, (v) attorneys for parents, (vi) guardians ad litem, (vii) a child welfare advocacy organization, (viii) families with experience in the child welfare system, (ix) family caregivers, (x) the Foster Care Review Office, and (xi) the office of Inspector General of Nebraska Child Welfare. Members of the advisory committee shall be appointed for terms of two years. The Nebraska Children's Commission shall appoint the chairperson of the advisory committee and may fill vacancies on the advisory committee as they occur.

(3) The department shall adopt and promulgate rules and regulations to carry out this section and sections 28-710.01, 28-712.01, and 28-713. Such rules and regulations shall include, but not be limited to, provisions on (a) the transfer of cases from alternative response to traditional response, (b) notice to families subject to a comprehensive assessment and served through alternative response of the alternative response process and their rights, including the opportunity to challenge agency determinations, (c) the provision of services through alternative response, and (d) the collection, sharing, and reporting of data.

28-712.01. Reports of child abuse or neglect; alternative response assigned; criteria; Review, Evaluate, and Decide Team; duties; department; duties; Inspector General's review.

(1)(a) The department may assign a report for alternative response consistent with the Child Protection and Family Safety Act.

(b) No report involving any of the following shall be assigned to alternative response but shall be immediately forwarded to law enforcement or the county attorney:

(i) Murder in the first or second degree as defined in section 28-303 or 28-304 or manslaughter as defined in section 28-305;
(ii) Assault in the first, second, or third degree or assault by strangulation or suffocation as defined in section 28-308, 28-309, 28-310, or 28-310.01;
(iii) Sexual abuse, including acts prohibited by section 28-319, 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03, 28-322.04, 28-322.05, 28-703, or 28-707;
(iv) Labor trafficking of a minor or sex trafficking of a minor as defined in section 28-830;
(v) Neglect of a minor child that results in serious bodily injury as defined in section 28-109, requires hospitalization of the child, or results in an injury to the child that requires ongoing medical care, behavioral health care, or physical or occupational therapy, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
(vi) Physical abuse to the head or torso of a child or physical abuse that results in bodily injury;
(vii) An allegation that requires a forensic interview at a child advocacy center or coordination with the child abuse and neglect investigation team pursuant to section 28-728;
(viii) Out-of-home child abuse or neglect;
(ix) An allegation being investigated by a law enforcement agency at the time of the assignment;
(x) A history of termination of parental rights;
(xi) Absence of a caretaker without having given an alternate caregiver authority to make decisions and grant consents for necessary care, treatment, and education of a child or without having made provision to be contacted to make such decisions or grant such consents;
(xii) Domestic violence involving a caretaker in situations in which the alleged perpetrator has access to the child or caretaker;
(xiii) A household member illegally manufactures methamphetamine or opioids;
(xiv) A child has had contact with methamphetamine or other nonprescribed opioids, including a positive drug screening or test; or
(xv) For a report involving an infant, a household member tests positive for methamphetamine or nonprescribed opioids at the birth of such infant.

(c) The department may adopt and promulgate rules and regulations to (i) provide additional ineligibility criteria for assignment to alternative response and (ii) establish additional criteria requiring review by the Review, Evaluate, and Decide Team.

(d) A report that includes any of the following may be eligible for alternative response but shall first be reviewed by the Review, Evaluate, and Decide Team prior to assignment to alternative response:
(i) Domestic assault as defined in section 28-323 or domestic violence in the family home;
(ii) Use of alcohol or controlled substances as defined in section 28-401 or 28-405 by a caregiver that impairs the caregiver's ability to care and provide safety for the child; or
(iii) A family member residing in the home or a caregiver that has been the subject of a report accepted for traditional response or assigned to alternative response in the past six months.

(2) The Review, Evaluate, and Decide Team shall convene to review reports pursuant to the department's rules, regulations, and policies, to evaluate the information, and to determine assignment for alternative response or traditional response. The team shall utilize consistent criteria to review the severity of the allegation of child abuse or neglect, access to the perpetrator, vulnerability of the child, family history including previous reports, parental cooperation, parental or caretaker protective factors, and other information as deemed necessary. At the conclusion of the review, the report shall be assigned to either traditional response or alternative response. Decisions of the team shall be made by consensus. If the team cannot come to consensus, the report shall be assigned for a traditional response.

(3) In the case of an alternative response, the department shall complete a comprehensive assessment. The department shall transfer the case being given alternative response to traditional response if the department

determines that a child is unsafe or if the concern for the safety of the child is due to a temporary living arrangement. Upon completion of the comprehensive assessment, if it is determined that the child is safe, participation in services offered to the family receiving an alternative response is voluntary, the case shall not be transferred to traditional response based upon the family's failure to enroll or participate in such services, and the subject of the report shall not be entered into the central registry of child protection cases maintained pursuant to section 28-718.

(4) The department shall, by the next working day after receipt of a report of child abuse or neglect, enter into the tracking system of child protection cases maintained pursuant to section 28-715 all reports of child abuse or neglect received under this section that are opened for alternative response and any action taken.

(5) The department shall make available to the appropriate investigating law enforcement agency, child advocacy center, and county attorney a copy of all reports relative to a case of suspected child abuse or neglect. Aggregate, nonidentifying data regarding reports of child abuse or neglect receiving an alternative response shall be made available quarterly to requesting agencies outside the department. Such alternative response data shall include, but not be limited to, the nature of the initial child abuse or neglect report, the age of the child or children, the nature of services offered, the location of the cases, the number of cases per month, and the number of alternative response cases that were transferred to traditional response. Other than the office of Inspector General of Nebraska Child Welfare, the Public Counsel, law enforcement agency personnel, child advocacy center employees, and county attorneys, no other agency or individual shall be provided specific, identifying reports of child abuse or neglect being given alternative response. The office of Inspector General of Nebraska Child Welfare shall have access to all reports relative to cases of suspected child abuse or neglect subject to traditional response and those subject to alternative response. The department and the office shall develop procedures allowing for the Inspector General's review of cases subject to alternative response. The Inspector General shall include in the report pursuant to section 50-1818 a summary of all cases reviewed pursuant to this subsection.

28-712.02. Military family advocacy program; child abuse or neglect; notify military installation.

(1) For purposes of this section:

(a) Military family advocacy program means the program established by the United States Department of Defense and provided at a military installation to address child abuse and neglect in military families; and

(b) Military installation has the same meaning as in section 79-2201.

(2) Upon receipt of a report of child abuse or neglect, and after the department has contacted the family of the identified victim and determined that the subject of the report is a member of a military family, the department shall notify the appropriate military installation with which it has a memorandum of understanding under subsection (3) of this section of the report and the nature of the allegations contained in the report.

(3) The department shall negotiate a memorandum of understanding with each military installation in Nebraska that has a military family advocacy program. The memorandum shall establish procedures and protocols for:

(a) Identifying the subject of a report of child abuse or neglect as a member of a military family;

(b) Sharing information as required by this section; and

(c) Maintaining confidentiality as required by state and federal law.

(4) The department may adopt and promulgate rules and regulations to carry out this section.

28-713. Reports of child abuse or neglect; law enforcement agency; department; duties; rules and regulations.

(1) Unless a report is assigned to alternative response, upon the receipt of a call reporting child abuse and neglect as required by section 28-711, it is the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings consistent with section 43-247 if the child is seriously endangered in the child's surroundings and immediate removal is necessary for the protection of the child. The law enforcement agency may request assistance from the department during the investigation and shall, by the next working day, notify either the hotline established under section 28-711 or the department of receipt of the

report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department.
(2)(a) When a report is assigned for traditional response, the department shall utilize an evidence-informed and validated tool to assess the safety of the child at the time of the assessment, the risk of future child abuse or neglect, the need for services to protect and assist the child and to preserve the family, and whether the case shall be entered into the central registry pursuant to section 28-720. As part of such investigation, the department may request assistance from the appropriate law enforcement agency or refer the matter to the county attorney to initiate legal proceedings.
(b) If in the course of an investigation the department finds a child is seriously endangered in the child's surroundings and immediate removal is necessary for the protection of the child, the department shall make an immediate request for the county attorney to institute legal proceedings consistent with section 43-247.
(3) When a report contains an allegation of out-of-home child abuse or neglect, a law enforcement agency or the department shall immediately notify each person having custody of each child who has allegedly been abused or neglected that such report has been made unless the person to be notified is the subject of such report. The department or the law enforcement agency shall provide such person with information about the nature of the alleged child abuse or neglect and any other necessary information. The department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family.
(4)(a) In situations of alleged out-of-home child abuse or neglect, if the subject of the report of child abuse or neglect is a school employee and the child is a student in the school to which such school employee is assigned for work, the department shall immediately notify the Commissioner of Education of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency or the department.
(b) In situations of alleged out-of-home child abuse or neglect, if the subject of the report of child abuse or neglect is a child care provider or a child care staff member as defined by subdivision (5)(k) of section 71-1912, the Division of Children and Family Services of the Department of Health and Human Services shall immediately notify the Division of Public Health of the Department of Health and Human Services of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency or the department.
(5) The department shall, by the next working day after receiving a report of child abuse or neglect under this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the tracking system of child protection cases maintained pursuant to section 28-715 all reports of child abuse or neglect opened for investigation and any action taken.
(6) The department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected child abuse or neglect.
(7)(a) In addition to the responsibilities under subsections (1) through (6) of this section, upon the receipt of any report that a child is a reported or suspected victim of sex trafficking of a minor or labor trafficking of a minor as defined in section 28-830 and without regard to the subject of the report, the department shall:
(i) Assign the case to staff for an in-person investigation. The department shall assign a report for investigation regardless of whether or not the subject of the report is a member of the child's household or family or whether the subject is known or unknown, including cases of out-of-home child abuse and neglect;
(ii) Conduct an in-person investigation and appropriately coordinate with law enforcement agencies, the local child advocacy center, and the child abuse and neglect investigation team under section 28-729;
(iii) Use specialized screening and assessment instruments to identify whether the child is a victim of sex trafficking of a minor or labor trafficking of a minor or at high risk of becoming such a victim and determine the needs of the child and family to prevent or respond to abuse, neglect, and exploitation. On or before December 1, 2019, the department shall develop and adopt these instruments in consultation with knowledgeable organizations and individuals, including representatives of child advocacy centers, behavioral health providers, child welfare and juvenile justice service providers, law enforcement representatives, and prosecutors; and
(iv) Provide for or refer and connect the child and family to services deemed appropriate by the department in the least restrictive environment, or provide for safe and appropriate placement, medical services, mental health care, or other needs as determined by the department based upon the department's assessment of the safety, risk, and needs of the child and family to respond to or prevent abuse, neglect, and exploitation.

(b) On or before July 1, 2020, the department shall adopt rules and regulations on the process of investigation, screening, and assessment of reports of child abuse or neglect and the criteria for opening an ongoing case upon allegations of sex trafficking of a minor or labor trafficking of a minor.
(8) When a preponderance of the evidence indicates that a child is a victim of abuse or neglect as a result of being a trafficking victim as defined in section 28-830, the department shall identify the child as a victim of trafficking, regardless of whether the subject of the report is a member of the child's household or family or whether the subject is known or unknown. The child shall be included in the department's data and reporting on the numbers of child victims of abuse, neglect, and trafficking.

28-713.01. Cases of child abuse or neglect; completion of investigation; notice; when; right to amend or expunge information.

(1) Upon completion of the investigation pursuant to section 28-713:

(a) In situations of alleged out-of-home child abuse or neglect, the person or persons having custody of the allegedly abused or neglected child or children shall be given written notice of the results of the investigation and any other information the law enforcement agency or department deems necessary. Such notice and information shall be sent by first-class mail;

(b) The subject of the report of child abuse or neglect shall be given written notice of the determination of the case and whether the subject of the report of child abuse or neglect will be entered into the central registry of child protection cases maintained pursuant to section 28-718 under the criteria provided in section 28-720; and

(c) If the subject of the report of child abuse or neglect is a school employee and the child is a student in the school to which such school employee is assigned for work, the notice described in subdivision (1)(b) of this section shall also be sent to the Commissioner of Education.

(2) If the subject of the report will be entered into the central registry, the notice to the subject shall be sent by certified mail with return receipt requested or first-class mail to the last-known address of the subject of the report of child abuse or neglect and shall include:

(a) The nature of the report;

(b) The classification of the report under section 28-720;

(c) Notification of the right of the subject of the report of child abuse or neglect to request the department to amend or expunge identifying information from the report or to remove the substantiated report from the central registry in accordance with section 28-723; and

(d) If the subject of the report of child abuse or neglect is a minor child who is twelve years of age or older but younger than nineteen years of age:

(i) Notification of the mandatory expungement hearing to be held according to section 28-721, a waiver form to waive the hearing, and an explanation of the hearing process;

(ii) An explanation of the implications of being entered in the central registry as a subject;

(iii) Notification of any other procedures determined appropriate in rules and regulations adopted and promulgated by the department; and

(iv) Provision of a copy of all notice materials required to be provided to the subject under this subsection to the minor child's attorney of record, parent or guardian, and guardian ad litem, if applicable.

(3) If the subject of the report will not be entered into the central registry, the notice to the subject shall be sent by first-class mail and shall include:

(a) The nature of the report; and

(b) The classification of the report under section 28-720.

28-713.02. Non-court-involved cases; right of parent; caregiver authority; department; powers and duties.

(1) In all non-court-involved cases in which a child lives temporarily with a kin caregiver or a relative caregiver until reunification can be safely achieved:

(a) A parent shall have the right to have his or her child returned to such parent's home upon demand unless the child is seriously endangered by the child's surroundings and removal is necessary for the child's protection; and

(b) The kin caregiver or the relative caregiver shall have temporary parental authority to exercise powers regarding the care, custody, and property of the child except (i) the power to consent to marriage and adoption of the child and (ii) for other limitations placed on the delegation of parental authority to the kin caregiver or the relative caregiver by the parent.

(2) If a child is seriously endangered and removal is necessary, the department shall inform the parent that he or she may be referred for a court-involved case or for a petition to be filed pursuant to subdivision (3)(a) of section 43-247.

(3) The department may reimburse a kin caregiver or a relative caregiver for facilitating services for the child and shall notify such caregiver if such caregiver is eligible for the child-only Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq., and any other public benefit for which such caregiver may be eligible, and shall assist such caregiver in applying for such program or benefit.

(4) In all non-court-involved cases, the department shall provide a written notice of rights to any parent, and, if applicable, to any kin caregiver or relative caregiver, that complies with due process and includes notice (a) of the specific factual basis of the department's involvement, (b) of the possibility that a petition under section 43-247 could be filed in the future if it is determined that the safety of the child is not or cannot be assured, and (c) that the participation of the parent, kin caregiver, or relative caregiver in receiving prevention services could be relevant evidence presented in any future proceedings.

(5) Nothing in this section shall be construed to affect the otherwise existing rights of a child or parent who is involved in a non-court-involved case.

28-713.03. Rules and regulations.

(1) The department shall adopt and promulgate rules and regulations consistent with Laws 2020, LB1061, and shall revoke any rules and regulations inconsistent with Laws 2020, LB1061, by July 1, 2021.

(2) The department shall adopt and promulgate rules and regulations regarding (a) the maximum time allowed between receiving a report of child abuse or neglect and an assigned caseworker making contact with the affected family, (b) the maximum amount of time between receipt of a report and the completion of an assessment or investigation, (c) the transfer of cases from alternative response to traditional response, (d) the criteria and process to be used by the Review, Evaluate, and Decide Team, and (e) the process used to accept and categorize reports, including the operation of the hotline established under section 28-711.

(3) The department shall adopt and promulgate rules and regulations describing the process for non-court-involved cases, the right of any child, parent, kin caregiver, or relative caregiver to an administrative appeal of any department action or inaction in a non-court-involved case, and the process for finding that a child is seriously endangered.

28-714. Privileged communications; not grounds for excluding evidence. The privileged communication between patient and physician, between client and professional counselor, and between husband and wife, shall not be a ground for excluding evidence in any judicial proceeding resulting from a report of child abuse or neglect required by section 28-711.

28-715. Tracking system; department; duties; use authorized. The department shall retain all information from all reports of suspected child abuse or neglect required by section 28-711 and all records generated as a result of such reports in a tracking system of child protection cases. The tracking system shall be used for statistical purposes as well as a reference for future investigations if subsequent reports of child abuse or neglect are made involving the same victim or subject of a report of child abuse or neglect.

28-716. Person participating in an investigation or the making of a report or providing information or assistance; immune from liability; civil or criminal.

Any person participating in an investigation or the making of a report of child abuse or neglect required by section 28-711 pursuant to or participating in a judicial proceeding resulting therefrom or providing information or assistance, including a medical evaluation or consultation in connection with an investigation, a report, or a judicial proceeding pursuant to a report of child abuse or neglect, shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.

28-717. Violations; penalty. Any person who willfully fails to make any report of child abuse or neglect required by section 28-711 shall be guilty of a Class III misdemeanor.

B. CENTRAL REGISTRY OF CHILD PROTECTION CASES

28-718. Child protection cases; central registry; name-change order; treatment; fee; waiver.

(1) There shall be a central registry of child protection cases maintained in the department containing records of all reports of child abuse or neglect opened for investigation as provided in section 28-713 and classified as either court substantiated or agency substantiated as provided in section 28-720.

(2) The department shall determine whether a name-change order received from the clerk of a district court pursuant to section 25-21,271 is for a person on the central registry of child protection cases and, if so, shall include the changed name with the former name in the registry and file or cross-reference the information under both names.

(3) The department may charge a reasonable fee in an amount established by the department in rules and regulations to recover expenses in carrying out central registry records checks. The fee shall not exceed three dollars for each request to check the records of the central registry. The department shall remit the fees to the State Treasurer for credit to the Health and Human Services Cash Fund. The department may waive the fee if the requesting party shows the fee would be an undue financial hardship. The department shall use the fees to defray costs incurred to carry out such records checks. The department may adopt and promulgate rules and regulations to carry out this section.

28-719. Child abuse and neglect records; access; when.

Upon complying with identification requirements established by regulation of the department, or when ordered by a court of competent jurisdiction, any person legally authorized by section 28-722, 28-726, or 28-727 to have access to records relating to child abuse and neglect may request and shall be immediately provided the information requested in accordance with the requirements of the Child Protection and Family Safety Act. Except for such information provided to department personnel and county attorneys, such information shall not include the name and address of the person making the report of child abuse or neglect. The names and other identifying data and the dates and the circumstances of any persons requesting or receiving information from the central registry of child protection cases maintained pursuant to section 28-718 shall be entered in the central registry record.

28-720. Cases; central registry; classification; expungement; department; report.

(1) All cases entered into the central registry of child protection cases maintained pursuant to section 28-718 shall be classified as one of the following:

(a) Court substantiated, if a court of competent jurisdiction has entered a judgment of guilty against the subject of the report of child abuse or neglect upon a criminal complaint, indictment, or information or there has been an adjudication of jurisdiction of a juvenile court over the child under subdivision (3)(a) of section 43-247 which relates or pertains to the report of child abuse or neglect;

(b) Court pending, if a criminal complaint, indictment, or information or a juvenile petition under subdivision (3)(a) of section 43-247, which relates or pertains to the subject of the report of abuse or neglect, has been filed and is pending in a court of competent jurisdiction; or

(c) Agency substantiated, if the department's determination of child abuse or neglect against the subject of the report of child abuse or neglect was supported by a preponderance of the evidence and based upon an investigation pursuant to section 28-712.01 or 28-713.

(2) If a case described in subdivision (1)(b) of this section is dismissed by the court or a juvenile petition under subdivision (3)(a) of section 43-247 is redesignated to indicate there is no fault on the part of the parent, guardian, or custodian, the case shall be immediately expunged from the central registry of child protection cases.

(3)(a) If the subject of the report of child abuse or neglect is a minor child who is younger than twelve years of age, the case shall not be entered into the central registry of child protection cases.

(b) If a juvenile petition is filed under subdivision (3)(a) of section 43-247 indicating that the juvenile is without proper support through no fault of his or her parent, guardian, or custodian, the case shall not be entered into the central registry of child protection cases.

(4) If the subject of the report of child abuse or neglect is a minor child who is twelve years of age or older but younger than nineteen years of age, the case shall not be classified as court pending in the central registry of child protection cases.

(5) The department shall report annually, on or before September 15, to the Governor and electronically to the chairpersons of the Health and Human Services Committee of the Legislature and the Judiciary Committee of the Legislature the number of cases entered into the central registry of child protection cases in which the subject is a minor child, the ages of such subjects who are children, and the number of such cases classified as court substantiated or agency substantiated.

28-720.01. Unfounded reports; how treated. All reports of child abuse or neglect which are not under subdivision (1)(a), (b), or (c) of section 28-720 shall be considered unfounded and shall be maintained only in the tracking system of child protection cases pursuant to section 28-715 and not in the central registry of child protection cases maintained pursuant to section 28-718.

28-721. Central registry; record; amend, expunge, or remove; mandatory expungement hearing; waiver; department; duties.

(1) At any time, the department may amend, expunge, or remove from the central registry of child protection cases maintained pursuant to section 28-718 any record upon good cause shown and upon notice to the subject of the report of child abuse or neglect.

(2) (a) If the subject of the report of child abuse or neglect is a minor child who is twelve years of age or older but younger than nineteen years of age, the subject is entered into the central registry of child protection cases maintained under section 28-718, and the case involving that minor child is classified as court substantiated or agency substantiated as provided in section 28-720, the department shall conduct a mandatory expungement hearing within sixty days after the subject receives the notification required under section 28-713.01 unless the subject and the subject's attorney of record, parent, guardian, or guardian ad litem sign and return a waiver form as provided under section 28-713.01 within thirty days after receipt. The department shall not, as guardian, sign a waiver form for any subject in its custody. If such subject remains on the central registry of child protection cases, the department shall conduct a second mandatory expungement hearing within sixty days after the subject's nineteenth birthday unless the subject signs and returns a waiver form as provided under section 28-713.01 within thirty days after receipt.

(b) The department may conduct the mandatory expungement hearing by any means, including by telephone.

(c) If a mandatory expungement hearing is held regarding the subject of a report of child abuse or neglect who is a minor child and the subject is entered into the central registry of child protection cases maintained under section 28-718, the subject may make a subsequent request under subsection (1) of this section or section 28-723.

28-722. Central registry; subject of report; access to information. Upon request, a subject of the report of child abuse or neglect or, if such subject is a minor or otherwise legally incompetent, the guardian or guardian ad litem of the subject, shall be entitled to receive a copy of all information contained in the central registry of child protection cases maintained pursuant to section 28-718 pertaining to his or her case. The department shall not release data that would be harmful or detrimental or that would identify or locate a person who, in good faith, made

a report of child abuse or neglect or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.

28-723. Subject of report; request to amend, expunge, or remove information; denied; hearing; decision; appeal. At any time subsequent to the completion of the department's investigation, the subject of the report of child abuse or neglect may request the department to amend, expunge identifying information from, or remove the record of the report from the central registry of child protection cases maintained pursuant to section 28-718. If the department refuses to do so or does not act within thirty days, the subject of the report of child abuse or neglect shall have the right to a fair hearing within the department to determine whether the record of the report of child abuse or neglect should be amended, expunged, or removed on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with the Child Protection and Family Safety Act. Such fair hearing shall be held within a reasonable time after the subject's request and at a reasonable place and hour. In such hearings, the burden of proving the accuracy and consistency of the record shall be on the department. A juvenile court finding of child abuse or child neglect shall be presumptive evidence that the report was not unfounded. The hearing shall be conducted by the chief executive officer of the department or his or her designated agent, who is hereby authorized and empowered to order the amendment, expunction, or removal of the record to make it accurate or consistent with the requirements of the act. The decision shall be made in writing, at the close of the hearing or within thirty days thereof, and shall state the reasons upon which it is based. Decisions of the department may be appealed under the Administrative Procedure Act.

28-724. Record; amendment, expunction, or removal; notice. Written notice of any amendment, expunction, or removal of any record in the central registry of child protection cases maintained pursuant to section 28-718 shall be served upon the subject of the report of child abuse or neglect. The department shall inform any other individuals or agencies which received such record of any amendment, expunction, or removal of such record.

28-725. Information, report; confidential; violation; penalty. All information of the department concerning reports of child abuse or neglect of noninstitutional children, including information in the tracking system of child protection cases maintained pursuant to section 28-715 or records in the central registry of child protection cases maintained pursuant to section 28-718, and all information of the department generated as a result of such reports or records, shall be confidential and shall not be disclosed except as specifically authorized by the Child Protection and Family Safety Act and section 81-3126 or other applicable law. The subject of the report of child abuse or neglect may authorize any individual or organization to receive the following information from the central registry of child protection cases maintained pursuant to section 28-718 which relates or pertains to him or her: (1) The date of the alleged child abuse or neglect; and (2) the classification of the case pursuant to section 28-720. Permitting, assisting, or encouraging the unauthorized release of any information contained in such reports or records shall be a Class V misdemeanor.

28-726. Information; access. Except as provided in this section and sections 28-722 and 81-3126, no person, official, or agency shall have access to information in the tracking system of child protection cases maintained pursuant to section 28-715 or in records in the central registry of child protection cases maintained pursuant to section 28-718 unless in furtherance of purposes directly connected with the administration of the Child Protection and Family Safety Act. Such persons, officials, and agencies having access to such information shall include, but not be limited to:

(1) A law enforcement agency investigating a report of known or suspected child abuse or neglect;

(2) A county attorney in preparation of a child abuse or neglect petition or termination of parental rights petition;

(3) A physician who has before him or her a child whom he or she reasonably suspects may be abused or neglected;

(4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused or neglected child or a parent, a guardian, or other person responsible for the abused or neglected child's welfare who is the subject of the report of child abuse or neglect;

(5) Any person engaged in bona fide research or auditing. No information identifying the subjects of the report of child abuse or neglect shall be made available to the researcher or auditor;

(6) The Foster Care Review Office and the designated local foster care review board when the information relates to a child in a foster care placement as defined in section 43-1301. The information provided to the office and local board shall not include the name or identity of any person making a report of suspected child abuse or neglect;

(7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act existed on January 1, 2005, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed on September 1, 2001, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness;

(8) The person or persons having custody of the abused or neglected child in situations of alleged out-of-home child abuse or neglect;

(9) The department, as required or authorized by state law, federal law, federal regulation, or applicable federal program provisions and in furtherance of its programs;

(10) A probation officer administering juvenile intake services pursuant to section 29-2260.01, conducting court-ordered predispositional investigations prior to disposition, or supervising a juvenile upon disposition; and

(11) A child advocacy center pursuant to team protocols and in connection with a specific case under review or investigation by a child abuse and neglect investigation team or a child abuse and neglect treatment team convened by a county attorney.

28-727. Report; person making; receive summary of findings and actions; when. Upon request, a physician or the person in charge of an institution, school, facility, or agency making a legally mandated report of child abuse or neglect pursuant to section 28-711 shall receive a summary of the findings of and actions taken by the department in response to his or her report. The amount of detail such summary contains shall depend on the source of the report of child abuse or neglect and shall be established by regulations of the department.

[Note: 28-734 through 28-739 were repealed in 2008. See 81-3126 for provisions on disclosure of child abuse and neglect information by the Department of Health and Human Services. (In Section VI. of this manual.)]

81-3136. Department of Health and Human Services; develop model for alternative response to reports of child abuse or neglect; contents; report.

(1) It is the intent of the Legislature that the alternative response to reports of child abuse or neglect model developed pursuant to subsection (2) of this section be implemented in designated sites under the Child Protection and Family Safety Act no earlier than July 2014.

(2) The Department of Health and Human Services shall convene interested stakeholders and families to develop a model for alternative response to reports of child abuse or neglect under the act. The model shall include:

(a) Methodology for determining the location of sites for initial implementation of alternative response;

(b) An estimate of the percentage of reports of child abuse or neglect eligible for alternative response;

(c) Eligibility criteria for alternative response;

(d) The process to determine eligibility for alternative response;

(e) The assessment protocol and tools to be used for alternative response;

(f) The role of child abuse and neglect investigative teams and child abuse and neglect treatment teams in implementation sites;

(g) How, with whom, and what alternative response data will be shared;

(h) The criteria and process for transition of families from an alternative response to a traditional investigation;

(i) The criteria and process for families who refuse an alternative response;

(j) The plan to address the continuum of services needed for families receiving an alternative response;

(k) An overview of critical training elements for both staff who implement and stakeholders involved with alternative response implementation;

(l) A description of the evaluation component;

(m) The relationship of alternative response to Title IV-E waiver applications of the Department of Health and Human Services under the federal Social Security Act;

(n) A plan to communicate and update interested stakeholders and families with regard to the alternative response planning process;

(o) The identification of statutory and policy changes necessary to implement the alternative response model, including a procedure that provides that reports of child abuse and neglect which receive an alternative response shall not receive a formal determination and the subject of the report shall not be entered into the central registry of child protection cases maintained pursuant to section 28-718;

(p) A budget for implementing and sustaining an alternative response model;

(q) The mechanisms of oversight and accountability in the alternative response model; and

(r) A determination of how alternative response service providers will be selected.

(3) The Department of Health and Human Services shall provide the model developed under subsection (2) of this section in a report to the Nebraska Children's Commission by November 1, 2013, for the commission's review. The Nebraska Children's Commission shall electronically submit the report and review to the Legislature by December 15, 2013.

V. CHILD ABUSE AND NEGLECT INVESTIGATION AND TREATMENT TEAMS AND CHILD ADVOCACY CENTERS

28-728. Legislative findings and intent; child abuse and neglect investigation team; child advocacy center; child abuse and neglect treatment team; powers and duties.

(1) The Legislature finds that child abuse and neglect are community problems requiring a coordinated response by law enforcement, child advocacy centers, prosecutors, the Department of Health and Human Services, and other agencies or entities designed to protect children. It is the intent of the Legislature to create a child abuse and neglect investigation team in each county or contiguous group of counties and to create a child abuse and neglect treatment team in each county or contiguous group of counties.

(2) Each county or contiguous group of counties will be assigned by the Department of Health and Human Services to a child advocacy center. The purpose of a child advocacy center is to provide a child-focused location for conducting forensic interviews and medical evaluations for alleged child victims of abuse and neglect and for coordinating a multidisciplinary team response that supports the physical, emotional, and psychological needs of children who are alleged victims of abuse or neglect. Each child advocacy center shall meet accreditation criteria set forth by the National Children's Alliance. Nothing in this section shall prevent a child from receiving treatment or other services at a child advocacy center which has received or is in the process of receiving accreditation.

(3) Each county attorney or the county attorney representing a contiguous group of counties is responsible for convening the child abuse and neglect investigation team and ensuring that protocols are established and implemented. A representative of the child advocacy center assigned to the team shall assist the county attorney in facilitating case review, developing and updating protocols, and arranging training opportunities for the team. Each team must have protocols which, at a minimum, shall include procedures for:

(a) Mandatory reporting of child abuse and neglect as outlined in section 28-711 to include training to professionals on identification and reporting of abuse;

(b) Assigning roles and responsibilities between law enforcement and the Department of Health and Human Services for the initial response;

(c) Outlining how reports will be shared between law enforcement and the Department of Health and Human Services under section 28-712.01 or 28-713;

(d) Coordinating the investigative response including, but not limited to:

(i) Defining cases that require a priority response;

(ii) Contacting the reporting party;

(iii) Arranging for a video-recorded forensic interview at a child advocacy center for children who are three to eighteen years of age and are alleged to be victims of sexual abuse or serious physical abuse or neglect, have witnessed a violent crime, are found in a drug-endangered environment, or have been recovered from a kidnapping;

(iv) Assessing the need for and arranging, when indicated, a medical evaluation of the alleged child victim;

(v) Assessing the need for and arranging, when indicated, appropriate mental health services for the alleged child victim or nonoffender caregiver;

(vi) Conducting collateral interviews with other persons with information pertinent to the investigation including other potential victims;

(vii) Collecting, processing, and preserving physical evidence including photographing the crime scene as well as any physical injuries as a result of the alleged child abuse and neglect; and

(viii) Interviewing the alleged perpetrator;

(e) Reducing the risk of harm to alleged child abuse and neglect victims;

(f) Ensuring that the child is in safe surroundings, including removing the perpetrator when necessary or arranging for temporary custody of the child when the child is seriously endangered in his or her surroundings and immediate removal appears to be necessary for the child's protection as provided in section 43-248;

(g) Sharing of case information between team members; and

(h) Outlining what cases will be reviewed by the investigation team including, but not limited to:

(i) Cases of sexual abuse, serious physical abuse and neglect, drug-endangered children, and serious or ongoing domestic violence;

(ii) Cases determined by the Department of Health and Human Services to be high or very high risk for further maltreatment; and

(iii) Any other case referred by a member of the team when a system-response issue has been identified.

(4) Each county attorney or the county attorney representing a contiguous group of counties is responsible for convening the child abuse and neglect treatment team and ensuring that protocols are established and implemented. A representative of the child advocacy center appointed to the team shall assist the county attorney in facilitating case review, developing and updating protocols, and arranging training opportunities for the team. Each team must have protocols which, at a minimum, shall include procedures for:

(a) Case coordination and assistance, including the location of services available within the area;

(b) Case staffings and the coordination, development, implementation, and monitoring of treatment or safety plans particularly in those cases in which ongoing services are provided by the Department of Health and Human Services or a contracted agency but the juvenile court is not involved;

(c) Reducing the risk of harm to child abuse and neglect victims;

(d) Assisting those child abuse and neglect victims who are abused and neglected by perpetrators who do not reside in their homes; and

(e) Working with multiproblem status offenders and delinquent youth.

(5) For purposes of sections 28-728 to 28-730, forensic interview means a video-recorded interview of an alleged child victim conducted at a child advocacy center by a professional with specialized training designed to elicit details about alleged incidents of abuse or neglect, and such interview may result in intervention in criminal or juvenile court.

28-729. Teams; members; training; child advocacy center; duties; meetings.

(1) A child abuse and neglect investigation team shall include a representative from the county attorney's office, a representative from the Division of Children and Family Services of the Department of Health and Human Services, a representative from each law enforcement agency which has jurisdiction within the county or contiguous group of counties, a representative from the child advocacy center, and representatives from such other agencies as determined by the team.

(2) A child abuse and neglect treatment team shall include a representative from the Division of Children and Family Services of the Department of Health and Human Services, a juvenile probation officer, a representative from each of the mental health profession and the medical profession actively practicing within the county or contiguous group of counties, a representative from each school district which provides services within the county or contiguous group of counties, a representative from the child advocacy center, and representatives from such other agencies as determined by the team. For purposes of this subsection, more than one school district may be represented by the same individual.

(3) The teams established pursuant to this section and section 28-728 shall be encouraged to expand their membership to include the various relevant disciplines which exist within the county or contiguous group of counties. The additional members shall have the requisite experience necessary as determined by the core members of the teams. Consistent with requirements set out by the teams, all members of both teams shall attend child abuse and neglect training on an annual basis. Such training shall be no less than eight hours annually and consist of the following components:

(a) Child abuse and neglect investigation procedures;

(b) Legal requirements and procedures for successful prosecution of child abuse and neglect cases;

(c) Roles and responsibilities of child protective services, law enforcement agencies, county attorneys, child advocacy centers, the Attorney General, and judges;
(d) Characteristics of child development and family dynamics;
(e) Recognition of various types of abuse and neglect;
(f) Duty of public and private individuals and agencies, including schools, governmental agencies, physicians, and child advocates, to report suspected or known child abuse;
(g) Multidisciplinary approaches to providing services to children; and
(h) Continually identifying and improving weaknesses in the current child protection system and developing ongoing best practices.

(4) The representative of the child advocacy center shall report the name and address of each team member and the number of times the team met within a calendar year to the Nebraska Commission on Law Enforcement and Criminal Justice.

(5) Each team shall meet at a location agreed to by the team. The number of meetings of the team shall be secondary to the caseload of the team, but each team shall meet at least quarterly. Each team may substitute a telephone conference call among team members in lieu of meeting in person. If a team fails to convene, the commission shall notify the Child Protection Division of the office of the Attorney General and the division shall appoint the team members or convene the team pursuant to sections 28-728 to 28-730. Nothing in this section shall relieve the county attorney from ensuring that the teams meet as required by this section.

28-730. Records and information; access; disclosure; limitation; review of cases; immunity; violation; penalty.

(1) Notwithstanding any other provision of law regarding the confidentiality of records and when not prohibited by the federal Privacy Act of 1974, as amended, juvenile court records and any other pertinent information that may be in the possession of school districts, law enforcement agencies, county attorneys, the Attorney General, the Department of Health and Human Services, child advocacy centers, and other team members concerning a child whose case is being investigated or discussed by a child abuse and neglect investigation team or a child abuse and neglect treatment team shall be shared with the respective team members as part of the discussion and coordination of efforts for investigative or treatment purposes. Upon request by a team, any individual or agency with information or records concerning a particular child shall share all relevant information or records with the team as determined by the team pursuant to the appropriate team protocol. Only a team which has accepted the child's case for investigation or treatment shall be entitled to access to such information.

(2) All information acquired by a team member or other individuals pursuant to protocols developed by the team shall be confidential and shall not be disclosed except to the extent necessary to perform case consultations, to carry out a treatment plan or recommendations, or for use in a legal proceeding instituted by a county attorney or the Child Protection Division of the office of the Attorney General. Information, documents, or records otherwise available from the original sources shall not be immune from discovery or use in any civil or criminal action merely because the information, documents, or records were presented during a case consultation if the testimony sought is otherwise permissible and discoverable. Any person who presented information before the team or who is a team member shall not be prevented from testifying as to matters within the person's knowledge.

(3) Each team may review any case arising under the Nebraska Criminal Code when a child is a victim or any case arising under the Nebraska Juvenile Code. A member of a team who participates in good faith in team discussion or any person who in good faith cooperates with a team by providing information or records about a child whose case has been accepted for investigation or treatment by a team shall be immune from any civil or criminal liability. The provisions of this subsection or any other section granting or allowing the grant of immunity from liability shall not be extended to any person alleged to have committed an act of child abuse or neglect.

(4) A member of a team who publicly discloses information regarding a case consultation in a manner not consistent with sections 28-728 to 28-730 shall be guilty of a Class III misdemeanor.

(5) A child advocacy center shall maintain the video recording of all forensic interviews conducted at that child advocacy center. Such maintenance shall be in accordance with child abuse and neglect investigation team protocols established pursuant to section 28-728. The recording may be maintained digitally if adequate security measures are in place to ensure no unauthorized access.

(6) Information obtained through forensic interviews may be shared with members of child abuse and neglect investigation teams and child abuse and neglect treatment teams.

(7) A custodian of a video recording of a forensic interview shall not release or use the video recording or copies of such recording or consent, by commission or omission, to the release or use of the video recording or copies to or by any other party without a court order, notwithstanding any consent or release by the child victim or child witness, except that:

(a) The child advocacy center where a forensic interview is conducted may use the video recording for purposes of supervision and peer review required to meet national accreditation standards;

(b) Any custodian shall release or consent to the release or use of the video recording upon request to law enforcement agencies authorized to investigate, or agencies authorized to prosecute, any juvenile or criminal conduct described in the forensic interview;

(c) Any custodian shall release or consent to the release or use of the video recording upon request pursuant to a request under the Office of Inspector General of Nebraska Child Welfare Act;

(d) Any custodian shall provide secure access to view a video recording of a forensic interview upon request by a representative of the Department of Health and Human Services for purposes of classifying cases of child abuse and neglect pursuant to section 28-720 or determining the risk of harm to the child and needed social services of the family pursuant to section 28-713. Such representative shall be subject to the same release and use restrictions as any custodian under this subsection; and

(e) Any custodian shall release or consent to the release or use of the video recording pursuant to a court order issued under section 29-1912 or 29-1926.

28-731. Teams; exempt from public meetings provisions. The teams established by sections 28-728 to 28-730 shall not be considered a public body for purposes of the Open Meetings Act.

28-732. Repealed. Laws 2012, LB 993, § 4.

28-733. Repealed. Laws 2012, LB 993, § 4.

VI. INFORMATION ACCESS AND DISCLOSURE; NOTICE TO NON-CUSTODIAL PARENT; WAIVER OF RIGHT TO COUNSEL BY JUVENILE

43-3001. Child in state custody; court records and information; court order authorized; information confidential; immunity from liability; school records as evidence; violation; penalty.

(1) Notwithstanding any other provision of law regarding the confidentiality of records and when not prohibited by the federal Privacy Act of 1974, as amended, juvenile court records and any other pertinent information that may be in the possession of school districts, school personnel, county attorneys, the Attorney General, law enforcement agencies, child advocacy centers, state probation personnel, state parole personnel, youth detention facilities, medical personnel, treatment or placement programs, the Department of Health and Human Services, the Department of Correctional Services, the Foster Care Review Office, local foster care review boards, child abuse and neglect investigation teams, child abuse and neglect treatment teams, or other multidisciplinary teams for abuse, neglect, or delinquency concerning a child who is in the custody of the state may be shared with individuals and agencies who have been identified in a court order authorized by this section.

(2) In any judicial proceeding concerning a child who is currently, or who may become at the conclusion of the proceeding, a ward of the court or state or under the supervision of the court, an order may be issued which identifies individuals and agencies who shall be allowed to receive otherwise confidential information concerning the child for legitimate and official purposes. The individuals and agencies who may be identified in the court order are the child's attorney or guardian ad litem, the parents' attorney, foster parents, appropriate school personnel, county attorneys, the Attorney General, authorized court personnel, law enforcement agencies, state probation personnel, state parole personnel, youth detention facilities, medical personnel, court appointed special advocate volunteers, treatment or placement programs, the Department of Health and Human Services, the Office of Juvenile Services, the Department of Correctional Services, the Foster Care Review Office, local foster care review boards, the office of Inspector General of Nebraska Child Welfare, child abuse and neglect investigation teams, child abuse and neglect treatment teams, other multidisciplinary teams for abuse, neglect, or delinquency, and other individuals and agencies for which the court specifically finds, in writing, that it would be in the best interest of the juvenile to receive such information. Unless the order otherwise states, the order shall be effective until the child leaves the custody of the state or supervision of the court or until a new order is issued.

(3) All information acquired by an individual or agency pursuant to this section shall be confidential and shall not be disclosed except to other persons who have a legitimate and official interest in the information and are identified in the court order issued pursuant to this section with respect to the child in question. A person who receives such information or who cooperates in good faith with other individuals and agencies identified in the appropriate court order by providing information or records about a child shall be immune from any civil or criminal liability. The provisions of this section granting immunity from liability shall not be extended to any person alleged to have committed an act of child abuse or neglect.

(4) In any proceeding under this section relating to a child of school age, certified copies of school records relating to attendance and academic progress of such child are admissible in evidence.

(5) Except as provided in subsection (4) of this section, any person who publicly discloses information received pursuant to this section shall be guilty of a Class III misdemeanor.

43-3101. Court proceeding; notice to noncustodial parent.

A noncustodial parent shall be defined as an interested person, and reasonable attempts shall be made to notify him or her of any court proceeding taken (1) by, against, or on behalf of his or her child or (2) by, against, or on behalf of the custodial parent if such court proceeding affects the child. The noncustodial parent need not be present at the commencement of such court proceeding.

43-3102. Waiver of right to counsel by juvenile; writing; when waiver not allowed; Supreme Court; duties.

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

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

(3) On or before July 1, 2022, the Supreme Court shall provide, by court rule, a process to ensure that a juvenile has consulted with counsel, and if not, is provided the opportunity to consult with counsel prior to the juvenile exercising their right to waive their right to counsel.

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

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

(6) A juvenile's right to be represented by counsel may not be waived in the following circumstances:
(a) If the juvenile is under the age of fourteen;
(b) For a detention hearing;
(c) For any dispositional hearing where out-of-home placement is sought; or
(d) If there is a motion to transfer the juvenile from juvenile court to county court or district court.

81-3126. Chief executive officer; disclosure of information relating to certain children authorized; limitations; release of criminal history record check results.

(1) For purposes of this section:

(a) Chief executive officer means the chief executive officer of the Department of Health and Human Services;

(b) Child abuse or neglect has the same meaning as in section 28-710;

(c) Child fatality means the death of a child from suspected abuse, neglect, or maltreatment as determined by the county coroner or county attorney;

(d) Department means the Department of Health and Human Services;

(e) Director means the Director of Children and Family Services;

(f) Division means the Division of Children and Family Services of the Department of Health and Human Services; and

(g) Near fatality means a case in which an examining physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.

(2) Notwithstanding any other provision of state law, the chief executive officer or director may disclose information regarding child abuse or neglect and the investigation of and any services related to the child abuse and neglect if the chief executive officer or director determines that such disclosure is not contrary to the best interests of the child, the child's siblings, or other children in the household, and any one of the following factors is present:

(a) The alleged perpetrator of the child abuse or neglect has been charged with committing a crime related to the report of child abuse or neglect maintained by the division;

(b) A judge, a law enforcement agency official, a county attorney, or another state or local investigative agency or official has publicly disclosed the provision of services related to or the investigation of the child abuse or neglect;

(c) An individual who is the parent, custodian, foster parent, provider, or guardian of the victim or a child victim over fourteen years of age has made a prior knowing, voluntary, public disclosure;

(d) The information relates to a child fatality or near fatality;

(e) The information is released to confirm, clarify, or correct information concerning an allegation or actual instance of child abuse or neglect which has been made public by sources outside the department; or

(f) A child who is in the custody of the department is missing from his or her placement, in which case the chief executive officer or director may release the name and physical description of the child.

(3) Information that may be disclosed includes, but is not limited to, child placement, whether in-home or out-of-home, terms of contact, hearing dates, the reason for removal from parents or placement, the number of placements and type, permanency objectives, court-ordered services or other services provided by the division, and status of the court process. The following information shall not be released by the chief executive officer or director absent a court order: Date of birth, social security number, protected health information, the name of the person who made the report of child abuse or neglect pursuant to section 28-711, and names of foster parents, unless the foster parent is the alleged perpetrator.

(4) The chief executive officer or director may release the results of criminal history record checks that have been completed by the division as authorized by law.

(5) For purposes of this section, the best interests of the child, the child's siblings, or other children in the household does not allow the disclosure of information that would impede a pending or current criminal investigation by a law enforcement agency.

(6) The division may adopt and promulgate rules and regulations to carry out this section.

VII. NEBRASKA JUVENILE CODE

43-245. Terms, defined.

For purposes of the Nebraska Juvenile Code, unless the context otherwise requires:

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

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

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

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

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

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

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

(8) Criminal street gang member means a person who willingly or voluntarily becomes and remains a member of a criminal street gang;

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

(10) Detention means the temporary care of a juvenile in a physically restrictive facility designed with constructions or fixtures to control the movement of the juvenile to secure the juvenile's lawful custody;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43-246. Code, how construed.

Acknowledging the responsibility of the juvenile court to act to preserve the public peace and security, the Nebraska Juvenile Code shall be construed to effectuate the following:

(1) To assure the rights of all juveniles to care and protection and a safe and stable living environment and to development of their capacities for a healthy personality, physical well-being, and useful citizenship and to protect the public interest;

(2) To provide for the intervention of the juvenile court in the interest of any juvenile who is within the provisions of the Nebraska Juvenile Code, with due regard to parental rights and capacities and the availability of nonjudicial resources;

(3) To remove juveniles who are within the Nebraska Juvenile Code from the criminal justice system whenever possible and to reduce the possibility of their committing future law violations through the provision of social and rehabilitative services to such juveniles and their families;

(4) To offer selected juveniles the opportunity to take direct personal responsibility for their individual actions by reconciling with the victims, or victim surrogates when appropriate, through restorative justice practices and fulfilling the terms of the resulting reparation plan which may require apologies, restitution, community service, or other agreed-upon means of making amends;

(5) To achieve the purposes of subdivisions (1) through (3) of this section in the juvenile's own home whenever possible, separating the juvenile from his or her parent when necessary for his or her welfare, the juvenile's health and safety being of paramount concern, or in the interest of public safety and, when temporary separation is necessary, to consider the developmental needs of the individual juvenile in all placements, to consider relatives as a preferred potential placement resource, and to make reasonable efforts to preserve and reunify the family if required under section 43-283.01;

(6) To promote adoption, guardianship, or other permanent arrangements for children in the custody of the Department of Health and Human Services who are unable to return home;

(7) To provide a judicial procedure through which these purposes and goals are accomplished and enforced in which the parties are assured a fair hearing and their constitutional and other legal rights are recognized and enforced;

(8) To assure compliance, in cases involving Indian children, with the Nebraska Indian Child Welfare Act; and

(9) To make any temporary placement of a juvenile in the least restrictive environment consistent with the best interests of the juvenile and the safety of the community.

43-246.01. Juvenile court; exclusive original and concurrent original jurisdiction.

(1) The juvenile court shall have exclusive original jurisdiction as to:

(a) Any juvenile described in subdivision (3) or (11) of section 43-247;

(b) Any juvenile who was under sixteen years of age at the time the alleged offense was committed and the offense falls under subdivision (1) of section 43-247;

(c) A party or proceeding described in subdivision (5) or (7) of section 43-247; and

(d) Any juvenile who was under fourteen years of age at the time the alleged offense was committed and the offense falls under subdivision (2) of section 43-247.

(2)(a) The juvenile court shall also have exclusive original jurisdiction as to:

(i) Any juvenile who is alleged to have committed an offense under subdivision (1) of section 43-247 and who was sixteen years of age or seventeen years of age at the time the alleged offense was committed; and

(ii) Any juvenile who was fourteen years of age or older at the time the alleged offense was committed and the offense falls under subdivision (2) of section 43-247 except offenses enumerated in subdivision (1)(a)(ii) of section 29-1816.

(b) Proceedings initiated under subsection (2) of this section may be transferred as provided in section 43-274.

(3)(a) The juvenile court shall have concurrent original jurisdiction with the county court or district court as to:

(i) Any juvenile described in subdivision (4) of section 43-247;

(ii) Any proceeding under subdivision (6), (8), (9), or (10) of section 43-247; and

(iii) Any juvenile described in subdivision (1)(a)(ii) of section 29-1816.

(b) Proceedings initiated under subsection (3) of this section may be transferred as provided in section 43-274.

43-246.02. Transfer of jurisdiction to district court; bridge order; criteria; records; modification.

(1) A juvenile court may terminate its jurisdiction under subdivision (3)(a) of section 43-247 by transferring jurisdiction over the juvenile's custody, physical care, and visitation to the district court through a bridge order, if all of the following criteria are met:

(a) The juvenile has been adjudicated under subdivision (3)(a) of section 43-247 in an active juvenile court case and a dispositional order in that case is in place;

(b) Paternity of the juvenile has been legally established, including by operation of law due to an individual's marriage to the mother at the time of conception, birth, or at any time during the period between conception and birth of the child; by operation of law pursuant to section 43-1409; by order of a court of competent jurisdiction; or by administrative order when authorized by law;

(c) The juvenile has been safely placed by the juvenile court with a legal parent; and

(d) The juvenile court has determined that its jurisdiction under subdivision (3)(a) of section 43-247 should properly end once orders for custody, physical care, and visitation are entered by the district court.

(2) When the criteria in subsection (1) of this section are met, a legal parent or guardian ad litem to a juvenile adjudicated under subdivision (3)(a) of section 43-247 in juvenile court may file a motion with the juvenile court for a bridge order under subsection (3) of this section. The parent is not required to intervene in the action. The motion shall be set for evidentiary hearing by the juvenile court no less than thirty days or more than ninety days from the date of the filing of the motion. The juvenile court, on its own motion, may also set an evidentiary hearing on the issue of a bridge order if such hearing is set no less than thirty days from the date of notice to the parties. The court may waive the evidentiary hearing if all issues raised in the motion for a bridge order are resolved by agreement of all parties and entry of a stipulated order.

(3) A motion for a bridge order shall:

(a) Allege that the juvenile court action filed under subdivision (3)(a) of section 43-247 may safely be closed once orders for custody, physical care, and visitation have been entered by the district court;

(b) State the relief sought by the petitioning legal parent or guardian ad litem;

(c) Disclose any other action or proceedings affecting custody of the juvenile, including proceedings related to domestic violence, protection orders, terminations of parental rights, and adoptions, including the docket number, court, county, and state of any such proceeding;

(d) State the names and addresses of any persons other than the legal parents who have a court order for physical custody or claim to have custody or visitation rights with the juvenile; and

(e) Name as a respondent any other person who has any relation to the controversy.

(4) A juvenile court shall designate the petitioner and respondent for purposes of a bridge order. A bridge order shall only address matters of legal and physical custody and parenting time. All other matters, including child support, shall be resolved by filing a separate petition or motion or by action of the child support enforcement office and shall be subject to existing applicable statutory provisions. No mediation or specialized alternative dispute resolution under section 42-364 shall be required in either district court or juvenile court where the juvenile has entered a bridge order. The Parenting Act shall not apply to the entry of the bridge order in juvenile or district court.

(5) When necessary and feasible, the juvenile court shall obtain child custody determinations from foreign jurisdictions pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act.

(6) Upon transferring jurisdiction from a juvenile court to a district court, the clerk of the district court shall docket the case under either a new docket or any previous docket establishing custody or paternity of a child. The transfer of jurisdiction shall not result in new filing fees and other court costs being assessed against the parties.

(7) The district court shall give full force and effect to the juvenile court bridge order as to custody and parenting time and shall not modify the juvenile court bridge order without modification proceedings as provided in subsection (9) of this section.

(8) A district court shall take judicial notice of the juvenile court pleadings and orders in any hearing held subsequent to transfer. Records contained in the district court case file that were copied or transferred from the juvenile court file concerning the case shall be subject to section 43-2,108 and other confidentiality provisions of the Nebraska Juvenile Code, and such records shall only be disclosed, upon request, to the child support enforcement office without a court order.

(9) Following the issuance of a bridge order, a party may file a petition in district court for modification of the bridge order as to legal and physical custody or parenting time. If the petition for modification is filed within one year after the filing date of the bridge order, the party requesting modification shall not be required to demonstrate a substantial change of circumstance but instead shall demonstrate that such modification is in the best interests of the child. If a petition for modification is filed within one year after the filing date of the bridge order, filing fees and other court costs shall not be assessed against the parties.

(10) Nothing in this section shall be construed to require appointment of counsel for the parties in the district court action.

(11) Nothing in this section shall be construed to interfere with the jurisdictional provisions of section 25-2740.

43-247. Juvenile court; jurisdiction. The juvenile court in each county shall have jurisdiction of:

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

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

(3) Any juvenile:

(a) Who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian;

who is abandoned by his or her parent, guardian, or custodian;

who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian;

whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile;

whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile;

who is in a situation or engages in an occupation, including prostitution, dangerous to life or limb or injurious to the health or morals of such juvenile; or

who has committed an act or engaged in behavior described in subdivision (1), (2), (3)(b), or (4) of this section and who was under eleven years of age at the time of such act or behavior;

(b) Who is eleven years of age or older and who (i) by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; (ii) deports himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or (iii) is habitually truant from home or school; or

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

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

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

(6) The proceedings for termination of parental rights;

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

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

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

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

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

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

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

43-247.01. Transferred to section 43-247.03.

43-247.02. Juvenile court; placement or commitment of juveniles; restrictions.

(1) Notwithstanding any other provision of Nebraska law, a juvenile court shall not:

(a) Place any juvenile adjudicated or pending adjudication under subdivision (1), (2), (3)(b), or (4) of section 43-247 with the Department of Health and Human Services or the Office of Juvenile Services, other than as allowed under subsection (2) of this section;

(b) Commit any juvenile adjudicated or pending adjudication under subdivision (1), (2), (3)(b), or (4) of section 43-247 to the care and custody of the Department of Health and Human Services or the Office of Juvenile Services, other than as allowed under subsection (2) of this section;

(c) Require the Department of Health and Human Services or the Office of Juvenile Services to supervise any juvenile adjudicated or pending adjudication under subdivision (1), (2), (3)(b), or (4) of section 43-247, other than as allowed under subsection (2) of this section; or

(d) Require the Department of Health and Human Services or the Office of Juvenile Services to provide, arrange for, or pay for any services for any juvenile adjudicated or pending adjudication under subdivision (1), (2), (3)(b), or (4) of section 43-247, or for any party to cases under those subdivisions, other than as allowed under subsection (2) of this section.

(2) Notwithstanding any other provision of Nebraska law, a juvenile court shall not commit a juvenile to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center except as part of an order of intensive supervised probation under subsection (1) of section 43-286.

43-247.03. Facilitated conferencing or mediation; confidential; privileged communications.

(1) In any juvenile case, the court may provide the parties the opportunity to address issues involving the child's care and placement, services to the family, and other concerns through restorative justice practices. Restorative justice practices may include, but are not limited to, prehearing conferences, family group conferences, expedited family group conferences, child welfare mediation, permanency prehearing conferences, termination of parental rights prehearing conferences, juvenile victim-offender dialogue, victim youth conferencing, victim-

offender mediation, youth or community dialogue, panels, circles, and truancy mediation. The Office of Dispute Resolution shall be responsible for funding and management for such services provided by approved centers. All discussions taking place during such restorative justice practices, including plea negotiations, shall be confidential and privileged communications as provided in section 25-2914.01.

(2) For purposes of this section:

(a) Expedited family group conference means an expedited and limited-scope facilitated planning meeting which engages a child's or juvenile's parents, the child or juvenile when appropriate, other critical family members, services providers, and staff members from either the Department of Health and Human Services or the Office of Probation Administration to address immediate placement issues for the child or juvenile;

(b) Family group conference means a facilitated meeting involving a child's or juvenile's family, the child or juvenile when appropriate, available extended family members from across the United States, other significant and close persons to the family, service providers, and staff members from either the Department of Health and Human Services or the Office of Probation Administration to develop a family-centered plan for the best interests of the child and to address the essential issues of safety, permanency, and well-being of the child;

(c) Juvenile victim-offender dialogue means a court-connected process in which a facilitator meets with the juvenile offender and the victim in an effort to convene a dialogue in which the offender takes responsibility for his or her actions and the victim is able to address the offender and request an apology and restitution, with the goal of creating an agreed-upon written plan;

(d) Prehearing conference means a facilitated meeting prior to appearing in court and held to gain the cooperation of the parties, to offer services and treatment, and to develop a problem-solving atmosphere in the best interests of children involved in the juvenile court system. A prehearing conference may be scheduled at any time during the child welfare or juvenile court process, from initial removal through permanency, termination of parental rights, and juvenile delinquency court processes; and

(e) Victim youth conferencing means a process in which a restorative justice facilitator meets with the juvenile and the victim, when appropriate, in an effort to convene a dialogue in which the juvenile takes responsibility for his or her actions and the victim or victim surrogate is able to address the juvenile and create a reparation plan agreement, which may include apologies, restitution, community services, or other agreed-upon means of amends.

43-247.04. Repealed. Laws 2024, LB1051, § 20.

43-248. Temporary custody of juvenile without warrant; when.

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

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

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

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

(4) The officer has reasonable grounds to believe the juvenile is truant from school;

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

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

(7) A juvenile has committed an act or engaged in behavior described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and such juvenile was under eleven years of age at the time of such act or behavior, and the officer

has reasonable cause to believe such juvenile committed such act or engaged in such behavior and was under eleven years of age at such time; or

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

43-248.01. Juvenile in custody; right to call or consult an attorney. All law enforcement personnel or other governmental officials having custody of any person under eighteen years of age shall inform the person in custody, using developmentally appropriate language and without unnecessary delay, of such person's right to call or consult an attorney who is retained by or appointed on behalf of such person or whom the person may desire to consult and, except when exigent circumstances exist, shall permit such person to call or consult such attorney without delay. An attorney shall be permitted to see and consult with the person in custody alone and in private at the place of custody.

43-248.02. Juvenile offender civil citation pilot program; peace officer issue civil citation; contents; advisement; peace officer; duties; juvenile report to juvenile assessment center; failure to comply; effect.

A juvenile offender civil citation pilot program as provided in this section and section 43-248.03 may be undertaken by the peace officers and county and city attorneys of a county containing a city of the metropolitan class. The pilot program shall be according to the following procedures:

(1) A peace officer, upon making contact with a juvenile whom the peace officer has reasonable grounds to believe has committed a misdemeanor offense, other than an offense involving a firearm, sexual assault, or domestic violence, may issue the juvenile a civil citation;

(2) The civil citation shall include: The juvenile's name, address, school of attendance, and contact information; contact information for the juvenile's parents or guardian; a description of the misdemeanor offense believed to have been committed; the juvenile assessment center where the juvenile cited is to appear within seventy-two hours after the issuance of the civil citation; and a warning that failure to appear in accordance with the command of the civil citation or failure to provide the information necessary for the peace officer to complete the civil citation will result in the juvenile being taken into temporary custody as provided in sections 43-248 and 43-250;

(3) At the time of issuance of a civil citation by the peace officer, the peace officer shall advise the juvenile that the juvenile has the option to refuse the civil citation and be taken directly into temporary custody as provided in sections 43-248 and 43-250. The option to refuse the civil citation may be exercised at any time prior to compliance with any services required pursuant to subdivision (5) of this section;

(4) Upon issuing a civil citation, the peace officer shall provide or send a copy of the civil citation to the appropriate county attorney, the juvenile assessment center, and the parents or guardian of the juvenile;

(5) The juvenile shall report to the juvenile assessment center as instructed by the citation. The juvenile assessment center may require the juvenile to participate in community service or other available services appropriate to the needs of the juvenile identified by the juvenile assessment center which may include family counseling, urinalysis monitoring, or substance abuse and mental health treatment services; and

(6) If the juvenile fails to comply with any services required pursuant to subdivision (5) of this section or if the juvenile is issued a third or subsequent civil citation, a peace officer shall take the juvenile into temporary custody as provided in sections 43-248 and 43-250.

43-248.03. Civil citation form. To achieve uniformity, the Supreme Court shall prescribe the form of a civil citation which conforms to the requirements for a civil citation in section 43-248.02 and such other matter as the court deems appropriate. The civil citation shall not include a place for the cited juvenile's social security number.

43-249. Temporary custody; not an arrest; exception. No juvenile taken into temporary custody under section 43-248 shall be considered to have been arrested, except for the purpose of determining the validity of such custody under the Constitution of Nebraska or the United States.

43-250. Temporary custody; disposition; custody requirements.

(1) A peace officer who takes a juvenile into temporary custody under section 29-401 or subdivision (1), (2), (3), or (7) of section 43-248 shall immediately take reasonable measures to notify the juvenile's parent, guardian, custodian, or relative and shall proceed as follows:

(a) The peace officer may release a juvenile taken into temporary custody under section 29-401 or subdivision (1), (2), or (7) of section 43-248;

(b) The peace officer may require a juvenile taken into temporary custody under section 29-401 or subdivision (1) or (2) of section 43-248 to appear before the court of the county in which such juvenile was taken into custody at a time and place specified in the written notice prepared in triplicate by the peace officer or at the call of the court. The notice shall also contain a concise statement of the reasons such juvenile was taken into custody. The peace officer shall deliver one copy of the notice to such juvenile and require such juvenile or his or her parent, guardian, other custodian, or relative, or both, to sign a written promise that such signer will appear at the time and place designated in the notice. Upon the execution of the promise to appear, the peace officer shall immediately release such juvenile. The peace officer shall, as soon as practicable, file one copy of the notice with the county attorney or city attorney and, when required by the court, also file a copy of the notice with the court or the officer appointed by the court for such purpose; or

(c) The peace officer may retain temporary custody of a juvenile taken into temporary custody under section 29-401 or subdivision (1), (2), or (3) of section 43-248 and deliver the juvenile, if necessary, to the probation officer and communicate all relevant available information regarding such juvenile to the probation officer. The probation officer shall determine the need for detention of the juvenile as provided in section 43-260.01. Upon determining that the juvenile should be placed in detention or an alternative to detention and securing placement in such setting by the probation officer, the peace officer shall implement the probation officer's decision to release or to detain and place the juvenile. When secure detention of a juvenile is necessary, such detention shall occur within a juvenile detention facility except:

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

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

(iii) Whenever a juvenile is held in a secure area of any jail or other facility intended or used for the detention of adults, there shall be no verbal, visual, or physical contact between the juvenile and any

incarcerated adult and there shall be adequate staff to supervise and monitor the juvenile's activities at all times. This subdivision shall not apply to a juvenile charged with a felony as an adult in county or district court if he or she is sixteen years of age or older;

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

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

(vi) A status offender or nonoffender taken into temporary custody shall not be held in a secure area of a jail or other facility intended or used for the detention of adults; and

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

(2)(a) A juvenile taken into custody pursuant to a legal warrant of arrest shall be delivered to a probation officer.

(b)(i) This subdivision (2)(b) applies when a juvenile is arrested for a felony or for a misdemeanor involving firearms or deadly weapons.

(ii) The probation officer shall determine the need for detention as provided in section 43-260.01, except that if the results of the standardized juvenile detention screening instrument indicate that detention is not required, the probation officer shall make a recommendation to the judge for release without restriction or release to an alternative to detention and forward all intake information to the judge, who shall determine the need for detention. In making such determination, the judge may consider the results of the standardized juvenile detention screening instrument described in section 43-260.01 but shall not be bound by the results of such screening instrument.

(c) For an arrest of a juvenile not described in subdivision (2)(b) of this section, the probation officer shall determine the need for detention of the juvenile as provided in section 43-260.01.

(d) If detention is not required, the juvenile may be released without bond unless:

(i) Such release is not in the best interests of the juvenile;

(ii) The physical safety of persons in the community will be seriously threatened;

(iii) Detention is necessary to secure the presence of the juvenile at the next hearing, as evidenced by a demonstrable record of willful failure to appear at a scheduled court hearing within the last twelve months; or

(iv) Detention of such juvenile is a matter of immediate and urgent necessity for the protection of such juvenile, as evidenced by a demonstrable record of fleeing from law enforcement, absconding from a court-ordered placement, absconding from home, committing a violent offense, committing multiple property crimes, or threatening to cause harm to others.

(e) If a juvenile is released under subdivision (2)(d) of this section, the court that issued the warrant shall be notified that the juvenile had been taken into custody and was released.

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

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

(5) When a juvenile is taken into temporary custody pursuant to subdivision (5), (6), or (7) of section 43-248, and not released under subdivision (1)(a) of this section, the peace officer shall deliver the custody of such juvenile to the Department of Health and Human Services which shall make a temporary placement of the juvenile

in the least restrictive environment consistent with the best interests of the juvenile as determined by the department. The department shall supervise such placement and, if necessary, consent to any necessary emergency medical, psychological, or psychiatric treatment for such juvenile. The department shall have no other authority with regard to such temporary custody until or unless there is an order by the court placing the juvenile in the custody of the department. If the peace officer delivers temporary custody of the juvenile pursuant to this subsection, the peace officer shall make a full written report to the county attorney within twenty-four hours of taking such juvenile into temporary custody. If a court order of temporary custody is not issued within forty-eight hours of taking the juvenile into custody, the temporary custody by the department shall terminate and the juvenile shall be returned to the custody of his or her parent, guardian, custodian, or relative.

(6) If the peace officer takes the juvenile into temporary custody pursuant to subdivision (8) of section 43-248, the peace officer may place the juvenile at a mental health facility for evaluation and emergency treatment or may deliver the juvenile to the Department of Health and Human Services as provided in subsection (5) of this section. At the time of the admission or turning the juvenile over to the department, the peace officer responsible for taking the juvenile into custody pursuant to subdivision (8) of section 43-248 shall execute a written certificate as prescribed by the department which will indicate that the peace officer believes the juvenile to be mentally ill and dangerous, a summary of the subject's behavior supporting such allegations, and that the harm described in section 71-908 is likely to occur before proceedings before a juvenile court may be invoked to obtain custody of the juvenile. A copy of the certificate shall be forwarded to the county attorney. The peace officer shall notify the juvenile's parents, guardian, custodian, or relative of the juvenile's placement.

43-250.01. Juvenile probationer; custody; notify juvenile intake probation officer.
If a peace officer takes a juvenile probationer into custody for a criminal violation as defined in section 43-286.01, the peace officer shall immediately take reasonable measures to notify a juvenile intake probation officer.

43-251. Preadjudication placement or detention; mental health placement; prohibitions.
(1) When a juvenile is taken into custody pursuant to sections 43-248 and 43-250, the court or magistrate may take any action for preadjudication placement or detention prescribed in the Nebraska Juvenile Code.

(2) Any juvenile taken into custody under the Nebraska Juvenile Code for allegedly being mentally ill and dangerous shall not be placed in a staff secure juvenile facility, jail, or detention facility designed for juveniles who are accused of criminal acts or for juveniles as described in subdivision (1), (2), or (4) of section 43-247 either as a temporary placement by a peace officer, as a temporary placement by a court, or as an adjudication placement by the court.

43-251.01. Juveniles; placements and commitments; restrictions. All placements and commitments of juveniles for evaluations or as temporary or final dispositions are subject to the following:
(1) No juvenile shall be confined in an adult correctional facility as a disposition of the court;
(2) A juvenile who is found to be a juvenile as described in subdivision (3) of section 43-247 shall not be placed in an adult correctional facility, the secure youth confinement facility operated by the Department of Correctional Services, or a youth rehabilitation and treatment center or committed to the Office of Juvenile Services;
(3) A juvenile who is found to be a juvenile as described in subdivision (1), (2), or (4) of section 43-247 shall not be assigned or transferred to an adult correctional facility or the secure youth confinement facility operated by the Department of Correctional Services;
(4) A juvenile under the age of fourteen years shall not be placed with or committed to a youth rehabilitation and treatment center;
(5)(a) A juvenile shall not be detained unless:
(i) The physical safety of persons in the community would be seriously threatened;

(ii) Detention is necessary to secure the presence of the juvenile at the next hearing, as evidenced by a demonstrable record of willful failure to appear at a scheduled court hearing within the last twelve months; or

(iii) Detention is a matter of immediate and urgent necessity for the protection of such juvenile, as evidenced by a demonstrable record of fleeing from law enforcement, absconding from a court-ordered placement, absconding from home, committing a violent offense, committing multiple property crimes, or threatening to cause harm to others;

(b) A child ten years of age or younger shall not be placed in detention under any circumstances;

(c) A juvenile twelve years of age or younger shall not be placed in detention unless all temporary and alternative placement options have been exhausted. Any detention under this subdivision shall be reviewed and reconsidered by the court every five days that the juvenile remains in detention and within twenty-four hours after a request by the juvenile's counsel; and

(d) A juvenile shall not be placed into detention:

(i) To allow a parent or guardian to avoid his or her legal responsibility;

(ii) To punish, treat, or rehabilitate such juvenile;

(iii) To permit more convenient administrative access to such juvenile;

(iv) To facilitate further interrogation or investigation; or

(v) Due to a lack of more appropriate facilities except in case of an emergency as provided in section 43-430;

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

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

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

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

43-251.02. Reference to clinically credentialed community-based provider. A peace officer, upon making contact with a child who is in need of assistance, may refer the child and child's parent or parents or guardian to a clinically credentialed community-based provider for immediate crisis intervention, de-escalation, and respite care services.

43-251.03. Limitation on use of restraints; written findings.

(1) Restraints shall not be used on a juvenile during a juvenile court proceeding and shall be removed prior to the juvenile's appearance before the juvenile court, unless the juvenile court makes a finding of probable cause that:

(a) The use of restraints is necessary:

(i) To prevent physical harm to the juvenile or another person;

(ii) Because the juvenile:

(A) Has a history of disruptive courtroom behavior that has placed others in potentially harmful situations; or

(B) Presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or

(iii) Because the juvenile presents a substantial risk of flight from the courtroom; and

(b) There is no less restrictive alternative to restraints that will prevent flight or physical harm to the juvenile or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.

(2) The court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make written findings of fact in support of the order.

(3) For purposes of this section, restraints includes, but is not limited to, handcuffs, chains, irons, straitjackets, and electronic restraint devices.

43-252. Fingerprints; when authorized; disposition.

(1) The fingerprints of any juvenile less than fourteen years of age, who has been taken into custody in the investigation of a suspected unlawful act, shall not be taken unless the consent of any district, county, associate county, associate separate juvenile court, or separate juvenile court judge has first been obtained.

(2) The fingerprints of any juvenile alleged or found to be a juvenile as described in subdivision (3)(b) of section 43-247 shall not be taken.

(3) If the judge permits the fingerprinting, the fingerprints must be filed by law enforcement officers in files kept separate from those of persons of the age of majority.

(4) The fingerprints of any juvenile shall not be sent to a state or federal depository by a law enforcement agency of this state unless: (a) The juvenile has been convicted of or adjudged to have committed a felony; (b) the juvenile has unlawfully terminated his or her commitment to a youth rehabilitation and treatment center; or (c) the juvenile is a runaway and a fingerprint check is needed for identification purposes to return the juvenile to his or her parent.

43-253. Temporary custody; investigation; release; when.

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

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

(3) No juvenile who has been taken into temporary custody under subdivision (1)(c) of section 43-250 or subsection (4) of section 43-286.01 or pursuant to an alleged violation of an order for conditional release shall be detained in any detention facility or be subject to an alternative to detention infringing upon the juvenile's liberty interest for longer than twenty-four hours, excluding nonjudicial days, after having been taken into custody unless such juvenile has appeared personally before a court of competent jurisdiction for a hearing to determine if continued detention, services, or supervision is necessary. The juvenile shall be represented by counsel at the hearing. Whether such counsel shall be provided at the cost of the county shall be determined as provided in subsection (1) of section 43-272. If continued secure detention is ordered, such detention shall be in a juvenile detention facility, except that a juvenile charged with a felony as an adult in county or district court may be held in an adult jail as set forth in subdivision (1)(c)(v) of section 43-250. A juvenile may only waive this hearing with the agreement of the juvenile's counsel and the county attorney or city attorney.

(4) When the probation officer deems it to be in the best interests of the juvenile, the probation officer shall immediately release such juvenile to the custody of his or her parent. If the juvenile has both a custodial and a noncustodial parent and the probation officer deems that release of the juvenile to the custodial parent is not in the best interests of the juvenile, the probation officer shall, if it is deemed to be in the best interests of the juvenile, attempt to contact the noncustodial parent, if any, of the juvenile and to release the juvenile to such noncustodial parent. If such release is not possible or not deemed to be in the best interests of the juvenile, the probation officer may release the juvenile to the custody of a legal guardian, a responsible relative, or another responsible person.

(5) The court may admit such juvenile to bail by bond in such amount and on such conditions and security as the court, in its sole discretion, shall determine, or the court may proceed as provided in section 43-254. In no case shall the court or probation officer release such juvenile if it appears that:

(a) The physical safety of persons in the community would be seriously threatened;

(b) Detention is necessary to secure the presence of the juvenile at the next hearing, as evidenced by a demonstrable record of willful failure to appear at a scheduled court hearing within the last twelve months; or

(c) Detention is a matter of immediate and urgent necessity for the protection of such juvenile, as evidenced by a demonstrable record of fleeing from law enforcement, absconding from a court-ordered placement, absconding from home, committing a violent offense, committing multiple property crimes, or threatening to cause harm to others.

43-254. Placement or detention pending adjudication; restrictions; assessment of costs.

(1) Pending the adjudication of any case, and subject to subdivision (5) of section 43-251.01, if it appears that the need for placement or further detention exists, the juvenile may be:

(a) Placed or detained a reasonable period of time on order of the court in the temporary custody of either the person having charge of the juvenile or some other suitable person;

(b) Kept in some suitable place provided by the city or county authorities;

(c) Placed in any proper and accredited charitable institution;

(d) Placed in a state institution, except any adult correctional facility, when proper facilities are available and the only local facility is a city or county jail, at the expense of the committing county on a per diem basis as determined from time to time by the head of the particular institution;

(e) Placed in the temporary care and custody of the Department of Health and Human Services when it does not appear that there is any need for secure detention, except that no juvenile alleged to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 shall be placed in the care and custody or under the supervision of the department; or

(f) Offered supervision options as determined pursuant to section 43-260.01, through the Office of Probation Administration as ordered by the court and agreed to in writing by the parties, if the juvenile is alleged to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and it does not appear that there is any need for secure detention.

(2) The court may assess the cost of such placement or detention in whole or in part to the parent of the juvenile as provided in section 43-290.

(3) If a juvenile has been removed from his or her parent, guardian, or custodian pursuant to subdivision (6) of section 43-248, the court may enter an order continuing detention or placement upon a written determination that continuation of the juvenile in his or her home would be contrary to the health, safety, or welfare of such juvenile and that reasonable efforts were made to preserve and reunify the family if required under section 43-283.01.

43-254.01. Temporary mental health placement; evaluation; procedure.

(1) Any time a juvenile is temporarily placed at a mental health facility pursuant to subsection (6) of section 43-250 or by a court as a juvenile who is mentally ill and dangerous, a mental health professional as defined in section 71-906 shall evaluate the mental condition of the juvenile as soon as reasonably possible but not later than thirty-six hours after the juvenile's admission, unless the juvenile was evaluated by a mental health professional immediately prior to the juvenile being placed in temporary custody and the temporary custody is based upon the conclusions of that evaluation. The mental health professional who performed the evaluation prior to the temporary custody or immediately after the temporary custody shall, without delay, convey the results of his or her evaluation to the county attorney.

(2) If it is the judgment of the mental health professional that the juvenile is not mentally ill and dangerous or that the harm described in section 71-908 is not likely to occur before the matter may be heard by a juvenile court, the mental health professional shall immediately notify the county attorney of that conclusion and the county

attorney shall either proceed to hearing before the court within twenty-four hours or order the immediate release of the juvenile from temporary custody. Such release shall not prevent the county attorney from proceeding on the petition if he or she so chooses.

(3) A juvenile taken into temporary protective custody under subsection (6) of section 43-250 shall have the opportunity to proceed to adjudication hearing within seven days unless the matter is continued. Continuances shall be liberally granted at the request of the juvenile, his or her guardian ad litem, attorney, parents, or guardian. Continuances may be granted to permit the juvenile an opportunity to obtain voluntary treatment.

43-254.02. Temporary detention rules and regulations; Nebraska Commission on Law Enforcement and Criminal Justice; duties. The Nebraska Commission on Law Enforcement and Criminal Justice shall adopt, promulgate, and implement rules and regulations to harmonize state and federal law on the temporary detention of juveniles.

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

43-256. Continued placement, detention, or alternative to detention; probable cause hearing; release requirements; exceptions.

(1) When the court enters an order continuing placement, detention, or an alternative to detention infringing upon the juvenile's liberty interest pursuant to section 43-253, upon request of the juvenile, or his or her parent, guardian, or attorney, the court shall hold a hearing within forty-eight hours. At such hearing the state shall have the burden of proof to show probable cause that such juvenile is within the jurisdiction of the court. Strict rules of evidence shall not apply at the probable cause hearing. The juvenile shall be released if probable cause is not shown. At the option of the court, it may hold the adjudication hearing provided in section 43-279 as soon as possible instead of the probable cause hearing if held within a reasonable period of time.

(2) This section and section 43-255 shall not apply to a juvenile (a) who has escaped from a commitment or (b) who has been taken into custody for his or her own protection as provided in subdivision (6) of section 43-248 in which case the juvenile shall be held on order of the court with jurisdiction for a reasonable period of time.

43-257. Unlawful detention or placement; penalty. Any person who knowingly holds a juvenile in detention or placement in violation of any of the provisions of section 43-255 or 43-256 shall be guilty of a Class III misdemeanor.

43-258. Preadjudication physical and mental evaluation; placement; restrictions; reports; costs.

(1) Pending the adjudication of any case under the Nebraska Juvenile Code, the court may order the juvenile examined by a physician, surgeon, psychiatrist, duly authorized community mental health service program, or psychologist to aid the court in determining (a) a material allegation in the petition relating to the juvenile's physical or mental condition, (b) the juvenile's competence to participate in the proceedings, (c) the juvenile's responsibility for his or her acts, or (d) whether or not to provide emergency medical treatment.

(2)(a) Pending the adjudication of any case under the Nebraska Juvenile Code and after a showing of probable cause that the juvenile is within the court's jurisdiction, for the purposes of subsection (1) of this section, the court may order such juvenile to be placed with the Department of Health and Human Services for evaluation, except that no juvenile alleged to be a juvenile as described in subdivision (1), (2), (3)(b), or (4) of section 43-247

shall be placed with the department. If a juvenile is placed with the department under this subdivision, the department shall make arrangements for an appropriate evaluation. The department shall determine whether the evaluation will be made on a residential or nonresidential basis. Placement with the department for the purposes of this section shall be for a period not to exceed thirty days. If necessary to complete the evaluation, the court may order an extension not to exceed an additional thirty days. Any temporary placement of a juvenile made under this section shall be in the least restrictive environment consistent with the best interests of the juvenile and the safety of the community.

(b) Pending the adjudication of any case in which a juvenile is alleged to be a juvenile as described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and after a showing of probable cause that the juvenile is within the court's jurisdiction, for the purposes of subsection (1) of this section, the court may order an evaluation to be arranged by the Office of Probation Administration. Any temporary placement of a juvenile made under this section shall be in the least restrictive environment consistent with the best interests of the juvenile and the safety of the community.

(3) Upon completion of the evaluation, the juvenile shall be returned to the court together with a written or electronic report of the results of the evaluation. Such report shall include an assessment of the basic needs of the juvenile and recommendations for continuous and long-term care and shall be made to effectuate the purposes in subdivision (1) of section 43-246. The juvenile shall appear before the court for a hearing on the report of the evaluation results within ten days after the court receives the evaluation.

(4) During any period of detention or evaluation prior to adjudication, costs incurred on behalf of a juvenile shall be paid as provided in section 43-290.01.

(5) The court shall provide copies of the evaluation report and any evaluations of the juvenile to the juvenile's attorney and the county attorney or city attorney prior to any hearing in which the report or evaluation will be relied upon.

43-259. Evaluation; motion for release of juvenile in custody. The juvenile, his or her attorney, parent, guardian, or custodian may file a motion to release the juvenile from custody and request a hearing after the initial commitment order for evaluation provided in section 43-258 is entered. Pending the hearing on such application, the juvenile shall remain in custody in such manner as the court determines to be in the best interests of the juvenile.

43-260. Standardized juvenile detention screening instrument. The Office of Probation Administration shall prepare and distribute to probation officers a standardized juvenile detention screening instrument. The types of risk factors to be included as well as the format of this standardized juvenile detention screening instrument shall be determined by the office. The standardized juvenile detention screening instrument shall be used as an assessment tool statewide by probation officers under section 43-260.01 in order to determine if detention of the juvenile is necessary and, if so, whether detention or an alternative to detention is indicated. Probation officers trained to administer the juvenile detention screening instrument shall act as juvenile intake probation officers. Only duly trained probation officers shall be authorized to administer the juvenile detention screening instrument.

43-260.01. Detention; factors. The need for preadjudication placement, services, or supervision and the need for detention of a juvenile and whether detention or an alternative to detention is indicated shall be subject to subdivision (5) of section 43-251.01 and shall be determined as follows:

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

(2) Except as provided in subdivision (2)(b) of section 43-250, if the results indicate that detention is not required, the juvenile shall be released without restriction or released to an alternative to detention; and

(3) If the results indicate that detention is required, detention shall be pursued.

43.260.02. Juvenile pretrial diversion program; authorized. A county attorney may establish a juvenile pretrial diversion program with the concurrence of the county board. If the county is part of a multicounty juvenile services plan under the Nebraska County Juvenile Services Plan Act, the county attorney may establish a juvenile pretrial diversion program in conjunction with other county attorneys from counties that are a part of such multicounty plan. A city attorney may establish a juvenile pretrial diversion program with the concurrence of the governing body of the city. Such programs shall meet the requirements of sections 43-260.02 to 43-260.07.

43-260.03. Juvenile pretrial diversion program; goals. The goals of a juvenile pretrial diversion program are:

(1) To provide eligible juvenile offenders with an alternative program in lieu of adjudication through the juvenile court;

(2) To reduce recidivism among diverted juvenile offenders;

(3) To reduce the costs and caseload burdens on the juvenile justice system and the criminal justice system; and

(4) To promote the collection of restitution to the victim of the juvenile offender's crime.

43-260.04. Juvenile pretrial diversion program; requirements. A juvenile pretrial diversion program shall:

(1) Be an option available for the county attorney or city attorney based upon his or her determination under this subdivision. The county attorney or city attorney may use the following information:

(a) The juvenile's age;
(b) The nature of the offense and role of the juvenile in the offense;
(c) The number and nature of previous offenses involving the juvenile;
(d) The dangerousness or threat posed by the juvenile to persons or property; or
(e) The recommendations of the referring agency, victim, and advocates for the juvenile;

(2) Permit participation by a juvenile only on a voluntary basis and shall include a juvenile diversion agreement described in section 43-260.06;

(3) Allow the juvenile to consult with counsel prior to a decision to participate in the program;

(4) Be offered to the juvenile when practicable prior to the filing of a juvenile petition or a criminal charge but after the arrest of the juvenile or issuance of a citation to the juvenile if after the arrest or citation a decision has been made by the county attorney or city attorney that the offense will support the filing of a juvenile petition or criminal charges;

(5) Provide screening services for use in creating a diversion plan utilizing appropriate services for the juvenile;

(6) Result in dismissal of the juvenile petition or criminal charges if the juvenile successfully completes the program;

(7) Be designed and operated to further the goals stated in section 43-260.03 and comply with sections 43-260.04 to 43-260.07; and

(8) Require information received by the program regarding the juvenile to remain confidential unless a release of information is signed upon admission to the program or is otherwise authorized by law.

(9)(a) Respond to a public inquiry in the same manner as if there were no information or records concerning participation in the diversion program. Information or records pertaining to participation in the diversion program shall not be disseminated to any person other than:

(i) A criminal justice agency as defined in section 29-3509;

(ii) The individual who is the subject of the record or any persons authorized by such individual; or

(iii) Other persons or agencies authorized by law.

(b) An individual, a person, or an agency requesting information subject to subdivision (9)(a) of this section shall provide the diversion program with satisfactory verification of his, her, or its identity.

43-260.05. Juvenile pretrial diversion program; optional services. A juvenile pretrial diversion program may:

(1) Provide screening services to the court and county attorney or city attorney to help identify likely candidates for the program;

(2) Establish goals for diverted juvenile offenders and monitor performance of the goals;

(3) Coordinate chemical dependency assessments of diverted juvenile offenders when indicated, make appropriate referrals for treatment, and monitor treatment and aftercare;

(4) Coordinate individual, group, and family counseling services;

(5) Oversee the payment of victim restitution by diverted juvenile offenders;

(6) Assist diverted juvenile offenders in identifying and contacting appropriate community resources;

(7) Coordinate educational services to diverted juvenile offenders to enable them to earn a high school diploma or general education development diploma; and

(8) Provide accurate information on how diverted juvenile offenders perform in the program to the juvenile courts, county attorneys, city attorneys, defense attorneys, and probation officers.

43-260.06. Juvenile diversion agreement; contents. A juvenile diversion agreement shall include, but not be limited to, one or more of the following:

(1) A letter of apology;

(2) Community service, not to be performed during school hours if the juvenile offender is attending school;

(3) Restitution;

(4) Attendance at educational or informational sessions at a community agency;

(5) Requirements to remain during specified hours at home, school, and work and restrictions on leaving or entering specified geographical areas; and

(6) Participation in an appropriate restorative justice practice or service.

43-260.07. Juvenile pretrial diversion program; data; duties.

(1) On January 30 of each year, every county attorney or city attorney of a county or city which has a juvenile pretrial diversion program shall report to the Director of Juvenile Diversion Programs the information pertaining to the program required by rules and regulations adopted and promulgated by the Nebraska Commission on Law Enforcement and Criminal Justice.

(2) Juvenile pretrial diversion program data shall be maintained and compiled by the Director of Juvenile Diversion Programs.

43-261. Juvenile court petition; contents; filing.

(1)(a) A juvenile court petition and all subsequent proceedings shall be entitled In the Interest of ....., a Juvenile, inserting the juvenile's name in the blank. The written petition shall be signed by the county attorney, specify which subdivision of section 43-247 is alleged and set forth the facts, state the juvenile's month and year of birth, and request the juvenile court to determine whether support will be ordered pursuant to section 43-290. An allegation under subdivision (1), (2), or (4) of section 43-247 is to be made with the same specificity as a criminal complaint. It is sufficient if the petition is based upon information and belief.

(b) A juvenile court petition is filed with the clerk of the court having jurisdiction over the matter. If such court is a separate juvenile court, the petition is filed with the clerk of the district court. If such court is a county court sitting as a juvenile court, the petition is filed with the clerk of the county court.

(2) In all cases involving violation of a city or village ordinance, the city attorney or village prosecutor may file a petition in juvenile court. If such a petition is filed, for purposes of such proceeding, references in the Nebraska Juvenile Code to county attorney are construed to include a city attorney or village prosecutor.

43-261.01. Juvenile court petition; felony or crime of domestic violence; court provide explanation of firearm possession consequences.

(1) When the petition alleges the juvenile committed an act which would constitute a felony or an act which would constitute a misdemeanor crime of domestic violence, the court shall explain the specific legal consequences that an adjudication for such an act will have on the juvenile's right to possess a firearm. The court shall provide such explanation at the earlier of:

(a) The juvenile's first court appearance or, if the juvenile is not present in the court at the time of the first appearance, by written notice sent by regular mail to the juvenile's last-known address; or (b) Prior to adjudication.

(2) For purposes of this section: (a) Firearm has the same meaning as in section 28-1201; and (b) Misdemeanor crime of domestic violence has the same meaning as in section 28-1206.

43-262. Issuance of process; notice in lieu of summons. No summons or notice shall be required to be served on any person who shall voluntarily appear before the court and whose appearance is noted on the records thereof. In actions involving a juvenile who may invoke the jurisdiction of the court under the Nebraska Juvenile Code, the court, in its discretion, may cause the issuance of a notice in lieu of summons to the juvenile and to the juvenile's parent or the person who has the custody or control of the juvenile. Such notice in lieu of summons may be delivered by mail, shall be accompanied by a copy of the petition in cases when jurisdiction under subdivision (1) or (2) of section 43-247 is alleged, and shall contain a statement that (1) the recipient is entitled by statute to have the summons or notice, as the case may be, served upon him or her by personnel of the sheriff's office or some other person under the direction of the court, (2) service by the sheriff's office has been dispensed with for the convenience of the recipient, (3) if the recipient appears in court for the hearing fixed in the notice, he or she shall be deemed to have waived issuance and service of a notice and the seventy-two hour waiting period, as the case may be, and (4) if he or she does not appear, a summons or notice, as the case may be, shall be served upon him or her by personnel of the sheriff's office or some other suitable person under the direction of the court.

43-263. Issuance of process; summons. Upon the filing of the petition, a summons with a copy of the petition attached shall issue requiring the person who has custody of the juvenile or with whom the juvenile may be staying to appear personally and, unless the court orders otherwise, to bring the juvenile before the court at the time and place stated. Service of the summons shall be effected not less than seventy-two hours prior to the hearing set therein, except that service may be waived by the parties. Every summons sent shall comply with the Nebraska Indian Child Welfare Act, if applicable.

43-264. Summons; service.

If a juvenile court petition is filed that alleges that the juvenile is a juvenile as described in subdivision (1), (2), (3)(b), or (4) of section 43-247, a summons with a copy of the petition attached shall be served as provided in section 43-263 on such juvenile and his or her parent, guardian, or custodian requiring the juvenile and such parent, guardian, or custodian to appear personally at the time and place stated. When so ordered by the court, personal service shall be obtained upon such juvenile notwithstanding any other provisions of the Nebraska Juvenile Code.

43-265. Summons; notice to parent, guardian, or relative required; appointment of guardian ad litem. If the person so summoned under section 43-263 is other than a parent or guardian of the juvenile, then the parent or guardian or both, if their residence is known, shall also be notified of the pendency of the case and of the time and place appointed; if there is neither a parent nor guardian, or if his or her residence is not known, then some relative, if there be one and his or her residence is known, shall be notified, except that in any case the court may appoint some suitable person guardian ad litem to act in behalf of the juvenile.

43-266. Immediate custody of juvenile; when. If it appears that the juvenile is in such condition or surroundings that his or her welfare requires that his or her custody be immediately assumed by the court, the court may, by endorsement upon the summons provided under section 43-263, order the officer serving it to take the juvenile into custody at once.

43-267. Subpoena; notice of subsequent hearing.

(1) As provided under sections 43-263 to 43-266, subpoenas may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

(2) Notice of the time, date, place, and purpose of any juvenile court hearing subsequent to the initial hearing, for which a summons or notice has been served or waived, shall be given to all parties either in court, by mail, or in such other manner as the court may direct.

43-268. Summons, notice, subpoena; manner given; time.

(1) Service of summons shall be made by the delivery of a copy of the summons to the person summoned or by leaving one at his or her usual place of residence with some person of suitable age and discretion residing therein.

(2) Except as provided in section 43-264, notice, when required, shall be given in the manner provided for service of a summons in a civil action. Any published notice shall simply state that a proceeding concerning the juvenile is pending in the court and that an order making an adjudication and disposition will be entered therein. If the names of one or both parents or the guardian are unknown, he, she, or they may be notified as the parent or parents, or guardian of (naming or describing the juvenile) found (stating address or place where the juvenile was

found). Such notice shall be published once each week for three weeks, the last publication of which shall be at least five days before the time of hearing.

(3) Personal or residence service shall be effected at least seventy-two hours before the time set for the hearing, but upon cause shown the court shall grant additional time to prepare for a hearing. A guardian ad litem, one of the parents, the person having custody if there be no guardian ad litem, or the attorney for such juvenile may waive such service for the juvenile, if such juvenile concurs in open court duly noted on the records of the court. Registered or certified mail shall be mailed at least five days before the time of the hearing.

(4) Service of summons, notice, or subpoena may be made by any suitable person under the direction of the court.

43-269. Failure to comply with summons or subpoena; contempt. If the person summoned or subpoenaed as provided in sections 43-262 to 43-268 shall without reasonable cause fail to appear and abide the order of the court or bring the juvenile, he or she may be proceeded against as in the case of contempt of court.

43-270. Warrant; when issued. In case the summons cannot be served or the parties fail to obey the summons and, in any case when it shall be made to appear to the court that such summons would be ineffectual, a warrant may issue on the order of the court, either against the parent or guardian or the person having custody of the juvenile, or with whom the juvenile may be, or against the juvenile himself or herself.

43-271. Prompt hearing and disposition.

(1)(a) A juvenile taken into custody pursuant to sections 43-248, 43-250, and 43-253 shall be brought before the court for adjudication as soon as possible after the petition is filed. On the return of the summons or other process, or mailing of the notice in lieu of summons, or as soon thereafter as legally maybe, the court shall proceed to hear and dispose of the case as provided in section 43-279.

(b) The hearing as to a juvenile in custody of the probation officer or the court shall be held as soon as possible but, in all cases, within a six-month period after the petition is filed, and as to a juvenile not in such custody as soon as practicable but, in all cases, within a six-month period after the petition is filed. The computation of the six-month period provided for in this section shall be made as provided in section 29-1207, as applicable.

(2) Any juvenile taken into custody pursuant to sections 43-248, 43-250, and 43-253 may request a detention review hearing. The detention review hearing shall be conducted withing forty-eight hours after the request.

43-272. Right to counsel; appointment; payment; guardian ad litem; appointment; when; duties; standards for guardians ad litem; standards for attorneys who practice in juvenile court.

(1)(a) In counties having a population of less than one hundred fifty thousand inhabitants:

(i) When any juvenile court petition is filed alleging jurisdiction of a juvenile pursuant to subdivision (2) of section 43-247, counsel shall be appointed for such juvenile; and

(ii) In any other instance in which a juvenile is brought without counsel before a juvenile court, the court shall advise such juvenile and his or her parent or guardian of their right to retain counsel and shall inquire of such juvenile and his or her parent or guardian as to whether they desire to retain counsel.

(b) In counties having a population of one hundred fifty thousand or more inhabitants, when any juvenile court petition is filed alleging jurisdiction of a juvenile pursuant to subdivision (1), (2), (3)(b), or (4) of section 43-247, counsel shall be appointed for such juvenile.

(c) The court shall inform any juvenile described in this subsection and his or her parent or guardian of such juvenile's right to counsel at county expense if none of them is able to afford counsel. If the juvenile or his or her parent or guardian desires to have counsel appointed for such juvenile, or the parent or guardian of such juvenile cannot be located, and the court ascertains that none of such persons are able to afford an attorney, the court shall forthwith appoint an attorney to represent such juvenile for all proceedings before the juvenile court, except that if an attorney is appointed to represent such juvenile and the court later determines that a parent of such juvenile is able to afford an attorney, the court shall order such parent or juvenile to pay for services of the attorney to be collected in the same manner as provided by section 43-290. If the parent willfully refuses to pay any such sum, the court may commit him or her for contempt, and execution may issue at the request of the appointed attorney or the county attorney or by the court without a request.

(2) The court, on its own motion or upon application of a party to the proceedings, shall appoint a guardian ad litem for the juvenile: (a) If the juvenile has no parent or guardian of his or her person or if the parent or guardian of the juvenile cannot be located or cannot be brought before the court; (b) if the parent or guardian of the juvenile is excused from participation in all or any part of the proceedings; (c) if the parent is a juvenile or an incompetent; (d) if the parent is indifferent to the interests of the juvenile; or (e) in any proceeding pursuant to the provisions of subdivision (3)(a) of section 43-247.

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

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

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

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

43-272.01. Guardian ad litem; appointment; powers and duties; consultation; payment of costs; compensation.

(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 (6) or (8) of section 43-248, subsection (5) of section 43-250, or section 43-251. If a county has a guardian ad litem division created under section 23-3901, the court shall appoint the guardian ad litem division unless a conflict of interest exists or the court determines that an appointment outside of the guardian ad litem division would be more appropriate to serve the child's best interests. If removal has not occurred, a guardian ad litem shall be appointed at the commencement of all cases brought under subdivision (3)(a) or (7) 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 in his or her respective placement within two weeks after the appointment and once every six months thereafter, unless the court approves other methods of consultation as provided in subsection (6) of this section, 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;

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

(f) Shall be responsible for making written reports and recommendations to the court at every dispositional, review, or permanency planning hearing regarding (i) the temporary and permanent placement of the protected juvenile, (ii) the type and number of contacts with the juvenile, (iii) the type and number of contacts with other individuals described in subdivision (d) of this subsection, (iv) compliance with the Nebraska Strengthening Families Act, and (v) any further relevant information on a form prepared by the Supreme Court. As an alternative to the written reports and recommendations, 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. A copy of the written reports and recommendations to the court or a copy of the checklist presented to the court shall also be submitted to the Foster Care Review Office for any juvenile in foster care placement as defined in section 43-1301;

(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.

(5) The guardian ad litem may be compensated on a per-case appointment system or pursuant to a system of multi-case contracts or may be employed by a guardian ad litem division created pursuant to section 23-3901. If a county creates a guardian ad litem division, guardian ad litem appointments shall be made first from the guardian ad litem division unless a conflict exists or the court determines that an appointment outside of the guardian ad litem division would be more appropriate to serve the child's best interests. Regardless of the method of compensation, billing hours and expenses for court-appointed guardian ad litem services shall be submitted to the court for approval and shall be recorded on a written, itemized billing statement signed by the attorney responsible for the case. Billing hours and expenses for guardian ad litem services rendered under a contract for such services shall be submitted to the entity with whom the guardian ad litem contracts in the form and manner prescribed by such entity for approval. Case time for guardian ad litem services shall be scrupulously accounted for by the

attorney responsible for the case. Additionally, in the case of a multi-lawyer firm or organization retained for guardian ad litem services, the name of the attorney or attorneys assigned to each guardian ad litem case shall be recorded.

(6) The guardian ad litem shall meet in person with the juvenile for purposes of the consultation required by subdivision (2)(d) of this section unless prohibited or made impracticable by exceptional circumstances, including, but not limited to, situations in which an unreasonable geographical distance is involved between the location of the guardian ad litem and the juvenile. When such exceptional circumstances exist, the guardian ad litem shall attempt such consultation by other reasonable means, including, but not limited to, by telephone or suitable electronic means, if the juvenile is of sufficient age and capacity to participate in such means of communication and there are no other barriers preventing such means of communication. If consultation by telephone or suitable electronic means is not feasible, the guardian ad litem shall seek direction from the court as to any other acceptable method by which to accomplish consultation required by subdivision (2)(d) of this section.

43-272.02. Court appointed special advocate volunteer. The court may appoint a court appointed special advocate volunteer pursuant to the Court Appointed Special Advocate Act.

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

43-274. County attorney; city attorney; preadjudication powers and duties; petition, pretrial diversion, or restorative justice practice or service; transfer; procedures; appeal; admission, confession, or statement made by juvenile; inadmissible; when.

(1) The county attorney or city attorney, having knowledge of a juvenile within his or her jurisdiction who appears to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and taking into consideration the criteria in section 43-276, may proceed as provided in this section.

(2) The county attorney or city attorney may offer pretrial diversion to the juvenile in accordance with a juvenile pretrial diversion program established pursuant to sections 43-260.02 to 43-260.07.

(3)(a) If a juvenile appears to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, the county attorney or city attorney may utilize restorative justice practices or services as a form of, or condition of, diversion or plea bargaining or as a recommendation as a condition of disposition, through a referral to a restorative justice facilitator.

(b) For victim-involved offenses, a restorative justice facilitator shall conduct a separate individual intake and assessment session with each juvenile and victim to determine which, if any, restorative justice practice is appropriate. All participation by the victim shall be voluntary. If the victim declines to participate in any or all parts of the restorative justice practice, a victim surrogate may be invited to participate with the juvenile. If, after assessment, participation by the juvenile is deemed inappropriate, the restorative justice facilitator shall return the referral to the referring county attorney or city attorney.

(c) A victim or his or her parent or guardian shall not be charged a fee. A juvenile or his or her parent or guardian may be charged a fee according to the policies and procedures of the restorative justice facilitator and the referring county attorney or city attorney. Restorative justice facilitators shall use a sliding fee scale based on income and shall not deny services based upon the inability of a juvenile or his or her parent or guardian to pay, if funding is otherwise available.

(d) Prior to participating in any restorative justice practice or service under this section, the juvenile, the juvenile's parent or guardian, and the victim, if he or she is participating, shall sign a consent to participate form.

(e) If a reparation plan agreement is reached, the restorative justice facilitator shall forward a copy of the agreement to the referring county attorney or city attorney. The terms of the reparation plan agreement shall specify provisions for reparation, monitoring, completion, and reporting. An agreement may include, but is not limited to, one or more of the following:

(i) Participation by the juvenile in certain community service programs;

(ii) Payment of restitution by the juvenile to the victim;

(iii) Reconciliation between the juvenile and the victim;

(iv) Apology, when appropriate, between the juvenile and the victim; and

(v) Any other areas of agreement.

(f) The restorative justice facilitator shall give notice to the county attorney or city attorney regarding the juvenile's compliance with the terms of the reparation plan agreement. If the juvenile does not satisfactorily complete the terms of the agreement, the county attorney or city attorney may:

(i) Refer the matter back to the restorative justice facilitator for further restorative justice practices or services; or

(ii) Proceed with filing a juvenile court petition or criminal charge.

(g) If a juvenile meets the terms of the reparation plan agreement, the county attorney or city attorney shall either:

(i) Not file a juvenile court petition or criminal charge against the juvenile for the acts for which the juvenile was referred for restorative justice practice or services when referred as a diversion or an alternative to diversion; or

(ii) File a reduced charge as previously agreed when referred as a part of a plea negotiation.

(4) The county attorney or city attorney shall file the petition in the court with jurisdiction as outlined in section 43-246.01.

(5)(a) When a transfer from juvenile court to county court or district court is authorized because there is concurrent jurisdiction, the county attorney or city attorney may move to transfer the proceedings. Such motion shall be filed with the juvenile court petition unless otherwise permitted for good cause shown. The juvenile court shall schedule a hearing on such motion within fifteen days after the motion is filed. The county attorney or city attorney has the burden by a preponderance of the evidence to show why such proceeding should be transferred. The juvenile shall be represented by counsel at the hearing and may present the evidence as to why the proceeding should be retained. After considering all the evidence and reasons presented by both parties, the juvenile court shall retain the proceeding unless the court determines that a preponderance of the evidence shows that the proceeding should be transferred to the county court or district court. The court shall make a decision on the motion within thirty days after the hearing. The juvenile court shall set forth findings for the reason for its decision.

(b) An order granting or denying transfer of the case from juvenile court to county or district court shall be considered a final order for the purposes of appeal. Upon the entry of an order, any party may appeal to the Court of Appeals within ten days. Such review shall be advanced on the court docket without an extension of time granted to any party except upon a showing of exceptional cause. Appeals shall be submitted, assigned, and scheduled for oral argument as soon as the appellee's brief is due to be filed. The Court of Appeals shall conduct its review in an expedited manner and shall render the judgment and opinion, if any, as speedily as possible. During the pendency of any such appeal, the juvenile court may continue to enter temporary orders in the best interests of the juvenile pursuant to section 43-295.

(c) If the proceeding is transferred from juvenile court to the county court or district court, the county attorney or city attorney shall file a criminal information in the county court or district court, as appropriate, and the accused shall be arraigned as provided for a person eighteen years of age or older in subdivision (1)(b) of section 29-1816.

(d)(i) Except as provided in subdivision (5)(d)(ii) of this section, any admission, confession, or statement made by the juvenile to a psychiatrist, psychologist, therapist, or licensed mental health practitioner for purposes of a motion to transfer a case from juvenile court to county court or district court shall be inadmissible in any criminal or civil proceeding.

(ii) Subdivision (5)(d)(i) of this section does not prevent any such admission, confession, or statement from being:

(A) Admissible in proceedings relating to such motion to transfer;

(B) Admissible in disposition proceedings for such juvenile under the Nebraska Juvenile Code if the case is not transferred to county court or district court;

(C) Included in any presentence investigation report for such juvenile if the case is transferred to county court or district court; and

(D) Admissible in such case to impeach such juvenile during cross-examination if the juvenile testifies at trial or during juvenile court proceedings and such testimony is materially inconsistent with a prior statement made by the juvenile to a psychiatrist, psychologist, therapist, or licensed mental health practitioner for purposes of the motion to transfer such case.

43-275. Petition, complaint, or mediation consent form; filing; time. Whenever a juvenile is detained or placed in custody under the provisions of section 43-253, a petition, complaint, or restorative justice program consent form must be filed within forty-eight hours excluding nonjudicial days.

43-276. County attorney; city attorney; criminal charge, juvenile court petition, pretrial diversion, restorative justice, or transfer of case; determination; considerations; referral to community-based resources.

(1) The county attorney or city attorney, in making the determination whether to file a criminal charge, file a juvenile court petition, offer juvenile pretrial diversion or restorative justice, or transfer a case to or from juvenile court, and the juvenile court, county court, or district court in making the determination whether to transfer a case, shall consider: (a) The type of treatment such juvenile would most likely be amenable to; (b) whether there is evidence that the alleged offense included violence; (c) the motivation for the commission of the offense; (d) the age of the juvenile and the ages and circumstances of any others involved in the offense; (e) the previous history of the juvenile, including whether he or she had been convicted of any previous offenses or adjudicated in juvenile court; (f) the best interests of the juvenile; (g) consideration of public safety; (h) consideration of the juvenile's ability to appreciate the nature and seriousness of his or her conduct; (i) whether the best interests of the juvenile and the security of the public may require that the juvenile continue in secure detention or under supervision for a period extending beyond his or her minority and, if so, the available alternatives best suited to this purpose; (j) whether the victim or juvenile agree to participate in restorative justice; (k) whether there is a juvenile pretrial diversion program established pursuant to sections 43-260.02 to 43-260.07; (l) whether the juvenile has been convicted of or has acknowledged unauthorized use or possession of a firearm; (m) whether a juvenile court order has been issued for the juvenile pursuant to section 43-2,106.03; (n) whether the juvenile is a criminal street gang member; and (o) such other matters as the parties deem relevant to aid in the decision.

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

43-277. Juvenile in custody; adjudication hearing; requirements. Except as provided in sections 43-254.01 and 43-277.01 and unless sooner released, a juvenile taken into custody or remaining in custody under sections 43-248, 43-250, 43-253, and 43-254 shall be brought before the juvenile court for an adjudication hearing as soon as possible but, in all cases, within a six-month period after a petition is filed. If the juvenile is not brought before the juvenile court within such period of time, he or she shall be released from custody, except that such hearing shall not be had until there is before the court the juvenile when charged under subdivision (1), (2), (3)(b), or (4) of section 43-247, and in all cases the juvenile's custodian or person with whom he or she may be, or his or

her parent or guardian, or, if they fail to appear, and in all cases under subdivision (3)(a) of section 43-247, a guardian ad litem. The computation of the six-month period provided for in this section shall be made as provided in section 29-1207, as applicable.

43-277.01. Mental health hearing; requirements. All hearings concerning a juvenile court petition filed pursuant to subdivision (3)(c) of section 43-247 shall be closed to the public except at the request of the juvenile or the juvenile's parent or guardian. Such hearings shall be held in a courtroom or at any convenient and suitable place designated by the juvenile court judge. The proceeding may be conducted where the juvenile is currently residing if the juvenile is unable to travel.

43-278. Adjudication hearing; held within ninety days after petition is filed; additional reviews; telephonic or videoconference hearing; authorized. Except as provided in sections 43-254.01 and 43-277.01, all cases filed under subdivision (3) of section 43-247 shall have an adjudication hearing not more than ninety days after a petition is filed. Upon a showing of good cause, the court may continue the case beyond the ninety-day period. The court shall also review every case filed under such subdivision which has been adjudicated or transferred to it for disposition not less than once every six months. All communications, notices, orders, authorizations, and requests authorized or required in the Nebraska Juvenile Code; all nonevidentiary hearings; and any evidentiary hearings approved by the court and by stipulation of all parties may be heard by the court telephonically or by videoconferencing in a manner that ensures the preservation of an accurate record. All of the orders generated by way of a telephonic or videoconference hearing shall be recorded as if the judge were conducting a hearing on the record.

43-279. Juvenile violator or juvenile in need of special supervision; rights of parties; proceedings.

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

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

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

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

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

(e) Of the right of the juvenile to testify and to compel other witnesses to attend and testify in his or her own behalf;

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

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

After giving such warnings and admonitions, the court may accept an in-court admission or answer of no contest by the juvenile of all or any part of the allegations in the petition if the court has determined from examination of the juvenile and those present that such admission or answer of no contest is intelligently, voluntarily, and understandingly made and with an affirmative waiver of rights and that a factual basis for such admission or answer of no contest exists. The waiver of the right to counsel shall satisfy section 43-3102. The court may base its adjudication provided in subsection (2) of this section on such admission or answer of no contest.

(2) If the juvenile denies the petition or stands mute the court shall first allow a reasonable time for preparation if needed and then consider only the question of whether the juvenile is a person described by section

43-247. After hearing the evidence on such question, the court shall make a finding and adjudication, to be entered on the records of the court, whether or not the juvenile is a person described by subdivision (1), (2), (3)(b), or (4) of section 43-247 based upon proof beyond a reasonable doubt. If an Indian child is involved, the standard of proof shall be in compliance with the Nebraska Indian Child Welfare Act, if applicable.

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

43-279.01. Juvenile in need of assistance or termination of parental rights; rights of parties; appointment of counsel; court; powers; proceedings.

(1) When the petition alleges the juvenile to be within the provisions of subdivision (3)(a) of section 43-247 or when termination of parental rights is sought pursuant to subdivision (6) of section 43-247 and the parent, custodian, or guardian appears with or without counsel, the court shall inform the parties of the:

(a) Nature of the proceedings and the possible consequences or dispositions pursuant to sections 43-284, 43-285, and 43-288 to 43-295;

(b) Right of the parent to engage counsel of his or her choice at his or her own expense or to have counsel appointed if the parent is unable to afford to hire a lawyer;

(c) Right of a stepparent, custodian, or guardian to engage counsel of his or her choice and, if there are allegations against the stepparent, custodian, or guardian or when the petition is amended to include such allegations, to have counsel appointed if the stepparent, custodian, or guardian is unable to afford to hire a lawyer;

(d) Right to remain silent as to any matter of inquiry if the testimony sought to be elicited might tend to prove the party guilty of any crime;

(e) Right to confront and cross-examine witnesses;

(f) Right to testify and to compel other witnesses to attend and testify;

(g) Right to a speedy adjudication hearing; and

(h) Right to appeal and have a transcript or record of the proceedings for such purpose.

(2) The court shall have the discretion as to whether or not to appoint counsel for a person who is not a party to the proceeding. If counsel is appointed, failure of the party to maintain contact with his or her court-appointed counsel or to keep such counsel advised of the party's current address may result in the counsel being discharged by the court.

(3) After giving the parties the information prescribed in subsection (1) of this section, the court may accept an in-court admission, an answer of no contest, or a denial from any parent, custodian, or guardian as to all or any part of the allegations in the petition. The court shall ascertain a factual basis for an admission or an answer of no contest.

(4) In the case of a denial, the court shall allow a reasonable time for preparation if needed and then proceed to determine the question of whether the juvenile falls under the provisions of section 43-247 as alleged. After hearing the evidence, the court shall make a finding and adjudication to be entered on the records of the court as to whether the allegations in the petition have been proven by a preponderance of the evidence in cases under subdivision (3)(a) of section 43-247 or by clear and convincing evidence in proceedings to terminate parental rights. The court shall inquire as to whether any party believes an Indian child is involved in the proceedings prior to the advisement of rights pursuant to subsection (1) of this section. If an Indian child is involved, the standard of proof shall be in compliance with the Nebraska Indian Child Welfare Act, if applicable.

(5) If the court shall find that the allegations of the petition or motion have not been proven by the requisite standard of proof, it shall dismiss the case or motion. If the court sustains the petition or motion, it shall

allow a reasonable time for preparation if needed and then proceed to inquire into the matter of the proper disposition to be made of the juvenile.

43-280. Adjudication; effect; use of in-court statements. No adjudication by the juvenile court upon the status of a juvenile shall be deemed a conviction nor shall the adjudication operate to impose any of the civil disabilities ordinarily resulting from conviction. The adjudication and the evidence given in the court shall not operate to disqualify such juvenile in any future civil or military service application or appointment. Any admission, answer of no contest, confession, or statement made by the juvenile in court and admitted by the court, in a proceeding under section 43-279, shall be inadmissible against such juvenile in any criminal or civil proceeding but may be considered by a court as part of a presentence investigation involving a subsequent transaction.

43-281. Adjudication of jurisdiction; evaluation; restrictions on placement; copy of report or evaluation.

(1) Following an adjudication of jurisdiction and prior to final disposition, the court may provide for evaluation of a juvenile as provided in this section.

(2) If the adjudication of jurisdiction is not under subdivision (1), (2), (3)(b), or (4) of section 43-247, the court may place the juvenile with the Office of Juvenile Services or the Department of Health and Human Services for evaluation. The office or department shall arrange and pay for an appropriate evaluation if the office or department determines that there are no parental funds or private or public insurance available to pay for such evaluation.

(3)(a) If the adjudication of jurisdiction is under subdivision (1), (2), (3)(b), or (4) of section 43-247, the court may order an evaluation to be arranged by the Office of Probation Administration.

(b) For a juvenile in detention, the court shall order that such evaluation be completed and the juvenile returned to the court within twenty-one days after the evaluation.

(c) For a juvenile who is not in detention, the evaluation shall be completed and the juvenile returned to the court within thirty days.

(d) The physician, psychologist, licensed mental health practitioner, professional counselor holding a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact, licensed drug and alcohol counselor, or other provider responsible for completing the evaluation shall have up to ten days to complete the evaluation after receiving the referral authorizing the evaluation.

(4) A juvenile pending evaluation ordered under this section shall not reside in a detention facility at the time of the evaluation or while waiting for the completed evaluation to be returned to the court unless detention of such juvenile is a matter of immediate and urgent necessity for the protection of such juvenile or the person or property of another or if it appears that such juvenile is likely to flee the jurisdiction of the court.

(5) The court shall provide copies of predisposition reports and evaluations of the juvenile to the juvenile's attorney and the county attorney or city attorney prior to any hearing in which the report or evaluation will be relied upon.

43-282. Juvenile court; transfer case and records to court of domicile. If a petition alleging a juvenile to be within the jurisdiction of the Nebraska Juvenile Code is filed in a county other than the county where the juvenile is presently living or domiciled, the court, at any time after adjudication and prior to final termination of jurisdiction, may transfer the proceedings to the county where the juvenile lives or is domiciled and the court having juvenile court jurisdiction therein shall thereafter have sole charge of such proceedings and full authority to enter any order it could have entered had the adjudication occurred therein.

All documents, social histories, and records, or certified copies thereof, on file with the court pertaining to the case shall accompany the transfer.

43-283. Dispositional hearing; rules of evidence. Strict rules of evidence shall not be applied at any dispositional hearing.

43-283.01. Preserve and reunify the family; reasonable efforts; requirements.

(1) In determining whether reasonable efforts have been made to preserve and reunify the family and in making such reasonable efforts, the juvenile's health and safety are the paramount concern.

(2) Except as provided in subsections (4) and (5) of this section, reasonable efforts shall be made to preserve and reunify families prior to the placement of a juvenile in foster care to prevent or eliminate the need for removing the juvenile from the juvenile's home and to make it possible for a juvenile to safely return to the juvenile's home.

(3) If continuation of reasonable efforts to preserve and reunify the family is determined to be inconsistent with the permanency plan determined for the juvenile in accordance with a permanency hearing under section 43-1312, efforts shall be made to place the juvenile in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the juvenile.

(4) Reasonable efforts to preserve and reunify the family are not required if a court of competent jurisdiction has determined that:

(a) The parent of the juvenile has subjected the juvenile or another minor child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse;

(b) The parent of the juvenile has (i) committed first or second degree murder to another child of the parent, (ii) committed voluntary manslaughter to another child of the parent, (iii) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, (iv) committed a felony assault which results in serious bodily injury to the juvenile or another minor child of the parent, or (v) been convicted of felony sexual assault of the other parent of the juvenile under section 28-319.01 or 28-320.01 or a comparable crime in another state; or

(c) The parental rights of the parent to a sibling of the juvenile have been terminated involuntarily.

(5) Except as otherwise provided in the Nebraska Indian Child Welfare Act, if the family includes a child who was conceived by the victim of a sexual assault and a biological parent is convicted of the crime under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320, the convicted biological parent of such child shall not be considered a part of the child's family for purposes of requiring reasonable efforts to preserve and reunify the family.

(6) If reasonable efforts to preserve and reunify the family are not required because of a court determination made under subsection (4) of this section, a permanency hearing, as provided in section 43-1312, shall be held for the juvenile within thirty days after the determination, reasonable efforts shall be made to place the juvenile in a timely manner in accordance with the permanency plan, and whatever steps are necessary to finalize the permanent placement of the juvenile shall be made.

(7) Reasonable efforts to place a juvenile for adoption or with a guardian may be made concurrently with reasonable efforts to preserve and reunify the family, but priority shall be given to preserving and reunifying the family as provided in this section.

43-284. Juvenile in need of assistance or special supervision; care and custody; payments for support; removal from home; restrictions.

(1) When any juvenile is adjudged to be under subdivision (3), (4), or (8) of section 43-247, the court may permit such juvenile to remain in his or her own home subject to supervision or may make an order committing the juvenile to:

(a) The care of some suitable institution;

(b) Inpatient or outpatient treatment at a mental health facility or mental health program;

(c) The care of some reputable citizen of good moral character;

(d) The care of some association willing to receive the juvenile embracing in its objects the purpose of caring for or obtaining homes for such juveniles, which association shall have been accredited as provided in section 43-296;

(e) The care of a suitable family; or

(f) The care and custody of the Department of Health and Human Services, except that a juvenile who is adjudicated to be a juvenile described in subdivision (3)(b) or (4) of section 43-247 shall not be committed to the care and custody or supervision of the department.

(2)(a) Under subdivision (1)(a), (b), (c), (d), or (e) of this section, upon a determination by the court that there are no parental, private, or other public funds available for the care, custody, education, and maintenance of a juvenile, the court may order a reasonable sum for the care, custody, education, and maintenance of the juvenile to be paid out of a fund which shall be appropriated annually by the county where the petition is filed until suitable provisions may be made for the juvenile without such payment.

(b) The amount to be paid by a county for education pursuant to this section shall not exceed the average cost for education of a public school student in the county in which the juvenile is placed and shall be paid only for education in kindergarten through grade twelve.

(3) The court may enter a dispositional order removing a juvenile from his or her home upon a written determination that continuation in the home would be contrary to the health, safety, or welfare of such juvenile and that reasonable efforts to preserve and reunify the family have been made if required under section 43-283.01.

43-284.01. Juvenile voluntarily relinquished; custody; alternative disposition; effect.

The Department of Health and Human Services may make payments as needed on behalf of a child who has been a ward of the department after the appointment of a guardian for the child. Such payments to the guardian may include maintenance costs, medical and surgical expenses, and other costs incidental to the care of the child. All such payments shall terminate on or before the child's nineteenth birthday unless the child is eligible for extended guardianship assistance and medical care from the department pursuant to section 43-4511. The child under guardianship shall be a child for whom the guardianship would not be possible without the financial aid provided under this section.

The Department of Health and Human Services shall adopt and promulgate rules and regulations for the administration of this section.

43-284.02. Ward of the department; appointment of guardian; payments allowed.

The Department of Health and Human Services may make payments as needed on behalf of a child who has been a ward of the department after the appointment of a guardian for the child. Such payments to the guardian may include maintenance costs, medical and surgical expenses, and other costs incidental to the care of the child. All such payments shall terminate on or before the child's nineteenth birthday unless the child is eligible for extended guardianship assistance from the department pursuant to sections 43-4511 and 43-4514. The child under guardianship shall be a child for whom the guardianship would not be possible without the financial aid provided under this section.

The Department of Health and Human Services shall adopt and promulgate rules and regulations for the administration of this section.

43-285. Care of juvenile; duties; authority; placement plan and report; when; court proceedings; standing; Foster Care Review Office or local foster care review board; participation authorized; immunity.

(1) When the court awards a juvenile to the care of the Department of Health and Human Services, an association, or an individual in accordance with the Nebraska Juvenile Code, the juvenile shall, unless otherwise ordered, become a ward and be subject to the legal custody and care of the department, association, or individual to whose care he or she is committed. Any such association and the department shall have authority, by and with the assent of the court, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it. Any such association and the department shall be responsible for applying for any health insurance available to the juvenile, including, but not limited to, medical assistance under the Medical Assistance Act. Such custody and care shall not include the guardianship of any estate of the juvenile.

(2)(a) Following an adjudication hearing at which a juvenile is adjudged to be under subdivision (3)(a) or (c) of section 43-247, the court may order the department to prepare and file with the court a proposed plan for the care, placement, services, and permanency which are to be provided to such juvenile and his or her family. The health and safety of the juvenile shall be the paramount concern in the proposed plan.

(b) The department shall provide opportunities for the child, in an age or developmentally appropriate manner, to be consulted in the development of his or her plan as provided in the Nebraska Strengthening Families Act.

(c) The department shall include in the plan for a child who is fourteen years of age or older and subject to the legal care and custody of the department a written independent living transition proposal which meets the requirements of section 43-1311.03 and, for eligible children, the Young Adult Bridge to Independence Act. The juvenile court shall provide a copy of the plan to all interested parties before the hearing. The court may approve the plan, modify the plan, order that an alternative plan be developed, or implement another plan that is in the child's best interests. In its order the court shall include a finding regarding the appropriateness of the programs and services described in the proposal designed to help the child prepare for the transition from foster care to a successful adulthood. The court shall also ask the child, in an age or developmentally appropriate manner, if he or she participated in the development of his or her plan and make a finding regarding the child's participation in the development of his or her plan as provided in the Nebraska Strengthening Families Act. Rules of evidence shall not apply at the dispositional hearing when the court considers the plan that has been presented.

(d) The last court hearing before jurisdiction pursuant to subdivision (3)(a) of section 43-247 is terminated for a child who is sixteen years of age or older or pursuant to subdivision (8) of section 43-247 for a child whose guardianship or state-funded adoption assistance agreement was disrupted or terminated after he or she had attained the age of sixteen years shall be called the independence hearing. In addition to other matters and requirements to be addressed at this hearing, the independence hearing shall address the child's future goals and plans and access to services and support for the transition from foster care to adulthood consistent with section 43-1311.03 and the Young Adult Bridge to Independence Act. The child shall not be required to attend the independence hearing, but efforts shall be made to encourage and enable the child's attendance if the child wishes to attend, including scheduling the hearing at a time that permits the child's attendance. An independence coordinator as provided in section 43-4506 shall attend the hearing if reasonably practicable, but the department is not required to have legal counsel present. At the independence hearing, the court shall advise the child about the bridge to independence program, including, if applicable, the right of young adults in the bridge to independence program to request a court-appointed, client-directed attorney under subsection (1) of section 43-4510 and the benefits and role of such attorney and to request additional permanency review hearings in the bridge to independence program under subsection (5) of section 43-4508 and how to request such a hearing. The court shall also advise the child, if applicable, of the rights he or she is giving up if he or she chooses not to participate in the bridge to independence

program and the option to enter such program at any time between nineteen and twenty-one years of age if the child meets the eligibility requirements of section 43-4504. The department shall present information to the court regarding other community resources that may benefit the child, specifically information regarding state programs established pursuant to 42 U.S.C. 677. The court shall also make a finding as to whether the child has received the documents as required by subsection (9) of section 43-1311.03.

(3)(a) Within thirty days after an order awarding a juvenile to the care of the department, an association, or an individual and until the juvenile reaches the age of majority, the department, association, or individual shall file with the court a report stating the location of the juvenile's placement and the needs of the juvenile in order to effectuate the purposes of subdivision (1) of section 43-246. The department, association, or individual shall file a report with the court once every six months or at shorter intervals if ordered by the court or deemed appropriate by the department, association, or individual. Every six months, the report shall provide an updated statement regarding the eligibility of the juvenile for health insurance, including, but not limited to, medical assistance under the Medical Assistance Act. The department shall also concurrently file a written sibling placement report as described in subsection (3) of section 43-1311.02 at these times.

(b) The department, association, or individual shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties, including all of the child's siblings that are known to the department and, if the child is of school age, the school where the child is enrolled, at least seven days before the placement of the juvenile is changed from what the court originally considered to be a suitable family home or institution to some other custodial situation in order to effectuate the purposes of subdivision (1) of section 43-246. If a determination is made that it is not in the child's best interest to remain in the same school after a placement change, notice of placement change shall also be sent to the new school where the child will be enrolled. The department, association, or individual shall afford a parent or an adult sibling the option of refusing to receive such notifications. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change in placement and may order that the change be stayed until the completion of the hearing. Nothing in this section shall prevent the court on an ex parte basis from approving an immediate change in placement upon good cause shown. The department may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation or when the foster parents request that the juvenile be removed from their home. Approval of the court shall be sought within twenty-four hours after making the change in placement or as soon thereafter as possible. Within twenty-four hours after court approval of the emergency placement change, the department, association, or individual shall provide notice of the placement change to all interested parties, including all of the child's siblings that are known to the department, and, if the child is of school age, the school where the child is enrolled and the new school where the child will be enrolled.

(c) The department shall provide the juvenile's guardian ad litem with a copy of any report filed with the court by the department pursuant to this subsection.

(4) The court shall also hold a permanency hearing if required under section 43-1312.

(5) When the court awards a juvenile to the care of the department, an association, or an individual, then the department, association, or individual shall have standing as a party to file any pleading or motion, to be heard by the court with regard to such filings, and to be granted any review or relief requested in such filings consistent with the Nebraska Juvenile Code.

(6) Whenever a juvenile is in a foster care placement as defined in section 43-1301, the Foster Care Review Office or the designated local foster care review board may participate in proceedings concerning the juvenile as provided in section 43-1313 and notice shall be given as provided in section 43-1314.

(7) Any written findings or recommendations of the Foster Care Review Office or the designated local foster care review board with regard to a juvenile in a foster care placement submitted to a court having jurisdiction

over such juvenile shall be admissible in any proceeding concerning such juvenile if such findings or recommendations have been provided to all other parties of record.

(8) The executive director and any agent or employee of the Foster Care Review Office or any member of any local foster care review board participating in an investigation or making any report pursuant to the Foster Care Review Act or participating in a judicial proceeding pursuant to this section shall be immune from any civil liability that would otherwise be incurred except for false statements negligently made.

43-286. Juvenile violator or juvenile in need of special supervision; disposition; violation of probation, supervision, or court order; procedure; discharge; procedure; notice; hearing; individualized reentry plan.

(1) When any juvenile is adjudicated to be a juvenile described in subdivision (1), (2), or (4) of section 43-247:

(a) The court may continue the dispositional portion of the hearing, from time to time upon such terms and conditions as the court may prescribe, including an order of restitution of any property stolen or damaged or an order requiring the juvenile to participate in restorative justice programs or community service programs, if such order is in the interest of the juvenile's reformation or rehabilitation, and, subject to the further order of the court, may:

(i) Place the juvenile on probation subject to the supervision of a probation officer; or

(ii) Permit the juvenile to remain in his or her own home or be placed in a suitable family home or institution, subject to the supervision of the probation officer;

(b) When it is alleged that the juvenile has exhausted all levels of probation supervision and options for community-based services and section 43-251.01 has been satisfied, a motion for commitment to a youth rehabilitation and treatment center may be filed and proceedings held as follows:

(i) The motion shall set forth specific factual allegations that support the motion and a copy of such motion shall be served on all persons required to be served by sections 43-262 to 43-267;

(ii) The Office of Juvenile Services shall be served with a copy of such motion and shall be a party to the case for all matters related to the juvenile's commitment to, placement with, or discharge from the Office of Juvenile Services; and

(iii) The juvenile shall be entitled to a hearing before the court to determine the validity of the allegations. At such hearing the burden is upon the state by a preponderance of the evidence to show that:

(A) All levels of probation supervision have been exhausted;

(B) All options for community-based services have been exhausted; and

(C) Placement at a youth rehabilitation and treatment center is a matter of immediate and urgent necessity for the protection of the juvenile or the person or property of another or if it appears that such juvenile is likely to flee the jurisdiction of the court;

(c) After the hearing, the court may, as a condition of an order of intensive supervised probation, commit such juvenile to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center operated in compliance with state law. Upon commitment by the court to the Office of Juvenile Services, the court shall immediately notify the Office of Juvenile Services of the commitment. Intensive supervised probation for purposes of this subdivision means that the Office of Juvenile Services shall be responsible for the care and custody of the juvenile until the Office of Juvenile Services discharges the juvenile from commitment to the Office of Juvenile Services. Upon discharge of the juvenile, the court shall hold a review hearing on the conditions of probation and enter any order allowed under subdivision (1)(a) of this section;

(d) The Office of Juvenile Services shall notify those required to be served by sections 43-262 to 43-267, all interested parties, and the committing court of the pending discharge of a juvenile from the youth rehabilitation and treatment center sixty days prior to discharge and again in every case not less than thirty days prior to discharge. Upon notice of pending discharge by the Office of Juvenile Services, the court shall set a continued disposition hearing in anticipation of reentry. The Office of Juvenile Services shall work in collaboration with the Office of Probation Administration in developing an individualized reentry plan for the juvenile as provided in section 43-425. The Office of Juvenile Services shall provide a copy of the individualized reentry plan to the juvenile, the juvenile's attorney, and the county attorney or city attorney prior to the continued disposition hearing. At the continued disposition hearing, the court shall review and approve or modify the individualized reentry plan, place the juvenile under probation supervision, and enter any other order allowed by law. No hearing is required if all interested parties stipulate to the individualized reentry plan by signed motion. In such a case, the court shall approve the conditions of probation, approve the individualized reentry plan, and place the juvenile under probation supervision; and

(e) The Office of Juvenile Services is responsible for transportation of the juvenile to and from the youth rehabilitation and treatment center. The Office of Juvenile Services may contract for such services. A plan for a juvenile's transport to return to the community shall be a part of the individualized reentry plan. The Office of Juvenile Services may approve family to provide such transport when specified in the individualized reentry plan.

(2) When any juvenile is found by the court to be a juvenile described in subdivision (3)(b) of section 43-247, the court may enter such order as it is empowered to enter under subdivision (1)(a) of this section.

(3) When any juvenile is adjudicated to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, the court may order the juvenile to be assessed for referral to participate in a restorative justice program. Factors that the judge may consider for such referral include, but are not limited to: The juvenile's age, intellectual capacity, and living environment; the ages of others who were part of the offense; the age and capacity of the victim; and the nature of the case.

(4) When a juvenile is placed on probation and a probation officer has reasonable cause to believe that such juvenile has committed a violation of a condition of his or her probation, the probation officer shall take appropriate measures as provided in section 43-286.01.

(5)(a) When a juvenile is placed on probation or under the supervision of the court and it is alleged that the juvenile is again a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, a petition may be filed and the same procedure followed and rights given at a hearing on the original petition. If an adjudication is made that the allegations of the petition are true, the court may make any disposition authorized by this section for such adjudications and the county attorney may file a motion to revoke the juvenile's probation.

(b) When a juvenile is placed on probation or under the supervision of the court for conduct under subdivision (1), (2), (3)(b), or (4) of section 43-247 and it is alleged that the juvenile has violated a term of probation or supervision

or that the juvenile has violated an order of the court, a motion to revoke probation or supervision or to change the disposition may be filed and proceedings held as follows:

(i) The motion shall set forth specific factual allegations of the alleged violations and a copy of such motion shall be served on all persons required to be served by sections 43-262 to 43-267;

(ii) The juvenile shall be entitled to a hearing before the court to determine the validity of the allegations. At such hearing the juvenile shall be entitled to those rights relating to counsel provided by section 43-272 and those rights relating to detention provided by sections 43-254 to 43-256. The juvenile shall also be entitled to speak and present documents, witnesses, or other evidence on his or her own behalf. He or she may confront persons who have given adverse information concerning the alleged violations, may cross-examine such persons, and may show that he or she did not violate the conditions of his or her probation or supervision or an order of the court or, if he or she did, that mitigating circumstances suggest that the violation does not warrant revocation of probation or supervision or a change of disposition. The hearing shall be held within a reasonable time after the juvenile is taken into custody;

(iii) The hearing shall be conducted in an informal manner and shall be flexible enough to consider evidence, including letters, affidavits, and other material, that would not be admissible in an adversarial criminal trial;

(iv) The juvenile shall not be confined, detained, or otherwise significantly deprived of his or her liberty pursuant to the filing of a motion described in this section unless the requirements of subdivision (5) of section 43-251.01 and section 43-260.01 have been met. In all cases when the requirements of subdivision (5) of section 43-251.01 and section 43-260.01 have been met and the juvenile is confined, detained, or otherwise significantly deprived of his or her liberty as a result of his or her alleged violation of probation, supervision, or a court order, the juvenile shall be given a preliminary hearing. If, as a result of such preliminary hearing, probable cause is found to exist, the juvenile shall be entitled to a hearing before the court in accordance with this subsection;

(v) If the juvenile is found by the court to have violated the terms of his or her probation or supervision or an order of the court, the court may modify the terms and conditions of the probation, supervision, or other court order, extend the period of probation, supervision, or other court order, or enter any order of disposition that could have been made at the time the original order was entered; and

(vi) In cases when the court revokes probation, supervision, or other court order, it shall enter a written statement as to the evidence relied on and the reasons for revocation.

(6)(a) Except as provided in subdivision (6)(b) of this section, the court shall not change a disposition unless the court finds that the juvenile has violated a term or condition of probation or supervision or an order of the court and the procedures in subdivision (5)(b) of this section have been satisfied.

(b) Upon motion of the juvenile, the court may modify the terms or conditions of probation or supervision or modify a dispositional order if:

(i) All parties stipulate to the particular modification; and

(ii) The juvenile has consulted with counsel or has waived counsel. Any waiver must be particular to the modification and shall comply with section 43-3102.

(7) Costs incurred on behalf of a juvenile under this section shall be paid as provided in section 43-290.01.

(8) When any juvenile is adjudicated to be a juvenile described in subdivision (4) of section 43-247, the juvenile court shall within thirty days of adjudication transmit to the Director of Motor Vehicles an abstract of the court record of adjudication.

43-286.01. Juvenile probationers; graduated response; probation officer; duties; powers; county attorney; file action to revoke probation; when.

(1) For purposes of this section:

(a) Comprehensive supervision probationer means a juvenile designated as such under section 43-286.02;

(b) Criminal violation means a violation of a condition of probation involving commission of a misdemeanor or felony. Criminal violation does not include a traffic offense; and

(c) Graduated response means an accountability-based series of sanctions, incentives, and services designed to facilitate the juvenile's continued progress in changing behavior, ongoing compliance, and successful completion of probation. Graduated response does not include restrictions of liberty that would otherwise require a hearing under subsection (3) of section 43-253.

(2)(a) The Office of Probation Administration may establish a statewide standardized graduated response matrix of incentives for compliance and positive behaviors and sanctions for probationers who violate the terms and conditions of a court order. The graduated response system shall use recognized best practices and be developed with the input of stakeholders, including judges, probation officers, county attorneys, defense attorneys, juveniles, and parents. The office shall provide implementation and ongoing training to all probation officers on the graduated response options.

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

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

(3)(a) Subject to subdivisions (3)(b) and (c) of this section, when a probation officer has reasonable cause to believe that a juvenile probationer has committed a violation of the terms of the juvenile's probation, but that such juvenile will not attempt to leave the jurisdiction and will not place lives or property in danger, the probation officer shall either:

(i) Impose one or more graduated response sanctions with the approval of his or her chief probation officer or such chief's designee. The decision to impose graduated response sanctions in lieu of formal revocation proceedings rests with the probation officer and his or her chief probation officer or such chief's designee and shall be based upon such juvenile's risk level, the severity of the violation, and the juvenile's response to the violation. If graduated response sanctions are to be imposed, such juvenile shall acknowledge in writing the nature of the violation and agree upon the graduated response sanction with approval of such juvenile's parents or guardian. Such juvenile has the right to decline to acknowledge the violation, and if he or she declines to acknowledge the violation, the probation officer shall submit a written report pursuant to subdivision (3)(a)(ii) of this section. If the juvenile fails to satisfy the graduated response sanctions and the office determines that a motion to revoke probation should be pursued, the probation officer shall submit a written report pursuant to subdivision (3)(a)(ii) of this section. A copy of the report shall be submitted to the county attorney of the county where probation was imposed; or

(ii) Submit a written report to the county attorney of the county where probation was imposed and to the juvenile's attorney of record. The report shall outline the nature of the probation violation and request that formal revocation proceedings be instituted against the juvenile. The report shall also include a statement regarding why graduated response sanctions were not utilized or were ineffective. If there is no attorney of record for the juvenile, the office shall notify the court and counsel for the juvenile shall be appointed.

(b) For a juvenile who has been designated as a comprehensive supervision probationer, graduated response sanctions under subdivision (3)(a)(i) of this section may only be imposed one time. For any subsequent violations

of the terms of the juvenile's probation, the probation officer shall proceed as provided in subdivision (3)(a)(ii) or subsection (4) of this section, as appropriate.

(c) When a probation officer has reasonable cause to believe that a juvenile probationer has committed a violation of the terms of the juvenile's probation that is a criminal violation, the probation officer shall not impose graduated response sanctions, but shall proceed as provided in subdivision (3)(a)(ii) or subsection (4) of this section, as appropriate.

(d) Whenever a graduated response sanction is imposed, the probation officer shall provide the county attorney of the county where probation was imposed with notice of the probation violation and the sanction.

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

(5) Immediately after detention or deprivation of liberty pursuant to subsection (4) of this section, the probation officer shall notify the county attorney of the county where probation was imposed and the juvenile's attorney of record and submit a written report describing the risk of harm to lives or property or of fleeing the jurisdiction which precipitated the need for such detention or deprivation of liberty and of any violation of probation. If there is no attorney of record for the juvenile, the office shall notify the court and counsel for the juvenile shall be appointed. After prompt consideration of the written report, the county attorney shall:

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

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

(6) Whenever a county attorney receives a report from a probation officer that a juvenile probationer has violated a condition of probation and the probation officer is seeking revocation of probation, the county attorney may file a motion to revoke probation.

(7) Whenever a juvenile probationer is engaging in positive behavior, completion of goals, and compliance with the terms of probation, the probation officer shall use graduated incentives to provide positive reinforcement and encouragement of such behavior. The office shall keep records of all incentives and provide such records to the county attorney or the juvenile's attorney upon request.

(8) During the term of probation, the court, on application of a probation officer or of the juvenile or on its own motion, may reduce or eliminate any of the conditions imposed on the juvenile. Upon completion of the term of probation or the earlier discharge of the juvenile, the juvenile shall be relieved of any obligations imposed by the order of the court and his or her record shall be sealed pursuant to section 43-2,108.04.

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

43-286.02. Comprehensive supervision probationer; designation; hearing; conditions; services; dual involvement; coordination.

(1) If a juvenile court decides to place a juvenile on probation, the court shall conduct a hearing to determine whether the juvenile should be designated as a comprehensive supervision probationer. The hearing may be conducted together with the dispositional hearing or following a motion to revoke probation following the procedures provided in subdivision (5)(b) of section 43-286.

(2) The court shall designate a juvenile as a comprehensive supervision probationer if the court determines that the juvenile is unlikely to respond effectively to graduated response sanctions under section 43-286.01, taking into account:

(a) The nature of the adjudication;

(b) The effectiveness of any past interventions or sanctions;

(c) The pre-disposition investigation by the probation officer; and

(d) The recommendation from the county attorney or city attorney, including any input from law enforcement.

(3) Comprehensive supervision probationers shall receive prioritized services that assist with early identification of needs and intensive supports, such as therapeutic services, educational and vocational assistance, family engagement, mentorship, and behavioral interventions. When a youth is dually involved in both the probation and child welfare systems, the Office of Probation Administration shall work with the Department of Health and Human Services to ensure coordinated and adequate service delivery.

43-286.03. Expiration of probation; progress report; probation officer; duty; revocation of probation; county attorney; powers; revocation hearing.

(1) At least thirty calendar days before the expiration of any juvenile's term of probation, the probation officer shall send a progress report to the county attorney and to the juvenile's attorney of record. The progress report shall include all court orders relating to such term of probation, information on all conditions of probation, and information regarding the juvenile's compliance with, or violations of, such conditions.

(2) If the county attorney determines that revocation is appropriate, the county attorney may file a motion to revoke probation. If there is no attorney of record for the juvenile, counsel for the juvenile shall be appointed. If such motion is filed no later than fourteen calendar days before the expiration of the term of probation, the court shall schedule a revocation hearing prior to the date of expiration.

43-286.04. List of juvenile probationers; Office of Probation Administration; duties.

On or before the first day of each month, the Office of Probation Administration shall generate a list of all juvenile probationers in each county and provide such list to each law enforcement agency with jurisdiction.

43-287. Impoundment of license or permit issued under Motor Vehicle Operator's License Act; other powers of court; copy of abstract to Department of Motor Vehicles; fine for excessive absenteeism from school; not eligible for ignition interlock permit.

(1) When a juvenile is adjudged to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, the juvenile court may:

(a) If such juvenile holds any license or permit issued under the Motor Vehicle Operator's License Act, impound any such license or permit for thirty days; or

(b) If such juvenile does not have a permit or license issued under the Motor Vehicle Operator's License Act, prohibit such juvenile from obtaining any permit or any license pursuant to the act for which such juvenile would otherwise be eligible until thirty days after the date of such order.

(2) A copy of an abstract of the juvenile court's adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04 if a license or permit is impounded or a juvenile is prohibited from obtaining a license or permit under subsection (1) of this section. If a juvenile whose operator's license or permit has been impounded by a juvenile court operates a motor vehicle during any period that he or she is subject to the court order not to operate any motor vehicle or after a period of impoundment but before return of the license or permit, such violation shall be handled in the juvenile court and not as a violation of section 60-4,108.

(3) When a juvenile is adjudged to be a juvenile described in subdivision (3)(a) of section 43-247 for excessive absenteeism from school, the juvenile court may issue the parents or guardians of such juvenile a fine not to exceed five hundred dollars for each offense or order such parents or guardians to complete specified hours of community service. For community service ordered under this subsection, the juvenile court may require that all or part of the service be performed for a public school district or nonpublic school if the court finds that service in the school is appropriate under the circumstances.

(4) A juvenile who holds any license or permit issued under the Motor Vehicle Operator's License Act and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

43-288. Order allowing juvenile to return or remain at home; conditions and requirements. If the court's order of disposition permits the juvenile to remain in his or her own home as provided by section 43-284 or 43-286, the court may, as a condition or conditions to the juvenile's continuing to remain in his or her own home, or in cases under such sections when the juvenile is placed or detained outside his or her home, as a condition of the court allowing the juvenile to return home, require the parent, guardian, or other custodian to:

(1) Eliminate the specified conditions constituting or contributing to the problems which led to juvenile court action;

(2) Provide adequate food, shelter, clothing, and medical care and for other needs of the juvenile;

(3) Give adequate supervision to the juvenile in the home;

(4) Take proper steps to insure the juvenile's regular school attendance;

(5) Cease and desist from specified conduct and practices which are injurious to the welfare of the juvenile; and

(6) Resume proper responsibility for the care and supervision of the juvenile.

The terms and conditions imposed in any particular case shall relate to the acts or omissions of the juvenile, the parent, or other person responsible for the care of the juvenile which constituted or contributed to the problems which led to the juvenile court action in such case. The maximum duration of any such term or condition shall be one year unless the court finds that at the conclusion of that period exceptional circumstances require an extension of the period for an additional year.

43-289. Juvenile committed; release from confinement upon reaching age of majority; hospital treatment; custody in state institutions; discharge.

In no case shall a juvenile committed under the terms of the Nebraska Juvenile Code be confined after he or she reaches the age of majority. The court may, when the health or condition of any juvenile adjudged to be within the terms of such code shall require it, cause the juvenile to be placed in a public hospital or institution for treatment or special care or in an accredited and suitable private hospital or institution which will receive the juvenile for like purposes. Whenever any juvenile has been committed to the Department of Health and Human Services, the department shall follow the court's orders, if any, concerning the juvenile's specific needs for treatment or special care for his or her physical well-being and healthy personality. If the court finds any such juvenile to be a person with an intellectual disability, the court may, upon attaching a physician's certificate and a report as to the mental capacity of such person, commit such juvenile directly to an authorized and appropriate state or local facility or home.

The marriage of any juvenile committed to a state institution under the age of nineteen years shall not make such juvenile of the age of majority.

A juvenile committed to any such institution shall be subject to the control of the superintendent thereof, and the superintendent, with the advice and consent of the Department of Health and Human Services, shall adopt and promulgate rules and regulations for the promotion, paroling, and final discharge of residents such as shall be considered mutually beneficial for the institution and the residents. Upon final discharge of any resident, such department shall file a certified copy of the discharge with the court which committed the resident.

43-290. Costs of care and treatment; payment; procedure. It is the purpose of this section to promote parental responsibility and to provide for the most equitable use and availability of public money.

Pursuant to a petition filed by a county attorney or city attorney having knowledge of a juvenile in his or her jurisdiction who appears to be a juvenile described in subdivision (1), (2), (3), or (4) of section 43-247, whenever the care or custody of a juvenile is given by the court to someone other than his or her parent, which shall include placement with a state agency, or when a juvenile is given medical, psychological, or psychiatric study or treatment under order of the court, the court shall make a determination of support to be paid by a parent for the juvenile at the same proceeding at which placement, study, or treatment is determined or at a separate proceeding. Such proceeding, which may occur prior to, at the same time as, or subsequent to adjudication, shall be in the nature of a disposition hearing.

At such proceeding, after summons to the parent of the time and place of hearing served as provided in sections 43-262 to 43-267, the court may order and decree that the parent shall pay, in such manner as the court may direct, a reasonable sum that will cover in whole or part the support, study, and treatment of the juvenile, which amount ordered paid shall be the extent of the liability of the parent. The court in making such order shall give due regard to the cost of the support, study, and treatment of the juvenile, the ability of the parent to pay, and the availability of money for the support of the juvenile from previous judicial decrees, social security benefits, veterans benefits, or other sources. Support thus received by the court shall be transmitted to the person, agency, or institution having financial responsibility for such support, study, or treatment and, if a state agency or institution, remitted by such state agency or institution quarterly to the Director of Administrative Services for credit to the proper fund.

Whenever medical, psychological, or psychiatric study or treatment is ordered by the court, whether or not the juvenile is placed with someone other than his or her parent, or if such study or treatment is otherwise provided as determined necessary by the custodian of the juvenile, the court shall inquire as to the availability of insured or uninsured health care coverage or service plans which include the juvenile. The court may order the parent to pay over any plan benefit sums received on coverage for the juvenile. The payment of any deductible under the health care benefit plan covering the juvenile shall be the responsibility of the parent. If the parent willfully fails or refuses to pay the sum ordered or to pay over any health care plan benefit sums received, the court may proceed against him or her as for contempt, either on the court's own motion or on the motion of the county attorney or authorized attorney as provided in section 43-512, or execution shall issue at the request of any person, agency, or institution treating or maintaining such juvenile. The court may afterwards, because of a change in the circumstances of the parties, revise or alter the order of payment for support, study, or treatment.

If the juvenile has been committed to the care and custody of the Department of Health and Human Services, the department shall pay the costs for the support, study, or treatment of the juvenile which are not otherwise paid by the juvenile's parent.

If no provision is otherwise made by law for the support or payment for the study or treatment of the juvenile, compensation for the support, study, or treatment shall be paid, when approved by an order of the court, out of a fund which shall be appropriated by the county in which the petition is filed.

The juvenile court shall retain jurisdiction over a parent ordered to pay support for the purpose of enforcing such support order for so long as such support remains unpaid but not to exceed ten years from the nineteenth birthday of the youngest child for whom support was ordered.

43-290.01. Costs; payment.

(1) Payment of costs for juveniles described in or alleged to be described in subdivision (1), (2), (3)(b), or (4) of section 43-247, except as ordered by the court pursuant to section 43-290, shall be paid by:

(a) The county for the period of time prior to adjudication, except as provided in subdivision (1)(b) of this section. Such costs paid for by the county include, but are not limited to, the costs of detention, services, detention alternatives, treatment, voluntary services, and transportation;

(b) The Office of Probation Administration for:

(i) The period of time after adjudication until termination of court jurisdiction, including, but not limited to, the costs of evaluations, detention, services, placement that is not detention, detention alternatives, treatment, voluntary services, and transportation, other than transportation paid under subdivision (1)(c) of this section;

(ii) The time period prior to adjudication for a juvenile who is on probation and is alleged to have committed a new violation or is a juvenile who is subject to a motion to revoke probation; and

(iii) Preadjudication evaluations and preadjudication placements that are not detention; and

(c) The Office of Juvenile Services for any period of time from when the court commits the juvenile to the Office of Juvenile Services until the juvenile is discharged by the Office of Juvenile Services, including, but not limited to, the costs of evaluations, placement, services, detention including detention costs prior to placement, and transportation to and from the youth rehabilitation and treatment center.

(2) For payment of costs involved in the adjudication and disposition of juveniles, other than those described in subsection (1) or (3) of this section:

(a) The Department of Health and Human Services shall pay the costs incurred during an evaluation or placement with the department that is ordered by the court except as otherwise ordered by the court pursuant to section 43-290;

(b) Payment of costs for juveniles with a court adjudication or disposition under section 43-284: Upon a determination by the court that there are no parental, private, or other funds available for the care, custody, education, and maintenance of the juvenile, the court may order a reasonable sum for the care, custody, education, and maintenance of the juvenile to be paid out of a fund appropriated annually by the county where the petition is filed until suitable provisions are made for the juvenile without such payment. The amount to be paid by a county for education shall not exceed the average cost for education of a public school student in the county in which the juvenile is placed and shall be paid only for education in kindergarten through grade twelve; and

(c) Other costs shall be as provided in section 43-290.

(3) Payment of costs of medical expenses of juveniles under the Nebraska Juvenile Code shall be as provided in section 43-290.

43-291. Termination of parental rights; proceedings. Facts may also be set forth in the original petition, a supplemental petition, or motion filed with the court alleging that grounds exist for the termination of parental rights. After a petition, a supplemental petition, or motion has been filed, the court shall cause to be endorsed on the summons and notice that the proceeding is one to terminate parental rights, shall set the time and place for the hearing, and shall cause summons and notice, with a copy of the petition, supplemental petition, or motion attached, to be given in the same manner as required in other cases before the juvenile court.

43-292. Termination of parental rights; grounds. The court may terminate all parental rights between the parents or the mother of a juvenile born out of wedlock and such juvenile when the court finds such action to be in the best interests of the juvenile and it appears by the evidence that one or more of the following conditions exist:

(1) The parents have abandoned the juvenile for six months or more immediately prior to the filing of the petition;

(2) The parents have substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile necessary parental care and protection;

(3) The parents, being financially able, have willfully neglected to provide the juvenile with the necessary subsistence, education, or other care necessary for his or her health, morals, or welfare or have neglected to pay for such subsistence, education, or other care when legal custody of the juvenile is lodged with others and such payment ordered by the court;

(4) The parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals, or well-being of the juvenile;

(5) The parents are unable to discharge parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period;

(6) Following a determination that the juvenile is one as described in subdivision (3)(a) of section 43-247, reasonable efforts to preserve and reunify the family if required under section 43-283.01, under the direction of the court, have failed to correct the conditions leading to the determination;

(7) The juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months;

(8) The parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury;

(9) The parent of the juvenile has subjected the juvenile or another minor child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse;

(10) The parent has (a) committed murder of another child of the parent, (b) committed voluntary manslaughter of another child of the parent, (c) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or (d) committed a felony assault that resulted in serious bodily injury to the juvenile or another minor child of the parent; or

(11) One parent has been convicted of felony sexual assault of the other parent under section 28-319.01 or 28-320.01 or a comparable crime in another state.

43-292.01. Termination of parental rights; appointment of guardian ad litem; when. When termination of the parent-juvenile relationship is sought under subdivision (5) of section 43-292, the court shall appoint a guardian ad litem for the alleged incompetent parent. The court may, in any other case, appoint a guardian ad litem, as deemed necessary or desirable, for any party. The guardian ad litem shall be paid a reasonable fee set by the court and paid from the general fund of the county.

43-292.02. Termination of parental rights; state; duty to file petition; when.

(1) A petition shall be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall join as a party to the petition, and the state shall concurrently identify, recruit, process, and approve a qualified family for an adoption of the juvenile, if:

(a) A juvenile has been in foster care under the responsibility of the state for fifteen or more months of the most recent twenty-two months; or

(b) A court of competent jurisdiction has determined the juvenile to be an abandoned infant or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or committed a felony assault that has resulted in serious bodily injury to the juvenile or another minor child of the parent. For purposes of this subdivision, infant means a child eighteen months of age or younger.

(2) A petition shall not be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall not join as a party to the petition if the sole factual basis for the petition is that (a) the parent or parents of the juvenile are financially unable to provide health care for the juvenile or (b) the parent or parents of the juvenile are incarcerated. The fact that a qualified family for an adoption of the juvenile has been identified, recruited, processed, and approved shall have no bearing on whether parental rights shall be terminated.

(3) The petition is not required to be filed on behalf of the state or if a petition is filed the state shall not be required to join in a petition to terminate parental rights or to concurrently find a qualified family to adopt the juvenile under this section if:

(a) The child is being cared for by a relative;

(b) The Department of Health and Human Services has documented in the case plan or permanency plan, which shall be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the juvenile; or

(c) The family of the juvenile has not had a reasonable opportunity to avail themselves of the services deemed necessary in the case plan or permanency plan approved by the court if reasonable efforts to preserve and reunify the family are required under section 43-283.01.

(4) Except as otherwise provided in the Nebraska Indian Child Welfare Act, if a child is conceived by the victim of a sexual assault, a petition for termination of parental rights of the perpetrator shall be granted if such termination is in the best interests of the child and (a) the perpetrator has been convicted of or pled guilty or nolo contendere to sexual assault of the child's birth parent under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320 or (b) the perpetrator has fathered the child or given birth to the child as a result of such sexual assault.

43-292.03. Termination of parental rights; state; Department of Health and Human Services; duties.

(1) Within thirty days after the fifteen-month period under subsection (1) of section 43-292.02, the court shall hold a hearing on the record and shall make a determination on the record as to whether there is an exception under subsection (3) of section 43-292.02 in this particular case. If there is no exception, the state shall proceed as provided in subsection (1) of section 43-292.02.

(2) The Department of Health and Human Services shall submit on a timely basis, to the court in which the petition to place the juvenile in an out-of-home placement was filed and to the county attorney who filed the petition, a list of the name of each juvenile who has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months.

43-293. Termination of parental rights; effect; adoption; consent. When the parental rights have been terminated under section 43-292 and the care of the juvenile is awarded to the Department of Health and Human Services, the department shall have authority to consent to the legal adoption of such juvenile and no other consent shall be required to authorize any court having jurisdiction to enter a legal decree of adoption of such juvenile. When the care of such juvenile is awarded to an individual or association and the parental rights have been terminated by the juvenile court, such individual or association may consent, only when authorized by order of such juvenile court, to the legal adoption of such juvenile and no other consent shall be required to authorize any court having jurisdiction to enter a legal decree of adoption of such juvenile. An order terminating the parent-juvenile relationship shall divest the parent and juvenile of all legal rights, privileges, duties, and obligations with respect to each other and the parents shall have no rights of inheritance with respect to such juvenile. The order terminating parental rights shall be final and may be appealed in the same manner as other final judgments of a juvenile court.

43-294. Termination of parental rights; custodian; rights; obligations. The custodian appointed by a juvenile court shall have charge of the person of the juvenile and the right to make decisions affecting the person of the juvenile, including medical, dental, surgical, or psychiatric treatment, except that consent to a juvenile marrying or joining the armed forces of the United States may be given by a custodian, other than the Department of Health and Human Services, with approval of the juvenile court, or by the department, as to juveniles in its custody, without further court authority. The authority of a custodian appointed by a juvenile court shall terminate when the individual under legal custody reaches nineteen years of age, is legally adopted, or the authority is terminated by order of the juvenile court. When an adoption has been granted by a court of competent jurisdiction as to any such juvenile, such fact shall be reported immediately by such custodian to the juvenile court. If the adoption is denied the jurisdiction over the juvenile shall immediately revert to the court which authorized placement of the juvenile for adoption. Any association or individual receiving the care or custody of any such juvenile shall be subject to visitation or inspection by the Department of Health and Human Services, or any probation officer of such court or any person appointed by the court for such purpose, and the court may at any time require from such association or person a report or reports containing such information or statements as the judge shall deem proper or necessary to be fully advised as to the care, maintenance, and moral and physical training of the juvenile, as well as the standing and ability of such association or individual to care for such juvenile. The custodian so appointed by the court shall have standing as a party in that case to file any pleading or motion, to be heard by the court with regard to such filings, and to be granted any review or relief requested in such filings consistent with Chapter 43, article 2.

43-295. Juvenile court; continuing jurisdiction; exception. Except when the juvenile has been legally adopted, the jurisdiction of the court shall continue over any juvenile brought before the court or committed under the Nebraska Juvenile Code and the court shall have power to order a change in the custody or care of any such juvenile if at any time it is made to appear to the court that it would be for the best interests of the juvenile to make such change.

43-296. Associations receiving juveniles; supervision by Department of Health and Human Services; certificate; reports; statements. All associations receiving juveniles under the Nebraska Juvenile Code shall be subject to the same visitation, inspection, and supervision by the Department of Health and Human Services as are public charitable institutions of this state, and it shall be the duty of the department to pass annually upon the fitness of every such association as may receive or desire to receive juveniles under the provisions of such code. Upon the department being satisfied that such association is competent and has adequate facilities to care for such juveniles, it shall issue to such association a certificate to that effect, which certificate shall continue in force for one year unless sooner revoked by the department. No juvenile shall be committed to any such association which has not received such a certificate within the fifteen months immediately preceding the commitment. The court may at any time require from any association receiving or desiring to receive juveniles under the provisions of the

Nebraska Juvenile Code such reports, information, and statements as the judge shall deem proper and necessary for his or her action, and the court shall in no case be required to commit a juvenile to any association whose standing, conduct, or care of juveniles or ability to care for the same is not satisfactory to the court.

43-297. Juveniles in need of assistance; placement with association or institution; agreements; effect. It shall be lawful for the parent, guardian, or other person having the right to dispose of a juvenile defined in subdivision (3)(a) of section 43-247 to enter into an agreement with any association or institution incorporated under any public or private law of this state or any other state, for the purpose of aiding, caring for, or placing such juveniles in homes and, subject to approval as provided in this section, to surrender such juveniles to such association or institution, to be taken and cared for by such association or institution, or put into a family home. Such agreement may contain any and all proper stipulations to that end and may authorize the association or institution by its attorney or agent to appear in any proceeding for the legal adoption of such juvenile, and consent to such juvenile's adoption; and the order of the court, made upon such consent, shall be binding upon the juvenile and his or her parents or guardian, or other person, the same as if such person were personally in court and consented thereto, whether made party to the proceeding or not. All the publication or notice necessary for the adoption of any such juveniles shall be that the institution or parties having charge of such juveniles by court decree, or to whom a relinquishment of the juvenile was given, shall know that such legal adoption is being made.

43-297.01. Office of Probation Administration; duties; initial placement and level of care; court order; review; notice of placement change; hearing; exception; foster care placement; participation in proceedings.

(1) Following an adjudication, whenever any juvenile is placed on juvenile probation subject to the supervision of a probation officer, the Office of Probation Administration is deemed to have placement and care responsibility for the juvenile.

(2) The court shall order the initial placement and level of care for the juvenile placed on juvenile probation. Prior to determining the placement and level of care for a juvenile, the court may solicit a recommendation from the Office of Probation Administration. The status of each juvenile placed out-of-home shall be reviewed periodically, but not less than once every six months by the court in person, by video, or telephonically. Periodic reviews shall assess the juvenile's safety and the continued necessity and appropriateness of placement, ensure case plan compliance, and monitor the juvenile's progress. The court shall determine whether an out-of-home placement made by the office is in the best interests of the juvenile. The office shall provide all interested parties with a copy of any report filed with the court by the office pursuant to this subsection.

(3) The Office of Probation Administration may transition a juvenile to a less restrictive placement or to a placement which has the same level of restriction as the current placement. In order to make a placement change under this section, the office shall file a notice of placement change with the court and shall send copies of the notice to all interested parties at least seven days before the change of placement. The court, on its own motion, or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change in placement and may order that the change be stayed pending the outcome of the hearing on the objection.

(4) The Office of Probation Administration may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation. Approval of the court shall be sought within twenty-four hours after making the change in placement or as soon thereafter as possible. The office shall provide all interested parties with a copy of any report filed with the court by the office pursuant to this subsection.

(5) Whenever the court places a juvenile in a foster care placement as defined in section 43-1301, the Foster Care Review Office or designated local foster care review board may participate in proceedings concerning the juvenile as provided in section 43-1313 and notice shall be given as provided in section 43-1314.

(6) Any written findings or recommendations of the Foster Care Review Office or the designated local foster care review board with regard to a juvenile in a foster care placement submitted to a court having jurisdiction over such juvenile shall be admissible in any proceeding concerning such juvenile if such findings or recommendations have been provided to all other parties of record.

(7) Nothing in this section prevents the court on an ex parte basis from approving an immediate change in placement upon good cause shown.

43-298. Commitment of juvenile; religious preference considered. The court in committing juveniles under the Nebraska Juvenile Code shall place them as far as practicable in the care and custody of some individual holding the same religious belief as the parents of the juvenile or with some association which is controlled by persons of like religious faith of the parents of the juvenile.

43-299. Code, how construed. Nothing in the Nebraska Juvenile Code shall be construed to repeal any portion of the act to aid the youth rehabilitation and treatment centers for juveniles.

43-2,100. Department of Health and Human Services; acceptance of juveniles for observation and treatment; authorized. The Department of Health and Human Services may receive any juvenile for observation and treatment from any public institution other than a state institution or from any private or charitable institution or person having legal custody thereof upon such terms as such department may deem proper.

43-2,101. Costs of transporting juvenile to department; payment by county; when. Unless otherwise ordered by the court pursuant to section 43-290, each county shall bear all the expenses incident to the transportation of each juvenile from such county to the Department of Health and Human Services, together with such fees and costs as are allowed by law in similar cases. The fees, costs, and expenses shall be paid from the county treasury upon itemized vouchers certified by the judge of the juvenile court.

43-2,106. Proceeding in county court sitting as juvenile court; jurisdiction; appeals. When a juvenile court proceeding has been instituted before a county court sitting as a juvenile court, the original jurisdiction of the county court shall continue until the final disposition thereof and no appeal shall stay the enforcement of any order entered in the county court. After appeal has been filed, the appellate court, upon application and hearing, may stay any order, judgment, or decree on appeal if suitable arrangement is made for the care and custody of the juvenile. The county court shall continue to exercise supervision over the juvenile until a hearing is had in the appellate court and the appellate court enters an order making other disposition. If the appellate court adjudges the juvenile to be a juvenile meeting the criteria established in subdivision (1), (2), (3), or (4) of section 43-247, the appellate court shall affirm the disposition made by the county court unless it is shown by clear and convincing evidence that the disposition of the county court is not in the best interest of such juvenile. Upon determination of the appeal, the appellate court shall remand the case to the county court for further proceedings consistent with the determination of the appellate court. In the event of an appeal of a proceeding for termination of parental rights, the matter shall be reviewed by the Court of Appeals or the Supreme Court within the same time and in the same manner prescribed by law for review of an order or judgment of the district court, except that such termination order or judgment shall be advanced for argument before the appellate court and the appellate court, in order to expedite the preferred disposition of the case and the juvenile, shall render the judgment and write an opinion as speedily as possible.

43-2,106.01. Judgments or final orders; appeal; parties; cost.

(1) Any final order or judgment entered by a juvenile court may be appealed to the Court of Appeals in the same manner as an appeal from district court to the Court of Appeals. The appellate court shall conduct its review in an expedited manner and shall render the judgment and write its opinion, if any, as speedily as possible.

(2) An appeal may be taken by:

(a) The juvenile;

(b) The guardian ad litem;

(c) The juvenile's parent, custodian, or guardian. For purposes of this subdivision, custodian or guardian shall include, but not be limited to, the Department of Health and Human Services, an association, or an individual to whose care the juvenile has been awarded pursuant to the Nebraska Juvenile Code; or

(d) The county attorney or petitioner, except that in any case determining delinquency issues in which the juvenile has been placed legally in jeopardy, an appeal of such issues may only be taken by exception proceedings pursuant to sections 29-2317 to 29-2319.

(3) In all appeals from the county court sitting as a juvenile court, the judgment of the appellate court shall be certified without cost to the juvenile court for further proceedings consistent with the determination of the appellate court.

43-2,106.02. Power of court to vacate or modify judgments or orders. The separate juvenile court and the county court sitting as a juvenile court shall have the power to vacate or modify its own judgments or orders during or after the term at which such judgments or orders were made in the same manner as provided for actions filed in the district court.

43-2,106.03. Rehabilitative services; hearing; court order; use. Any time after the disposition of a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, upon the motion of any party or the court on its own motion, a hearing may be held regarding the amenability of the juvenile to the rehabilitative services that can be provided under the Nebraska Juvenile Code. The court may enter an order, based upon evidence presented at the hearing, finding that a juvenile is not amenable to rehabilitative services that can be provided under the Nebraska Juvenile Code. The reasons for such a finding shall be stated in the order. Such an order shall be considered by the county attorney in making a future determination under section 43-276 regarding such juvenile and by the court when considering a future transfer motion under section 29-1816 or 43-274 or any future charge or petition regarding such juvenile.

43-2,107. Court; control conduct of a person; notice; hearing; temporary order; violation of order; penalty. On application of a party or on the court's own motion, the court may restrain or otherwise control the conduct of a person if a petition has been filed under the Nebraska Juvenile Code and the court finds that such conduct is or may be detrimental or harmful to the juvenile. Notice of the application or motion and an opportunity to be heard thereon shall be given to the person against whom such application or motion is directed, except that the court may enter a temporary order restraining or otherwise controlling the conduct of a person for the protection of a juvenile without prior notice if it appears to the court that it is necessary to issue such order forthwith. Such temporary order shall be effective not to exceed ten days and shall not be binding against any person unless he or

she has received a copy of such order. Any individual who violates an order restraining or otherwise controlling his or her conduct under this section shall be guilty of a Class II misdemeanor and may be proceeded against as described in sections 26-119 and 26-120.

43-2,108. Juvenile court; record; case file; how kept; certain reports and records not open to inspection without order of court; exceptions; information accessible through criminal justice information system.

(1) The juvenile court judge shall keep a record of all proceedings of the court in each case, including appearances, findings, orders, decrees, and judgments, and any evidence which he or she feels it is necessary and proper to record. The case file shall contain the complaint or petition and subsequent pleadings. The case file may be maintained as an electronic document through the court's electronic case management system, on microfilm, or in a paper volume and disposed of when determined by the State Records Administrator pursuant to the Records Management Act.

(2) Except as provided in subsections (3) and (4) of this section, the medical, psychological, psychiatric, and social welfare reports and the records of juvenile probation officers, as they relate to individual proceedings in the juvenile court, shall not be open to inspection, without order of the court. Such records shall be made available to a district court of this state or the District Court of the United States on the order of a judge thereof for the confidential use of such judge or his or her probation officer as to matters pending before such court but shall not be made available to parties or their counsel; and such district court records shall be made available to a county court or separate juvenile court upon request of the county judge or separate juvenile judge for the confidential use of such judge and his or her probation officer as to matters pending before such court, but shall not be made available by such judge to the parties or their counsel.

(3) As used in this section, confidential record information means all docket records, other than the pleadings, orders, decrees, and judgments; case files and records; reports and records of probation officers; and information supplied to the court of jurisdiction in such cases by any individual or any public or private institution, agency, facility, or clinic, which is compiled by, produced by, and in the possession of any court. In all cases under subdivision (3)(a) of section 43-247, access to all confidential record information in such cases shall be granted only as follows: (a) The court of jurisdiction may, subject to applicable federal and state regulations, disseminate such confidential record information to any individual, or public or private agency, institution, facility, or clinic which is providing services directly to the juvenile and such juvenile's parents or guardian and his or her immediate family who are the subject of such record information; (b) the court of jurisdiction may disseminate such confidential record information, with the consent of persons who are subjects of such information, or by order of such court after showing of good cause, to any law enforcement agency upon such agency's specific request for such agency's exclusive use in the investigation of any protective service case or investigation of allegations under subdivision (3)(a) of section 43-247, regarding the juvenile or such juvenile's immediate family, who are the subject of such investigation; and (c) the court of jurisdiction may disseminate such confidential record information to any court, which has jurisdiction of the juvenile who is the subject of such information upon such court's request.

(4) The court shall provide copies of predispositional reports and evaluations of the juvenile to the juvenile's attorney and the county attorney or city attorney prior to any hearing in which the report or evaluation will be relied upon.

(5) In all cases under sections 43-246.01 and 43-247, the office of Inspector General of Nebraska Child Welfare may submit a written request to the probation administrator for access to the records of juvenile probation officers in a specific case. Upon a juvenile court order, the records shall be provided to the Inspector General within five days for the exclusive use in an investigation pursuant to the Office of Inspector General of Nebraska Child Welfare Act. Nothing in this subsection shall prevent the notification of death or serious injury of a juvenile to the Inspector General of Nebraska Child Welfare pursuant to section 50-1806 as soon as reasonably possible after the Office of Probation Administration learns of such death or serious injury.

(6) In all cases under sections 43-246.01 and 43-247, the juvenile court shall disseminate confidential record information to the Foster Care Review Office pursuant to the Foster Care Review Act.

(7) Nothing in subsections (3), (5), and (6) of this section shall be construed to restrict the dissemination of confidential record information between any individual or public or private agency, institute, facility, or clinic,

except any such confidential record information disseminated by the court of jurisdiction pursuant to this section shall be for the exclusive and private use of those to whom it was released and shall not be disseminated further without order of such court.

(8)(a) Any records concerning a juvenile court petition filed pursuant to subdivision (3)(c) of section 43-247 shall remain confidential except as may be provided otherwise by law. Such records shall be accessible to (i) the juvenile except as provided in subdivision (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's parent or guardian, and (iv) persons authorized by an order of a judge or court.

(b) Upon application by the county attorney or by the director of the facility where the juvenile is placed and upon a showing of good cause therefor, a judge of the juvenile court having jurisdiction over the juvenile or of the county where the facility is located may order that the records shall not be made available to the juvenile if, in the judgment of the court, the availability of such records to the juvenile will adversely affect the juvenile's mental state and the treatment thereof.

(9) Nothing in subsection (3), (5), or (6) of this section shall be construed to restrict the immediate dissemination of a current picture and information about a child who is missing from a foster care or out-of-home placement. Such dissemination by the Office of Probation Administration shall be authorized by an order of a judge or court. Such information shall be subject to state and federal confidentiality laws and shall not include that the child is in the care, custody, or control of the Department of Health and Human Services or under the supervision of the Office of Probation Administration.

(10) Any juvenile court order that places a juvenile on electronic monitoring shall also state that data from such electronic monitoring device shall be made available to a designated law enforcement officer as provided in this subsection. A law enforcement agency may designate law enforcement officers who may receive such data. Upon a request by such an officer or a law enforcement agency, the Office of Probation Administration shall provide such officer or law enforcement agency with access to the electronic monitoring database.

(11) For any juvenile subject to the supervision of a probation officer, the Office of Probation Administration shall provide the Nebraska Commission on Law Enforcement and Criminal Justice with the following information: The name of the juvenile, the name and contact information of the juvenile's parents or guardians, the name and contact information of the juvenile's probation officer, any terms of probation included in a juvenile court order, the placement of the juvenile if placed out of home, whether the juvenile is a prohibited juvenile offender under section 28-1204.05, search and seizure status, criminal associations, and the school the juvenile is attending. The commission shall provide access to such information to law enforcement agencies through the state's criminal justice information system in a manner that allows such information to be readily accessible through the main interface of the system.

43-2,108.01. Sealing of records; juveniles eligible.

(1) Sections 43-2,108.01 to 43-2,108.05 apply only to persons who were under the age of eighteen years when the offense took place and, after being taken into custody, arrested, cited in lieu of arrest, or referred for prosecution without citation, the county attorney or city attorney:

(a) Declined to file a juvenile petition or criminal complaint;

(b) Offered juvenile pretrial diversion, mediation, or restorative justice to the juvenile under the Nebraska Juvenile Code;

(c) Filed a juvenile court petition describing the juvenile as a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247;

(d) Filed a criminal complaint in county court against the juvenile under state statute or city or village ordinance for misdemeanor or infraction possession of marijuana or misdemeanor or infraction possession of drug paraphernalia;

(e) Filed a criminal complaint in county court against the juvenile for any other misdemeanor or infraction under state statute or city or village ordinance, other than for a traffic offense when all offenses in the case are waivable offenses; or

(f) Filed a criminal complaint in county or district court for a felony offense under state law or a city or village ordinance that was subsequently transferred to juvenile court for ongoing jurisdiction.

(2) The changes made by Laws 2019, LB354, to the relief set forth in sections 43-2,108.03 to 43-2,108.05 shall apply to all persons described in this section, as amended by Laws 2019, LB354, and Laws 2020, LB1148, for offenses occurring prior to, on, or after September 1, 2019.

43-2,108.02. Sealing of records; notice to juvenile; contents.

(1) By January 1, 2020, the Supreme Court shall promulgate a written notice that:

(a) States in developmentally appropriate language that, for a juvenile described in section 43-2,108.01, the juvenile's record will be automatically sealed if (i) no charges are filed as a result of the determination of the prosecuting attorney, (ii) the charges are dismissed, (iii) the juvenile has satisfactorily completed the diversion, mediation, restorative justice, probation, supervision, or other treatment or rehabilitation program provided under the Nebraska Juvenile Code, or (iv) the juvenile has satisfactorily completed the county court diversion program, probation ordered by the court, or sentence ordered by the court;

(b) States in developmentally appropriate language that, if the record is not sealed as provided in subdivision (1)(a) of this section, the juvenile or the juvenile's parent or guardian may file a motion to seal the record with the court when the juvenile reaches the age of majority or six months have passed since the case was closed, whichever occurs sooner; and

(c) Explains in developmentally appropriate language what sealing the record means.

(2) For a juvenile described in section 43-2,108.01, the county attorney or city attorney shall attach a copy of the notice to any juvenile petition or criminal complaint.

43-2,108.03. Sealing of records; county attorney or city attorney; duties; motion to seal record authorized.

(1)(a) If a juvenile described in section 43-2,108.01 was taken into custody, arrested, cited in lieu of arrest, or referred for prosecution without citation but no juvenile petition or criminal complaint was filed against the juvenile with respect to the arrest or custody, the county attorney or city attorney shall notify the government agency responsible for the arrest, custody, citation in lieu of arrest, or referral for prosecution without citation that no criminal charge or juvenile court petition was filed. The county attorney or city attorney shall provide written notification to the juvenile that no juvenile petition or criminal complaint was filed and provide the juvenile with the notice described in section 43-2,108.02.

(b) If a juvenile described in subdivision (1)(a) of this section discovers that his or her record was not automatically sealed, such juvenile may notify the county attorney, who shall cause the record to be sealed by providing the notice required by subdivision (1)(a) of this section.

(2)(a) If the county attorney or city attorney offered and a juvenile described in section 43-2,108.01 has agreed to pretrial diversion, mediation, or restorative justice, the county attorney or city attorney shall notify the government agency responsible for the arrest or custody when the juvenile has satisfactorily completed the resulting diversion, mediation, or restorative justice. At the time the juvenile is offered diversion, mediation, or restorative justice, the county attorney or city attorney shall provide the notice described in section 43-2,108.02 to the juvenile. The county attorney or city attorney shall also provide written notification to the juvenile of his or her satisfactory or unsatisfactory completion of diversion, mediation, or restorative justice.

(b) If a juvenile who was satisfactorily discharged from diversion, mediation, or restorative justice discovers that his or her record was not automatically sealed, the juvenile may notify the county attorney, who shall cause the record to be sealed by providing the notice required by subdivision (2)(a) of this section.

(3)(a) If the juvenile was taken into custody, arrested, cited in lieu of arrest, or referred for prosecution without citation and charges were filed but the case was dismissed by the court, the court shall seal the record as set forth in section 43-2,108.05.

(b) If a juvenile described in subdivision (3)(a) discovers that his or her record was not automatically sealed, the juvenile may notify the court, which shall seal the record as set forth in section 43-2,108.05.

(4)(a) If a juvenile described in section 43-2,108.01 has satisfactorily completed the probation, supervision, or other treatment or rehabilitation program provided under the Nebraska Juvenile Code or if the juvenile has

satisfactorily completed the probation or sentence ordered by a county court, the court shall seal the records as set forth in section 43-2,108.05.

(b) If a juvenile described in subdivision (4)(a) discovers that his or her record was not automatically sealed, the juvenile may notify the court, which shall seal the record as set forth in section 43-2,108.05.

(5) A government agency or court that receives notice under subdivision (1)(a) or (2)(a) of this section shall, upon such receipt, immediately seal all records housed at that government agency or court pertaining to the citation, arrest, record of custody, complaint, disposition, diversion, mediation, or restorative justice.

(6) When a juvenile described in section 43-2,108.01 whose records have not been automatically sealed as provided in subsection (1), (2), (3), or (4) of this section reaches the age of majority or six months have passed since the case was closed, whichever occurs sooner, such juvenile or his or her parent or guardian may file a motion in the court of record asking the court to seal the record pertaining to the offense which resulted in disposition, adjudication, or diversion in juvenile court or diversion or sentence of the county court. The motion shall set forth the facts supporting the argument that the individual who is the subject of the juvenile petition or criminal complaint has been satisfactorily rehabilitated.

43-2,108.04. Sealing of records; notification of proceedings; order of court; hearing; notice; findings; considerations.

(1) When a proceeding to seal the record is initiated, the court shall promptly notify the county attorney or city attorney involved in the case that is the subject of the proceeding to seal the record of the proceedings, and shall promptly notify the Department of Health and Human Services of the proceedings if the juvenile whose record is the subject of the proceeding is a ward of the state at the time the proceeding is initiated or if the department was a party in the proceeding.

(2) A party notified under subsection (1) of this section may file a response with the court within thirty days after receiving such notice. Any such response shall be served on all parties to the case. If the response objects to the sealing of a record, such response shall specify which factor or factors under subsection (5) of this section form the basis for the objection and shall set forth the facts supporting any argument that the juvenile has not been satisfactorily rehabilitated.

(3) If a party notified under subsection (1) of this section does not file a response with the court or files a response that indicates there is no objection to the sealing of the record, the court shall order that the record of the juvenile under consideration be sealed.

(4) If a party receiving notice under subsection (1) of this section files a response with the court objecting to the sealing of the record, the court shall conduct a hearing on the motion within sixty days after the court receives the response. The court shall give notice, by regular mail, of the date, time, and location of the hearing to the parties receiving notice under subsection (1) of this section and to the juvenile who is the subject of the record under consideration.

(5) After conducting a hearing in accordance with this section, the court shall order the record of the juvenile that is the subject of the motion be sealed if it finds by a preponderance of the evidence that the juvenile has been rehabilitated to a satisfactory degree. In determining whether the juvenile has been rehabilitated to a satisfactory degree, the court may consider all of the following:

(a) The behavior of the juvenile after the disposition, adjudication, diversion, or sentence and the juvenile's response to diversion, mediation, restorative justice, probation, supervision, other treatment or rehabilitation program, or sentence;

(b) The education and employment history of the juvenile; and

(c) Any other circumstances that may relate to the rehabilitation of the juvenile.

(6) If, after conducting the hearing in accordance with this section, the juvenile is not found to be satisfactorily rehabilitated such that the record is not ordered to be sealed, a juvenile who is a person described in section 43-2,108.01 or such juvenile's parent or guardian may not move the court to seal the record for one year after the court's decision not to seal the record is made, unless such time restriction is waived by the court.

43-2,108.05. Sealing of record; court; duties; effect; inspection of records; prohibited acts; violation; contempt of court.

(1) If the court orders the record of a juvenile sealed, the court shall:

(a) Order that all records, including any information or other data concerning any proceedings relating to the offense, including the arrest, taking into custody, petition, complaint, indictment, information, trial, hearing, adjudication, correctional supervision, dismissal, or other disposition or sentence, be deemed never to have occurred;

(b) Send notice of the order to seal the record (i) if the record includes impoundment or prohibition to obtain a license or permit pursuant to section 43-287, to the Department of Motor Vehicles, (ii) if the juvenile whose record has been ordered sealed was a ward of the state at the time the proceeding was initiated or if the Department of Health and Human Services was a party in the proceeding, to such department, and (iii) to law enforcement agencies, county attorneys, and city attorneys referenced in the court record;

(c) Order all notified under subdivision (1)(b) of this section to seal all records pertaining to the offense;

(d) If the case was transferred from district court to juvenile court or was transferred under section 43-282, send notice of the order to seal the record to the transferring court; and

(e) Explain to the juvenile using developmentally appropriate language what sealing the record means. The explanation shall be given verbally if the juvenile is present in the court at the time the court issues the sealing order and by written notice sent by regular mail to the juvenile's last-known address if the juvenile is not present in the court at the time the court issues the sealing order. If applicable, the explanation shall inform the juvenile that the juvenile is prohibited from possessing a firearm under section 28-1204.05. The sealing order shall include contact information for each government agency subject to the sealing order.

(2) The effect of having a record sealed is that thereafter no person is allowed to release any information concerning such record, except as provided by this section. After a record is sealed, the person whose record was sealed can respond to any public inquiry as if the offense resulting in such record never occurred. A government agency and any other public office or agency shall reply to any public inquiry that no information exists regarding a sealed record. Except as provided in subsection (3) of this section, an order to seal the record applies to every government agency and any other public office or agency that has a record relating to the offense, regardless of whether it receives notice of the hearing on the sealing of the record or a copy of the order. Upon the written request of a person whose record has been sealed and the presentation of a copy of such order, a government agency or any other public office or agency shall seal all records pertaining to the offense.

(3) A sealed record is accessible to the individual who is the subject of the sealed record and any persons authorized by such individual, law enforcement officers, county attorneys, and city attorneys in the investigation, prosecution, and sentencing of crimes, to the sentencing judge in the sentencing of criminal defendants, to a judge making a determination whether to transfer a case to or from juvenile court, to any attorney representing the subject of the sealed record, and to the Inspector General of Nebraska Child Welfare pursuant to an investigation conducted under the Office of Inspector General of Nebraska Child Welfare Act. Inspection of records that have been ordered sealed under section 43-2,108.04 may be made by the following persons or for the following purposes:

(a) By the court or by any person allowed to inspect such records by an order of the court for good cause shown;

(b) By the court, city attorney, or county attorney for purposes of collection of any remaining parental support or obligation balances under section 43-290;

(c) By the Nebraska Probation System for purposes of juvenile intake services, for presentence and other probation investigations, and for the direct supervision of persons placed on probation and by the Department of Correctional Services, the Office of Juvenile Services, a juvenile assessment center, a criminal detention facility, a juvenile detention facility, or a staff secure juvenile facility, for an individual committed to it, placed with it, or under its care;

(d) By the Department of Health and Human Services for purposes of juvenile intake services, the preparation of case plans and reports, the preparation of evaluations, compliance with federal reporting

requirements, or the supervision and protection of persons placed with the department or for licensing or certification purposes under sections 71-1901 to 71-1906.01, the Child Care Licensing Act, or the Children's Residential Facilities and Placing Licensure Act;

(e) By the individual who is the subject of the sealed record and by persons authorized by such individual. The individual shall provide satisfactory verification of his or her identity;

(f) At the request of a party in a civil action that is based on a case that has a sealed record, as needed for the civil action. The party also may copy the sealed record as needed for the civil action. The sealed record shall be used solely in the civil action and is otherwise confidential and subject to this section;

(g) By persons engaged in bona fide research, with the permission of the court or the State Court Administrator, only if the research results in no disclosure of the person's identity and protects the confidentiality of the sealed record;

(h) By a law enforcement agency if the individual whose record has been sealed applies for employment with the law enforcement agency; or

(i) By a law enforcement agency for firearm eligibility purposes to determine if a person under the age of twenty-five years has been previously adjudicated for an act which would constitute a felony or a misdemeanor crime of domestic violence as defined in subsection (6) of section 28-1204.05.

(4) Nothing in this section prohibits the Department of Health and Human Services from releasing information from sealed records in the performance of its duties with respect to the supervision and protection of persons served by the department.

(5) In any application for employment, bonding, license, education, or other right or privilege, any appearance as a witness, or any other public inquiry, a person cannot be questioned with respect to any offense for which the record is sealed. If an inquiry is made in violation of this subsection, the person may respond as if the offense never occurred. Applications for employment shall contain specific language that states that the applicant is not obligated to disclose a sealed record. Employers shall not ask if an applicant has had a record sealed. The Department of Labor shall develop a link on the department's website to inform employers that employers cannot ask if an applicant had a record sealed and that an application for employment shall contain specific language that states that the applicant is not obligated to disclose a sealed record.

(6) Any person who knowingly violates this section shall be guilty of a Class V misdemeanor.

43-2,109. County board of visitors; appointment; duties; reports; expenses. In each county, the judge presiding over the juvenile court may appoint a board of four reputable residents, who shall serve without compensation, to constitute a board of visitation, whose duty it shall be to visit at least once a year all institutions, societies, and associations within the county receiving juveniles under the Nebraska Juvenile Code. Visits shall be made by not less than two of the members of the board, who shall go together or make a joint report. The board of visitors shall report to the court, from time to time, the condition of juveniles received by or in the charge of such associations and institutions and shall make an annual report to the Department of Health and Human Services in such form as the department may prescribe. The county board may, in its discretion, make appropriations for the payment of the actual and necessary expenses incurred by the visitors in the discharge of their official duties.

43-2,110. Detention homes; power of county boards to provide. The several county boards of counties of Nebraska shall have the power and authority to appropriate the funds necessary to establish and maintain detention homes in connection with the juvenile courts of this state.

43-2,111. Establishment; when; court of record. Each county of this state having a population of seventy-five thousand or more inhabitants shall constitute a separate juvenile court judicial district. There shall be

established in each such juvenile court judicial district of this state a separate juvenile court whenever the establishment thereof shall be authorized by a majority of the electors of any such county voting thereon. The court so established shall be a court of record.

43-2,112. Establishment; petition; election; clerk of county court; duties. The question of whether or not there shall be established a separate juvenile court in any county having a population of seventy-five thousand or more inhabitants shall be submitted to the registered voters of any such county at the first statewide general election or at any special election held not less than four months after the filing with the Secretary of State of a petition requesting the establishment of such court signed by registered voters of such county in a number not less than five percent of the total votes cast for Governor in such county at the general state election next preceding the filing of the petition. The question shall be submitted to the registered voters of the county in the following form:

Shall there be established in ..... County a separate juvenile court?
..... Yes
..... No

The election shall be conducted and the ballots shall be counted and canvassed in the manner prescribed by the Election Act.

After a separate juvenile court has been established, the clerk of the county court shall forthwith transfer to the trial docket of the separate juvenile court all pending matters within the exclusive jurisdiction of the separate juvenile court for consideration and disposition by the judge thereof.

43-2,113. Rooms and offices; jurisdiction; powers and duties.

(1) In counties where a separate juvenile court is established, the county board of the county shall provide suitable rooms and offices for the accommodation of the judge of the separate juvenile court and the officers and employees appointed by such judge or by the probation administrator pursuant to subsection (4) of section 29-2253. Such separate juvenile court and the judge, officers, and employees of such court shall have the same and exclusive jurisdiction, powers, and duties that are prescribed in the Nebraska Juvenile Code, concurrent jurisdiction under section 83-223, and such other jurisdiction, powers, and duties as specifically provided by law.

(2) A juvenile court created in a separate juvenile court judicial district or a county court sitting as a juvenile court in all other counties shall have and exercise jurisdiction within such juvenile court judicial district or county court judicial district with the county court and district court in all matters arising under Chapter 42, article 3, when the care, support, custody, or control of minor children under the age of eighteen years is involved. Such cases shall be filed in the county court and district court and may, with the consent of the juvenile judge, be transferred to the trial docket of the separate juvenile court or county court.

(3) All orders issued by a separate juvenile court or a county court which provide for child support or spousal support as defined in section 42-347 shall be governed by sections 42-347 to 42-381 and 43-290 relating to such support. Certified copies of such orders shall be filed by the clerk of the separate juvenile or county court with the clerk of the district court who shall maintain a record as provided in subsection (4) of section 42-364. There shall be no fee charged for the filing of such certified copies.

43-2,114. Judge; nomination; appointment; retention; vacancy. All judges of separate juvenile courts shall be nominated, appointed, and retained in office in accordance with the provisions of Article V, section 21, of the Constitution of Nebraska. Each of such judges shall hold office until his or her successor is selected and qualified. Any vacancy in the office of judge of the separate juvenile courts shall be filled by nomination and appointment as provided by Article V, section 21, of the Constitution of Nebraska.

43-2,115. Judge; retention in office; how determined. After May 6, 1963, the right of any judge of any separate juvenile court to continue in office for another term shall be determined by the electorate in the manner provided by Article V, section 21, of the Constitution of Nebraska and the laws of this state.

43-2,116. Judge; term of office. The term of office of judges of any separate juvenile court, who are approved by the electorate, shall be for six years beginning on the first Thursday after the first Tuesday in January following his or her approval by the electorate. Any judge of any separate juvenile court appointed to office after the expiration of the term of incumbent judges shall serve for three full years after his or her appointment and thereafter, if he or she desires to continue in office, shall cause his or her right to continue in office to be submitted to the electorate in the manner provided by law at the first general election held after he or she has served three full years as such judge, and the term of office for which he or she was appointed shall expire on the first Thursday after the first Tuesday of January following the general election at which his or her right to continue in office was subject to approval of the electorate.

43-2,117. Judicial nominating commission; selection; provisions applicable. Judicial nominating commissions for the office of judge of the separate juvenile court shall be selected in the manner and subject to all of the terms and provisions of law relating to judicial nominating commissions generally, as provided by the Constitution of Nebraska and the laws of this state.

43-2,118. Judge; qualifications. No person shall be eligible to the office of judge of a separate juvenile court unless he or she (1) is thirty years of age, (2) is a citizen of the United States, (3) has been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, (4) is currently admitted to practice before the Nebraska Supreme Court, and (5) is, on the effective date of appointment, a resident of the district to be served, and remains a resident of such district during the period of service.

43-2,119. Judges; number; presiding judge.

(1) The number of judges of the separate juvenile court in counties which have established a separate juvenile court shall be:

(a) Two judges in counties having seventy-five thousand inhabitants but less than three hundred thousand inhabitants;

(b) Four judges in counties having at least three hundred thousand inhabitants but less than five hundred thousand inhabitants; and

(c) Six judges in counties having five hundred thousand inhabitants or more.

(2) The senior judge in point of service as a juvenile court judge shall be the presiding judge. The judges shall rotate the office of presiding judge every three years unless the judges agree to another system.

43-2,120. Judge; salary; source of payment. The salary of a judge of a separate juvenile court shall be as provided in section 24-301.01 and shall be paid out of the General Fund of the state.

43-2,121. Judge; salary increase; when effective. Section 24-301.01 and 43-2,120 shall be so interpreted as to effectuate their general purpose to provide, in the public interest, adequate compensation for judges of the separate juvenile courts as soon as such change may become operative under the Constitution of Nebraska.

43-2,122. Clerk; no additional compensation; custodian of seal. The clerk of the district court in a county having a separate juvenile court shall serve ex officio as clerk of the separate juvenile court. Such clerk shall not receive any additional compensation for performing the duties of such office. He or she shall keep the seal of the court.

43-2,123. Judge; personal staff; appointment; salary. Each judge of a separate juvenile court shall appoint his or her own court reporter, bailiff, and other necessary personal staff. Each court reporter shall be well-skilled in the art of stenography and capable of reporting verbatim the oral proceedings had in court. The salaries of the bailiff and other necessary personal staff of the separate juvenile court shall be fixed by the presiding judge, subject to the approval of the board of county commissioners or supervisors, and shall be paid out of the general fund of the county.

43-2,123.01. Probation officers; appointment prohibited. Separate juvenile courts shall be prohibited from appointing juvenile probation officers after December 31, 1984.

43-2,124. Repealed. Laws 1984, LB 13, s. 90.

43-2,125. Designation of alternative judge; when authorized. Whenever any judge of a separate juvenile court is disabled or disqualified to act in any cause before him or her or is temporarily absent from the county or whenever it would be beneficial to the administration of justice, a judge of the district court may agree to serve as judge of the separate juvenile court during such period or the Chief Justice of the Supreme Court may designate and appoint a judge of the district court, a judge of another separate juvenile court, or a judge of the county court to serve as judge of the separate juvenile court during such period. The Chief Justice may also appoint a judge of a separate juvenile court to hear juvenile matters in a county court.

43-2,126. Transferred to section 43-2,106.01.

43-2,127. Abolition; petition; election; transfer of dockets. After a separate juvenile court has been established, the question of whether it should be abolished shall be submitted to the registered voters of any county having adopted same at the first general state election held not less than four months after the filing with the Secretary of State of a petition requesting the abolishment of such court signed by registered voters of such county in a number not less than five percent of the total vote cast for Governor in such county at the statewide general election next preceding the filing of the petition. The question shall be submitted to the registered voters of the county in the following form:

Shall the separate juvenile court in ..... County be abolished.

.....Yes
.....No

The election shall be conducted, and the ballots shall be counted and canvassed in the manner prescribed by the Election Act.

If the proposition to abolish a separate juvenile court is carried by a majority of the registered voters voting on the proposition, the jurisdiction, powers, and duties of the separate juvenile court shall cease, and the powers and duties of the county court over juvenile matters shall be reestablished, at the end of the term of the incumbent juvenile judge. After a separate juvenile court has been abolished, the clerk of the county court shall forthwith transfer to the docket of the county court all pending matters theretofore within the exclusive jurisdiction of the separate juvenile court for consideration and disposition by the county court.

43-2,128. Code, how construed. The Nebraska Juvenile Code shall be liberally construed to the end that its purpose may be carried out as provided in section 43-246.

43-2,129. Code, how cited. Sections 43-245 to 43-2,129 shall be known and may be cited as the Nebraska Juvenile Code.

VIII. FOSTER CARE

43-1301. Terms, defined. For purposes of the Foster Care Review Act, unless the context otherwise requires:

(1) Local board means a local foster care review board created pursuant to section 43-1304;

(2) Office means the Foster Care Review Office created pursuant to section 43-1302;

(3) Foster care facility means any foster family home as defined in section 71-1901, residential child-caring agency as defined in section 71-1926, public agency, private agency, or any other person or entity receiving and caring for foster children;

(4) Foster care placements means (a) all types of placements of juveniles described in sections 43-245 and 43-247, (b) all types of placements of neglected, dependent, or delinquent children, including those made by the Department of Health and Human Services, by the court, by parents, or by third parties, (c) all types of placements of children who have been voluntarily relinquished pursuant to section 43-106.01 to the department or any child-placing agency as defined in section 71-1926 licensed by the department, and (d) all types of placements that are considered to be a trial home visit, including those made directly by the department or office;

(5) Person or court in charge of the child means (a) the Department of Health and Human Services, an association, or an individual who has been made the guardian of a neglected, dependent, or delinquent child by the court and has the responsibility of the care of the child and has the authority by and with the assent of the court to place such a child in a suitable family home or institution or has been entrusted with the care of the child by a voluntary placement made by a parent or legal guardian, (b) the court which has jurisdiction over the child, or (c) the entity having jurisdiction over the child pursuant to the Nebraska Indian Child Welfare Act;

(6) Voluntary placement means the placement by a parent or legal guardian who relinquishes the possession and care of a child to a third party, individual, or agency;

(7) Family unit means the social unit consisting of the foster child and the parent or parents or any person in the relationship of a parent, including a grandparent, and any siblings with whom the foster child legally resided prior to placement in foster care, except that for purposes of potential sibling placement, the child's family unit also includes the child's siblings even if the child has not resided with such siblings prior to placement in foster care;

(8) Residential child-caring agency has the definition found in section 71-1926;

(9) Child-placing agency has the definition found in section 71-1926;

(10) Siblings means biological siblings and legal siblings, including, but not limited to, half-siblings and stepsiblings; and

(11) Trial home visit means a placement of a court-involved juvenile who goes from a foster care placement back to his or her legal parent or parents or guardian but remains as a ward of the state.

43-1301.01. Entering foster care; determination of time. For the purpose of determining the timing of review hearings, permanency hearings, and other requirements under the Foster Care Review Act, a child is deemed to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty days after the date on which the child is removed from the home.

43-1302. Foster Care Review Office; established; purpose; Foster Care Advisory Committee; created; members; terms; meetings; duties; expenses; executive director; duties.

(1) The Foster Care Review Office is hereby established. The purpose of the office is to provide information and direct reporting to the courts, the Department of Health and Human Services, the Office of Probation Administration, and the Legislature regarding the foster care system in Nebraska; to provide oversight of the foster care system; and to make recommendations regarding foster care policy to the Legislature. The executive director of the Foster Care Review Office shall provide information and reporting services, provide analysis of information obtained, and oversee foster care file audit case reviews and tracking of cases of children in the foster care system. The executive director of the office shall, through information analysis and with the assistance of the Foster Care Advisory Committee, (a) determine key issues of the foster care system and ways to resolve the issues and to otherwise improve the system and (b) make policy recommendations.

(2)(a) The Foster Care Advisory Committee is created. The committee shall have five members appointed by the Governor. Three members shall be local board members, one member shall have data analysis experience, and one member shall be a resident of the state who is representative of the public at large. The members shall have no pecuniary interest in the foster care system and shall not be employed by the office, the Department of Health and Human Services, a county, a residential child-caring agency, a child-placing agency, or a court.

(b) The Health and Human Services Committee of the Legislature shall hold a confirmation hearing for the appointees, and the appointments shall be subject to confirmation by the Legislature, except that the members appointed while the Legislature is not in session shall serve until the next session of the Legislature, at which time a majority of the members of the Legislature shall approve or disapprove of the appointments.

(c) The terms of the members shall be for three years, except that the Governor shall designate two of the initial appointees to serve initial terms ending on March 1, 2014, and three of the initial appointees to serve initial terms ending on March 1, 2015. The Governor shall make the initial appointments within thirty days after July 1, 2012. Members shall not serve more than two consecutive terms, except that members shall serve until their successors have been appointed and qualified. The Governor shall appoint members to fill vacancies from the same category as the vacated position to serve for the remainder of the unexpired term.

(d) The Foster Care Advisory Committee shall meet at least four times each calendar year. Each member shall attend at least two meetings each calendar year and shall be subject to removal for failure to attend at least two meetings unless excused by a majority of the members of the committee. Members shall be reimbursed for their expenses as provided in sections 81-1174 to 81-1177.

(e) The duties of the Foster Care Advisory Committee are to:

(i) Hire and fire an executive director for the office who has training and experience in foster care; and

(ii) Support and facilitate the work of the office, including the tracking of children in foster care and reviewing foster care file audit case reviews.

(3) The executive director of the office shall hire, fire, and supervise office staff and shall be responsible for the duties of the office as provided by law, including the annual report and other reporting, review, tracking, data collection and analysis, and oversight and training of local boards.

43-1303. Office; registry; reports required; foster care file audit case reviews; rules and regulations; local board; report; court; report; visitation of facilities; executive director; powers and duties.

(1) The office shall maintain the statewide register of all foster care placements occurring within the state, and there shall be a weekly report made to the registry of all foster care placements by the Department of Health and Human Services, any child-placing agency, or any court in a form as developed by the office in consultation with representatives of entities required to make such reports. For each child entering and leaving foster care, such report shall consist of identifying information, placement information, the plan or permanency plan developed by the person or court in charge of the child pursuant to section 43-1312, and information on whether any such child was a person immune from criminal prosecution under subsection (5) of section 28-801 or was considered a trafficking victim as defined in section 28-830. The department, the Office of Probation Administration, and every court and child-placing agency shall report any foster care placement within three working days. The report shall contain the following information:

(a) Child identification information, including name, date of birth, gender, race, religion, and ethnicity;

(b) Identification information for parents and stepparents, including name, address, and status of parental rights;

(c) Placement information, including (i) initial placement date, (ii) current placement date, (iii) the name and address of the foster care placement, (iv) if a relative placement or kinship placement, whether the foster care placement is licensed, and (v) whether the foster care placement has received a waiver pursuant to section 71-1904 and the basis for such waiver;

(d) Court status information, including which court has jurisdiction, initial custody date, court hearing date, and results of the court hearing;

(e) Agency or other entity having custody of the child; and

(f) Case worker, probation officer, or person providing direct case management or supervision functions.

(2)(a) The Foster Care Review Office shall designate a local board to conduct foster care file audit case reviews for each case of children in foster care placement.

(b) The office may adopt and promulgate rules and regulations for the following:

(i) Establishment of training programs for local board members which shall include an initial training program and periodic inservice training programs;

(ii) Development of procedures for local boards;

(iii) Establishment of a central record-keeping facility for all local board files, including foster care file audit case reviews;

(iv) Accumulation of data and the making of annual reports on children in foster care placements. Such reports shall include, but not be limited to, (A) personal data on length of time in foster care, (B) number of placements, (C) frequency and results of foster care file audit case reviews and court review hearings, (D) number of children supervised by the foster care programs in the state annually, (E) trend data impacting foster care, services, and placements, (F) analysis of the data, and (G) recommendations for improving the foster care system in Nebraska;

(v) Accumulation of data and the making of quarterly reports regarding the children in foster care placements;

(vi) To the extent not prohibited by section 43-1310, evaluation of the judicial and administrative data collected on foster care and the dissemination of such data to the judiciary, public and private agencies, the department, and members of the public; and

(vii) Manner in which the office shall determine the appropriateness of requesting a court review hearing as provided for in section 43-1313.

(3) A local board shall send a written report to the office for each foster care file audit case review conducted by the local board. A court shall send a written report to the office for each foster care review hearing conducted by the court.

(4)(a) The office shall report and make recommendations to the Legislature, the department, the Office of Probation Administration, the courts, local boards, and county welfare offices.

(b) Such reports and recommendations shall include, but not be limited to, the annual judicial and administrative data collected on foster care pursuant to subsections (2) and (3) of this section and the annual evaluation of such data.

(c) The Foster Care Review Office shall provide copies of such reports and recommendations to each court having the authority to make foster care placements.

(d) The executive director of the office shall provide reports regarding child welfare and juvenile justice data and information on March 1, June 1, September 1, and December 1. The September 1 report shall be the annual report. The executive director shall provide additional reports at a time specified by the Health and Human Services Committee of the Legislature. The reports shall include issues, policy concerns, problems which have come to the attention of the office, and analysis of the data. The reports shall recommend alternatives to the identified problems and related needs of the foster care system. The reports and recommendations submitted to the Legislature shall be submitted electronically.

(e) The Health and Human Services Committee shall coordinate and prioritize data and information requests submitted to the office by members of the Legislature.

(5) The executive director of the office or his or her designees from the office may visit and observe foster care facilities in order to ascertain whether the individual physical, psychological, and sociological needs of each foster child are being met.

(6) At the request of any state agency, the executive director of the office or his or her designees from the office may conduct a case file review process and data analysis regarding any state ward or ward of the court whether placed in-home or out-of-home at the time of the case file review.

43-1304. Local foster care review boards; members; powers and duties. There shall be local foster care review boards to conduct the foster care file audit case reviews of children in foster care placement and carry out other powers and duties given to such boards under the Foster Care Review Act. The executive director of the office shall select members to serve on local boards from a list of applications submitted to the office. Each local board shall consist of not less than four and not more than ten members as determined by the executive director. The members of the local board shall reasonably represent the various social, economic, racial, and ethnic groups

of the county or counties from which its members may be appointed. A person employed by the office, the Department of Health and Human Services, a residential child-caring agency, a child-placing agency, or a court shall not be appointed to a local board. A list of the members of each local board shall be sent to the department and the Office of Probation Administration.

43-1305. Local board; terms; vacancy. All local board members shall be appointed for terms of three years. If a vacancy occurs on a local board, the executive director of the office shall appoint another person to serve the unexpired portion of the term. Appointments to fill vacancies on the local board shall be made in the same manner and subject to the same conditions as the initial appointments to such board. The term of each member shall expire on the second Monday in July of the appropriate year. Members shall continue to serve until a successor is appointed.

43-1306. Repealed. Laws 2025, LB2, § 1.

43-1307. Child placed in foster care; court; duties; office; provide information to local board.

(1) Each court which has placed a child in foster care shall send to the office (a) a copy of the plan or permanency plan, prepared by the person or court in charge of the child in accordance with section 43-1312, to effectuate rehabilitation of the foster child and family unit or permanent placement of the child and (b) a copy of the progress reports as they relate to the plan or permanency plan, including, but not limited to, the court order and the report and recommendations of the guardian ad litem.

(2) The office may provide the designated local board with copies of the information provided by the court under subsection (1) of this section.

43-1308. Local board; powers and duties.

(1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, the designated local board shall:

(a) Conduct a foster care file audit case review at least once every six months for the case of each child in a foster care placement to determine what efforts have been made to carry out the plan or permanency plan for rehabilitation of the foster child and family unit or for permanent placement of such child pursuant to section 43-1312;

(b) Submit to the court having jurisdiction over such child for the purposes of foster care placement, within thirty days after the foster care file audit case review, its findings and recommendations regarding the efforts and progress made to carry out the plan or permanency plan established pursuant to section 43-1312 together with any other recommendations it chooses to make regarding the child. The findings and recommendations shall include whether there is a need for continued out-of-home placement, whether the current placement is safe and appropriate, the specific reasons for the findings and recommendations, including factors, opinions, and rationale considered in the foster care file audit case review, whether the grounds for termination of parental rights under section 43-292 appear to exist, and the date of the next foster care file audit case review by the designated local board;

(c) If the return of the child to his or her parents is not likely, recommend referral for adoption and termination of parental rights, guardianship, placement with a relative, or, as a last resort, another planned, permanent living arrangement; and

(d) Promote and encourage stability and continuity in foster care by discouraging unnecessary changes in the placement of foster children and by encouraging the recruitment of foster parents who may be eligible as adoptive parents.

(2) When the office or designated local board determines that the interests of a child in a foster care placement would be served thereby, the office or designated local board may request a court review hearing as provided for in section 43-1313.

(3) Due to the confidential and protected nature of child-specific and family-specific information regarding mental and behavioral health services, if such information is discussed at a local board meeting or a portion of a meeting, the portion of the meeting at which such information is discussed shall be exempt from the Open Meetings Act.

43-1309. Records; release; when.

Upon the request of the office or designated local board, any records pertaining to a case assigned to such local board shall be furnished to the office or designated local board by the Department of Health and Human Services, by any public official or employee of a political subdivision having relevant contact with the child, or, upon court order, by the Office of Probation Administration. Upon the request of the Foster Care Review Office or designated local board, and if such information is not obtainable elsewhere, the court having jurisdiction of the foster child shall release such information to the office or designated local board as the court deems necessary to determine the physical, psychological, and sociological circumstances of such foster child.

43-1310. Records and information; confidential; unauthorized disclosure; penalty. All records and information regarding foster children and their parents or relatives in the possession of the office or local board shall be deemed confidential. Unauthorized disclosure of such confidential records and information or any violation of the rules and regulations adopted and promulgated by the Department of Health and Human Services or the office shall be a Class III misdemeanor.

43-1311. Child removed from home; person or court in charge of child; duties. Except as otherwise provided in the Nebraska Indian Child Welfare Act, immediately following removal of a child from his or her home pursuant to section 43-284, the person or court in charge of the child shall:

(1) Conduct or cause to be conducted an investigation of the child's circumstances designed to establish a safe and appropriate plan for the rehabilitation of the foster child and family unit or permanent placement of the child;

(2) Require that the child receive a medical examination within two weeks of his or her removal from his or her home;

(3) Subject the child to such further diagnosis and evaluation as is necessary;

(4) Require that the child attend the same school as prior to the foster care placement unless the person or court in charge determines that attending such school would not be in the best interests of the child; and(5) Notify the Department of Health and Human Services to identify, locate, and provide written notification to adult relatives of the child as provided in section 43-1311.01

43-1311.01. Child removed from home; notice to noncustodial parent and certain relatives; when; information provided; department; duties. (1) When notified pursuant to section 43-1311 or upon voluntary placement of a child, the Department of Health and Human Services shall, as provided in this section, identify, locate, and provide written notification of the removal of the child from his or her home, within thirty days after removal, to any noncustodial parent and to all grandparents, all parents who have legal custody of a sibling of the child, and all adult siblings, adult aunts, adult uncles, adult cousins, and adult relatives suggested by the child or the child's parents, except when that relative's history of family or domestic violence makes notification inappropriate. For purposes of this section, sibling means an individual who is considered by Nebraska law to be a sibling or who would have been considered a sibling under Nebraska law but for a termination of parental rights or other disruption in parental rights such as the death of a parent. If the child is an Indian child as defined in section 43-1503, the child's extended family members as defined in such section shall be notified. Such notification shall include all of the following information:

(a) The child has been or is being removed from the custody of the parent or parents of the child;

(b) An explanation of the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

(c) A description of the requirements for the relative to serve as a foster care provider or other type of care provider for the child and the additional services, training, and other support available for children receiving such care; and

(d) Information concerning the option to apply for guardianship assistance payments.

(2) The department shall investigate the names and locations of the relatives, including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child and obtaining information regarding the location of the relatives.

(3) The department shall provide to the court, within thirty calendar days after removal of the child, the names and relationship to the child of all relatives contacted, the method of contact, and the responses received from the relatives.

43-1311.02. Placement of child and siblings; sibling visitation or ongoing interaction; motions authorized; court review; department; duties; right of sibling to intervene.

(1)(a) Reasonable efforts shall be made to place a child and the child's siblings in the same foster care placement or adoptive placement, unless such placement is contrary to the safety or well-being of any of the siblings. This requirement applies even if the custody orders of the siblings are made at separate times and even if the children have no preexisting relationship.

(b) If the siblings are not placed together in a joint-sibling placement, the Department of Health and Human Services shall provide the siblings and the court with the reasons why a joint-sibling placement would be contrary to the safety or well-being of any of the siblings.

(2) When siblings are not placed together in a joint-sibling placement, the department shall make a reasonable effort to provide for frequent sibling visitation or ongoing interaction between the child and the child's siblings unless the department provides the siblings and the court with reasons why such sibling visitation or ongoing interaction would be contrary to the safety or well-being of any of the siblings. The court shall determine the type and frequency of sibling visitation or ongoing interaction to be implemented by the department. The court shall make a determination as to whether reasonable efforts have been made by the department to facilitate sibling placement and sibling visitation or other ongoing interaction and whether such placement and visitation or other ongoing interaction is contrary to the safety or well-being of any of the siblings.

(3) The department shall file a written sibling placement report as required by subsection (3) of section 43-285. Such a report shall include the reasonable efforts of the department to locate the child's siblings and, if a joint-sibling placement is made, whether such placement continues to be consistent with the safety and well-being of the children. If joint-sibling placement is not possible, the report shall include the reasons why a joint-sibling placement is and continues to be contrary to the safety or well-being of any of the siblings, the department's continuing reasonable efforts to place a child with a sibling in the same foster care or adoptive placement, and the department's continuing reasonable efforts to facilitate sibling visitation.

(4) Parties to the case, including a child's sibling, may file a motion for joint-sibling placement, sibling visitation, or ongoing interaction between siblings.

(5) The court shall periodically review and evaluate the effectiveness and appropriateness of the joint-sibling placement, sibling visitation, or ongoing interaction between siblings.

(6) If an order is entered for termination of parental rights of siblings who are subject to this section, unless the court has suspended or terminated joint-sibling placement, sibling visitation, or ongoing interaction between siblings, the department shall make reasonable efforts to make a joint-sibling placement or do all of the following to facilitate frequent sibling visitation or ongoing interaction between the child and the child's siblings when the child is adopted or enters a permanent placement: (a) Include in the training provided to prospective adoptive parents information regarding the importance of sibling relationships to an adopted child and counseling methods for maintaining sibling relationships; (b) provide prospective adoptive parents with information regarding the child's siblings; and (c) encourage prospective adoptive parents to plan for facilitating post-adoption contact between the child and the child's siblings.

(7) Any information regarding court-ordered or authorized joint-sibling placement, sibling visitation, or ongoing interaction between siblings shall be provided by the department to the parent or parents if parental rights have not been terminated unless the court determines that doing so would be contrary to the safety or well-being of the child and to the foster parent, relative caretaker, guardian, prospective adoptive parent, and child as soon as reasonably possible following the entry of the court order or authorization as necessary to facilitate the sibling time.

(8) For purposes relative to the administration of the federal foster care program and the state plans pursuant to Title IV-B and Title IV-E of the federal Social Security Act, as such act existed on January 1, 2015, the term sibling means an individual considered to be a sibling under Nebraska law or an individual who would have been considered a sibling but for a termination of parental rights or other disruption of parental rights such as death of a parent.

(9) A sibling of a child under the jurisdiction of the court shall have the right to intervene at any point in the proceedings for the limited purpose of seeking joint-sibling placement, sibling visitation, or ongoing interaction with their sibling.

(10) This section shall not be construed to subordinate the rights of foster or adoptive parents of a child to the rights of the parents of a sibling of that child or to subordinate the rights of an adoptive, foster, or biological parent to the rights of a child seeking sibling placement or visitation.

43-1311.03. Written independent living transition proposal; development; contents; transition team; department; duties; information regarding Young Adult Bridge to Independence Act; notice; contents; out-of-home placement; hearing, when held.

(1) When a child placed in foster care turns fourteen years of age or enters foster care and is at least fourteen years of age, a written independent living transition proposal shall be developed by the Department of Health and Human Services at the direction and involvement of the child to prepare for the transition from foster care to successful adulthood. Any revision or addition to such proposal shall also be made in consultation with the child. The transition proposal shall be personalized based on the child's needs and shall describe the services needed for the child to transition to a successful adulthood as provided in the Nebraska Strengthening Families Act. The transition proposal shall include, but not be limited to, the following needs and the services needed for the child to transition to a successful adulthood as provided in the Nebraska Strengthening Families Act:

(a) Education;

(b) Employment services and other workforce support;

(c) Health and health care coverage, including the child's potential eligibility for medicaid coverage under the federal Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1, 2013;

(d) Behavioral health treatment and support needs and access to such treatment and support;

(e) Financial assistance, including education on credit card financing, banking, and other services;

(f) Housing;

(g) Relationship development and permanent connections;

(h) Adult services, if the needs assessment indicates that the child is reasonably likely to need or be eligible for services or other support from the adult services system; and

(i) Information, planning, and assistance to obtain a driver's license as allowed under state law and consistent with subdivision (9)(b)(iv) of this section, including, but not limited to, providing the child with a copy of a driver's manual, identifying driver safety courses and resources to access a driver safety course, and identifying potential means by which to access a motor vehicle for such purposes.

(2) The transition proposal shall be developed and frequently reviewed by the department in collaboration with the child's transition team. The transition team shall be comprised of the child, the child's caseworker, the child's guardian ad litem, individuals selected by the child, and individuals who have knowledge of services available to the child. As provided in the Nebraska Strengthening Families Act, one of the individuals selected by the child may be designated as the child's advisor and, as necessary, advocate for the child with respect to the application of the reasonable and prudent parent standard and for the child on normalcy activities. The department may reject an individual selected by the child to be a member of the team if the department has good cause to believe the individual would not act in the best interests of the child.

(3) The transition proposal shall be considered a working document and shall be, at the least, updated for and reviewed at every permanency or review hearing by the court. The court shall determine whether the transition proposal includes the services needed to assist the child to make the transition from foster care to a successful adulthood.

(4) The transition proposal shall document what efforts were made to involve and engage the child in the development of the transition proposal and any revisions or additions to the transition proposal. As provided in the Nebraska Strengthening Families Act, the court shall ask the child, in an age or developmentally appropriate manner, about his or her involvement in the development of the transition proposal and any revisions or additions to such proposal. As provided in the Nebraska Strengthening Families Act, the court shall make a finding as to the child's involvement in the development of the transition proposal and any revisions or additions to such proposal.

(5) The final transition proposal prior to the child's leaving foster care shall specifically identify how the need for housing will be addressed.

(6) If the child is interested in pursuing higher education, the transition proposal shall provide for the process in applying for any applicable state, federal, or private aid.

(7) The department shall provide without cost a copy of any consumer report as defined in 15 U.S.C. 1681a(d), as such section existed on January 1, 2016, pertaining to the child each year until the child is discharged from care and assistance, including when feasible, from the child's guardian ad litem, in interpreting and resolving any inaccuracies in the report as provided in the Nebraska Strengthening Families Act.

(8)(a) Any child who is adjudicated to be a juvenile described in (i) subdivision (3)(a) of section 43-247 and who is in an out-of-home placement or (ii) subdivision (8) of section 43-247 and whose guardianship or state-funded adoption assistance agreement was disrupted or terminated after the child had attained the age of sixteen years, shall receive information regarding the Young Adult Bridge to Independence Act and the bridge to independence program available under the act.

(b) The department shall create a clear and developmentally appropriate written notice discussing the rights of eligible young adults to participate in the program. The notice shall include information about eligibility and requirements to participate in the program, the extended services and support that young adults are eligible to receive under the program, and how young adults can be a part of the program. The notice shall also include information about the young adult's right to request a client-directed attorney to represent the young adult pursuant to section 43-4510 and the benefits and role of an attorney.

(c) The department shall disseminate this information to any child who was adjudicated to be a juvenile described in subdivision (3)(a) of section 43-247 and who is in an out-of-home placement at sixteen years of age and any child who was adjudicated to be a juvenile under subdivision (8) of section 43-247 and whose guardianship or state-funded adoption assistance agreement was disrupted or terminated after the child had attained the age of sixteen years. The department shall disseminate this information to any such child yearly thereafter until such child attains the age of nineteen years and not later than ninety days prior to the child's last court review before attaining nineteen years of age or being discharged from foster care to independent living. In addition to providing the written notice, not later than ninety days prior to the child's last court review before attaining nineteen years of age or being discharged from foster care to independent living, a representative of the department shall explain the information contained in the notice to the child in person and the timeline necessary to avoid a lapse in services and support.

(d)(i) On and after January 1, 2025, a child adjudicated to be a juvenile as described in subdivision (1), (2), or (3)(b) of section 43-247 and who is in a court-ordered out-of-home placement in the six months prior to attaining nineteen years of age shall receive information regarding the Young Adult Bridge to Independence Act and the bridge to independence program available under the act. The Office of Probation Administration shall identify any such juvenile and provide the juvenile with information regarding the Young Adult Bridge to Independence Act and the bridge to independence program available under the act.

(ii) Any party to such juvenile's court case, or the court upon its own motion, may request a hearing in the six months prior to the juvenile attaining nineteen years of age for the court to consider whether it is necessary for the juvenile to remain in the court-ordered out-of-home placement if the requesting party or the court believes it would be contrary to the juvenile's welfare to return to the family home. The following factors may guide the court in finding whether or not return to the family home would be contrary to the juvenile's welfare:

(A) Whether the juvenile is disconnected from family support that would assist the juvenile in transitioning to adulthood;

(B) Whether the juvenile faces the risk of homelessness upon closure of the juvenile court case; or

(C) Whether the Office of Probation Administration has made reasonable efforts to return the juvenile to the family home prior to the juvenile's nineteenth birthday.

(iii) The court shall set forth its finding in a written order. If the court finds that return to the family home would be contrary to the juvenile's welfare, the Office of Probation Administration shall notify the Department of Health and Human Services within ten days after such finding is made. As soon as practicable thereafter and prior to the child's nineteenth birthday, a representative of the department shall explain the information contained in the written notice described in this subsection to the juvenile in person and the timeline necessary to avoid a lapse in

services and support. If the juvenile remains in a court-ordered out-of-home placement upon attaining nineteen years of age pursuant to a court order as described in section 43-4504, the department shall proceed pursuant to sections 43-4506 and 43-4508.

(iv) A juvenile with a current pending motion to revoke probation before the court at the time of the hearing shall not be eligible for the Young Adult Bridge to Independence Act.

(9)(a) The department shall provide the child with the documents, information, records, and other materials described in subdivision (9)(b) of this section, (i) if the child is leaving foster care, on or before the date the child reaches eighteen or nineteen years of age or twenty-one years of age if the child participates in the bridge to independence program, and (ii) at the age or as otherwise prescribed in subdivision (9)(b) of this section.

(b) The department shall provide the child with:

(i) A certified copy of the child's birth certificate and facilitate securing a federal social security card when the child is eligible for such card;

(ii) Health insurance information and all documentation required for enrollment in medicaid coverage for former foster care children as available under the federal Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1, 2013;

(iii) A copy of the child's medical records;

(iv) A driver's license or identification card issued by a state in accordance with the requirements of section 202 of the REAL ID Act of 2005, as such section existed on January 1, 2016, and when requested by a child fourteen years of age or older, all documents necessary to obtain such license or card;

(v) A copy of the child's educational records;

(vi) A credit report check;

(vii) Contact information, with permission, for family members, including siblings, with whom the child can maintain a safe and appropriate relationship, and other supportive adults;

(viii) A list of local community resources, including, but not limited to, support groups, health clinics, mental and behavioral health and substance abuse treatment services and support, pregnancy and parenting resources, and employment and housing agencies;

(ix) Written information, including, but not limited to, contact information, for disability resources or benefits that may assist the child as an adult, specifically including information regarding state programs established pursuant to 42 U.S.C. 677, as such section existed on January 1, 2016, and disability benefits, including supplemental security income pursuant to 42 U.S.C. 1382 et seq., as such sections existed on January 1, 2016, or social security disability insurance pursuant to 42 U.S.C. 423, as such section existed on January 1, 2016, if the child may be eligible as an adult;

(x) An application for public assistance and information on how to access the system to determine public assistance eligibility;

(xi) A letter prepared by the department that verifies the child's name and date of birth, dates the child was in foster care, and whether the child was in foster care on his or her eighteenth, nineteenth, or twenty-first birthday and enrolled in medicaid while in foster care;

(xii) Written information about the child's Indian heritage or tribal connection, if any; and

(xiii) Written information on how to access personal documents in the future.

(c) All fees associated with securing the certified copy of the child's birth certificate or obtaining a driver's license or a state identification card shall be waived by the state.

(d) The transition proposal shall document that the child was provided all of the documents listed in this subsection. The court shall make a finding as to whether the child has received the documents as part of the independence hearing as provided in subdivision (2)(d) of section 43-285.

43-1312. Plan or permanency plan for foster child; contents; investigation; hearing; court; duties.

(1) Following the investigation conducted pursuant to section 43-1311 and immediately following the initial placement of the child, the person or court in charge of the child shall cause to be established a safe and appropriate plan for the child. The plan shall contain at least the following:

(a) The purpose for which the child has been placed in foster care;

(b) The estimated length of time necessary to achieve the purposes of the foster care placement;

(c) A description of the services which are to be provided in order to accomplish the purposes of the foster care placement;

(d) The person or persons who are directly responsible for the implementation of such plan;

(e) A complete record of the previous placements of the foster child;

(f) The name of the school the child shall attend as provided in section 43-1311; and

(g) The efforts made to involve and engage the child in the development of such plan as provided in the Nebraska Strengthening Families Act.

(2) If the return of the child to his or her parents is not likely based upon facts developed as a result of the investigation, the Department of Health and Human Services shall recommend termination of parental rights and referral for adoption, guardianship, placement with a relative, or, as a last resort, and only in the case of a child who has attained sixteen years of age, another planned permanent living arrangement. If the child is removed from his or her home, the department shall make reasonable efforts to accomplish joint-sibling placement or sibling visitation or ongoing interaction between the siblings as provided in section 43-1311.02.

(3) Each child in foster care under the supervision of the state shall have a permanency hearing by a court, no later than twelve months after the date the child enters foster care and annually thereafter during the continuation of foster care. The court's order shall include the determinations required by section 43-4711 and a finding regarding the appropriateness of the permanency plan determined for the child and shall include whether, and if applicable when, the child will be:

(a) Returned to the parent;

(b) Referred to the state for filing of a petition for termination of parental rights;

(c) Placed for adoption;

(d) Referred for guardianship; or

(e) In cases where the state agency has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, (i) referred for termination of parental rights, (ii) placed for adoption with a fit and willing relative, or (iii) placed with a guardian.

(4) As provided in the Nebraska Strengthening Families Act, in the case of any child age sixteen years of age or older for whom another planned permanent living arrangement is the recommended or court-approved permanency plan:

(a) The permanency plan shall include the identification of significant, supportive connections with identified adults willing to be consistently involved in the child's life as the child transitions to adulthood;

(b) The department shall document the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the department to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent; and

(c) The court shall:

(i) Ask the child about the desired permanency outcome for the child;

(ii) Make a determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and the compelling reasons why it continued to not be in the best interests of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative; and

(iii) Make a determination that the department has met the requirements in subdivisions (a) and (b) of this subsection before approving a permanency plan of another planned permanent living arrangement for a child sixteen years of age or older.

43-1312.01. Placement of child; order granting guardianship; court retain jurisdiction over child; termination of guardianship; when; effect of guardianship.

(1) If the permanency plan for a child established pursuant to section 43-1312 does not recommend return of the child to his or her parent or that the child be placed for adoption, the juvenile court may place the child in a

guardianship in a relative home as defined in section 71-1901, in a kinship home as defined in section 71-1901, or with an individual as provided in section 43-285 if:

(a) The child is a juvenile who has been adjudged to be under subdivision (3)(a) of section 43-247;

(b) The child has been in the placement for at least six months;

(c) The child consents to the guardianship, if the child is ten years of age or older; and

(d) The guardian:

(i) Is suitable and able to provide a safe and permanent home for the child;

(ii) Has made a commitment to provide for the financial, medical, physical, and emotional needs of the child until the child reaches the age of majority or until the termination of extended guardianship assistance payments and medical care pursuant to section 43-4511;

(iii) Has made a commitment to prepare the child for adulthood and independence; and

(iv) Agrees to give notice of any changes in his or her residential address or the residence of the child by filing a written document in the juvenile court file of the child.

(2) In the order granting guardianship, the juvenile court:

(a) Shall grant to the guardian such powers, rights, and duties with respect to the care, maintenance, and treatment of the child as the biological or adoptive parent of the child would have;

(b) May specify the frequency and nature of family time or contact between the child and his or her parents, if appropriate;

(c) May specify the frequency and nature of family time or contact between the child and his or her siblings, if appropriate; and

(d) Shall require that the guardian not return the child to the physical care and custody of the person from whom the child was removed without prior approval of the court.

(3) The juvenile court shall retain jurisdiction over the child for modification or termination of the guardianship order. The court shall discontinue permanency reviews and case reviews and shall relieve the Department of Health and Human Services of the responsibility of supervising the placement of the child. Notwithstanding the retention of juvenile court jurisdiction, the guardianship placement shall be considered permanent for the child.

(4) The child shall remain in the custody of the guardian unless the order creating the guardianship is modified by the court.

(5) Guardianships established under this section shall terminate on the child's nineteenth birthday unless the child is eligible for continued guardianship assistance payments under section 43-4511 and an agreement is signed by the Department of Health and Human Services, the guardian, and the young adult, as defined in section 43-4503, to continue the guardianship assistance. The guardian shall ensure that any guardianship assistance funds provided by the department and received by the guardian for the purpose of an extended guardianship shall be used for the benefit of the young adult. The department shall adopt and promulgate rules and regulations defining services and supports encompassed by such benefit.

(6) Upon the child's nineteenth birthday regardless of the existence of an agreement to extend the guardianship until the child's twenty-first birthday, the guardian shall no longer have the legal authority to make decisions on behalf of the child and shall have no more authority over the person or property of the child than a biological or adoptive parent would have over his or her child, absent consent from the child.

(7) A guardianship established under this section does not terminate the parent-child relationship, including:

(a) The right of the child to inherit from his or her parents;

(b) The right of the biological parents to consent to the child's adoption; and

(c) The responsibility of the parents to provide financial, medical, or other support as ordered by the court.

(8) The Department of Health and Human Services shall adopt and promulgate rules and regulations for the administration of this section.

43-1313. Review of dispositional order; when; procedure. When a child is in foster care placement, the court having jurisdiction over such child for the purposes of foster care placement shall review the dispositional order for such child at least once every six months. The court may reaffirm the order or direct other disposition of the child. Any review hearing by a court having jurisdiction over such child for purposes of foster care placement shall be conducted on the record as provided in sections 43-283 and 43-284, and any recommendations of the office or designated local board concerning such child shall be admissible in such proceedings if such recommendations have been provided to all other parties of record. The court shall review a case on the record more often than every six months and at any time following the original placement of the child if the office or local board requests a hearing in writing specifying the reasons for the review. Members of the office or local board or its designated representative may attend and be heard at any hearing conducted under this section and may participate through counsel at the hearing with the right to call and cross-examine witnesses and present arguments to the court.

43-1314. Court review or hearing; right to participate; notice.

(1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, notice of the court review or hearing and the right of participation in all court reviews and hearings pertaining to a child in a foster care placement shall be provided by the court having jurisdiction over such child for the purposes of foster care placement. The Department of Health and Human Services or contract agency shall have the contact information for all child placements available for all courts to comply with the notification requirements found in this section. The department or contract agency shall each have one telephone number by which any court seeking to provide notice may obtain up-to-date contact information of all persons listed in subdivisions (2)(a) through (h) of this section. All contact information shall be up-to-date within seventy-two hours of any placement change.

(2) Notice shall be provided to all of the following parties that are applicable to the case: (a) The person charged with the care of such child; (b) the child's parents or guardian unless the parental rights of the parents have been terminated by court action as provided in section 43-292 or 43-297; (c) the foster child if age fourteen or over; (d) the foster parent or parents of the foster child; (e) the guardian ad litem of the foster child; (f) the office and designated local board; (g) the preadoptive parent; and (h) the relative providing care for the child. Notice of all court reviews and hearings shall be mailed or personally delivered to the counsel or party, if the party is not represented by counsel, five full days prior to the review or hearing. The use of ordinary mail shall constitute sufficient compliance. Notice to the foster parent, preadoptive parent, or relative providing care shall not be construed to require that such foster parent, preadoptive parent, or relative is a necessary party to the review or hearing.

(3) The court shall inquire into the well-being of the foster child by asking questions, if present at the hearing, of any willing foster parent, preadoptive parent, or relative providing care for the child.

43-1314.01. Six-month case reviews; office; duties.

(1) The office shall be the only entity responsible for the conduct of periodic foster care file audit case reviews which shall be identified as reviews which meet the federal requirements for six-month case reviews pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272. The office shall be fiscally responsible for any noncompliance sanctions imposed by the federal government related to the requirements for review outlined in the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272.

(2) It is the intent of the Legislature that any six-month court review of a juvenile pursuant to sections 43-278 and 43-1313 shall be identified as a review which meets the federal requirements for six-month case reviews pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272.

(3) The office may assist the Department of Health and Human Services as to eligibility under Title IV-E for state wards and eligibility for Supplemental Security Income, Supplemental Security Disability Income, Veterans Administration, or aid to families with dependent children benefits, for child support orders of the court, and for medical insurance other than Medicaid.

43-1314.02. Caregiver information form; development; provided to caregiver.

(1) The court shall provide a caregiver information form or directions on downloading such form from the Supreme Court Internet web site to the foster parent, preadoptive parent, guardian, or relative providing care for the child when giving notice of a court review described in section 43-1314. The form is to be dated and signed by the caregiver and shall, at a minimum, request the following:

(a) The child's name, age, and date of birth;

(b) The name of the caregiver, his or her telephone number and address, and whether the caregiver is a foster parent, preadoptive parent, guardian, or relative;

(c) How long the child has been in the caregiver's care;

(d) A current picture of the child;

(e) The current status of the child's medical, dental, and general physical condition;

(f) The current status of the child's emotional condition;

(g) The current status of the child's education;

(h) Whether or not the child is a special education student and the date of the last individualized educational plan;

(i) A brief description of the child's social skills and peer relationships;

(j) A brief description of the child's special interests and activities;

(k) A brief description of the child's reactions before, during, and after visits;

(l) Whether or not the child is receiving all necessary services;

(m) The date and place of each visit by the caseworker with the child;

(n) A description of the method by which the guardian ad litem has acquired information about the child; and

(o) Whether or not the caregiver can make a permanent commitment to the child if the child does not return home.

(2) A caregiver information form shall be developed by the Supreme Court. Such form shall be made a part of the record in each court that reviews the child's foster care proceedings.

43-1315. Status and permanency plan review; placement order. In reviewing the foster care status and permanency plan of a child and in determining its order for disposition, the court shall continue placement outside the home upon a written determination that return of the child to his or her home would be contrary to the welfare of such child and that reasonable efforts to preserve and reunify the family, if required under section 43-283.01, have been made. In making this determination, the court shall consider the goals of the foster care placement and the safety and appropriateness of the foster care plan or permanency plan established pursuant to section 43-1312.

43-1316. Status review; child's needs; determination. The court shall, when reviewing the foster care status of a child, determine whether the individual physical, psychological, and sociological needs of the child are being met. The health and safety of the child are of paramount concern in such review.

43-1317. Training for local board members. The office shall establish compulsory training for local board members which shall consist of initial training programs followed by periodic inservice training programs.

43-1318. Act, how cited. Sections 43-1301 to 43-1321 shall be known and may be cited as the Foster Care Review Act.

43-1319. Funds of Department of Health and Human Services; use. Funds of the Department of Health and Human Services shall be used to defray the reasonable expenses incurred in the recruitment, training, and recognition of foster care providers and volunteers, including expenses incurred for community forums, public information sessions, and similar administrative functions.

43-1320. Foster parents; liability protection; Foster Parent Liability and Property Damage Fund; created; use; investment; unreimbursed liability and damage; claim.

(1) The Legislature finds and declares that foster parents are a valuable resource providing an important service to the citizens of Nebraska. The Legislature recognizes that the current insurance crisis has adversely affected some foster parents in several ways. Foster parents have been unable to obtain liability insurance coverage over and above homeowner's or tenant's coverage for actions filed against them by the foster child, the child's parents, or the child's legal guardian. In addition, the monthly payment made to foster parents is not sufficient to cover the cost of obtaining extended coverage and there is no mechanism in place by which foster parents can recapture the cost. Foster parents' personal resources are at risk, and therefor the Legislature desires to provide relief to address these problems.

(2) The Department of Health and Human Services shall provide for self-insuring the foster parent program pursuant to section 81-8,239.01 or shall provide and pay for liability and property damage insurance for participants in a family foster parent program who have been licensed or approved to provide care or who have been licensed or approved by a legally established Indian tribal council operating within the state to provide care.

(3) There is hereby created the Foster Parent Liability and Property Damage Fund. The fund shall be administered by the Department of Health and Human Services and shall be used to provide funding for self-insuring the foster parent program pursuant to section 81-8,239.01 or to purchase any liability and property damage insurance policy provided pursuant to subsection (2) of this section and reimburse foster parents for unreimbursed liability and property damage incurred or caused by a foster child as the result of acts covered by the insurance policy. Claims for unreimbursed liability and property damage incurred or caused by a foster child may be submitted in the manner provided in the State Miscellaneous Claims Act. Each claim shall be limited to the amount of any deductible applicable to the insurance policy provided pursuant to subsection (2) of this section, and there may be a fifty-dollar deductible payable by the foster parent per claim. The department shall adopt and promulgate rules and regulations to carry out this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

43-1321. Foster Care Review Office Cash Fund; created; use; investment. There is hereby created the Foster Care Review Office Cash Fund. The fund shall be administered by the Foster Care Review Office. The office shall remit revenue from the following sources to the State Treasurer for credit to the fund:

(1) Registration and other fees received for training, seminars, or conferences fully or partially sponsored or hosted by the office;

(2) Payments to offset printing, postage, and other expenses for books, documents, or other materials printed or published by the office; and

(3) Money received by the office as gifts, grants, reimbursements, or appropriations from any source intended for the purposes of the fund.

The fund shall be used for the administration of the Foster Care Review Office. The State Treasurer shall transfer any funds in the Foster Care Review Board Cash Fund on July 1, 2012, to the Foster Care Review Office Cash Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

43-1322. Repealed. Laws 2017, LB225, § 20.

IX. NEBRASKA INDIAN CHILD WELFARE ACT

43-1501. Act, how cited. Sections 43-1501 to 43-1517 shall be known and may be cited as the Nebraska Indian Child Welfare Act.

43-1502. Purpose of act. The purpose of the Nebraska Indian Child Welfare Act is to clarify state policies and procedures regarding the implementation by the State of Nebraska of the federal Indian Child Welfare Act. It shall be the policy of the state to cooperate fully with Indian tribes in Nebraska in order to ensure that the intent and provisions of the federal Indian Child Welfare Act are enforced. This cooperation includes recognition by the state that Indian tribes have a continuing and compelling governmental interest in an Indian child whether or not the Indian child is in the physical or legal custody of a parent, an Indian custodian, or an Indian extended family member at the commencement of an Indian child custody proceeding or the Indian child has resided or is domiciled on an Indian reservation. The state is committed to protecting the essential tribal relations and best interests of an Indian child by promoting practices consistent with the federal Indian Child Welfare Act and other applicable law designed to prevent the Indian child's voluntary or involuntary out-of-home placement.

43-1503. Terms, defined. For purposes of the Nebraska Indian Child Welfare Act, except as may be specifically provided otherwise:

(1) Active efforts shall mean and include, but not be limited to:

(a) A concerted level of casework, both prior to and after the removal of an Indian child, exceeding the level that is required under reasonable efforts to preserve and reunify the family described in section 43-283.01 in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe or tribes to the extent possible under the circumstances;

(b) A request to the Indian child's tribe or tribes and extended family known to the department or the state to convene traditional and customary support and services;

(c) Actively engaging, assisting, and monitoring the family's access to and progress in culturally appropriate and available resources of the Indian child's extended family members, tribal service area, Indian tribe or tribes, and individual Indian caregivers;

(d) Identification of and provision of information to the Indian child's extended family members known to the department or the state concerning appropriate community, state, and federal resources that may be able to offer housing, financial, and transportation assistance and actively assisting the family in accessing such community, state, and federal resources;

(e) Identification of and attempts to engage tribally designated Nebraska Indian Child Welfare Act representatives;

(f) Consultation with extended family members known to the department or the state, or a tribally designated Nebraska Indian Child Welfare Act representative if an extended family member cannot be located, to identify family or tribal support services that could be provided by extended family members or other tribal members if extended family members cannot be located;

(g) Exhaustion of all available tribally appropriate family preservation alternatives; and

(h) When the department or the state is involved in a proceeding under the act, the department or the state shall provide a written report of its attempt to provide active efforts to the court at every hearing involving an Indian child. This report shall be sent to the Indian child's tribe or tribes within three days after being filed with the court and shall be deemed to be admissible evidence of active efforts in proceedings conducted under the act;

(2) Best interests of the Indian child shall include:

(a) Using practices in compliance with the federal Indian Child Welfare Act, the Nebraska Indian Child Welfare Act, and other applicable laws that are designed to prevent the Indian child's voluntary or involuntary out-of-home placement; and

(b) Whenever an out-of-home placement is necessary, placing the child, to the greatest extent possible, in a foster home, adoptive placement, or other type of custodial placement that reflects the unique values of the Indian child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the Indian child's tribe or tribes and tribal community;

(3) Child custody proceeding shall mean and include:

(a) Foster care placement which shall mean any action removing an Indian child from his or her parent or Indian custodian for temporary or emergency placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(b) Termination of parental rights which shall mean any action resulting in the termination of the parent-child relationship;

(c) Preadoptive placement which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement;

(d) Adoptive placement which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption; and

(e) Voluntary foster care placement which shall mean a non-court-involved proceeding in which the department or the state is facilitating a voluntary foster care placement or in-home services to families at risk of entering the foster care system. An Indian child, parent, or tribe involved in a voluntary foster care placement shall only be provided protections as provided in subsection (4) of section 43-1505 and sections 43-1506 and 43-1508.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents;

(4) The department or the state shall mean the applicable state social services entity that is involved with the provision of services to Indian children, specifically the Department of Health and Human Services and the Office of Probation Administration in certain cases;

(5) Extended family member shall be as defined by the law or custom of the Indian child's primary tribe or, in the absence of such laws or customs of the primary tribe, the law or custom of the Indian child's other tribes or, in the absence of such law or custom, shall mean a person who has reached the age of eighteen and who is the Indian child's parent, grandparent, aunt or uncle, clan member, band member, sibling, brother-in-law or sister-in-law, niece or nephew, cousin, or stepparent;

(6) Federal Indian Child Welfare Act shall mean the federal Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq.;

(7) Indian shall mean any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a regional corporation defined in section 7 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1606;

(8) Indian child shall mean any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(9) Indian child's primary tribe shall mean, in the case of an Indian child that is a member or eligible for membership in multiple tribes, the tribe determined by the procedure enumerated in subsection (4) of section 43-1504;

(10) Indian child's tribe or tribes shall mean the Indian tribe or tribes in which an Indian child is a member or eligible for membership;

(11) Indian custodian shall mean any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(12) Indian organization shall mean any group, association, partnership, limited liability company, corporation, or other legal entity owned or controlled by Indians or a majority of whose members are Indians;

(13) Indian tribe shall mean any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. 1602(c);

(14) Parent means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father when paternity has not been acknowledged or established;

(15) Qualified expert witness shall mean one of the following persons, in descending priority order although a court may assess the credibility of individual witnesses:

(a) A member of the Indian child's tribe or tribes who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family and childrearing practices;

(b) A member of another tribe who is recognized to be a qualified expert witness by the Indian child's tribe or tribes based on his or her knowledge of the delivery of child and family services to Indians and the Indian child's tribe or tribes;

(c) A lay expert witness that possesses substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe or tribes;

(d) A professional person having substantial education and experience in the area of his or her specialty who can demonstrate knowledge of the prevailing social and cultural standards and childrearing practices within the Indian child's tribe or tribes; or

(e) Any other professional person having substantial education in the area of his or her specialty;

(16) Reservation shall mean Indian country as defined in 18 U.S.C. 1151 and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation or a federally designated or established service area which means a geographic area designated by the United States where federal services and benefits furnished to Indians and Indian tribes are provided or which is otherwise designated to constitute an area on or near a reservation;

(17) Secretary shall mean the Secretary of the United States Department of the Interior;

(18) Tribal court shall mean a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings; and

(19) Tribal service area shall mean a geographic area, as defined by the applicable Indian tribe or tribes, in which tribal services and programs are provided to Indians.

43-1504. Custody proceeding; jurisdiction of tribe; transfer of proceedings; rights of tribe; tribal proceedings; effect.

(1) An Indian tribe shall have jurisdiction exclusive as to this state over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except when such jurisdiction is otherwise vested in the state by existing federal law. When an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(2) In any state court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the primary tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe, except that such transfer shall be subject to declination by the tribal court of the primary tribe.

(3) In any state court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe or tribes shall have a right to intervene at any point in the proceeding regardless of whether the intervening party is represented by legal counsel. The Indian child's tribe or tribes and their counsel are not required to associate with local counsel or pay a fee to appear pro hac vice in a child custody proceeding under the Nebraska Indian Child Welfare Act. Representatives from the Indian child's tribe or tribes have the right to fully participate in every court proceeding held under the act.

(4) If the Indian child is eligible for membership or enrolled in multiple Indian tribes and more than one Indian tribe intervenes in a state court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian child's primary tribe shall be determined in the following manner:

(a) The applicable Indian tribes shall enter into a unanimous agreement designating which Indian tribe is the Indian child's primary tribe for the underlying state court proceeding within thirty days after intervention by one or more additional Indian tribes, after consultation, if practicable, with the parents of the Indian child and with the Indian child if he or she is twelve years of age or older; or

(b) If unanimous agreement is not possible within the thirty-day period, the state court in which the proceeding is pending shall determine the Indian child's primary tribe based upon the amount and significance of the contacts between each Indian tribe and the Indian child.

(5) The State of Nebraska shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that the state gives full faith and credit to the public acts, records, and judicial proceedings of any other entity.

43-1505. Foster care placement; termination of parental rights; procedures; rights.

(1) In any involuntary proceeding in a state court, when the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall send a notice conforming to the requirements of 25 C.F.R. 23.11 to the parents, the Indian custodian, and the Indian child's tribe or tribes, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe or tribes cannot be determined, such notice shall be given to the secretary in like manner, who may provide the requisite notice to the parent or Indian custodian and the tribe or tribes. No foster care placement or termination of parental rights proceedings shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or tribes or the secretary. The parent or Indian custodian or the tribe or tribes shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(2) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interests of the Indian

child. When state law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the secretary upon appointment of counsel and request from the secretary, upon certification of the presiding judge, payment of reasonable attorney's fees out of funds which may be appropriated.

(3) Each party to a foster care placement or termination of parental rights proceeding under state law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(4) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under state law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family or unite the parent or Indian custodian with the Indian child and that these efforts have proved unsuccessful. Any written evidence showing that active efforts have been made shall be admissible in a proceeding under the Nebraska Indian Child Welfare Act. Prior to the court ordering placement of the child in foster care or the termination of parental rights, the court shall make a determination that active efforts have been provided or that the party seeking placement or termination has demonstrated that attempts were made to provide active efforts to the extent possible under the circumstances.

(5) The court shall not order foster care placement under this section in the absence of a determination by the court, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(6) The court shall not order termination of parental rights under this section in the absence of a determination by the court, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

43-1505.01. Notice of involuntary proceeding in state court; contents; filing with court.

(1) Notice of an involuntary proceeding in state court involving an Indian child shall conform with the requirements of 25 C.F.R. 23.11 and shall contain the following additional information, to the extent it is known, and if this additional information is unknown, a statement indicating what attempts have been made to locate the information:

(a) The name and last-known address of the Indian child;

(b) The name and address of the Indian child's parents, paternal and maternal grandparents, and Indian custodians, if any;

(c) The tribal affiliation of the parents of the Indian child or, if applicable, the Indian custodians;

(d) A statement as to whether the Indian child's residence or domicile is on the tribe's reservation;

(e) An identification of any tribal court order affecting the custody of the Indian child to which a state court may be required to accord full faith and credit; and

(f) A copy of the motion for foster care placement of the Indian child and any accompanying affidavits in support thereof if such documents exist.

(2) A copy of the notice of an involuntary proceeding in state court involving an Indian child, as described in subsection (1) of this section, shall be filed with the court within three days after issuance.

43-1506. Voluntary proceeding; consent; when valid; initiation of voluntary services; notice; department or state; duties; withdrawal of consent.

(1) When any parent or Indian custodian voluntarily consents (a) to a foster care placement or (b) to relinquishment or termination of parental rights, such consent shall not be valid unless executed in writing and

recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(2) When the department or the state offers the parent, Indian child, or Indian custodian services through a voluntary foster care placement or in-home services and the department or the state knows or has reason to know that an Indian child is involved, the department or the state shall notify the parent or Indian custodian and the Indian child's tribe or tribes, by telephone call, facsimile transmission, email, or registered mail with return receipt requested, of the provision of services and any pending child custody proceeding. If the identity or location of the parent or Indian custodian and the tribe or tribes cannot be determined, such notice shall be given to the secretary and the appropriate area director listed in 25 C.F.R. 23.11 in like manner who may provide the requisite notice to the parent or Indian custodian and the tribe or tribes. Notice shall be provided within five days after the initiation of voluntary services.

(3) When the department or the state offers the parent or Indian custodian services through a voluntary foster care placement or in-home services, the Indian custodian of the child and the Indian child's tribe or tribes have a right to participate in, provide, or consult with the department or the state regarding the provision of voluntary services.

(4) When the department or the state offers the parent or Indian custodian services through a voluntary foster care placement or in-home services, the department or the state shall provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family or unite the parent or Indian custodian with the Indian child until these efforts have proved unsuccessful.

(5) Prior to any voluntary relinquishment or termination of parental rights proceeding in which the department or the state is a party or was providing assistance to a parent or Indian custodian, the department or the state or its designee shall submit the following information, in writing, to the court if it has not previously been provided:

(a) The jurisdictional authority of the court in the proceeding;

(b) The date of the Indian child's birth and the date of any voluntary consent to relinquishment or termination;

(c) The age of the Indian child at the time voluntary consent was given;

(d) The date the parent appeared in court and was informed by the judge of the terms and consequences of any voluntary consent to relinquishment or termination;

(e) The parent fully understood the explanation of such terms and consequences in English or, when necessary, the explanation was interpreted into a language that the parent understood and the parent fully understood the explanation of such terms and consequences in the language into which such terms and consequences were translated;

(f) The name and address of any prospective adoptive parent whose identity is known to the consenting parent;

(g) The promises, if any, made to the parent, as a condition of the parent's consent, including promises regarding the tribal affiliation or health, ethnic, religious, economic, or other personal characteristics of any adoptive family with which the child would be placed; and

(h) The details, if any, of an enforceable communication or contact agreement authorized by section 43-162.

(6) Any parent or Indian custodian may withdraw consent to a foster care or voluntary foster care placement under state law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(7) In any voluntary proceedings for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(8) After the entry of a final decree of adoption of an Indian child in any state court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under state law.

43-1507. Petition to invalidate actions in violation of law. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under state law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's primary tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 43-1504 to 43-1506.

43-1508. Placement guidelines; preferences; records.

(1) In any adoptive placement of an Indian child under state law, a preference shall be given, in the absence of good cause to the contrary, to a placement with the following in descending priority order:

(a) A member of the Indian child's extended family;

(b) Other members of the Indian child's tribe or tribes;

(c) Other Indian families; or

(d) A non-Indian family committed to enabling the child to have extended family time and participation in the cultural and ceremonial events of the Indian child's tribe or tribes;

(2) Any child accepted for foster care or preadoptive placement or a voluntary foster care placement shall be placed in the least restrictive setting which most approximates a family and in which his or her special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with one of the following in descending priority order:

(a) A member of the Indian child's extended family;

(b) Other members of the Indian child's tribe or tribes;

(c) A foster home licensed, approved, or specified by the Indian child's tribe or tribes;

(d) An Indian foster home licensed or approved by an authorized non-Indian licensing authority;

(e) A non-Indian family committed to enabling the child to have extended family time and participation in the cultural and ceremonial events of the Indian child's tribe or tribes;

(f) An Indian facility or program for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs; or

(g) A non-Indian facility or program for children approved by an Indian tribe.

(3) In the case of a placement under subsection (1) or (2) of this section, if the Indian child's primary tribe shall establish a different order of preference by resolution or in the absence thereof the order established by resolution of the Indian child's other tribes, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (2) of this section. When appropriate, the preference of the Indian child or parent shall be considered, except that, when a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(4) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties. Good cause to deviate from the placement preferences in subsections (1) through (3) of this section includes: (a) The request of the biological parents or the Indian child when the Indian child is at least twelve years of age; (b) the extraordinary physical or emotional needs of the Indian child as established by testimony of a qualified expert witness; or (c) the unavailability of suitable families for placement after a diligent search has been completed for families meeting the preference criteria. The burden of establishing the existence of good cause to deviate from the placement preferences and order shall be by clear and convincing evidence on the party urging that the preferences not be followed.

(5) A record of each such placement, under state law, of an Indian child shall be maintained by the state, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the secretary or the Indian child's tribe or tribes.

43-1509. Return of custody; removal from foster care; procedures.

(1) Notwithstanding any other state law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 43-1505, that such return of custody is not in the best interests of the Indian child.

(2) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the Nebraska Indian Child Welfare Act, except in the case in which an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

43-1510. Adopted individual; access to information. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

43-1511. Agreements with state agencies; authorized.

(1) The appropriate departments and agencies of this state are authorized to enter into agreements with Indian tribes respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between the state and Indian tribes.

(2) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

43-1512. Improper removal from custody; effect. When any petitioner in an Indian child custody proceeding before a state court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his or her parent or Indian custodian unless

returning the child to his or her parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

43-1513. Higher federal standard of protection; when applicable. In any case when federal law applicable to a child custody proceeding provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under the Nebraska Indian Child Welfare Act, the state court shall apply the federal standard.

43-1514. Emergency removal or placement of child; appropriate action; hotline representative; duty.

(1) Nothing in the Nebraska Indian Child Welfare Act shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his or her parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable state law, in order to prevent imminent physical damage or harm to the child. The state authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of the Nebraska Indian Child Welfare Act, transfer the child to the jurisdiction of the appropriate Indian tribe or tribes, or restore the child to the parent or Indian custodian, as may be appropriate.

(2) During the course of each intake received by the statewide child abuse and neglect hotline provided by the Department of Health and Human Services, the hotline representative shall inquire as to whether the person calling the hotline believes one of the parties involved may be an Indian child or Indian person. If the hotline representative has any reason to believe that an Indian child or Indian person is involved in the intake, the representative shall immediately document the information and inform his or her supervisor.

43-1515. Applicability of act; exceptions. None of the provisions of the Nebraska Indian Child Welfare Act, except subsection (1) of section 43-1504 and section 43-1511, shall affect a proceeding under state law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after November 8, 1978, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

43-1516. Adoptive placement; information made available. Any state court entering a final decree or order in any Indian child adoptive placement after September 6, 1985, shall provide the secretary with a copy of such decree or order together with such other information as may be necessary to show:

(1) The name and tribal affiliation of the child;

(2) The names and addresses of the biological parents;

(3) The names and addresses of the adoptive parents; and

(4) The identity of any agency having files or information relating to such adoptive placement.

When the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information.

43-1517. Rules and regulations. The department or the state, in consultation with Indian tribes, shall adopt and promulgate rules and regulations to establish standards and procedures for the department's or the state's review of cases subject to the Nebraska Indian Child Welfare Act and methods for monitoring the department's or the state's compliance with the federal Indian Child Welfare Act and the Nebraska Indian Child Welfare Act. The standards and procedures and the monitoring methods shall be integrated into the department's or the state's structure and plan for the federal government's child and family service review process and any program improvement plan resulting from that process.

X. THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

43-1103. Interstate Compact for the Placement of Children.

ARTICLE I. PURPOSE

The purpose of this Interstate Compact for the Placement of Children is to:

A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

E. Provide for uniform data collection and information sharing between member states under this compact.

F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

As used in this compact,

A. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

B. "Assessment" means an evaluation of a prospective placement by a public child-placing agency in the receiving state to determine if the placement meets the individualized needs of the child, including, but not limited to, the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child-placing agency.

C. "Child" means an individual who has not attained the age of eighteen (18).

D. "Certification" means to attest, declare or swear to before a judge or notary public.

E. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

F. "Home study" means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 11 section 1602(c).

H. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

J. "Legal Risk Placement" ("Legal Risk Adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

K. "Member state" means a state that has enacted this compact.

L. "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

M. "Nonmember state" means a state which has not enacted this compact.

N. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to, the name, date, and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

O. "Placement" means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

P. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

Q. "Provisional placement" means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

R. "Public child-placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

S. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

T. "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

U. "Residential Facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.

V. "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. "Rule" has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

W. "Sending state" means the state from which the placement of a child is initiated.

X. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

Y. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

Z. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

AA. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child in a custody proceeding in which a public child-placing agency is not a party, provided the placement is not intended to effectuate an adoption.

2. The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

3. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

4. The placement of a child, not subject to Article III, Section A, into a residential facility by his or her parent.

5. The placement of a child with a noncustodial parent provided that:

a. The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction in interstate placements in which the public child-placing agency is a party to the proceeding.

6. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

7. Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state.

8. The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

A. Except as provided in Article IV, Section H, and Article V, Section B, paragraph two and three, concerning private and independent adoptions, and in interstate placements in which the public child-placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference, or such other means as approved by the rules of the Interstate Commission; and Judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their Canons of Judicial Conduct and any rules promulgated by the Interstate Commission.

D. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state; or

2. The child is adopted; or

3. The child reaches the age of majority under the laws of the sending state; or

4. The child achieves legal independence pursuant to the laws of the sending state; or

5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

7. The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving state.

E. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

F. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

G. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

H. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

1. when the child is a ward of another court that established jurisdiction over the child prior to the placement; or

2. when the child is in the legal custody of a public agency in the sending state; or

3. when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

I. A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an "approved placement" by the public child-placing agency in the receiving state.

ARTICLE V. PLACEMENT EVALUATION

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

B. For placements by a private child-placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child-placing agency. The required content to accompany a request for approval shall include all of the following:

1. A request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval; and

2. The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state, or, where permitted, the laws of the state where the adoption will be finalized; and

3. Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur; and

4. A home study; and

5. An acknowledgment of legal risk signed by the prospective adoptive parents.

C. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child-placing agency in both the sending state and the receiving state.

D. Approval from the public child-placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

E. The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

F. Upon receipt of a request from the public child-placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for a provisional placement.

G. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment or approve the placement.

H. The public child-placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the Interstate Commission.

I. For a placement by a private child-placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

J. The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

A. Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child-placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures act.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided, however, that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. as determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

D. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

E. Nothing in this compact shall be construed as to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

G. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

H. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act, 25 U.S.C. 1901, et seq., for placements subject to the provisions of this compact, prior to placement.

I. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII of this compact.

E. To collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

I. To establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X of this compact.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws

1. Within twelve months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

a. relate solely to the Interstate Commission's internal personnel practices and procedures; or

b. disclose matters specifically exempted from disclosure by federal law; or

c. disclose financial or commercial information which is privileged, proprietary, or confidential in nature; or

d. involve accusing a person of a crime, or formally censuring a person; or

e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

f. disclose investigative records compiled for law enforcement purposes; or

g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice-chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

2. Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available; and

3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than sixty days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this compact shall be null and void no less than twelve but no more than twenty-four months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first twelve months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules
2. Forms and procedures
3. Timelines
4. Data collection and reporting
5. Rulemaking
6. Visitation
7. Progress reports/supervision
8. Sharing of information/confidentiality
9. Financing of the Interstate Commission
10. Mediation, arbitration, and dispute resolution
11. Education, training, and technical assistance
12. Enforcement
13. Coordination with other interstate compacts

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:

a. Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or

b. Prevent loss of federal or state funds; or

c. Meet a deadline for the promulgation of an administrative rule required by federal law.

2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety days after the effective date of the emergency rule.

3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.

2. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

4. The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the Interstate Commission may:

a. Provide remedial training and specific technical assistance; or

b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

c. By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I of this compact. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

XI. THE INTERSTATE COMPACT FOR JUVENILES

43-1005. Expense of returning juvenile to state; how paid. The expense of returning juveniles to this state pursuant to the Interstate Compact for Juveniles shall be paid as follows:

(1) In the case of a runaway, the court making the requisition shall inquire summarily regarding the financial ability of the petitioner to bear the expense and if it finds he or she is able to do so shall order that he or she pay all such expenses; otherwise the court shall arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile for his or her actual and necessary expenses; and the court may order that the petitioner reimburse the county for so much of said expense as the court finds he or she is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he or she may be proceeded against for contempt.

(2) In the case of an escapee or absconder, if the juvenile is in the legal custody of the Department of Health and Human Services it shall bear the expense of his or her return; otherwise the appropriate court shall, on petition of the person entitled to his or her custody or charged with his or her supervision, arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for his or her actual and necessary expenses. In this subdivision appropriate court means the juvenile court which adjudged the juvenile to be delinquent or, if the juvenile is under supervision for another state, then the juvenile court of the county of the juvenile's residence during such supervision.

(3) In the case of a voluntary return of a runaway without requisition, the person entitled to his or her legal custody shall pay the expense of transportation and the actual and necessary expenses of the person, if any, who returns such juvenile; but if he or she is financially unable to pay all the expenses he or she may petition the juvenile court of the county of the petitioner's residence for an order arranging for the transportation as provided in subdivision (1) of this section. The court shall inquire summarily into the financial ability of the petitioner, and, if it finds he or she is unable to bear any or all of the expense, the court shall arrange for such transportation at the expense of the county and shall order the county to reimburse the person, if any, who returns the juvenile, for his or her actual and necessary expenses. The court may order that the petitioner reimburse the county for so much of said expense as the court finds he or she is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he or she may be proceeded against for contempt.

43-1011. Interstate Compact for Juveniles.

ARTICLE I. PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: (A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; (B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; (C) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their

return; (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (E) provide for the effective tracking and supervision of juveniles; (F) equitably allocate the costs, benefits and obligations of the compacting states; (G) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders; (H) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact; (J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials; and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance; (L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefor are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Bylaws" means: those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

B. "Compact Administrator" means: the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

C. "Compacting State" means: any state which has enacted the enabling legislation for this compact.

D. "Commissioner" means: the voting representative of each compacting state appointed pursuant to Article III of this compact.

E. "Court" means: any court having jurisdiction over delinquent, neglected, or dependent children.

F. "Deputy Compact Administrator" means: the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

G. "Interstate Commission" means: the Interstate Commission for Juveniles created by Article III of this compact.

H. "Juvenile" means: any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(1) Accused Delinquent — a person charged with an offense that, if committed by an adult, would be a criminal offense;

(2) Adjudicated Delinquent — a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(3) Accused Status Offender — a person charged with an offense that would not be a criminal offense if committed by an adult;

(4) Adjudicated Status Offender — a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(5) Nonoffender — a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

I. "Noncompacting state" means: any state which has not enacted the enabling legislation for this compact.

J. "Probation or Parole" means: any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

K. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

L. "State" means: a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

ARTICLE III. INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex officio (nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

E. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the bylaws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing any person of a crime, or formally censuring any person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes;

7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

8. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.

2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

3. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.

4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

5. To establish and maintain offices which shall be located within one or more of the compacting states.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept, hire or contract for services of personnel.

8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.

14. To sue and be sued.

15. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

18. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

19. To establish uniform standards of the reporting, collecting and exchanging of data.

20. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

ARTICLE V. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws

1. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

a. Establishing the fiscal year of the Interstate Commission;

b. Establishing an executive committee and such other committees as may be necessary;

c. Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

d. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

e. Establishing the titles and responsibilities of the officers of the Interstate Commission;

f. Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

g. Providing "startup" rules for initial administration of the compact; and

h. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice-chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

Section C. Qualified Immunity, Defense and Indemnification

1. The Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. publish the proposed rule's entire text stating the reason(s) for that proposed rule;

2. allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;

3. provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and

4. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

E. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

F. The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this compact shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

G. Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII. OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII. FINANCE

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE IX. THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise

oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands as defined in Article II of this compact is eligible to become a compacting state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

C. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI. WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

Section B. Technical Assistance, Fines, Suspension, Termination and Default

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

a. Remedial training and technical assistance as directed by the Interstate Commission;

b. Alternative Dispute Resolution;

c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has therefor determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within sixty days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

3. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

Section D. Dissolution of Compact

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XII. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

XII. COURT APPOINTED SPECIAL ADVOCATES

43-3701. Act, how cited. Sections 43-3701 to 43-3720 shall be known and may be cited as the Court Appointed Special Advocate Act.

43-3702. Definitions, where found. For purposes of the Court Appointed Special Advocate Act, the definitions in sections 43-3703 to 43-3705 apply.

43-3703. Child, defined. Child means an individual under nineteen years of age.

43-3704. Court appointed special advocate program, defined. Court appointed special advocate program means a program established pursuant to the Court Appointed Special Advocate Act.

43-3705. Court appointed special advocate volunteer, defined. Court appointed special advocate volunteer or volunteer means an individual appointed by a court pursuant to the Court Appointed Special Advocate Act.

43-3706. Court appointed special advocate programs; authorized; requirements.

(1) Court appointed special advocate programs may be established and shall operate pursuant to the Court Appointed Special Advocate Act.

(2) A court appointed special advocate program shall:

(a) Be an organization that screens, trains, and supervises court appointed special advocate volunteers to advocate for the best interests of children when appointed by a court as provided in section 43-3710. Each court may be served by a court appointed special advocate program. One program may serve more than one court;

(b) Hold regular case conferences with volunteers to review case progress and conduct annual performance reviews for all volunteers;

(c) Provide staff and volunteers with written program policies, practices, and procedures; and

(d) Provide the training required pursuant to section 43-3708.

43-3707. Program director; duties. The program director of the court appointed special advocate program shall be responsible for the administration of the program, including recruitment, selection, training, supervision, and evaluation of staff and court appointed special advocate volunteers.

43-3708. Volunteers; requirements.

(1) All court appointed special advocate volunteers shall participate fully in preservice training, including, but not limited to, instruction on recognizing child abuse and neglect, cultural awareness, socioeconomic issues, child development, the juvenile court process, permanency planning, volunteer roles and responsibilities, advocacy, information gathering, and documentation. Volunteers shall be required to participate in observation of court proceedings prior to appointment.

(2) All volunteers shall receive a training manual that includes guidelines for service and duties.

(3) Each court appointed special advocate program shall provide a minimum of ten hours of inservice training per year to volunteers.

43-3709. Volunteers; minimum qualifications.

(1) The minimum qualifications for any prospective court appointed special advocate volunteer are that he or she shall:

(a) Be at least twenty-one years of age or older and have demonstrated an interest in children and their welfare;

(b) Be willing to commit to the court for a minimum of one year of service to a child;

(c) Complete an application, including providing background information required pursuant to subsection (2) of this section;

(d) Participate in a screening interview; and

(e) Participate in the training required pursuant to section 43-3708.

(2) As required background screening, the program director shall obtain the following information regarding a volunteer applicant:

(a) A check of the applicant's criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol;

(b) A check of his or her record with the central registry of child protection cases maintained under section 28-718;

(c) A check of his or her driving record; and

(d) At least three references who will attest to the applicant's character, judgment, and suitability for the position of a court appointed special advocate volunteer.

(3) If the applicant has lived in Nebraska for less than twelve months, the program director shall obtain the records required in subdivisions (2)(a) through (2)(c) of this section from all other jurisdictions in which the applicant has lived during the preceding year.

43-3710. Appointment of volunteer; procedure.

(1) A judge may appoint a court appointed special advocate volunteer in any proceeding brought pursuant to section 43-247 or 43-292 when, in the opinion of the judge, a child who may be affected by such proceeding requires services that a volunteer can provide and the court finds that the appointment is in the best interests of the child.

(2) A volunteer shall be appointed pursuant to a court order. The court order shall specify the volunteer as a friend of the court acting on the authority of the judge. The volunteer acting as a friend of the court may offer as evidence a written report with recommendations consistent with the best interests of the child, subject to all pertinent objections.

(3) A memorandum of understanding between a court and a court appointed special advocate program is required in any county where a program is established and shall set forth the roles and responsibilities of the court appointed special advocate volunteer.

(4) The volunteer's appointment shall conclude:

(a) When the court's jurisdiction over the child terminates;

(b) Upon discharge by the court on its own motion;

(c) With the approval of the court, at the request of the program director of the court appointed special advocate program to which the volunteer is assigned; or

(d) Upon successful motion of a party to the action for the removal of the volunteer because the party believes the volunteer has acted inappropriately, is unqualified, or is unsuitable for the appointment.

43-3711. Volunteer; prohibited acts. A court appointed special advocate volunteer shall not:

(1) Accept any compensation for the duties and responsibilities of his or her appointment;

(2) Have any association that creates a conflict of interest with his or her duties;

(3) Be related to any party or attorney involved in a case;

(4) Be employed in a position that could result in a conflict of interest or give rise to the appearance of a conflict; or

(5) Use the position to seek or accept gifts or special privileges.

43-3712. Volunteer; duties.

(1) Upon appointment in a proceeding, a court appointed special advocate volunteer shall:

(a) Conduct an independent examination regarding the best interests of the child that will provide factual information to the court regarding the child and the child's family. The examination may include interviews with and observations of the child, interviews with other appropriate individuals, and the review of relevant records and reports; and

(b) Determine if an appropriate permanency plan has been created for the child, whether appropriate services are being provided to the child and the child's family, and whether the treatment plan is progressing in a timely manner.

(2) The volunteer, with the support and supervision of the court appointed special advocate program staff, shall make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services for the child and the child's family and shall prepare a written report to be distributed to the court and the parties to the proceeding.

(3) The volunteer shall monitor the case to which he or she has been appointed to assure that the child's essential needs are being met.

(4) The volunteer shall make every effort to attend all hearings, meetings, and any other proceeding concerning the case to which he or she has been appointed.

(5) The volunteer may be called as a witness in a proceeding by any party or the court.

43-3713. Cooperation; notice required.

(1) All government agencies, service providers, professionals, school districts, school personnel, parents, and families shall cooperate with all reasonable requests of the court appointed special advocate volunteer. The volunteer shall cooperate with all government agencies, service providers, professionals, school districts, school personnel, parents, and families.

(2) The volunteer shall be notified in a timely manner of all hearings, meetings, and any other proceeding concerning the case to which he or she has been appointed. The court in its discretion may proceed notwithstanding failure to notify the volunteer or failure of the volunteer to appear.

43-3714. Confidentiality; violation; penalty. The contents of any document, record, or other information relating to a case to which the court appointed special advocate volunteer has access are confidential, and the volunteer shall not disclose such information to persons other than the court, the parties to the action, and other persons authorized by the court. A violation of this section is a Class III misdemeanor.

43-3715. Attorney-client privilege; applicability. Nothing in the Court Appointed Special Advocate Act affects the attorney- client privilege.

43-3716. Volunteer; immunity. A court appointed special advocate volunteer shall be immune from civil liability to the full extent provided in the federal Volunteer Protection Act of 1997.

43-3717. Legislative findings. The Legislature finds and declares that:

(1) The safety and well-being of abused and neglected children throughout the State of Nebraska should be of paramount concern to the state and its residents;

(2) Court appointed special advocate volunteers provide a unique and vital service to the children they represent and work to ensure the safety and well-being of abused and neglected children;

(3) Court appointed special advocate volunteers have provided, in many cases, the judges who adjudicate cases with essential information that has not only ensured the safety and well-being of abused and neglected children throughout Nebraska, but has also saved the state thousands of dollars; and

(4) Providing resources through a grant program will increase the savings to the state through court appointed special advocate programs.

43-3718. Court Appointed Special Advocate Fund; created; use; investment.

The Court Appointed Special Advocate Fund is created. The fund shall be under the control of the Supreme Court and administered by the State Court Administrator. The fund shall be used for grants as provided in section 43-3719. The fund shall consist of transfers, grants, donations, gifts, devises, and bequests. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Interest earned shall be credited back to the fund.

43-3719. Supreme Court; award grants; purposes.

(1) The Supreme Court shall award grants from the Court Appointed Special Advocate Fund as provided in subsection (2) of this section to any court appointed special advocate program that applies for the grant and:

(a) Is a nonprofit organization organized under section 501(c)(3) of the Internal Revenue Code;

(b) Has the ability to operate statewide; and

(c) Has an affiliation agreement with local programs that meet the requirements of section 43-3706.

(2) The Supreme Court shall award grants up to the amount credited to the fund per fiscal year as follows:

(a) Up to ten thousand dollars may be used by the court to administer this section;

(b) Of the remaining amount, eighty percent shall be awarded as grants used to recruit new court appointed special advocate volunteers and to defray the cost of training court appointed special advocate volunteers;

(c) Of the remaining amount, ten percent shall be awarded as grants used to create innovative programming to implement the Court Appointed Special Advocate Act; and

(d) Of the remaining amount, ten percent shall be awarded as grants used to expand court appointed special advocate programs into counties that have no programs or limited programs.

43-3720. Applicant awarded grant; report; contents; Supreme Court; powers.

(1) Each applicant who is awarded a grant under section 43-3719 shall provide the Supreme Court, Clerk of the Legislature, and Governor prior to December 31 of each year a report regarding the grant detailing:

(a) The number of court appointed special advocate volunteers trained during the previous fiscal year;

(b) The cost of training the court appointed special advocate volunteers trained during the previous fiscal year;

(c) The number of court appointed special advocate volunteers recruited during the previous fiscal year;

(d) A description of any programs described in subdivision (2)(d) of section 43-3719;

(e) The total number of courts being served by court appointed special advocate programs during the previous fiscal year; and

(f) The total number of children being served by court appointed special advocate volunteers during the previous fiscal year.

The report submitted to the Clerk of the Legislature shall be submitted electronically.

(2) The Supreme Court, as part of any application process required for a grant pursuant to section 43-3719, may require the applicant to report the information required pursuant to subsection (1) of this section.

XIII. NEBRASKA STRENGHENING FAMILIES ACT

43-4701. Act, how cited.

Sections 43-4701 to 43-4716 shall be known and may be cited as the Nebraska Strengthening Families Act.

43-4702. Legislative findings and intent.

The Legislature finds that every day a parent makes important decisions about his or her child's participation in activities and that a caregiver for a child in out-of-home care is faced with making the same decisions for a child in his or her care.

The Legislature also finds that, when a caregiver makes decisions, he or she must consider applicable laws, rules, and regulations to safeguard the health and safety of a child in out-of-home care and that those laws, rules, and regulations have commonly been interpreted to prohibit children in out-of-home care from participating in extracurricular, enrichment, cultural, and social activities.

The Legislature further finds that participation in these types of activities is important to a child's well-being, not only emotionally, but in developing valuable life skills.

It is the intent of the Legislature to recognize the importance of parental rights and the different rights that exist dependent on a variety of factors, including the age and maturity of the child, the status of the case, and the child's placement.

It is the intent of the Legislature to recognize the importance of race, culture, and identity for children in out-of-home care.

It is the intent of the Legislature to recognize the importance of making every effort to normalize the lives of children in out-of-home care and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard.

It is the intent of the Legislature to implement the federal Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, as such act existed on January 1, 2016.

43-4703. Terms, defined.

For purposes of the Nebraska Strengthening Families Act:

(1) Age or developmentally appropriate means activities or items that are generally accepted as suitable for a child of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group and, in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child;

(2) Caregiver means a foster parent with whom a child in foster care has been placed or a designated official for a child-care institution in which a child in foster care has been placed;

(3) Child-care institution has the definition found in 42 U.S.C. 672(c), as such section existed on January 1, 2016, and also includes the definition of residential child-caring agency as found in section 71-1926;

(4) Department means the Department of Health and Human Services;

(5) Foster family home has the definition found in 42 U.S.C. 672(c), as such section existed on January 1, 2017, and also includes the definition as found in section 71-1901;

(6) Probation means the Office of Probation Administration; and

(7) Reasonable and prudent parent standard means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interest of a child while at the same time encouraging the emotional and developmental growth of the child that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities.

43-4704. Rights of child; requirements for a driver's license.

(1) Every child placed by the department in a foster family home or child-care institution shall be entitled to access to reasonable opportunities to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(2) A child in foster care shall not be required, by virtue of his or her status as a child in foster care, to meet any more requirements for a driver's license under the Motor Vehicle Operator's License Act than any other child applying for the same license.

43-4705. Caregiver; use reasonable and prudent parent standard; considerations.

Each caregiver shall use the reasonable and prudent parent standard in determining whether to give permission for a child to participate in extracurricular, enrichment, cultural, and social activities. When using the reasonable and prudent parent standard, the caregiver shall consider:

(1) The child’s goals and input;

(2) To the extent possible, the input of the parent of the child;

(3) The child’s age, maturity, and developmental level to maintain the overall health and safety of the child;

(4) The potential risk factors and the appropriateness of the extracurricular, enrichment, cultural, or social activity;

(5) The best interests of the child, based on information known by the caregiver;

(6) The importance of encouraging the child’s emotional and developmental growth;

(7) The importance of providing the child with the most family-like living experience possible;

(8) The behavioral history of the child and the child’s ability to safely participate in the proposed activity;

(9) The child’s personal and cultural identity; and

(10) The individualized needs of the child.

43-4706. Department; duties; contract requirements; caregiver; duties; written notice posted; normalcy plan; contents; normalcy report; contents.

(1) The department shall ensure that each foster family home and child-care institution has policies consistent with this section and that such foster family home and child-care institution promote and protect the ability of children to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(2) A caregiver shall use a reasonable and prudent parent standard in determining whether to give permission for a child to participate in extracurricular, enrichment, cultural, and social activities. The caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

(3) The department shall require, as a condition of each contract entered into by a child-care institution to provide foster care, the presence onsite of at least one official who, with respect to any child placed at the child-care institution, is designated to be the caregiver who is (a) authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally appropriate activities, (b) provided with training in how to use and apply the reasonable and prudent parent standard in the same manner as

foster parents are provided training in section 43-4707, and (c) required to consult whenever possible with the child and staff members identified by the child in applying the reasonable and prudent parent standard.

(4) The department shall also require, as a condition of each contract entered into by a child-care institution to provide foster care, that all children placed at the child-care institution be notified verbally and in writing, in an age or developmentally appropriate manner, of the process for making a request to participate in age or developmentally appropriate activities and that a written notice of this process be posted in an accessible, public place in the child-care institution.

(5)(a) The department shall also require, as a condition of each contract entered into by a child-care institution to provide foster care, a written normalcy plan describing how the child-care institution will ensure that all children have access to age or developmentally appropriate activities to be filed with the department and a normalcy report regarding the implementation of the normalcy plan to be filed with the department annually by July 15. Such plans and reports shall not be required to be provided by child-care institutions physically located outside the State of Nebraska or psychiatric residential treatment facilities.

(b) The normalcy plan shall specifically address:

(i) Efforts to address barriers to normalcy that are inherent in a child-care institution setting;

(ii) Normalcy efforts for all children placed at the child-care institution, including, but not limited to, relationships with family, age or developmentally appropriate access to technology and technological skills, education and school stability, access to health care and information, and access to a sustainable and durable routine;

(iii) Procedures for developing goals and action steps in the child-care institution's case plan and case planning process related to participation in age or developmentally appropriate activities for each child placed at the child-care institution;

(iv) Policies on staffing, supervision, permission, and consent to age or developmentally appropriate activities consistent with the reasonable and prudent parent standard;

(v) A list of activities that the child-care institution provides onsite and a list of activities in the community regarding which the child-care institution will make children aware, promote, and support access;

(vi) Identified accommodations and support services so that children with disabilities and special needs can participate in age or developmentally appropriate activities to the same extent as their peers;

(vii) The individualized needs of all children involved in the system;

(viii) Efforts to reduce disproportionate impact of the system and services on families and children of color and other populations; and

(ix) Efforts to develop a youth board to assist in implementing the reasonable and prudent parent standard in the child-care institution and promoting and supporting normalcy.

(c) The normalcy report shall specifically address:

(i) Compliance with each of the plan requirements set forth in subdivisions (b)(i) through (ix) of this subsection; and

(ii) Compliance with subsections (3) and (4) of this section.

(6) The department shall make normalcy plans and reports received from contracting child-care institutions pursuant to subsection (5) of this section and plans and reports from all youth rehabilitation and treatment centers pursuant to subsection (7) of this section available annually to the Nebraska Strengthening Families Act Committee, the Nebraska Children's Commission, probation, the Governor, and electronically to the Health and Human Services Committee of the Legislature, by September 30 of each year.

(7) All youth rehabilitation and treatment centers shall meet the requirements of subsection (5) of this section.

43-4707. Training for foster parents.

The department shall adopt and promulgate rules and regulations regarding training for foster parents so that foster parents will be prepared adequately with the appropriate knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral

capacities of the child and knowledge and skills related to applying the standard to decisions such as whether to allow the child to engage in extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one or more days and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, cultural, and social activities. The department shall also adopt and promulgate rules and regulations regarding training for foster parents on recognizing human trafficking, including both sex trafficking and labor trafficking.

43-4708. Caregiver; liability.

A caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver or by a child who participates in an activity approved by a caregiver if the caregiver has acted in accordance with the reasonable and prudent parent standard. This section may not be interpreted as removing or limiting any existing liability protection afforded by law.

43-4709. Parental rights; consultation with parent; documentation; family team meeting.

(1) Nothing in the Nebraska Strengthening Families Act or the application of the reasonable and prudent parent standard shall affect the parental rights of a parent whose parental rights have not been terminated pursuant to section 43-292 with respect to his or her child.

(2) To the extent possible, a parent shall be consulted about the child's participation in age or developmentally appropriate activities in the planning process. The department shall document such consultation in the report filed pursuant to subsection (3) of section 43-285.

(3) The child's participation in extracurricular, enrichment, cultural, and social activities shall be considered at any family team meeting.

43-4710. Department; report; contents.

The department shall document in the report pursuant to subsection (3) of section 43-285 the steps the department is taking to ensure that:

(1) The child's caregiver is following the reasonable and prudent parent standard;

(2) The child has regular, ongoing opportunities to engage in age or developmentally appropriate activities;

(3) The department has consulted with the child in an age or developmentally appropriate manner about the opportunities of the child to participate in age or developmentally appropriate activities; and

(4) Any barriers to participation in age or developmentally appropriate activities are identified and addressed.

43-4711. Juvenile court; determination; findings or orders.

(1) At every dispositional, review, or permanency planning hearing, the juvenile court shall make a determination regarding:

(a) The steps the department is taking to ensure the child's foster family home or child-care institution is following the reasonable and prudent parent standard;

(b) Whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities; and

(c) Whether the department has consulted with the child in an age or developmentally appropriate manner about the opportunities of the child to participate in such activities.

(2) In making this determination, the juvenile court shall ask the child, in an age or developmentally appropriate manner, about his or her access to regular and ongoing opportunities to engage in age or

developmentally appropriate activities. If the child, the guardian ad litem, the caregiver, or a party to the proceeding believes that the child has not had regular, ongoing opportunities to engage in such activities, the juvenile court may make appropriate findings or orders to ensure the child has regular, ongoing opportunities to engage in age and developmentally appropriate activities. In making such findings or orders, the court shall give deference to the caregiver in making decisions within the reasonable and prudent parent standard.

43-4712. Department; courts; collaboration.

The department and the courts shall work collaboratively to remove or reduce barriers to a child's participation in age or developmentally appropriate activities.

43-4713. Plan for child; contents; document; copy to child; public posting by child-care institution.

(1) The plan as provided in subsection (2) of section 43-285 for any child in a foster family home or child-care institution who has attained fourteen years of age shall include:

(a) A document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to be provided with a copy of any consumer report pursuant to 42 U.S.C. 675(5)(I), as such section existed on January 1, 2016, and the right to stay safe and avoid exploitation. The document shall also describe the right of the child to be provided documents relating to his or her education, health, visitation, court participation, and the right to stay safe and avoid exploitation. The document shall also describe additional rights of the child, including, but not limited to, the right to:

(i) Understand the system or systems in which the child is involved;

(ii) Have his or her voice heard in his or her case;

(iii) Maintain family connections;

(iv) Access personal information;

(v) Honest and clear communication;

(vi) Have his or her basic needs met;

(vii) Learn life skills needed to successfully transition to adulthood; and

(viii) Live in the most family-like setting that is safe, healthy, and comfortable and meets the child's needs; and

(b) A signed acknowledgment by the child that the child has been provided with a copy of the document described in this section and that the rights contained in the document have been explained to the child in an age or developmentally appropriate manner.

(2) The document shall be provided to the child in a hard copy and offered to the child within seventy-two hours of being placed in a foster family home or child-care institution and at every dispositional, review, and permanency planning hearing.

(3) The department shall require, as a condition of each contract entered into by a child-care institution to provide foster care, that the child-care institution publicly post the document described in this section in an accessible location.

43-4714. Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Nebraska Strengthening Families Act and shall revoke any rules or regulations inconsistent with the act by October 15, 2017.

43-4715. Missing child; department and probation; duties.

The department and probation shall establish procedures for the immediate dissemination of a current picture and information about a child who is missing from a foster care or out-of-home placement to appropriate third parties, which may include law enforcement agencies or persons engaged in procuring, gathering, writing, editing, or disseminating news or other information to the public. Any information released to a third party under this section shall be subject to state and federal confidentiality laws and shall not include that the child is under the care, custody, or supervision of the department or under the supervision of probation. Such dissemination by probation shall be authorized by an order of a judge or court.

43-4716. Nebraska Strengthening Families Act Committee; created; duties; members; term; vacancy; report; contents.

(1) The Nebraska Strengthening Families Act Committee is created.

(2) The Nebraska Strengthening Families Act Committee shall monitor and make recommendations regarding the implementation in Nebraska of the federal Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, as such act existed on January 1, 2017, and the Nebraska Strengthening Families Act.

(3) The members of the committee shall include, but not be limited to, (a) representatives from the legislative, executive, and judicial branches of government. The representatives from the legislative and judicial branches shall be nonvoting, ex officio members, (b) no fewer than three young adults currently or previously in foster care which may be filled on a rotating basis by members of Project Everlast or a similar youth support or advocacy group, (c) a representative from the juvenile probation system, (d) the executive director of the Foster Care Review Office, (e) one or more representatives from a child welfare advocacy organization, (f) one or more representatives from a child welfare service agency, (g) one or more representatives from an agency providing independent living services, (h) one or more representatives of a child-care institution as defined in section 43-4703, (i) one or more current or former foster parents, (j) one or more parents who have experience in the foster care system, (k) one or more professionals who have relevant practical experience such as a caseworker, and (l) one or more guardians ad litem who practice in juvenile court.

(4) Members shall be appointed for terms of two years. The Nebraska Children's Commission shall appoint a chairperson or chairpersons of the committee and may fill vacancies on the committee as such vacancies occur.

(5) The committee shall provide a written report with recommendations regarding the initial and ongoing implementation of the federal Preventing Sex Trafficking and Strengthening Families Act, as such act existed on January 1, 2017, and the Nebraska Strengthening Families Act and related efforts to improve normalcy for children in foster care and related populations to the Nebraska Children's Commission, the Health and Human Services Committee of the Legislature, the Department of Health and Human Services, and the Governor by September 1 of each year. The report to the Health and Human Services Committee of the Legislature shall be submitted electronically.

XIV. JUVENILE SERVICES PROVISIONS

A. HEALTH AND HUMAN SERVICES, OFFICE OF JUVENILE SERVICES ACT

43-401. Act, how cited.

Sections 43-401 to 43-431 shall be known and may be cited as the Health and Human Services, Office of Juvenile Services Act.

43-402. Legislative intent; juvenile justice system; goal.

It is the intent of the Legislature that the juvenile justice system provide individualized accountability and individualized treatment for juveniles in a manner consistent with public safety to those juveniles who violate the law. The juvenile justice system shall also promote prevention efforts which are community-based and involve all sectors of the community. Prevention efforts shall be provided through the support of programs and services designed to meet the needs of those juveniles who are identified as being at risk of violating the law and those whose behavior is such that they endanger themselves or others. The goal of the juvenile justice system shall be to provide a range of programs and services which:

(1) Retain and support juveniles within their homes whenever possible and appropriate;

(2) Provide the least restrictive and most appropriate setting for juveniles while adequately protecting them and the community;

(3) Are community-based and are provided in as close proximity to the juvenile's community as possible and appropriate;

(4) Provide humane, secure, and therapeutic confinement to those juveniles who present a danger to the community;

(5) Provide followup and aftercare services to juveniles when returned to their families or communities to ensure that progress made and behaviors learned are integrated and continued;

(6) Hold juveniles accountable for their unlawful behavior in a manner consistent with their long-term needs, stressing the offender's responsibility to victims and the community;

(7) Base treatment planning and service provision upon an individual evaluation of the juvenile's needs recognizing the importance of meeting the educational needs of the juvenile in the juvenile justice system;

(8) Are family focused and include the juvenile's family in assessment, case planning, treatment, and service provision as appropriate and emphasize parental involvement and accountability in the rehabilitation of their children;

(9) Provide supervision and service coordination, as appropriate, to implement and monitor treatment plans and to prevent reoffending;

(10) Provide integrated service delivery through appropriate linkages to other human service agencies; and

(11) Promote the development and implementation of community-based programs designed to prevent unlawful behavior and to effectively minimize the depth and duration of the juvenile's involvement in the juvenile justice system.

43-403. Terms, defined.

For purposes of the Health and Human Services, Office of Juvenile Services Act:

(1) Aftercare means the control, supervision, and care exercised over juveniles who have been discharged from commitment;

(2) Committed means an order by a court committing a juvenile to the care and custody of the Office of Juvenile Services for treatment at a youth rehabilitation and treatment center identified in the court order;

(3) Community supervision means the control, supervision, and care exercised over juveniles when a commitment to the level of treatment of a youth rehabilitation and treatment center has not been ordered by the court;

(4) Emergency, for purposes of sections 43-427 to 43-430, means a public health emergency or a situation, including fire, flood, tornado, natural disaster, or damage to a youth rehabilitation and treatment center, that renders the youth rehabilitation and treatment center uninhabitable. Emergency does not include inadequate staffing;

(5) Evaluation means assessment of the juvenile's social, physical, psychological, and educational development and needs, including a recommendation as to an appropriate treatment plan; and

(6) Treatment means the type of supervision, care, and rehabilitative services provided for the juvenile at a youth rehabilitation and treatment center operated by the Office of Juvenile Services.

43-404. Office of Juvenile Services; created; powers and duties.

There is created within the Department of Health and Human Services the Office of Juvenile Services. The office shall have oversight and control of the youth rehabilitation and treatment centers. The Administrator of the Office of Juvenile Services shall be appointed by the chief executive officer of the department or his or her designee and shall be responsible for the administration of the facilities and programs of the office. The department may subcontract with a state agency or private provider to provide services related to the facilities and programs of the Office of Juvenile Services.

43-405. Office of Juvenile Services; administrative duties.

The administrative duties of the Office of Juvenile Services are to:

(1) Manage, establish policies for, and administer the office, including all facilities and programs operated by the office or provided through the office by contract with a provider;

(2) Supervise employees of the office, including employees of the facilities and programs operated by the office;

(3) Have separate budgeting procedures and develop and report budget information separately from the Department of Health and Human Services;

(4) Adopt and promulgate rules and regulations for the levels of treatment and for management, control, screening, treatment, rehabilitation, transfer, discharge, and evaluation of juveniles committed to the Office of Juvenile Services;

(5) Ensure that statistical information concerning juveniles committed to facilities of the office is collected, developed, and maintained for purposes of research and the development of treatment programs;

(6) Monitor commitments, placements, and evaluations at facilities and programs operated by the office or through contracts with providers and submit electronically an annual report of its findings to the Legislature. The report shall include an assessment of the administrative costs of operating the facilities, the cost of programming, and the savings realized through reductions in commitments, placements, and evaluations;

(7) Coordinate the programs and services of the juvenile justice system with other governmental agencies and political subdivisions;

(8) Coordinate educational, vocational, and social counseling for juveniles committed to the office; and

(9) Exercise all powers and perform all duties necessary to carry out its responsibilities under the Health and Human Services, Office of Juvenile Services Act.

43-406. Office of Juvenile Services; individualized treatment plan; case classification and management; requirements.

The Office of Juvenile Services shall utilize:

(1) Evidence-based and validated risk and needs assessment instruments for use in determining the individualized treatment plan for each juvenile committed to the office;

(2) A case classification process to include levels of treatment defined by rules and regulations and case management standards for each level of treatment;

(3) Case management for all juveniles committed to the office; and

(4) A management information system. The system shall be a unified, interdepartmental client information system which supports the management function as well as the service function.

43-407. Office of Juvenile Services; programs and treatment services; individualized treatment plan; placement; procedure; case management and coordination process; funding utilization; intent; evidence-based services, policies, practices, and procedures; report; contents; Executive Board of Legislative Council; powers.

(1) The Office of Juvenile Services shall design and make available programs and treatment services through youth rehabilitation and treatment centers. The programs and treatment services shall be evidence-based and based upon the individual or family evaluation process using evidence-based, validated risk and needs assessments to create an individualized treatment plan. The treatment plan shall be developed within fourteen days after admission and provided to the committing court and interested parties. The court may, on its own motion or upon the motion of an interested party, set a hearing to review the treatment plan.

(2) A juvenile may be committed by a court to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center operated and utilized in compliance with state law pursuant to a hearing described in subdivision (1)(b)(iii) of section 43-286. The office shall not change a juvenile's placement except as provided in this section. If a juvenile placed at a youth rehabilitation and treatment center is assessed as needing inpatient or subacute substance abuse or behavioral health residential treatment, the Office of Juvenile Services may arrange for such treatment to be provided at the Hastings Regional Center or may transition the juvenile to another inpatient or subacute residential treatment facility licensed as a treatment facility in the State of Nebraska and shall provide notice of the change in placement pursuant to subsection (3) of this section. Except in a case requiring emergency admission to an inpatient facility, the juvenile shall not be discharged by the Office of Juvenile Services until the juvenile has been returned to the court for a review of his or her conditions of probation and the juvenile has been transitioned to the clinically appropriate level of care. Programs and treatment services shall address:

(a) Behavioral impairments, severe emotional disturbances, sex offender behaviors, and other mental health or psychiatric disorders;

(b) Drug and alcohol addiction;

(c) Health and medical needs;

(d) Education, special education, and related services;

(e) Individual, group, and family counseling services as appropriate with any treatment plan related to subdivisions (a) through (d) of this subsection. Services shall also be made available for juveniles who have been physically or sexually abused;

(f) A case management and coordination process, designed to assure appropriate reintegration of the juvenile to his or her family, school, and community. This process shall follow individualized planning which shall begin at intake and evaluation. Structured programming shall be scheduled for all juveniles. This programming shall include a strong academic program as well as classes in health education, living skills, vocational training, behavior management and modification, money management, family and parent responsibilities, substance abuse awareness, physical education, job skills training, and job placement assistance. Participation shall be required of all juveniles if such programming is determined to be age and developmentally appropriate. The goal of such structured programming shall be to provide the academic and life skills necessary for a juvenile to successfully return to his or her home and community upon release; and

(g) The design and delivery of treatment programs through the youth rehabilitation and treatment centers as well as any licensing or certification requirements, and the office shall follow the requirements as stated within Title XIX and Title IV-E of the federal Social Security Act, as such act existed on January 1, 2020, the Special

Education Act, or other funding guidelines as appropriate. It is the intent of the Legislature that these funding sources shall be utilized to support service needs of eligible juveniles.

(3) When the Office of Juvenile Services has arranged for treatment of a juvenile as provided in subsection (2) of this section, the office shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties, including any parent or guardian of the juvenile, at least seven days before the placement of the juvenile is changed from the order of the committing court. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such change in placement and may order the change be stayed until the completion of the hearing. When filing a report and notice of placement change pursuant to this subsection, or upon a court order to set a hearing to review a change in placement or stay a change in placement pursuant to this subsection, the office may file a motion for immediate change of placement pursuant to subsection (4) of section 43-408.

(4)(a) The Office of Juvenile Services shall provide evidence-based services and operate the youth rehabilitation and treatment centers in accordance with evidence-based policies, practices, and procedures. On December 15 of each year, the office shall electronically submit to the Governor, the Legislature, and the Chief Justice of the Supreme Court, a comprehensive report of the evidence-based services, policies, practices, and procedures by which such centers operate, and efforts the office has taken to ensure fidelity to evidence-based models. The report may be attached to preexisting reporting duties. The report shall include at a minimum:

(i) The percentage of juveniles being supervised in accordance with evidence-based practices;

(ii) The percentage of state funds expended by each respective department for programs that are evidence-based, and a list of all programs which are evidence-based;

(iii) Specification of supervision policies, procedures, programs, and practices that were created, modified, or eliminated; and

(iv) Recommendations of the office for any additional collaboration with other state, regional, or local public agencies, private entities, or faith-based and community organizations.

(b) Each report and executive summary shall be available to the general public on the website of the office.

(c) The Executive Board of the Legislative Council may request the Consortium for Crime and Justice Research and Juvenile Justice Institute at the University of Nebraska at Omaha to review, study, and make policy recommendations on the reports assigned by the executive board.

43-408. Office of Juvenile Services; committing court; powers and duties; commitment review; hearing; immediate change of placement; procedure; annual review of commitment and placement; review status; when.

(1) Whenever any juvenile is committed to the Office of Juvenile Services, the juvenile shall also be considered committed to the care and custody of the Department of Health and Human Services for the purpose of obtaining health care and treatment services.

(2) The committing court may order placement at a youth rehabilitation and treatment center for a juvenile committed to the Office of Juvenile Services following a commitment hearing pursuant to subdivision (1)(b)(iii) of section 43-286. The court shall continue to maintain jurisdiction over any juvenile committed to the Office of Juvenile Services, and the office shall provide the court and parties of record with the initial treatment plan and monthly updates regarding the progress of the juvenile.

(3) In addition to the hearings set forth in section 43-285, during a juvenile's term of commitment, any party may file a motion for commitment review to bring the case before the court for consideration of the juvenile's commitment to a youth rehabilitation and treatment center. A hearing shall be scheduled no later than thirty days after the filing of such motion. No later than five days prior to the hearing, the office shall provide information to the parties regarding the juvenile's individualized treatment plan and progress. A representative of the office or facility shall be physically present at the hearing to provide information to the court unless the court allows the

representative to appear telephonically or by video. The juvenile and the juvenile's parent or guardian shall have the right to be physically present at the hearing. The court may enter such orders regarding the juvenile's care and treatment as are necessary and in the best interests of the juvenile, including an order for early discharge from commitment when appropriate. In entering an order for early discharge from commitment to intensive supervised probation in the community, the court shall consider to what extent:

(a) The juvenile has completed the goals of the juvenile's individualized treatment plan or received maximum benefit from institutional treatment;

(b) The juvenile would benefit from continued services under community supervision;

(c) The juvenile can function in a community setting with appropriate supports; and

(d) There is reason to believe that the juvenile will not commit further violations of law and will comply with the terms of intensive supervised probation.

(4) When filing a motion pursuant to subsection (3) of this section, the office may also file a motion for immediate change of placement to another youth rehabilitation and treatment center operated and utilized in compliance with state law. When filing a report and notice of placement change pursuant to subsection (3) of section 43-407, or upon a court order to set a hearing to review a change in placement or stay a change in placement pursuant to subsection (3) of section 43-407, the office may file a motion for immediate change of placement to the inpatient or subacute residential treatment facility licensed as a treatment facility in the State of Nebraska. The motion shall set forth with reasonable particularity the grounds for an immediate change of placement. A motion for immediate change of placement under this subsection shall be heard within twenty-four hours, excluding nonjudicial days, and may be heard telephonically or by videoconferencing. Prior to filing a motion for immediate change of placement, the office shall make a reasonable attempt to provide notice of the motion to the juvenile's parent or guardian, including notice that the motion will be set for hearing within twenty-four hours. The court shall promptly provide the notice of hearing to all parties of record. In advance of the hearing, the office shall provide to the other parties of record any exhibits it intends to offer, if any, and the identity of its witnesses. The office shall provide the juvenile an opportunity before the hearing to consult with the juvenile's counsel and review the motion and the exhibits and witnesses. The court shall order the immediate change of placement pending an order pursuant to subsection (3) of this section or subsection (3) of section 43-407 if the court determines that an immediate change is in the best interests of the juvenile and further delay would be contrary to the juvenile's well-being, physical health, emotional health, or mental health.

(5) Each juvenile committed to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center shall also be entitled to an annual review of such commitment and placement for as long as the juvenile remains so committed and placed. At an annual review hearing, the court shall consider the factors described in subsection (3) of this section to assess the juvenile's progress and determine whether commitment remains in the best interests of the juvenile.

(6) If a juvenile is placed in detention while awaiting placement at a youth rehabilitation and treatment center and the placement has not occurred within fourteen days, the committing court shall hold a hearing every fourteen days to review the status of the juvenile. Placement of a juvenile in detention shall not be considered a treatment service.

43-409. Office of Juvenile Services; access to records; immunity.

The Office of Juvenile Services shall have access to and may obtain copies of all records pertaining to a juvenile committed to it or placed with it, including, but not limited to, school records, medical records, juvenile court records, probation records, test results, treatment records, evaluations, and examination reports. Any person who, in good faith, furnishes any records or information to the Office of Juvenile Services shall be immune from

any liability, civil or criminal, that might otherwise be incurred or imposed. The owners, officers, directors, employees, or agents of such medical office, school, court, office, corporation, partnership, or other such entity shall not be liable for furnishing such records or information.

43-410. Juvenile absconding; authority to apprehend.

(1) Any peace officer or direct care staff member of the Office of Juvenile Services has the authority to apprehend and detain a juvenile who has absconded or is attempting to abscond from commitment to the Office of Juvenile Services and shall cause the juvenile to be returned to the youth rehabilitation and treatment center or an appropriate juvenile detention facility or staff secure juvenile facility.

(2) For purposes of this section, direct care staff member means any staff member charged with the day-to-day care and supervision of juveniles at a youth rehabilitation and treatment center or security staff who has received training in apprehension techniques and procedures.

43-411. Detainers for apprehension and detention; authorized; detention; limitations.

The chief executive officer of the Department of Health and Human Services shall have the authority, and may delegate the authority only to the Administrator of the Office of Juvenile Services and the superintendents of the youth rehabilitation and treatment centers, to issue detainers for the apprehension and detention of juveniles who have absconded from a placement with or commitment to the office. Any peace officer who detains a juvenile on such a detainer shall hold the juvenile in an appropriate facility or program for juveniles until the office can take custody of the juvenile.

43-412. Commitment to Office of Juvenile Services; discharge of juvenile; effect of discharge; notice of discharge.

(1) Every juvenile committed to the Office of Juvenile Services pursuant to the Nebraska Juvenile Code shall remain committed until he or she attains the age of nineteen or is legally discharged.

(2) Upon attainment of the age of nineteen or absent a continuing order of intensive supervised probation, discharge of any juvenile pursuant to the rules and regulations shall be a complete release from all penalties incurred by conviction or adjudication of the offense for which he or she was committed.

(3) The Office of Juvenile Services shall provide the committing court, Office of Probation Administration, county attorney, defense attorney, if any, and guardian ad litem, if any, with written notification of the juvenile's discharge within thirty days prior to a juvenile being discharged from the care and custody of the office.

43-413. Repealed. Laws 2015, LB 605, § 112.

43-414. Repealed. Laws 2020, LB1188, § 21.

43-415. Repealed. Laws 2020, LB1188, § 21.

43-416. Repealed. Laws 2020, LB1188, § 21.

43-417. Discharge from youth rehabilitation and treatment center; considerations.

In determining whether to discharge a juvenile from a youth rehabilitation and treatment center, the Office of Juvenile Services shall consider whether (1) the juvenile has completed the goals of his or her individualized treatment plan or received maximum benefit from institutional treatment, (2) the juvenile would benefit from continued services under community supervision, (3) the juvenile can function in a community setting, (4) there is

reason to believe that the juvenile will not commit further violations of law, and (5) there is reason to believe that the juvenile will comply with the conditions of probation.

43-418. Repealed. Laws 2020, LB1188, § 21.

43-419. Repealed. Laws 2020, LB1188, § 21.

43-420. Hearing officer; requirements.

Any hearing required or permitted for juveniles in the custody of the Office of Juvenile Services shall be conducted by a hearing officer who is an attorney licensed to practice law in the State of Nebraska and may be an employee of the Department of Health and Human Services or an attorney who is an independent contractor. If the hearing officer is an employee of the department, he or she shall not be assigned to any duties requiring him or her to give ongoing legal advice to any person employed by or who is a contractor with the office.

43-421. Repealed. Laws 2020, LB1188, § 21.

43-422. Repealed. Laws 2020, LB1188, § 21.

43-423. Repealed. Laws 2020, LB1188, § 21.

43-424. Assault, escape, or attempt to escape; documentation required; copy to court and county attorney.

If a juvenile assaults an employee of a youth rehabilitation and treatment center or another juvenile who has been committed to the youth rehabilitation and treatment center or escapes or attempts to escape from a youth rehabilitation and treatment center, the chief executive officer of the youth rehabilitation and treatment center shall document the assault, escape, or attempt to escape and send a copy of such documentation to the committing court and the county attorney of the county in which the committing court is located as soon as possible after the determination that such assault, escape, or attempt to escape has occurred. Such documentation may be offered as evidence presented at any hearing conducted pursuant to section 43-2,106.03.

43-425. Community and Family Reentry Process; created; juvenile committed to youth rehabilitation and treatment center; family team meetings; individualized reentry plan; risk-screening and needs assessment; probation officer; duties; Office of Probation Administration; duties.

(1) The Community and Family Reentry Process is hereby created. This process is created in order to reduce recidivism and promote safe and effective reentry for the juvenile and his or her family to the community from the juvenile justice system.

(2) While a juvenile is committed to a youth rehabilitation and treatment center, family team meetings shall be conducted in person or via videoconferencing at least once per month with the juvenile's support system to discuss the juvenile's transition back to the community. A juvenile's support system should be made up of any of the following: The juvenile himself or herself, any immediate family members or guardians, informal and formal supports, the juvenile's guardian ad litem appointed by the court, the juvenile's probation officer, Office of Juvenile Services personnel employed by the facility, and any additional personnel as appropriate. Once developed, individualized reentry plans should be discussed at the family team meetings with the juvenile and other members of the juvenile's support system and shall include discussions on the juvenile's placement after leaving the facility. The probation officer and the Office of Juvenile Services personnel should discuss progress and needs of the

juvenile and should help the juvenile follow his or her individual reentry plan to help with his or her transition back to the community.

(3) Within sixty days prior to discharge from a youth rehabilitation and treatment center, or as soon as possible if the juvenile's remaining time at the youth rehabilitation and treatment center is less than sixty days, an evidence-based risk screening and needs assessment should be conducted on the juvenile in order to determine the juvenile's risk of reoffending and the juvenile's individual needs upon reentering the community.

(4) Individualized reentry plans shall be developed with input from the juvenile and his or her support system in conjunction with a risk assessment process. Individualized reentry plans shall be finalized thirty days prior to the juvenile leaving the youth rehabilitation and treatment center or as soon as possible if the juvenile's remaining time at the center is less than thirty days. Individualized reentry plans should include specifics about the juvenile's placement upon return to the community, an education transition plan, a treatment plan with any necessary appointments being set prior to the juvenile leaving the center, and any other formal and informal supports for the juvenile and his or her family. The district probation officer and Office of Juvenile Services personnel shall review the individualized reentry plan and the expected outcomes as a result of the plan with the juvenile and his or her support system within thirty days prior to the juvenile's discharge from the center.

(5) The probation officer shall have contact with the juvenile and the juvenile's support system within forty-eight hours after the juvenile returns to the community and continue to assist the juvenile and the juvenile's support system in implementing and following the individualized reentry plan and monitoring the juvenile's risk through ongoing assessment updates.

(6) The Office of Probation Administration shall:

(a) Establish an evidence-based reentry process that utilizes risk assessment to determine the juvenile's supervision level upon return to the community;

(b) Establish supervision strategies based on risk levels of the juvenile and supervise accordingly, with ongoing reassessment to assist in determining eligibility for release from probation;

(c) Develop a formal matrix of graduated sanctions to be utilized prior to requesting the county attorney to file for probation revocation; and

(d) Provide training to its workers on risk-based supervision strategies, motivational interviewing, family engagement, community-based resources, and other evidence-based reentry strategies.

43-426. Visitation and communication; use as consequence or sanction; prohibited.

In-person visitation and other forms of communication, including telephone calls and electronic communication, with a juvenile's relatives, including, but not limited to, parents, guardians, grandparents, siblings, and children, shall not be limited or prohibited as a consequence or sanction.

43-427. Youth rehabilitation and treatment centers; five-year operations plan; reports.

(1) The Department of Health and Human Services shall develop a five-year operations plan for the youth rehabilitation and treatment centers and submit such operations plans electronically to the Health and Human Services Committee of the Legislature on or before March 15, 2021.

(2) The operations plan shall be developed with input from key stakeholders and shall include, but not be limited to:

(a) A description of the population served at each youth rehabilitation and treatment center;

(b) An organizational chart of supervisors and operations staff. The operations plan shall not allow for administrative staff to have oversight over more than one youth rehabilitation and treatment center and shall not allow for clinical staff to have responsibility over more than one youth rehabilitation and treatment center;

(c) Staff who shall be centralized offsite or managed onsite, including facility and maintenance staff;

(d) A facility plan that considers taxpayer investments already made in the facility and the community support and acceptance of the juveniles in the community surrounding the youth rehabilitation and treatment center;

(e) A description of each rehabilitation program offered at the youth rehabilitation and treatment center;
(f) A description of each mental health treatment plan offered at the youth rehabilitation and treatment center;
(g) A description of reentry and discharge planning;
(h) A staffing plan that ensures adequate staffing;
(i) An education plan developed in collaboration with the State Department of Education;
(j) A capital improvements budget;
(k) An operating budget;
(l) A disaster recovery plan;
(m) A plan to segregate the juveniles by gender on separate campuses;
(n) A parenting plan for juveniles placed in a youth rehabilitation and treatment center who are parenting;
(o) A statement of the rights of juveniles placed at the youth rehabilitation and treatment centers, including a right to privacy, and the rights of parents or guardians;
(p) Quality and outcome measurements for tracking outcomes for juveniles when they are discharged from the youth rehabilitation and treatment center, including an exit survey of such juveniles;
(q) Key performance indicators to be included in the annual report required under this section;
(r) A requirement for trauma-informed training provided to staff;
(s) Methods and procedures for investigations at the youth rehabilitation and treatment center; and
(t) A grievance process for juveniles placed at the youth rehabilitation and treatment centers.
(3) The department shall submit a report electronically to the Clerk of the Legislature on or before December 15, 2021, and each December 15 thereafter regarding such operations plan and key performance indicators.
(4) In addition to the report required in subsection (3) of this section, the department shall update the Health and Human Services Committee of the Legislature on or before each March 15, June 15, and September 15, regarding the elements of the operations plan described in subdivisions (a), (d), (e), (f), and (m) of subsection (2) of this section, of any substantial changes planned before the next report, and of any substantial changes that have occurred to such facilities or programs. Nothing in this subsection shall be construed to limit or prevent the department from acting in accordance with sections 43-428 to 43-430 in the event of an emergency.

43-428. Youth rehabilitation and treatment center; emergency plan.

(1) The Department of Health and Human Services shall develop an emergency plan for the Youth Rehabilitation and Treatment Center-Geneva, the Youth Rehabilitation and Treatment Center-Kearney, and any other facility operated and utilized as a youth rehabilitation and treatment center in compliance with state law.
(2) Each emergency plan shall:
(a) Identify and designate temporary placement facilities for the placement of juveniles in the event a youth rehabilitation and treatment center must be evacuated due to an emergency as defined in section 43-403. The administrator of a proposed temporary placement facility shall consent to be designated as a temporary placement facility in the emergency plan. A criminal detention facility or a juvenile detention facility shall only be designated as a temporary placement facility pursuant to section 43-430;
(b) Identify barriers to implementation of an effective emergency plan, including necessary administrative or legislative changes;
(c) Include procedures for the Office of Juvenile Services to provide reliable, effective, and timely notification that an emergency plan is to be implemented to:
(i) Staff at the youth rehabilitation and treatment center where the emergency plan is implemented and the administrator and staff at the temporary placement facility;
(ii) Juveniles placed at the youth rehabilitation and treatment center;
(iii) Families and legal guardians of juveniles placed at the youth rehabilitation and treatment center;
(iv) The State Court Administrator, in a form and manner prescribed by the State Court Administrator;
(v) The committing court of each juvenile placed at the youth rehabilitation and treatment center;
(vi) The chairperson of the Health and Human Services Committee of the Legislature; and
(vii) The office of Public Counsel and the office of Inspector General of Nebraska Child Welfare;

(d) Detail the plan for transportation of juveniles to a temporary placement facility; and
(e) Include methods and schedules for implementing the emergency plan.
(3) Each emergency plan shall be developed on or before December 15, 2020.

43-429. Emergency plan; requirements.

(1) The Department of Health and Human Services shall ensure that the administrator of each temporary placement facility described in an emergency plan required under section 43-428 consents to the temporary placement of juveniles placed in such facility pursuant to the emergency plan. Prior to inclusion in an emergency plan as a temporary placement facility, the department and the administrator of the temporary placement facility shall agree on a cost-reimbursement plan for the temporary placement of juveniles at such facility.

(2) If an emergency plan required under section 43-428 is implemented, the Office of Juvenile Services shall, at least twenty-four hours prior to implementation, if practical, and otherwise within twenty-four hours after implementation of such emergency plan, notify the persons and entities listed in subdivision (2)(c) of section 43-428**.**

43-430. Criminal detention facility; juvenile detention facility; emergency use.

In the event of an emergency and only after all other temporary placement options have been exhausted, the Office of Juvenile Services may provide for the placement of a juvenile for a period not to exceed seven days at a criminal detention facility, if allowed by law, or a juvenile detention facility, as such terms are defined in section 83-4,125.

43-431. Transportation of juveniles; policies and procedures; applicable to private contractor.

Policies and procedures of the Department of Health and Human Services regarding the transportation of juveniles placed at the youth rehabilitation and treatment centers shall apply to any private contractor utilized by the Office of Juvenile Services to transport juveniles placed at the youth rehabilitation and treatment centers.

B. JUVENILE SERVICES ACT

43-2401. Act, how cited.
Sections 43-2401 to 43-2412 shall be known and may be cited as the Juvenile Services Act.

43-2402. Terms, defined. 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) Community-based Juvenile Services Aid Program means aid to counties and federally recognized or state-recognized Indian tribes provided under section 43-2404.02;
(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) Federal act means the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 et seq., as the act existed on January 1, 2013;
(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.

43-2403. Legislative findings; purposes of act. 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 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) Assistance in the development of alternatives to secure temporary custody for juveniles who do not require secure detention.

43-2404. Grants; use. 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 in the implementation and operation of programs or services identified in the applicable comprehensive juvenile services plan, to include: Programs for local planning and

service coordination; screening, assessment, and evaluation; diversion; alternatives to detention; family support services; treatment services; reentry services; truancy prevention and intervention programs; and other services documented by data that will positively impact juveniles and families in the juvenile justice system.

43-2404.01. Comprehensive juvenile services plan; contents; statewide system to evaluate fund recipients; Director of the Community-based Juvenile Services Aid Program; duties.

(1) To be eligible for participation in either the Commission Grant Program or the Community-based Juvenile Services Aid Program, a comprehensive juvenile services plan shall be developed, adopted, and submitted to the commission in accordance with the federal act and rules and regulations adopted and promulgated by the commission in consultation with the Director of the Community-based Juvenile Services Aid Program, the Director of Juvenile Diversion Programs, the Office of Probation Administration, and the University of Nebraska at Omaha, Juvenile Justice Institute. Such plan may be developed by eligible applicants for the Commission Grant Program and by individual counties, by multiple counties, by federally recognized or state-recognized Indian tribes, or by any combination of the three for the Community-based Juvenile Services Aid Program. Comprehensive juvenile services plans shall:

(a) Be developed by a comprehensive community team representing juvenile justice system stakeholders;

(b) Be based on data relevant to juvenile and family issues, including an examination of disproportionate minority contact in order to identify juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system;

(c) Identify policies and practices that are research-based or standardized and reliable and are implemented with fidelity and which have been researched and demonstrate positive outcomes;

(d) Identify clear implementation strategies; and

(e) Identify how the impact of the program or service will be measured.

(2) Any portion of the comprehensive juvenile services plan dealing with administration, procedures, and programs of the juvenile court shall not be submitted to the commission 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 and 43-533 and shall include policies and practices that are research-based or standardized and reliable and are implemented with fidelity and which have been researched and demonstrate positive outcomes.

(3) The commission, in consultation with the University of Nebraska at Omaha, Juvenile Justice Institute, shall contract for the development and administration 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 Community-based Juvenile Services Aid Program in preventing persons from entering the juvenile justice system and in rehabilitating juvenile offenders, including an examination of disproportionate minority contact in order to identify juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system.

(4) There is established within the commission the position of Director of the Community-based Juvenile Services Aid Program, appointed by the executive director of the commission. The director shall have extensive experience in developing and providing community-based services.

(5) The director shall be supervised by the executive director of the commission. The director shall:

(a) Provide technical assistance and guidance for the development of comprehensive juvenile services plans;

(b) Coordinate the review of the Community-based Juvenile Services Aid Program application as provided in section 43-2404.02 and make recommendations for the distribution of funds provided under the Community-based Juvenile Services Aid Program, giving priority to those grant applications funding programs and services that will divert juveniles from the juvenile justice system, impact and effectively treat juveniles within the juvenile justice system, and reduce the juvenile detention population or assist juveniles in transitioning from out-of-home placements to in-home treatments. The director shall ensure that no funds appropriated or distributed under the Community-based Juvenile Services Aid Program are used for purposes prohibited under subsection (3) of section 43-2404.02;

(c) Develop data collection and evaluation protocols, oversee statewide data collection, and generate an annual report on the effectiveness of juvenile services that receive funds from the Community-based Juvenile Services Aid Program, including an examination of disproportionate minority contact in order to identify juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system;

(d) Develop relationships and collaborate with juvenile justice system stakeholders, provide education and training as necessary, and serve on boards and committees when approved by the commission;

(e) Assist juvenile justice system stakeholders in developing policies and practices that are research-based or standardized and reliable and are implemented with fidelity and which have been researched and demonstrate positive outcomes, including an examination of disproportionate minority contact in order to identify juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system;

(f) Develop and coordinate a statewide working group as a subcommittee of the coalition to assist in regular strategic planning related to supporting, funding, monitoring, and evaluating the effectiveness of plans and programs receiving funds from the Community-based Juvenile Services Aid Program; and

(g) Work with the coalition in facilitating the coalition's obligations under the Community-based Juvenile Services Aid Program.

43-2404.02. Community-based Juvenile Services Aid Program; created; use; reports.

(1) There is created a separate and distinct budgetary program within the commission to be known as the Community-based Juvenile Services Aid Program. 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 in the establishment and provision of community-based services for juveniles who come in contact with the juvenile justice system.

(2)(a) Ten percent of the annual General Fund appropriation to the Community-based Juvenile Services Aid Program, excluding administrative budget funds, shall be set aside for the development of a common data set and evaluation of the effectiveness of the Community-based Juvenile Services Aid Program. The intent in creating this common data set is to allow for evaluation of the use of the funds and the effectiveness of the programs or outcomes in the Community-based Juvenile Services Aid Program.

(b) The common data set shall be developed and maintained by the commission and shall serve as a primary data collection site for any intervention funded by the Community-based Juvenile Services Aid Program designed to serve juveniles and deter involvement in the formal juvenile justice system. The commission shall work with agencies and programs to enhance existing data sets. To ensure that the data set permits evaluation of recidivism and other measures, the commission shall work with the Office of Probation Administration, juvenile diversion programs, law enforcement, the courts, and others to compile data that demonstrates whether a youth has moved deeper into the juvenile justice system. The University of Nebraska at Omaha, Juvenile Justice Institute, shall assist with the development of common definitions, variables, and training required for data collection and reporting into the common data set by juvenile justice programs. The common data set maintained by the

commission shall be provided to the University of Nebraska at Omaha, Juvenile Justice Institute, to assess the effectiveness of the Community-based Juvenile Services Aid Program.

(c) Providing the commission access to records and information for, as well as the commission granting access to records and information from, the common data set is not a violation of confidentiality provisions under any law, rule, or regulation if done in good faith for purposes of evaluation. Records and documents, regardless of physical form, that are obtained or produced or presented to the commission for the common data set are not public records for purposes of sections 84-712 to 84-712.09.

(d) The ten percent of the annual General Fund appropriation to the Community-based Juvenile Services Aid Program, excluding administrative budget funds, shall be appropriated as follows: In fiscal year 2015-16, seven percent shall go to the commission for development of the common data set and three percent shall go to the University of Nebraska at Omaha, Juvenile Justice Institute, for evaluation. In fiscal year 2016-17, six percent shall go to the commission for development and maintenance of the common data set and four percent shall go to the University of Nebraska at Omaha, Juvenile Justice Institute, for evaluation. Every fiscal year thereafter, beginning in fiscal year 2017-18, five percent shall go to the commission for development and maintenance of the common data set and five percent shall go to the University of Nebraska at Omaha, Juvenile Justice Institute, for evaluation.

(e) The remaining funds in the annual General Fund appropriation to the Community-based Juvenile Services Aid Program shall be apportioned as aid in accordance with a formula established in rules and regulations adopted and promulgated by the commission. The formula shall be based on the total number of residents per county and federally recognized or state-recognized Indian tribe who are twelve years of age through eighteen years of age and other relevant factors as determined by the commission. The commission may require a local match of up to forty percent from the county, multiple counties, federally recognized or state-recognized Indian tribe or tribes, or any combination of the three which is receiving aid under such program. Any local expenditures for community-based programs for juveniles may be applied toward such match requirement.

(3)(a) In distributing funds provided under the Community-based Juvenile Services Aid Program, aid recipients shall prioritize programs and services that will divert juveniles from the juvenile justice system, reduce the population of juveniles in juvenile detention and secure confinement, and assist in transitioning juveniles from out-of-home placements.

(b) Funds received under the Community-based Juvenile Services Aid Program shall be used exclusively to assist the aid recipient in the implementation and operation of programs or the provision of services identified in the aid recipient's comprehensive juvenile services plan, including programs for local planning and service coordination; screening, assessment, and evaluation; diversion; alternatives to detention; family support services; treatment services; truancy prevention and intervention programs; pilot projects approved by the commission; payment of transportation costs to and from placements, evaluations, or services; personnel when the personnel are aligned with evidence-based treatment principles, programs, or practices; contracting with other state agencies or private organizations that provide evidence-based treatment or programs; preexisting programs that are aligned with evidence-based practices or best practices; and other services that will positively impact juveniles and families in the juvenile justice system.

(c) Funds received under the Community-based Juvenile Services Aid Program may be used one time by an aid recipient:

(i) To convert an existing juvenile detention facility or other existing structure for use as an alternative to detention as defined in section 43-245;

(ii) To invest in capital construction, including both new construction and renovations, for a facility for use as an alternative to detention; or

(iii) For the initial lease of a facility for use as an alternative to detention.

(d) Funds received under the Community-based Juvenile Services Aid Program shall not be used for the following:

(i) Construction of secure detention facilities, secure youth treatment facilities, or secure youth confinement facilities;

(ii) Capital construction or the lease or acquisition of facilities beyond the one-time use described in subdivision (3)(c) of this section;

(iii) Programs, services, treatments, evaluations, or other preadjudication services that are not based on or grounded in evidence-based practices, principles, and research, except that the commission may approve pilot projects that authorize the use of such aid; or

(iv) Office equipment, office supplies, or office space.

(e) Any aid not distributed to counties under this subsection shall be retained by the commission to be distributed on a competitive basis under the Community-based Juvenile Services Aid Program for a county, multiple counties, federally recognized or state-recognized Indian tribe or tribes, or any combination of the three demonstrating additional need in the funding areas identified in this subsection.

(f) If a county, multiple counties, or a federally recognized or state-recognized Indian tribe or tribes is denied aid under this section or receives no aid under this section, the entity may request an appeal pursuant to the appeal process in rules and regulations adopted and promulgated by the commission. The commission shall establish appeal and hearing procedures by December 15, 2014. The commission shall make appeal and hearing procedures available on its web site.

(4)(a) Any recipient of aid under the Community-based Juvenile Services Aid Program shall electronically file an annual report as required by rules and regulations adopted and promulgated by the commission. Any program funded through the Community-based Juvenile Services Aid Program that served juveniles shall report data on the individual youth served. Any program that is not directly serving youth shall include program-level data. In either case, data collected shall include, but not be limited to, the following: The type of juvenile service, how the service met the goals of the comprehensive juvenile services plan, demographic information on the juveniles served, program outcomes, the total number of juveniles served, and the number of juveniles who completed the program or intervention.

(b) Any recipient of aid under the Community-based Juvenile Services Aid Program shall be assisted by the University of Nebraska at Omaha, Juvenile Justice Institute, in reporting in the common data set, as set forth in the rules and regulations adopted and promulgated by the commission. Community-based aid utilization and evaluation data shall be stored and maintained by the commission.

(c) Evaluation of the use of funds and the evidence of the effectiveness of the programs shall be completed by the University of Nebraska at Omaha, Juvenile Justice Institute, specifically:

(i) The varying rates of recidivism, as defined by rules and regulations adopted and promulgated by the commission, and other measures for juveniles participating in community-based programs; and

(ii) Whether juveniles are sent to staff secure or secure juvenile detention after participating in a program funded by the Community-based Juvenile Services Aid Program.

(5) The commission shall report annually to the Governor and the Legislature on the distribution and use of funds for aid appropriated under the Community-based Juvenile Services Aid Program. The report shall include, but not be limited to, an aggregate report of the use of the Community-based Juvenile Services Aid Program funds, including the types of juvenile services and programs that were funded, whether any recipients used the funds for a purpose described in subdivision (3)(c) of this section, demographic information on the total number of juveniles served, program success rates, the total number of juveniles sent to secure juvenile detention or residential treatment and secure confinement, and a listing of the expenditures of all counties and federally recognized or state-recognized Indian tribes for detention, residential treatment, and secure confinement. The report submitted to the Legislature shall be submitted electronically.

(6) The commission shall adopt and promulgate rules and regulations for the Community-based Juvenile Services Aid Program in consultation with the Director of the Community-based Juvenile Services Aid Program, the Director of Juvenile Diversion Programs, the Office of Probation Administration, the Nebraska Association of County Officials, and the University of Nebraska at Omaha, Juvenile Justice Institute. The rules and regulations shall include, but not be limited to:

(a) The required elements of a comprehensive juvenile services plan and planning process;

(b) The Community-based Juvenile Services Aid Program formula, review process, match requirements, and fund distribution. The distribution process shall ensure a conflict of interest policy;

(c) A distribution process for funds retained under subsection (3) of this section;

(d) A plan for evaluating the effectiveness of plans and programs receiving funding;

(e) A reporting process for aid recipients;

(f) A reporting process for the commission to the Governor and Legislature. The report shall be made electronically to the Governor and the Legislature; and

(g) Requirements regarding the use of the common data set.

43-2404.03. Legislative intent. It is the intent of the Legislature to appropriate five million dollars to the Community-based Juvenile Services Aid Program.

43-2405. Grants under Commission Grant Program; application; requirements.

(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 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.

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

43-2406. Grants; criteria. From amounts appropriated to the commission for the Commission Grant Program 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.

43-2407. Repealed. Laws 2000, LB 1167, s. 56.

43-2408. Grants; use.

(1) Grants provided under the Commission Grant Program may be used for developing programs under the Juvenile Services Act.

(2) No grants from the Commission Grant Program shall be used to acquire, develop, build, or improve local correctional facilities.

43-2409. Eligible applicants; performance review; commission; powers; use of grants; limitation.

(1) The coalition shall review periodically the performance of eligible applicants participating under the 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 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 the Commission Grant Program shall not be used for capital construction or the lease or acquisition of facilities except as provided in subdivision (3)(c) of section 43-2404.02.

43-2410. Repealed. Laws 2000, LB 1167, s. 56.

43-2411. Nebraska Coalition for Juvenile Justice; created; members; terms; expenses; task forces or subcommittee; authorized.

(1) The Nebraska Coalition for Juvenile Justice is created. Coalition members who are members of the judicial branch of government shall be nonvoting members of the coalition. The coalition members shall be appointed by the Governor and shall include the members required under subsection (2) or (3) of this section.

(2) Before June 15, 2018:

(a) As provided in the federal act, there shall be no less than fifteen nor more than thirty-three members of the coalition;

(b) The coalition shall include:

(i) The Administrator of the Office of Juvenile Services;

(ii) The chief executive officer of the Department of Health and Human Services or his or her designee;

(iii) The Commissioner of Education or his or her designee;

(iv) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice or his or her designee;

(v) The executive director of the Nebraska Association of County Officials or his or her designee;

(vi) The probation administrator of the Office of Probation Administration or his or her designee;

(vii) One county commissioner or supervisor;

(viii) One person with data analysis experience;

(ix) One police chief;

(x) One sheriff;

(xi) The executive director of the Foster Care Review Office;

(xii) One separate juvenile court judge;

(xiii) One county court judge;

(xiv) One representative of mental health professionals who works directly with juveniles;

(xv) Three representatives, one from each congressional district, from community-based, private nonprofit organizations who work with juvenile offenders and their families;

(xvi) One volunteer who works with juvenile offenders or potential juvenile offenders;

(xvii) One person who works with an alternative to a detention program for juveniles;

(xviii) The director or his or her designee from a youth rehabilitation and treatment center;

(xix) The director or his or her designee from a secure juvenile detention facility;

(xx) The director or his or her designee from a staff secure youth confinement facility;

(xxi) At least five members who are under twenty-four years of age when appointed;

(xxii) One person who works directly with juveniles who have learning or emotional difficulties or are abused or neglected;

(xxiii) One member of the Nebraska Commission on Law Enforcement and Criminal Justice;

(xxiv) One member of a regional behavioral health authority established under section 71-808;

(xxv) One county attorney; and

(xxvi) One public defender;

(c) A majority of the coalition members, including the chairperson, shall not be full-time employees of federal, state, or local government. At least one-fifth of the coalition members shall be under the age of twenty-four years at the time of appointment; and

(d) Except as provided in subsection (4) of this section, the terms of members appointed pursuant to subdivisions (2)(b)(vii) through (2)(b)(xxvi) of this section shall be three years, except that the terms of the initial appointments of members of the coalition shall be staggered so that one-third of the members are appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years, as determined by the Governor.

(3) On and after June 15, 2018, the coalition shall include:

(a) The chief executive officer of the Department of Health and Human Services or his or her designee;
(b) The Commissioner of Education or his or her designee;
(c) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice or his or her designee;
(d) The executive director of the Nebraska Association of County Officials or his or her designee;
(e) The probation administrator of the Office of Probation Administration or his or her designee;
(f) One county commissioner or supervisor;
(g) One representative from law enforcement;
(h) The executive director of the Foster Care Review Office;
(i) One separate juvenile court judge;
(j) One county court judge;
(k) Three representatives, one from each congressional district, from community-based, private nonprofit organizations who work with juvenile offenders and their families;
(l) The director or his or her designee from a secure juvenile detention facility or a staff secure youth confinement facility;
(m) At least one member who is under twenty-four years of age when appointed, with juvenile justice experience preferred;
(n) One at-large member;
(o) One member of a regional behavioral health authority established under section 71-808;
(p) One county attorney; and
(q) One juvenile public defender or defense attorney.

(4)(a) Except as provided in subdivisions (c) through (e) of this subsection, members of the coalition serving prior to June 15, 2018, shall continue to serve on the coalition as representatives of the entity they were appointed to represent until their current terms of office expire and their successors are appointed and confirmed.

(b) The terms of the members appointed pursuant to subdivisions (3)(f) through (3)(q) of this section shall be three years.

(c) The positions created pursuant to subdivisions (2)(b)(i), (viii), (x), (xiv), (xvi), (xvii), (xviii), (xx), (xxii), and (xxiii) of this section shall cease to exist on June 15, 2018.

(d) The police chief appointed pursuant to subdivision (2)(b)(ix) of this section shall continue to serve until the representative from law enforcement under subdivision (3)(g) of this section is appointed.

(e) The director or his or her designee from a secure juvenile detention facility appointed pursuant to subdivision (2)(b)(xix) of this section shall continue to serve until the member under subdivision (3)(l) of this section is appointed.

(5) Any vacancy on the coalition shall be filled by appointment by the Governor. The coalition shall select a chairperson, a vice-chairperson, and such other officers as it deems necessary.

(6) Members of the coalition shall be reimbursed for expenses pursuant to sections 81-1174 to 81-1177.

(7) The coalition may appoint task forces or subcommittees to carry out its work. Task force and subcommittee members shall have knowledge of, responsibility for, or interest in an area related to the duties of the coalition.

43-2412. Coalition; powers and duties.

(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) Prepare at least one report annually to the Governor, the Legislature, the Office of Probation Administration, and the Office of Juvenile Services. The report submitted to the Legislature shall be submitted electronically;

(c) Ensure widespread citizen involvement in all phases of its work; and

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

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

(c) Provide technical assistance to eligible applicants;

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

(e) Recommend guidelines and supervision procedures to be used to develop or expand local diversion programs for juveniles from the juvenile justice system.

(3) In formulating, adopting, and promulgating the 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.

43-2413. Repealed. Laws 2018, LB670, § 21.

C. NEBRASKA COUNTY JUVENILE SERVICES PLAN ACT

43-3501. Act, how cited.

Sections 43-3501 to 43-3507 shall be known and may be cited as the Nebraska County Juvenile Services Plan Act.

43-3502. Definitions. For purposes of the Nebraska County Juvenile Services Plan Act, the definitions shall be the same as those in sections 43-245 and 43-403.

43-3503. Legislative intent; county powers and duties.

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

(2) A county may enhance, develop, or expand alternatives to detention as needed with private or public providers. Grants from the Commission Grant Program and aid from the Community-based 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 alternatives to detention. Each county shall routinely review services provided by contract providers and modify services as needed.

43-3504. County juvenile services plan; multi county plan; regional plan.

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

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

(b) Identification of juvenile services available within the county or counties, 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;

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

(d) Identification of the programs, services, facilities, and providers the county primarily uses for juvenile detention or alternatives to detention, including the costs associated with the use of such programs, services, facilities, and providers; and

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

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

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

43-3505. County; powers; local juvenile justice advisory committee. Each county may:

(1) Establish a local juvenile justice advisory committee for the purpose of meeting quarterly to discuss trends and issues related to juvenile offenders and service needs. Such committee should include representation from the courts, law enforcement, community service providers, schools, detention or shelter care, county elected and administrative officials, probation officials, health and human services representatives, and state officials or agency representatives. The committee should discuss state and local policy initiatives, use of detention and other regional services, commitment to state custody, and impacts of policy initiatives and trends on county juvenile justice systems. Notwithstanding any other provision of law regarding the confidentiality of records, information from the various representative agencies can be shared about juveniles under their supervision for the purposes of this subdivision. The information shared shall be in the form of statistical data which does not disclose the identity of any particular individual;

(2) Collect and review data on an ongoing basis to understand the service needs of the juvenile offender population; and

(3) Compile, review, and forward county level data collected pursuant to section 43-3506.

43-3506. County level data on juveniles. County level data on juveniles shall be maintained and compiled by the Nebraska Commission on Law Enforcement and Criminal Justice on arrest rates; petition rates; detention rates and utilization; offender profile data, such as offense, race, age, and sex; and admissions to staff secure and temporary holdover facilities.

43-3507. Legislative findings.

(1) The Legislature finds that there is a need for additional secure detention and detention services, including transportation services, for juveniles in the state. The need can be met by enhancing and expanding the existing secure detention facilities and detention services as needed in the future and by constructing new juvenile detention facilities to serve the southeastern, central, and west central areas of the state.

(2) The Legislature further finds that in order for probation officers to adequately perform the function of providing juvenile intake services statewide, existing probation staff resources need to be expanded and, additionally, program services that enhance a juvenile's successful reintegration into the community need to readily be available and at the disposal of juvenile probation.

(3) The Legislature further finds that juvenile diversion programs should be available throughout the state as a means of providing consequences without the formal involvement of the courts.

D. NEBRASKA JUVENILE SERVICE DELIVERY PROJECT

43-4101. Nebraska Juvenile Service Delivery Project; established; purpose; evaluation; reimbursement for costs; Department of Health and Human Services; duties.

(1) The Nebraska Juvenile Service Delivery Project shall be established as a pilot program administered by the Office of Probation Administration. The pilot program shall be evaluated by the University of Nebraska Medical Center's College of Public Health. The project may be expanded by the Office of Probation Administration. The purpose of the pilot program is to (a) provide access to services in the community for juveniles placed on probation, (b) prevent unnecessary commitment of juveniles to the Department of Health and Human Services and to the Office of Juvenile Services, (c) eliminate barriers preventing juveniles from receiving needed services, (d) prevent unnecessary penetration of juveniles further into the juvenile justice system, (e) enable the juvenile's needs to be met in the least intrusive and least restrictive manner while maintaining the safety of the juvenile and the community, (f) reduce the duplication of resources within the juvenile justice system through intense coordinated case management and supervision, and (g) use evidence-based practices and responsive case management to improve outcomes for adjudicated juveniles.

(2) On or before July 1, 2013, the Department of Health and Human Services shall apply for reimbursement under Title IV-E of the federal Social Security Act, as amended, for reimbursable costs associated with the Nebraska Juvenile Service Delivery Project. The reimbursed funds received by the department shall be remitted to the State Treasurer for credit to the Probation Program Cash Fund for reimbursement of expenses incurred by the Office of Probation Administration pursuant to the Nebraska Juvenile Service Delivery Project.

43-4102. Nebraska Juvenile Service Delivery Project; expansion; funding; information-sharing process; established.

(1) It is the intent of the Legislature that the Nebraska Juvenile Service Delivery Project, established as a pilot program under section 43-4101 within the Office of Probation Administration, be expanded statewide in a three-step, phase-in process beginning July 1, 2013, with full implementation by July 1, 2014. The expansion of the project will result in the Office of Probation Administration taking over the duties of the Office of Juvenile Services with respect to its previous functions of community supervision and parole of juvenile law violators and of evaluations for such juveniles. The Office of Juvenile Services shall continue for the purpose of operating the youth rehabilitation and treatment centers and the care and custody of the juveniles placed at such centers. Expansion of the project shall be funded by the transfer of funds from the Department of Health and Human Services and the Office of Juvenile Services used to fully fund community-based services and juvenile parole to the Office of Probation Administration.

(2) There shall be established through the use of technology an information-sharing process to support and enhance the exchange of information between the Department of Health and Human Services, the Office of Probation Administration, and the Nebraska Commission on Law Enforcement and Criminal Justice. It is the intent of the Legislature to appropriate two hundred fifty thousand dollars from the General Fund to the Office of Probation Administration to facilitate the information-sharing process.

(3) Costs incurred on behalf of juveniles under the Nebraska Juvenile Service Delivery Project shall be paid as provided in section 43-290.01.

XV. ASSISTANCE AND SERVICES FOR DELINQUENT, DEPENDENT, AND MEDICALLY HANDICAPPED CHILDREN

43-501. Sections, how construed. Sections 43-501 to 43-526 shall be construed to be new, supplemental, and independent legislation upon the subjects of assistance and services for delinquent, dependent, and medically handicapped children, and all provisions of law in regard thereto shall be and remain in full force and effect.

43-502. Repealed. Laws 1953, c. 237, s. 11.

43-503. Department of Health and Human Services; duty to cooperate with other departments and bureaus. The Department of Health and Human Services shall cooperate and coordinate its child and maternal welfare activities with those of state institutions, vocational rehabilitation division of the State Department of Education, courts, county boards, charities and all other organizations, societies and agencies, state and national, to promote child welfare and health.

43-504. Terms, defined; pregnancy; effect.

(1) The term dependent child shall mean a child under the age of nineteen years who is living with a relative or with a caretaker who is the child's legal guardian or conservator in a place of residence maintained by one or more of such relatives or caretakers as his, her, or their own home, or which child has been removed from the home of his or her father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first or second cousin, nephew, or niece as a result of judicial determination to the effect that continuation in the home would be contrary to the safety and welfare of the child and such child has been placed in a foster family home or child care institution as a result of such determination, when the state or any court having jurisdiction of such child is responsible for the care and placement of such child and one of the following conditions exists:

(a) Such child received aid from the state in or for the month in which court proceedings leading to such determination were initiated;

(b) such child would have received assistance in or for such month if application had been made therefore; or

(c) such child had been living with such a relative specified in this subsection at any time within six months prior to the month in which such proceedings were initiated and would have received such aid in or for the month that such proceedings were initiated if in such month the child had been living with, and removed from the home of, such a relative and application had been made therefor.

(2) In awarding aid to dependent children payments, the term dependent child shall include an unborn child but only during the last three months of pregnancy. A pregnant woman may be eligible but only (a) if it has been medically verified that the child is expected to be born in the month such payments are made or expected to be born within the three-month period following such month of payment and (b) if such child had been born and was living with her in the month of payment, she would be eligible for aid to families with dependent children. As soon as it is medically determined that pregnancy exists, a pregnant woman who meets the other requirements for aid to dependent children shall be eligible for medical assistance.

(3) A physically or medically handicapped child shall mean a child who, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury, or disease, is or may be expected to be totally or partially incapacitated for education or for remunerative occupation.

43-504.01. Conditions of eligibility; partially or totally unemployed parent or needy caretaker. As a condition of eligibility for aid for children included in section 43-504, a partially or totally unemployed parent or needy caretaker shall participate in the employment preparation or training program for aid to dependent children, unless considered exempt under rules and regulations adopted and promulgated by the Department of

Health and Human Services, and any totally or partially unemployed parent or needy caretaker who fails or refuses without good cause to participate in the employment preparation or training program or who refuses without good cause to accept employment in which he or she is able to engage which will increase his or her ability to maintain himself or herself and his or her family shall be deemed by such refusal to have rendered his or her children ineligible for further aid until he or she has complied with this section. The requirements of this section shall also apply to any dependent child unless he or she is under age sixteen or attending, full time, an elementary, secondary, or vocational school.

43-504.02. Repealed. Laws 1967, c. 250, s. 1.
43-505. Repealed. Laws 1982, LB 522, s. 46.
43-506. Repealed. Laws 1982, LB 522, s. 46.

43-507. Mentally and physically handicapped children; Department of Health and Human Services; duties. The Department of Health and Human Services, on behalf of mentally and physically handicapped children, shall (1) obtain admission to state and other suitable schools, hospitals, or other institutions or care in their own homes or in family, free, or boarding homes for such children in accordance with the provisions of the existing law, (2) maintain medical supervision over such mentally or physically handicapped children, and (3) provide necessary medical or surgical care in a suitable hospital, sanitarium, preventorium, or other institution or in the child's own home or a home for any medically handicapped child needing such care and pay for such care from public funds, if necessary.

43-508. Department of Health and Human Services; cooperation with state institutions. The Department of Health and Human Services shall cooperate with the state institutions for delinquent and mentally and physically handicapped children to ascertain the conditions of the home and the character and habits of the parents of a child, before his or her discharge from a state institution, and make recommendations as to the advisability of returning the child to his or her home. In case the department deems it unwise to have any such child returned to his or her former home, such state institution may, with the consent of the department, place such child into the care of the department.

43-509. Religious faith of children; preservation. The religious faith of children coming under the jurisdiction of public welfare officials shall be preserved and protected.

43-510. Children eligible for assistance. In order to be eligible for assistance, a child must be a bona fide resident of the State of Nebraska.

43-511. Benefits extended to children in rural districts. The Department of Health and Human Services shall extend the assistance and services herein provided for to all children in rural districts throughout this state, in order that the same benefits and facilities shall be available to children in such districts as in urban areas.

43-512. Application for assistance; procedure; maximum monthly assistance; payment; transitional benefits; terms, defined.

(1) Any dependent child as defined in section 43-504 or any relative or eligible caretaker of such a dependent child may file with the Department of Health and Human Services a written application for financial assistance for such child on forms furnished by the department.

(2) The department, through its agents and employees, shall make such investigation pursuant to the application as it deems necessary or as may be required by the county attorney or authorized attorney. If the investigation or the application for financial assistance discloses that such child has a parent or stepparent who is able to contribute to the support of such child and has failed to do so, a copy of the finding of such investigation and a copy of the application shall immediately be filed with the county attorney or authorized attorney.

(3) The department shall make a finding as to whether the application referred to in subsection (1) of this section should be allowed or denied. If the department finds that the application should be allowed, the

department shall further find the amount of monthly assistance which should be paid with reference to such dependent child. Except as may be otherwise provided, payments shall be made by unit size and shall be consistent with subdivisions (1)(p), (1)(q), (1)(t), (1)(u), and (1)(v) of section 68-1713. Beginning on August 30, 2015, the maximum payment level for monthly assistance shall be fifty-five percent of the standard of need described in section 43-513.

No payments shall be made for amounts totaling less than ten dollars per month except in the recovery of overpayments.

(4) The amount which shall be paid as assistance with respect to a dependent child shall be based in each case upon the conditions disclosed by the investigation made by the department. An appeal shall lie from the finding made in each case to the chief executive officer of the department or his or her designated representative. Such appeal may be taken by any taxpayer or by any relative of such child. Proceedings for and upon appeal shall be conducted in the same manner as provided for in section 68-1016.

(5)(a) For the purpose of preventing dependency, the department shall adopt and promulgate rules and regulations providing for services to former and potential recipients of aid to dependent children and medical assistance benefits. The department shall adopt and promulgate rules and regulations establishing programs and cooperating with programs of work incentive, work experience, job training, and education. The provisions of this section with regard to determination of need, amount of payment, maximum payment, and method of payment shall not be applicable to families or children included in such programs. Income and assets described in section 68-1201 shall not be included in determination of need under this section.

(b) If a recipient of aid to dependent children becomes ineligible for aid to dependent children as a result of increased hours of employment or increased income from employment after having participated in any of the programs established pursuant to subdivision (a) of this subsection, the recipient may be eligible for the following benefits, as provided in rules and regulations of the department in accordance with sections 402, 417, and 1925 of the federal Social Security Act, as amended, Public Law 100-485, in order to help the family during the transition from public assistance to independence:

(i) An ongoing transitional payment that is intended to meet the family's ongoing basic needs which may include food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses during the five months following the time the family becomes ineligible for assistance under the aid to dependent children program, if the family's earned income is at or below one hundred eighty-five percent of the federal poverty level at the time the family becomes ineligible for the aid to dependent children program. Payments shall be made in five monthly payments, each equal to one-fifth of the aid to dependent children payment standard for the family's size at the time the family becomes ineligible for the aid to dependent children program. If during the five-month period, (A) the family's earnings exceed one hundred eighty-five percent of the federal poverty level, (B) the family members are no longer working, (C) the family ceases to be Nebraska residents, (D) there is no longer a minor child in the family's household, or (E) the family again becomes eligible for the aid to dependent children program, the family shall become ineligible for any remaining transitional benefits under this subdivision;

(ii) Child care as provided in subdivision (1)(c) of section 68-1724; and

(iii) Except as may be provided in accordance with subsection (2) of section 68-1713 and subdivision (1)(c) of section 68-1724, medical assistance for up to twelve months after the month the recipient becomes employed and is no longer eligible for aid to dependent children.

(6) For purposes of sections 43-512 to 43-512.18:

(a) Authorized attorney shall mean an attorney, employed by the county subject to the approval of the county board, employed by the department, or appointed by the court, who is authorized to investigate and prosecute child, spousal, and medical support cases. An authorized attorney shall represent the state as provided in section 43-512.03;

(b) Child support shall be defined as provided in section 43-1705;

(c) Medical support shall include all expenses associated with the birth of a child, cash medical support as defined in section 42-369, health care coverage as defined in section 44-3,144, and medical and hospital insurance coverage or membership in a health maintenance organization or preferred provider organization;

(d) Spousal support shall be defined as provided in section 43-1715;

(e) State Disbursement Unit shall be defined as provided in section 43-3341; and

(f) Support shall be defined as provided in section 43-3313.

43-512.01. County attorney or authorized attorney; duty to take action against nonsupporting parent or stepparent when. It shall be the duty of the county attorney or authorized attorney when a copy of the finding of investigation or the application for financial assistance has been filed with him or her as provided in section 43-512, or when an application has been made pursuant to section 43-512.02, to immediately take action against the nonsupporting parent or stepparent of the dependent child. It shall be the duty of the county attorney or authorized attorney to initiate a child support enforcement action. If the county attorney initiates an action, he or she shall file either a criminal complaint for nonsupport under section 28-706 or a civil complaint against the nonsupporting parent or stepparent under section 43-512.03. If the attorney who initiates a child support enforcement action is an authorized attorney, he or she shall file a civil complaint against the nonsupporting parent or stepparent pursuant to section 43-512.03.

43-512.02. Child, spousal, and medical support collection; paternity determination; services available; application; fees; costs.

(1) Any child or any relative, lawful custodian, guardian, or next friend of a child may file with the county attorney, authorized attorney, or other office designated by the Department of Health and Human Services an application for the same child, spousal, and medical support collection or paternity determination services as are provided to dependent children and their relatives under sections 43-512 to 43-512.10 by the department, the county attorney, the authorized attorney, and the clerk of the district court.

(2) If an office other than the office of the county attorney or authorized attorney is authorized by the department to accept such applications and if the application discloses that such child has a parent or stepparent who is able to contribute to the support of such child and has failed to do so, a copy of the application shall immediately be filed with the county attorney or authorized attorney.

(3)(a) The department shall determine an application fee to be charged to each individual who applies for services available in this section which shall not exceed the fee amount allowed by Title IV-D of the federal Social Security Act, as amended. The fee shall be collected from the individual or paid by the department on the individual's behalf. The county attorney or authorized attorney may recover the fee from the parent or stepparent who owes child, spousal, or medical support and reimburse the applicant. The governmental entity which is actually collecting the delinquent support payments shall collect the fee and send it to the department.

(b) The department may establish a schedule of amounts to be charged to recover any costs incurred in excess of any fees collected to cover administrative costs of providing the full scope of services required by state law. The department shall by regulation establish a schedule of amounts to be paid for such services based upon the actual costs incurred in providing such services. The schedule shall be made available to all applicants for such services. Any amount charged to recover costs may be collected from the parent or stepparent who owes child, spousal, or medical support or from the individual who has applied for enforcement services, either directly from such individual or from the child or spousal support collected, but only if the individual has been notified that the county attorney or authorized attorney will recover costs from an individual who receives enforcement services. The department shall not impose an application fee for services in any case in which the department is authorized to continue to collect and distribute support payments after a family ceases to receive aid to dependent children payments.

43-512.03. County attorney or authorized attorney; duties; enumerated; department; powers; actions; real party in interest; representation; section, how construed.

(1) The county attorney or authorized attorney shall:

(a) On request by the Department of Health and Human Services as described in subsection (2) of this section or when the investigation or application filed under section 43-512 or 43-512.02 justifies, file a complaint against a nonsupporting party in the district, county, or separate juvenile court praying for an order for child or

medical support in cases when there is no existing child or medical support order. After notice and hearing, the court shall adjudicate the child and medical support liability of either party and enter an order accordingly;

(b) Enforce child, spousal, and medical support orders by an action for income withholding pursuant to the Income Withholding for Child Support Act;

(c) In addition to income withholding, enforce child, spousal, and medical support orders by other civil actions or administrative actions, citing the defendant for contempt, or filing a criminal complaint;

(d) Establish paternity and collect child and medical support on behalf of children born out of wedlock; and

(e) Carry out sections 43-512.12 to 43-512.18.

(2) The department may periodically review cases of individuals receiving enforcement services and make referrals to the county attorney or authorized attorney.

(3) In any action brought by or intervened in by a county attorney or authorized attorney under the Income Withholding for Child Support Act, the License Suspension Act, the Uniform Interstate Family Support Act, or sections 42-347 to 42-381, 43-290, 43-512 to 43-512.18, 43-1401 to 43-1418, and 43-3328 to 43-3339, such attorneys shall represent the State of Nebraska.

(4) The State of Nebraska shall be a real party in interest in any action brought by or intervened in by a county attorney or authorized attorney for the purpose of establishing paternity or securing, modifying, suspending, or terminating child or medical support or in any action brought by or intervened in by a county attorney or authorized attorney to enforce an order for child, spousal, or medical support.

(5) Nothing in this section shall be construed to interpret representation by a county attorney or an authorized attorney as creating an attorney-client relationship between the county attorney or authorized attorney and any party or witness to the action, other than the State of Nebraska, regardless of the name in which the action is brought.

43-512.04. Child support or medical support; separate action allowed; procedure; presumption; decree; contempt.

(1) An action for child support or medical support may be brought separate and apart from any action for dissolution of marriage. The complaint initiating the action shall be filed with the clerk of the district court and may be heard by the county court or the district court as provided in section 25-2740. Such action for support may be filed on behalf of a child:

(a) Whose paternity has been established (i) by prior judicial order in this state, (ii) by a prior determination of paternity made by any other state or by an Indian tribe as described in subsection (1) of section 43-1406, or (iii) by the marriage of his or her parents as described in section 42-377 or subsection (2) of section 43-1406; or

(b) Whose paternity is presumed as described in section 43-1409 or subsection (2) of section 43-1415.

(2) The father, not having entered into a judicially approved settlement or being in default in the performance of the same, may be made a respondent in such action. The mother of the child may also be made a respondent in such an action. Such action shall be commenced by a complaint of the mother of the child, the father of the child whose paternity has been established, the guardian or next friend of the child, the county attorney, or an authorized attorney.

(3) The complaint shall set forth the basis on which paternity was previously established or presumed, if the respondent is the father, and the fact of nonsupport and shall ask that the father, the mother, or both parents be ordered to provide for the support of the child. Summons shall issue against the father, the mother, or both parents and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county. The method of trial shall be the same as in actions formerly cognizable in equity, and jurisdiction to hear and determine such actions for support is hereby vested in the district

court of the district or the county court of the county where the child is domiciled or found or, for cases under the Uniform Interstate Family Support Act if the child is not domiciled or found in Nebraska, where the parent of the child is domiciled.

(4) In such proceeding, if the defendant is the presumed father as described in subdivision (1)(b) of this section, the court shall make a finding whether or not the presumption of paternity has been rebutted. The presumption of paternity created by acknowledgment as described in section 43-1409 may be rebutted as part of an equitable proceeding to establish support by genetic testing results which exclude the alleged father as being the biological father of the child. A court in such a proceeding may order genetic testing as provided in sections 43-1414 to 43-1418.

(5) If the court finds that the father, the mother, or both parents have failed adequately to support the child, the court shall issue a decree directing him, her, or them to do so, specifying the amount of such support, the manner in which it shall be furnished, and the amount, if any, of any court costs and attorney's fees to be paid by the father, the mother, or both parents. Income withholding shall be ordered pursuant to the Income Withholding for Child Support Act. The court may require the furnishing of bond to insure the performance of the decree in the same manner as is provided for in section 42-358.05 or 43-1405. Failure on the part of the defendant to perform the terms of such decree shall constitute contempt of court and may be dealt with in the same manner as other contempts. The court may also order medical support and the payment of expenses as described in section 43-1407.

43-512.05. Child, spousal, and medical support payments; district court clerks; furnish information; cooperative agreements; reimbursement for costs incurred.

(1) It shall be the duty of the clerks of the district courts to furnish the Department of Health and Human Services monthly statistical information and any other information required by the department to properly account for child, spousal, and medical support payments. The clerk of each district court shall negotiate and enter into a written agreement with the department in order to receive reimbursement for the costs incurred in carrying out sections 43-512 to 43-512.10 and 43-512.12 to 43-512.18.

(2) The department and the governing board of the county, county attorney, or authorized attorney may enter into a written agreement regarding the determination of paternity and child, spousal, and medical support enforcement for the purpose of implementing such sections. Paternity shall be established when it can be determined that the collection of child support is feasible.

(3) The department shall adopt and promulgate rules and regulations regarding the rate and manner of reimbursement for costs incurred in carrying out such sections, taking into account relevant federal law, available federal funds, and any appropriations made by the Legislature. Any reimbursement funds shall be added to the budgets of those county officials who have performed the services as called for in the cooperative agreements and carried over from year to year as required by law.

43-512.06. Locating absent parents; determining income and employer; access to information; assistance; purpose.

(1) Notwithstanding any other provisions of law regarding confidentiality of records, every department and agency of state, county, and city government and every employer or other payor as defined in section 43-1709 shall assist and cooperate with the Department of Health and Human Services in locating absent parents, determining an absent parent's income and health insurance information, and identifying an absent parent's employer only for the purposes of establishing and collecting child, spousal, and medical support and of conducting reviews under sections 43-512.12 to 43-512.18. Such information shall be used for no other purpose. An action may be filed in district court to enforce this subsection.

(2) Notwithstanding any other provision of law regarding confidentiality of records, every public, private, or municipal utility shall, upon request, furnish to any county attorney, authorized attorney, or the Department of

Health and Human Services a subscriber's name, social security number, and mailing and residence addresses only for the purposes of establishing and collecting child, spousal, and medical support and of conducting reviews under sections 43-512.12 to 43-512.18. Such information shall be used for no other purpose. An action may be filed in district court to enforce this subsection. For purposes of this subsection, utility shall mean any entity providing electrical, gas, water, telephone, garbage disposal, or waste disposal service, including, but not limited to, any district or corporation organized under Chapter 70.

43-512.07. Assignment of child, spousal, or medical support payments; when; duration; notice; unpaid court-ordered support; how treated; pass-through amounts; how treated.

(1) Any action, payment, aid, or assistance listed in this subsection shall constitute an assignment by operation of law to the Department of Health and Human Services of any right to spousal or medical support, when ordered by the court, and to child support, whether or not ordered by the court, which a person may have in his or her own behalf or on behalf of any other person for whom such person receives such payments, aid, or assistance:

(a) Application for and acceptance of one or more aid to dependent children payments by a parent, another relative, or a custodian;

(b) Receipt of aid by or on behalf of any dependent child as defined in section 43-504; or

(c) Receipt of aid from child welfare funds.

The assignment under this section is the right to support payments that become due while the person is receiving payments, aid, or assistance listed in this subsection. The department shall be entitled to retain such spousal or other support up to the amount of payments, aid, or assistance provided to a recipient. For purposes of this section, the right to receive child support shall belong to the child and the assignment shall be effective as to any such support even if the recipient of the payments, aid, or assistance is not the same as the payee of court-ordered support.

(2) After notification of the State Disbursement Unit receiving the child, spousal, or other support payments made pursuant to a court order that the person for whom such support is ordered is a recipient of payments, aid, or assistance listed in subsection (1) of this section, the department shall also give notice to the payee named in the court order at his or her last-known address.

(3) Upon written or other notification from the department or from another state of such assignment of child, spousal, or other support payments, the State Disbursement Unit shall transmit the support payments received to the department or the other state without the requirement of a subsequent order by the court. The State Disbursement Unit shall continue to transmit the support payments for as long as the payments, aid, or assistance listed in subsection (1) of this section continues.

(4) Any court-ordered child, spousal, or other support remaining unpaid for the months during which such payments, aid, or assistance was made shall constitute a debt and a continuing assignment at the termination of payments, aid, or assistance listed in subsection (1) of this section, collectible by the department or other state as reimbursement for such payments, aid, or assistance. The continuing assignment shall only apply to support payments made during a calendar period which exceed the specific amount of support ordered for that period. When payments, aid, or assistance listed in subsection (1) of this section have ceased and upon notice by the department or the other state, the State Disbursement Unit shall continue to transmit to the department or the other state any support payments received in excess of the amount of support ordered for that specific calendar period until notified by the department or the other state that the debt has been paid in full.

(5) Beginning July 1, 2027, the department shall pass through an amount not exceeding one hundred dollars per month, or in the case of a family with two or more children, an amount not exceeding two hundred dollars per month, to the recipient of any payments, aid, or assistance listed in subdivision (1)(a) of this section, from the current child support collected pursuant to the assignment. Such pass-through amounts shall not be considered income for the purpose of calculating a recipient's eligibility for assistance. The department shall disregard the amount of child support passed through to the recipient in calculating the amount of the recipient's monthly assistance payment.

43-512.08. Intervention in matters relating to child, spousal, or medical support; when authorized.

The county attorney or authorized attorney, acting for or on behalf of the State of Nebraska, may intervene without leave of the court in any proceeding for dissolution of marriage, paternity, separate maintenance, or child, spousal, or medical support for the purpose of securing an order for child, spousal, or medical support, modifying an order for child or medical support, or modifying an order for child support as the result of a review of such order under sections 43-512.12 to 43-512.18. Such proceedings shall be limited only to the determination of child or medical support. Except in cases in which the intervention is the result of a review under such sections, the county attorney or authorized attorney shall so act only when it appears that the children are not otherwise represented by counsel.

43-512.09. Garnishment for collection of child support or medical support; where filed. A garnishment for the collection of child support or medical support may be filed in any jurisdiction where any property or credits of the defendant may be found irrespective of the residence of the creditors or the place where the debt is payable.

43-512.10. Sections, how construed. Sections 43-512 to 43-512.10 and 43-512.12 to 43-512.18 shall be interpreted so as to facilitate the determination of paternity, child, spousal, and medical support enforcement, and the conduct of reviews under such sections.

43-512.11. Work and education programs; department; report.

The Department of Health and Human Services shall submit electronically an annual report, not later than December 1 of each year, to the Legislature regarding the effectiveness of programs established pursuant to subdivision (5)(a) of section 43-512. The report shall include, but not be limited to:

(1) The number of program participants;

(2) The number of program participants who become employed, whether such employment is full time or part time or subsidized or unsubsidized, and whether the employment was retained for at least thirty days;

(3) Supportive services provided to participants in the program;

(4) Grant reductions realized; and

(5) A cost and benefit statement for the program.

43-512.12. Title IV-D child support order; review by Department of Health and Human Services; when; noncustodial parent incarcerated; review of child support order; notice to parents.

(1) Child support orders in cases in which a party has applied for services under Title IV-D of the federal Social Security Act, as amended, shall be reviewed by the Department of Health and Human Services to determine whether to refer such orders to the county attorney or authorized attorney for filing of an application for modification. An order shall be reviewed by the department upon its own initiative or at the request of either parent when such review is required by Title IV-D of the federal Social Security Act, as amended. After review the department shall refer an order to a county attorney or authorized attorney when the verifiable financial information available to the department indicates:

(a) The present child support obligation varies from the Supreme Court child support guidelines pursuant to section 42-364.16 by more than the percentage, amount, or other criteria established by Supreme Court rule, and the variation is due to financial circumstances which have lasted at least three months and can reasonably be expected to last for an additional six months; or

(b) Health care coverage meeting the requirements of subsection (2) of section 42-369 is available to either party and the children do not have health care coverage other than the medical assistance program under the Medical Assistance Act.

Health care coverage cases may be modified within three years of entry of the order.

(2) Orders that are not addressed under subsection (1) of this section shall not be reviewed by the department if it has not been three years since the present child support obligation was ordered unless the requesting party demonstrates a substantial change in circumstances that is expected to last for the applicable time period established by subdivision (1)(a) of this section. Such substantial change in circumstances may include, but

is not limited to, change in employment, earning capacity, or income or receipt of an ongoing source of income from a pension, gift, lottery winnings, casino winnings, parimutuel winnings, sports wagering winnings, or cash device winnings. An order may be reviewed after one year if the department's determination after the previous review was not to refer to the county attorney or authorized attorney for filing of an application for modification because financial circumstances had not lasted or were not expected to last for the time periods established by subdivision (1)(a) of this section.

(3)(a) Notwithstanding the time periods set forth in subdivision (1)(a) of this section, within fifteen business days of learning that a noncustodial parent will be incarcerated for more than one hundred eighty calendar days, the department shall initiate a review of the noncustodial parent's child support order. The department shall send notice by first-class mail to both parents informing them of such review and require the parties to submit financial information as provided in sections 43-512.14 and 43-512.17 within thirty days after the date of the notice. Such notice shall be sent to the incarcerated parent at the address of the facility at which the parent is incarcerated and to the administrator of such facility as defined in section 47-1003.

(b) The department shall, within one hundred twenty calendar days after the date the department learned the noncustodial parent was to be incarcerated:

(i) Complete such review; and

(ii) Notify the parties of its determination pursuant to section 43-512.13.

43-512.13. Title IV-D child support order; review; notice requirements; additional reviews; procedure.

(1)(a) When review of a child support order pursuant to subsection (1) or (2) of section 43-512.12 has been requested by one of the parents or initiated by the Department of Health and Human Services, the department shall send notice of the pending review to each parent affected by the order at the parent's last-known mailing address thirty days before the review is conducted. Such review shall require the parties to submit financial information as provided in sections 43-512.14 and 43-512.17.

(b) Except as provided in subsection (2) of this section, after the department completes the review of the child support order in accordance with section 43-512.12, it shall send notice to each parent of the determination to refer or not refer the order to the county attorney or authorized attorney for filing of an application for modification of the order in the district court.

(c) Each parent shall be allowed thirty days to submit to the department a written request for a review of such determination. The parent requesting review shall submit the request in writing to the department, stating the reasons for the request and providing written evidence to support the request.

(d) The department shall review the available verifiable financial information and make a final determination whether or not to refer the order to the county attorney or authorized attorney for filing of an application for modification of the child support order. Written notice of such final determination shall be sent to each parent affected by the order at the parent's last-known mailing address.

(e) A final determination under this subsection shall not be considered a contested case for purposes of the Administrative Procedure Act.

(2)(a) If, upon the completion of a review initiated pursuant to subsection (3) of section 43-512.12, the department finds a decrease in the amount of the present child support obligation is not warranted because it does not meet the criteria in subsection (1) or (2) of section 43-512.12, the department shall grant the incarcerated parent a conference to review the department's findings. Such conference shall be scheduled within thirty days after the completion of the department's review and may be conducted in person or by means of virtual conferencing. The department shall send notice of such conference by first-class mail to both parents. The notice shall include the following:

(i) The department's findings;

(ii) Whether the conference will be conducted in person or virtually;

(iii) The date, time, and location of the conference;

(iv) That the parties may submit any additional written evidence to the department at least ten business days prior to the conference;

(v) That the incarcerated parent may waive the conference and that such request shall be filed at least five business days prior to the conference date; and

(vi) Any other information the department deems necessary.

(b) The department shall review all available verifiable financial information and, within thirty days after the conference, make a final determination whether or not a decrease in the present child support obligation is warranted in accordance with the criteria in subsection (1) or (2) of section 43-512.12 and whether or not to refer the order to the county attorney or authorized attorney. Written notice of such final determination shall be sent to each parent by first-class mail.

(c) If the incarcerated parent waives the conference under this subsection, the department shall make a final determination and send written notice of such final determination to each parent by first-class mail.

(d) Notices required to be sent to an incarcerated parent under this section shall be sent to the address of the facility at which the parent is incarcerated and to the administrator of such facility as defined in section 47-1003.

(e) A final determination under this subsection shall not be considered a contested case for purposes of the Administrative Procedure Act.

43-512.14. Title IV-D child support order; financial information; duty to provide; failure; effect; referral of order; effect. Each parent requesting review shall provide the financial information as provided in section 43-512.17 to the Department of Health and Human Services upon request of the department. The parent requesting review shall also provide an affidavit regarding the financial circumstances of the nonrequesting parent upon the request of the department. Failure by a nonrequesting parent to provide adequate financial information shall create a rebuttable presumption that such parent's income has changed for purposes of section 43-512.12.

Referral of an order to a county attorney or authorized attorney under this section shall create a rebuttable presumption that there has been a material change in financial circumstances of one of the parents such that the child support obligation shall be increased at least ten percent if there is inadequate financial information regarding the noncustodial parent or that the child support obligation shall be decreased at least ten percent if there is inadequate financial information regarding the custodial parent. Such referral shall also be sufficient to rebut the presumption specified in section 42-364.16, and the court, after notice and an opportunity to be heard, may order a decrease or an increase of at least ten percent in the child support obligation as provided in this section.

43-512.15. Title IV-D child support order; modification; when; procedures.

(1) The county attorney or authorized attorney, upon referral from the Department of Health and Human Services, shall file a complaint to modify a child support order unless the attorney determines in the exercise of independent professional judgment that:

(a) The variation from the Supreme Court child support guidelines pursuant to section 42-364.16 is based on material misrepresentation of fact concerning any financial information submitted to the attorney;

(b) The variation from the guidelines is due to a voluntary reduction in net monthly income. Incarceration may not be treated as voluntary unemployment in establishing or modifying support orders; or

(c) When the amount of the order is considered with all the other undisputed facts in the case, no variation from the criteria set forth in subdivisions (1)(a) and (b) of section 43-512.12 exists.

(2) The proceedings to modify a child support order shall comply with section 42-364, and the county attorney or authorized attorney shall represent the state in the proceedings.

(3) After a complaint to modify a child support order is filed, any party may choose to be represented personally by private counsel. Any party who retains private counsel shall so notify the county attorney or authorized attorney in writing.

43-512.16. Title IV-D child support order; review of health insurance provisions. The county attorney or authorized attorney shall review the health care coverage provisions contained in any child support order which is subject to review under section 43-512.12 and shall include in any application for modification a

request that the court order health care coverage or cash medical support as provided in subsection (2) of section 42-369.

43-512.17. Title IV-D child support order; financial information; disclosure; contents. Any financial information provided to the Department of Health and Human Services, the county attorney, or the authorized attorney by either parent for the purpose of facilitating a modification proceeding under sections 43-512.12 to 43-512.18 may be disclosed to the other parties to the case or to the court. Financial information shall include the following:

(1) An affidavit of financial status provided by the party requesting review;

(2) An affidavit of financial status of the nonrequesting party provided by the nonrequesting party or by the requesting party at the request of the county attorney or authorized attorney;

(3) Supporting documentation such as state and federal income tax returns, paycheck stubs, W-2 forms, 1099 forms, bank statements, and other written evidence of financial status; and

(4) Information relating to health care coverage as provided in subsection (2) of section 42-369.

43-512.18. Title IV-D child support order; communication technology; use authorized. A court may use any available technology that would allow the parties to communicate with each other to conduct a hearing or any proceeding required pursuant to sections 43-512.12 to 43-512.17.

43-513. Aid to dependent children; standard of need; adjustment; limitation. The standard of need for aid to dependent children payments shall be adjusted on July 1 of every second year beginning July 1, 1997. The adjustment shall be made on the basis of the rate of growth of the Consumer Price Index as determined by the United States Department of Labor, Bureau of Labor Statistics, for the two previous calendar years. The aid to dependent children payment shall not be greater than the amount specified by section 43-512.

43-513.01. Judgment for child support; death of judgment debtor. A judgment for child support shall not abate upon the death of the judgment debtor.

43-514. Payments; to whom made. Payments of assistance with respect to any dependent child shall be made to any person or persons in whose home the residence of such child is maintained.

43-515. Department of Health and Human Services; investigations; approval or disapproval of application; notice. In each case the Department of Health and Human Services shall make such investigation and reinvestigations as may be necessary to determine family circumstances and eligibility for assistance payments. Each applicant and recipient shall be notified in writing as to the approval or disapproval of any application, as to the amount of payments awarded, as to any change in the amount of payments awarded, and as to the discontinuance of payments.

43-516. Department of Health and Human Services; participants in aid to dependent children; collect data and information. The Department of Health and Human Services shall collect the following data and information yearly:

(1) The total number of participants in the aid to dependent children program described in section 43-512 pursuing an associate degree;

(2) Graduation rates of such participants, the number of participants that are making satisfactory progress in their educational pursuits, and the length of time participants participate in education to fulfill their work requirement under the program;

(3) The monthly earnings, educational level attained, and employment status of such participants at six months and at twelve months after terminating participation in the aid to dependent children program; and

(4) A summary of activities performed by the department to promote postsecondary educational opportunities to participants in the aid to dependent children program.

43-517. Department of Health and Human Services; report; public record.

(1) The Department of Health and Human Services shall provide a report to the Governor and the Legislature no later than December 1 each year regarding the data and information collected pursuant to section 43-516, including a summary of such data and information. The report submitted to the Legislature shall be submitted electronically.

(2) The data and information collected under such section shall be considered a public record under section 84-712.01.

43-518. Repealed. Laws 1965, c. 394, s. 6.
43-519. Repealed. Laws 1965, c. 394, s. 6.
43-520. Repealed. Laws 1965, c. 394, s. 6.
43-521. Repealed. Laws 1965, c. 394, s. 6.

43-522. State assistance funds; how expended; medical care. The Department of Health and Human Services shall expend state assistance funds allocated for medically handicapped children to supplement other state, county, and municipal, benevolent, fraternal, and charitable expenditures, to extend and improve, especially in rural areas and in areas suffering from severe economic distress, services for locating physically and medically handicapped children and for providing medical, surgical, correction, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are physically or medically handicapped or who are suffering from conditions which lead to medical handicaps. Expenditures and services shall be uniformly distributed so far as possible or practicable under conditions and circumstances which may be found to exist.

43-523. Department of Health and Human Services; reports. The Department of Health and Human Services shall make such reports to the Department of Health and Human Services of the United States in such form and containing such information as such department may from time to time require, and the department shall comply with such provisions as necessary to assure the correctness of such reports.

43-524. Department of Health and Human Services; duty to cooperate with other welfare agencies. The Department of Health and Human Services shall cooperate with medical, health, nursing, and welfare groups and organizations and with any agency in the state charged with providing for local rehabilitation of physically handicapped children.

43-525. Child welfare services; state assistance funds; expenditure. The Department of Health and Human Services shall expend state assistance funds allocated for child welfare services in establishing, extending, and strengthening, especially in rural areas, child welfare services mentioned in sections 43-501 to 43-526, for which other funds are not specifically or sufficiently made available by such sections or other laws of this state.

43-526. State agencies; distribution of funds; uniformity; assumption of obligations; limit. The state agencies provided for herein shall distribute and cause said funds to be used in as uniform and equal a manner as practicable for the benefit of the children to be assisted by such services, taking into consideration the health, moral surroundings, sanitary conditions, parental responsibility, mentality and other circumstances of each case. Obligations assumed shall not exceed income of the fund for child welfare for any given month, plus any balance remaining from a preceding month in such fund.

43-527. Repealed. Laws 1982, LB 522, s. 46.
43-528. Repealed. Laws 1982, LB 522, s. 46.

43-529. Aid to dependent children; needs of persons with whom child is living; payment; requirements.

(1) Payments with respect to any dependent child, including payments to meet the needs of the relative with whom such child is living, such relative's spouse, and the needs of any other individual living in the same home as such child and relative if such needs are taken into account in making the determination for eligibility of such child to receive aid to families with dependent children, may be made on behalf of such child, relative, and other person to either (a) another individual who, in accordance with standards set by the Department of Health and Human Services, is interested in or concerned with the welfare of such child or relative, or (b) directly to a person or entity furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other person, or (c) both such individual and such person or entity.

(2) No such payments shall be made unless all of the following conditions are met: (a) The department has determined that the relative of such child with respect to whom such payments are made has such inability to manage funds that making payments to him or her would be contrary to the welfare of the child and that it is therefore necessary to provide such aid with respect to such child and relative through payments described above to another interested individual, (b) the department has made arrangements for undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such a manner as to protect the welfare of the family, and (c) the department has approved a plan that provides for a periodic review to ascertain whether conditions justifying such payments still exist, with provision for termination of such payments if such conditions no longer exist and for judicial appointment of a guardian or conservator if it appears that the need for such special payments is continuing or is likely to continue beyond a period specified by the department.

43-530 and 43-531. [Repealed]
43-532 through 43-534. (See Table of Contents for "Family Policy Act.")

43-535. Families; training and treatment programs; legislative findings.

The Legislature hereby finds and declares that the family is the backbone of Nebraska and it is in the best interests of Nebraska to solidify, preserve, strengthen, and maintain the family unit. Often when a family member is afflicted with substance abuse or mental health problems all family members are affected and the family unit itself becomes fragmented and begins to deteriorate. It is the intent of the Legislature, through the appropriations prescribed in Laws 1988, LB 846, to use a portion of the funds to implement programs to train qualified personnel and to establish creative programs in the areas of family-centered counseling and the prevention and treatment of substance abuse or mental health problems within such families consistent with the findings and principles of sections 43-532 and 43-533. The personnel training and treatment programs shall be designed to aid each family member and the family unit by using counseling and any other necessary creative treatment programs which are the least intrusive and least restrictive on the family unit yet serve to repair and strengthen such unit.

43-536. Child care reimbursement; assessment; adjustment of rate; participation in quality rating and improvement system; effect.

In determining the rate of reimbursement for child care, the Department of Health and Human Services shall assess the market rates and costs for provision of services of the child care providers in the state, utilizing an approved methodology in accordance with 45 C.F.R. 98.45, as such section existed on January 1, 2024. The department shall adjust the reimbursement rate for child care every odd-numbered year at a rate not less than the seventy-fifth percentile of the current market rate, except that (1) nationally accredited child care providers may be reimbursed at higher rates and (2) an applicable child care or early childhood education program, as defined in section 71-1954, that is participating in the quality rating and improvement system and has received a rating of step three or higher

under the Step Up to Quality Child Care Act may be reimbursed at higher rates based upon the program's quality scale rating under the quality rating and improvement system.

XVI. MISCELLANEOUS PROVISIONS REGARDING CHILDREN COMMITTED TO DHHS AND THE PLACEMENT OF CHILDREN

43-701. License; when required; issuance; revocation. Except as otherwise provided in the Nebraska Indian Child Welfare Act, no person, other than a parent, shall (1) place, (2) assist in placing, (3) advertise a child for placement, or (4) give the care and custody of any child to any person or association for adoption or otherwise, except for temporary or casual care, unless such person shall be duly licensed by the Department of Health and Human Services under such rules and regulations as the department shall prescribe. The department may grant or revoke such a license and make all needful rules regarding the issuance or revocation thereof.

43-702. Custodian of child; records required. Persons or courts charged with the care of dependent and delinquent children who place out or give the care and custody of any child to any person or association shall keep and preserve such records as may be prescribed by the Department of Health and Human Services. The records shall be reported to the department on the first day of each month and shall include the (1) full name and actual or apparent age of such child, (2) names and residence of the child's parents, so far as known, and (3) name and residence of the person or association with whom such child is placed. If such person or court subsequently removes the child from the custody of the person or association with whom the child was placed, the fact of the removal and disposition of the child shall be entered upon such record.

43-703. Repealed. Laws 1989, LB 22, s. 8.
43-704. Repealed. Laws 1980, LB 951, s. 1.

43-705. Visitation; Department of Health and Human Services; power. The Department of Health and Human Services, or such person as it may authorize, may visit any child so placed, who has not been legally adopted, with a view of ascertaining whether such child is being properly cared for and living under moral surroundings.

43-706. Abuse or neglect by custodian; filing of complaint. Whenever the Department of Health and Human Services has reason to believe that any person having the care or custody of a child placed out, and not legally adopted, is an improper person for such care or custody, or subjects such child to cruel treatment, or neglect, or immoral surroundings, it shall cause a complaint to be filed in the proper juvenile court.

43-707. Protection of children; Department of Health and Human Services; powers and duties. The Department of Health and Human Services shall have the power and it shall be its duty:

(1) To promote the enforcement of laws for the protection and welfare of children born out of wedlock, mentally and physically handicapped children, and dependent, neglected, and delinquent children, except laws the administration of which is expressly vested in some other state department or division, and to take the initiative in all matters involving such children when adequate provision therefor has not already been made;

(2) To visit and inspect public and private institutions, agencies, societies, or persons caring for, receiving, placing out, or handling children; and

(3) To prescribe the form of reports required by law to be made to the departments by public officers, agencies, and institutions.

(4) To exercise general supervision over the administration and enforcement of all laws governing the placing out and adoption of children; and

(5) To advise with judges and probation officers of courts of domestic relations and juvenile courts of the several counties, with a view to encouraging, standardizing, and coordinating the work of such courts and officers throughout the state; and

(6) To regulate the issuance of certificates or licenses to such institutions, agencies, societies, or persons and to revoke such licenses or certificates for good cause shown. If a license is refused or revoked, the refusal or revocation may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

43-708. Parent; guardian; or custodian; powers. No official, agent or representative of either the Department of Health and Human Services shall, by virtue of sections 43-701 to 43-709, have any right to enter any home over the objection of the occupants thereof or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having the custody of such child. Nothing in sections 43-701 to 43-709 shall be construed as limiting the power of a parent or guardian to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purposes.

43-709. Violation; penalty. Any person or agency who or which shall violate any of the provisions of sections 43-701 to 43-709 shall be guilty of a Class III misdemeanor, and this penalty shall apply to officers and employees of agencies.

43-901. Repealed. Laws 1996, LB 1155, s. 121.
43-901.01. Repealed. Laws 1985, LB 26, s. 1.
43-902. Repealed. Laws 1996, LB 1155, s. 121.

43-903. Court acting pursuant to Nebraska Juvenile Code; disposition of children. Any court acting pursuant to the Nebraska Juvenile Code shall commit to the care of the Department of Health and Human Services or any regularly organized and incorporated society or institution, for the purpose of caring for and placing in good family homes, all children, except those already committed to the care of responsible persons or institutions, who have been decreed to be children as described in subdivision (3)(a) of section 43-247 and who for that reason must be removed from the care of their parents or legal guardians.

43-904. Repealed. Laws 1996, LB 1155, s. 121.

43-905. Legal custody; care; placement; duties of department; contracts; payment for maintenance.
(1) The Department of Health and Human Services shall have legal custody of all children committed to it. The department shall afford temporary care and shall use special diligence to provide suitable homes for such children. The department shall make reasonable efforts to accomplish joint-sibling placement or sibling visitation or ongoing interaction between siblings as provided in section 43-1311.02. The department is authorized to place such children in suitable families for adoption, foster care, or guardianship or, in the discretion of the department, on a written contract.

(2) The contract shall provide (a) for the children's education in the public schools or otherwise, (b) for teaching them some useful occupation, and (c) for kind and proper treatment as members of the family in which they are placed.

(3) Whenever any child who has been committed to the department becomes self-supporting, the department shall declare that fact and the legal custody and care of the department shall cease. Thereafter the child shall be entitled to his or her own earnings. Legal custody and care of and services by the department shall never extend beyond the age of majority, except that (a) services by the department to a child shall continue until the child reaches the age of twenty-one if the child is in the bridge to independence program as provided in the Young Adult Bridge to Independence Act and (b) coverage for health care and related services under medical assistance in accordance with section 68-911 shall be extended as provided under the federal Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1, 2013, for medicaid coverage for individuals under twenty-six years of age as allowed pursuant to such act.

(4) Whenever the parents of any ward, whose parental rights have not been terminated, have become able to support and educate their child, the department shall restore the child to his or her parents if the home of such parents would be a suitable home. The legal custody and care of the department shall then cease.

(5) Whenever permanent free homes for the children cannot be obtained, the department may provide subsidies to adoptive and guardianship families subject to a hearing and court approval. The department may also provide and pay for the maintenance of the children in foster care, in boarding homes, or in institutions for care of children.

43-906. Adoption; consent. Except as otherwise provided in the Nebraska Indian Child Welfare Act, the Department of Health and Human Services, or its duly authorized agent, may consent to the adoption of children committed to it upon the order of a juvenile court if the parental rights of the parents or of the mother of a child born out of wedlock have been terminated and if no father of a child born out of wedlock has timely asserted his paternity rights under section 43-104.02, or upon the relinquishment to such department by their parents or the mother and, if required under sections 43-104.08 to 43-104.24, the father of a child born out of wedlock. The parental rights of parents of a child born out of wedlock shall be determined pursuant to sections 43-104.05 and 43-104.08 to 43-104.24.

43-907. Assets; custody; records; expenditures; investments; social security benefits; department; duties.

(1) Unless a guardian shall have been appointed by a court of competent jurisdiction, the Department of Health and Human Services shall take custody of, and exercise general control over, assets owned by children under the charge of the department.

(2) Except as provided in subsections (3) through (7) of this section:

(a) Children owning assets shall at all times pay for personal items;

(b) Assets over and above a maximum of one thousand dollars and current income shall be available for reimbursement to the state for the cost of care;

(c) Assets may be deposited in a checking account, invested in United States bonds, or deposited in a savings account insured by the United States Government;

(d) All income received from the investment or deposit of assets shall be credited to the individual child whose assets are invested or deposited; and

(e) The department shall make and maintain detailed records showing all receipts, investments, and expenditures of assets owned by children under the charge of the department.

(3)(a) The department shall screen each child under its charge for social security benefit eligibility within sixty days after the date the child enters its charge.

(b)(i) If the department determines that a child may be eligible for social security benefits, it shall submit an application for such benefits on behalf of the child and, if necessary and in the child's best interest, appeal a denied application.

(ii) The department shall provide written notice to the child, using age-appropriate language, the child's guardian ad litem, and the child's parents, of all benefit eligibility determinations from the Social Security Administration, including benefit approval, denial, and appeal outcomes, within ten calendar days after the date the department is notified of such eligibility determination.

(iii) If the child is approved to receive social security benefits, within ten calendar days after the date the department is notified of the approval, the department shall provide written notice to the child, using age-appropriate language, the child's guardian ad litem, and the child's parents, that adults known to the child may apply to be the child's representative payee for the purposes of receiving social security benefit payments.

(iv) If the department is appointed to serve as the child's representative payee, within ten calendar days after the date the department is notified of such appointment, the department shall provide written notice to the child, using age-appropriate language, the child's guardian ad litem, and the child's parents, of such appointment, the child's and the child's parents' rights to appeal the appointment, and the deadline for such appeals.

(4) When the Department of Health and Human Services serves as representative payee for a child beneficiary of social security benefits, the department shall provide:

(a) Written notice to the child beneficiary, using age-appropriate language, the child's guardian ad litem, and the child's parents that the department is acting as the child's representative payee for the purposes of receiving social security benefit payments, within thirty days after receiving the first social security benefit payment on behalf of the child beneficiary. The notice shall include the following information:

(i) The department received the social security benefit payment and the amount received;

(ii) The department has created a trust account to hold such benefit payments;

(iii) Such benefit payments shall be used and conserved in accordance with federal law and this section, and any unspent or conserved funds shall be sent to the child beneficiary when the child beneficiary leaves the department's charge;

(iv) The child beneficiary may request access to such benefit payments for personal use through the department and the process for submitting such a request;

(v) A child beneficiary fourteen years of age or older may request through the juvenile court that such benefit payments be used or conserved in a specified manner; and

(vi) The child beneficiary, the child's guardian ad litem, the child's attorney, or the child's parents may request all accounting records the department maintains relating to the child beneficiary's social security benefit payments and the process for submitting such a request;

(b) Written notice to the juvenile court, at each review hearing for the child beneficiary, regarding the department's receipt and conservation of the child's social security benefits, which shall include:

(i) The total amount of social security benefit payment funds the department has received on behalf of the child beneficiary as of the date of the review hearing;

(ii) The total amount of social security benefit payment funds received on behalf of the child beneficiary that are currently conserved or unspent as of the date of the review hearing; and

(iii) The total amount of social security benefit payment funds spent on behalf of the child beneficiary as of the date of the review hearing, including itemized expenditures since the previous review hearing; and

(c) All accounting records regarding the department's receipt, use, and conservation of the child's social security benefit payments, to the child beneficiary, the child's guardian ad litem or attorney, or the child's parent upon:

(i) Request by the child beneficiary, the child's guardian ad litem or attorney, or the child's parent; and

(ii) Termination of the department's role as the child beneficiary's representative payee.

(5) When the department serves as representative payee for a child beneficiary of social security benefit payments, it shall:

(a) Manage, use, and conserve the social security benefit payments consistent with federal law and this section, for the use and benefit of the child beneficiary, and in the child beneficiary's best interest. This includes

conserving social security benefit payments for the child beneficiary's reasonably foreseeable and if appropriate, expressed, future needs;

(b) Hold all social security benefit payments received on behalf of a child beneficiary separate and apart from the department's funds, and except as provided in subdivision (5)(c) of this section, in a trust account established and maintained for the child beneficiary;

(c) Manage such benefit payments in a manner that avoids exceeding the federal social security asset and resource limits, including holding benefit payments in the established trust account and in accounts and programs not counted toward such limits, so as to conserve funds without exceeding such limits. Such accounts and programs include, but are not limited to, (i) a plan for achieving self-support as described in section 68-1007, (ii) an achieving a better life experience account as described in sections 77-1401 to 77-1409, (iii) an individual development account as described in 45 C.F.R. 263.20, (iv) a special-needs trust as defined in section 30-4513, and (v) a dedicated account for social security back payments;

(d) Conserve a minimum amount of social security benefit payments received on behalf of a child beneficiary, which shall not be used to reimburse the state for the cost of care, in the following percentages: (i) For child beneficiaries fourteen years of age or older, no less than twenty percent; (ii) for child beneficiaries sixteen years of age or older, no less than thirty percent; (iii) for child beneficiaries seventeen years of age or older, no less than forty percent; and (iv) for child beneficiaries eighteen years of age or older, fifty percent; and

(e) Reimburse such funds with subsequent social security benefit payments and such payments shall not be available to reimburse the department for the child beneficiary's care if, pursuant to a request by the child beneficiary, funds from social security payments are disbursed from an established trust account or any other account or program maintained by the department for the child beneficiary.

(6) If the department serves as representative payee for a child beneficiary of social security benefits fourteen years of age or older, such child beneficiary shall:

(a) Be consulted by the department no less than every six months regarding the child beneficiary's current and reasonably foreseeable future needs so that the child beneficiary's social security benefit payments are spent and conserved in a manner that supports the child beneficiary's needs and best interests;

(b) Have the right to request through the juvenile court, that the child beneficiary's social security benefit payments be used or conserved for current or reasonably foreseeable future needs in a manner that is different from the department's use and conservation of such payments. Such request shall be granted if it is determined to be in the best interest of the child beneficiary;

(c) Be informed in writing, at least six months prior to exiting the department's charge, of the process for continuing to receive social security benefit payments, the applicable federal asset and resource limits, and the process for using and conserving benefit payments to comply with such limits, including funds in accounts and programs that do not count toward such limits; and

(d) At least six months prior to exiting the department's charge, have an application submitted on behalf of the child beneficiary, or receive assistance in submitting an application, for renewed or new social security benefits for which the child beneficiary may be eligible if necessary for the child beneficiary to continue receiving benefits.

(7) When a child beneficiary exits the department's charge, the department shall provide written notice to such child beneficiary using age-appropriate language, and if applicable, the child's parents or guardians, that:

(a) The child beneficiary has the right to receive unspent or conserved social security benefit payments, the amount of unspent or conserved benefits the child beneficiary is expected to receive, that such payments will be disbursed from the Social Security Administration, and contact information for the Social Security Administration; and

(b) The department is no longer acting as the child beneficiary's representative payee and if the child beneficiary is younger than eighteen years of age, an adult known to the child may apply to be a representative payee through the Social Security Administration to ensure continued receipt of the child's social security benefit payments.

(8) On or before October 1, 2026, the department shall create a publicly available form for child beneficiaries under the department's charge to request access to social security benefit payments for personal use.

(9) On or before October 1, 2026, the Department of Health and Human Services shall adopt and promulgate rules and regulations to carry out subsections (2) through (8) of this section consistent with federal requirements regarding representative payees for social security beneficiaries.

(10) The department shall seek to maximize federal Title IV-E funding prior to utilizing General Funds for costs associated with implementation of this section.

43-908. Child reaching age of majority; disposition of assets. An attempt shall be made by the Department of Health and Human Services to locate children who arrive at the age of majority for the purpose of delivering and transferring to any such child such funds or property as he or she may own. In the event that such child cannot be located within five years after the child arrives at the age of majority, any funds or assets owned by him or her shall be transferred to the state treasury of the State of Nebraska.

81-603. Formal grievance process for families involved in child welfare system or juvenile justice system; duties; report.

The Department of Health and Human Services shall implement a formal grievance process for families involved in the child welfare system or juvenile justice system. Such grievance process shall ensure that families are not dissuaded from utilizing the grievance process for fear of reprisal from the department, providers, or foster parents. A report of each grievance allegation and the determination of and any action to be taken by the department shall be provided to the Inspector General for Nebraska Child Welfare within ten days after such determination is made.

XVII. EARLY INTERVENTION ACT

43-2501. Act, how cited. Sections 43-2501 to 43-2516 shall be known and may be cited as the Early Intervention Act.

43-2502. Legislative intent. It is the intent of the Legislature to assist in securing early intervention services to infants or toddlers with disabilities and their families in accordance with the federal early intervention program and whenever possible in concert with the family policy objectives prescribed in sections 43-532 to 43-533 and federal and state initiatives. Such services are necessary to:

(1) Enhance the development of infants and toddlers with disabilities;

(2) Reduce the costs to our society by minimizing the need for special services, including special education and related services, after such infants or toddlers reach school age;

(3) Minimize the likelihood of institutionalization of persons with disabilities and maximize their potential for independent living in society;

(4) Enhance the capacity of families to meet the needs of their infants or toddlers with disabilities;

(5) Strengthen, promote, and empower families to determine the most appropriate use of resources to address the unique and changing needs of families and their infants or toddlers with disabilities; and

(6) Enhance the capacity of state and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, and rural populations.

43-2502.01. General findings and declarations. The Legislature hereby finds and declares that:

(1) All families have strengths;

(2) families strengthen communities;

(3) families are the primary decisionmakers for their children; and

(4) all families have needs that change over time and require the support of their communities.

43-2502.02. Legislative findings. The Legislature further finds that:

(1) Many state initiatives for improving or reforming the current service delivery systems for children and their families have been identified and are currently underway within Nebraska;

(2) there is a need to facilitate coordination and promote communication across these efforts to identify common visions and approaches and to establish linkages across health, social services, family support services, mental health, and education initiatives at the state and community levels; and (3) these initiatives need continued support and nurturing in order to empower communities and families and to provide and promote an integrated service delivery system.

43-2502.03. Legislative declarations. The Legislature declares that it shall be the policy of the State of Nebraska to promote the development of a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent services for children and their families to assure that services help build strong families and provide appropriate environments prenatally and for children from birth through their early years in programs and services which are:

(1) Family-centered, recognizing that parents have the primary responsibility for their children's development and learning and that programs must recognize and support the role of parents through family-friendly criteria in planning their structure, services, staffing, and delivery;

(2) Comprehensive, recognizing that services must include attention to all aspects of the child and family and address needed health and nutrition, education, family support, and social services. Such a service system should allow families to choose the services they need with minimal costs and requirements;

(3) Coordinated, recognizing that collaboration among the state agencies and variety of private and community programs and services is required to assure that comprehensive child and family needs are met and that the most efficient use is made of public resources, community services, and informal support systems of families;

(4) Quality, recognizing that outcomes for children in the early years are strengthened when programs and services display indicators of quality, including developmentally appropriate practices, extensive family involvement, trained staff, and culturally responsive approaches;

(5) Inclusive, recognizing that all children benefit when they have optimum opportunities to interact with peer groups of children with diverse backgrounds and characteristics; and

(6) Equitable, recognizing that program practices strive for potential achievement of all children including children from minority groups, with disabilities, from less advantaged backgrounds, and from less populated geographic areas.

43-2502.04. Declaration of policy. The Legislature further declares that it shall be the policy of the State of Nebraska, through the implementation of the Early Intervention Act, to promote, facilitate, and support:

(1) Healthy families, enhancing the well-being of each family member as well as that of the family as a unit and encouraging family independence and decisionmaking about the future of their children;

(2) Service systems which are responsive, flexible, integrated, and accessible to children and their families;

(3) Community ownership, recognizing that families live and children grow up in communities, that programs are implemented in communities, and that all families need supportive communities; and

(4) Maximum impact of prevention and early intervention, encouraging and supporting active parent and family partnership in all programs and services.

43-2503. Purposes of act. The purposes of the Early Intervention Act shall be to:

(1) Develop and implement a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services for infants or toddlers with disabilities and their families through the collaboration of the Department of Health and Human Services, the State Department of Education, and all other relevant agencies or organizations at the state, regional, and local levels;

(2) Establish and implement a billing system for accessing federal medicaid funds;

(3) Establish and implement services coordination through a community team approach;

(4) Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources including public and private insurance coverage; and

(5) Enhance Nebraska's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to eligible infants or toddlers with disabilities and their families.

43-2504. Repealed. Laws 1993, LB 520, § 31.

43-2505. Terms, defined. For purposes of the Early Intervention Act:

(1) Collaborating agencies means the Department of Health and Human Services and the State Department of Education;

(2) Developmental delay has the definition found in section 79-1118.01;

(3) Early intervention services may include services which:

(a) Are designed to meet the developmental needs of each eligible infant or toddler with disabilities and the needs of the family related to enhancing the development of their infant or toddler;

(b) Are selected in collaboration with the parent or guardian;

(c) Are provided in accordance with an individualized family service plan;

(d) Meet all applicable federal and state standards; and

(e) Are provided, to the maximum extent appropriate, in natural environments including the home and community settings in which infants and toddlers without disabilities participate;

(4) Eligible infant or toddler with disabilities means a child who needs early intervention services and is two years of age or younger, except that toddlers who reach age three during the school year shall remain eligible throughout that school year. The need for early intervention services is established when the infant or toddler experiences developmental delays or any of the other disabilities described in the Special Education Act;

(5) Federal early intervention program means the federal early intervention program for infants and toddlers with disabilities, 20 U.S.C. 1471 to 1485;

(6) Individualized family service plan means the process, periodically documented in writing, of determining appropriate early intervention services for an eligible infant or toddler with disabilities and his or her family;

(7) Interagency planning team means an organized group of interdisciplinary, interagency representatives, community leaders, and family members in each local community or region;

(8) Lead agency or agencies means the Department of Health and Human Services, the State Department of Education, and any other agencies designated by the Governor for general administration, supervision, and monitoring of programs and activities receiving federal funds under the federal early intervention program and state funds appropriated for early intervention services under the Early Intervention Act; and

(9) Services coordination means a flexible process of interaction facilitated by a services coordinator to assist the family of an eligible infant or toddler with disabilities within a community to identify and meet their needs pursuant to the act. Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from other sources.

43-2506. Repealed. Laws 2000, LB 1135, § 34.

43-2507. Collaborating agency; statewide system; components; duties; sharing information and data.

(1) Planning for early intervention services shall be the responsibility of each collaborating agency. The planning shall address a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services to all eligible infants or toddlers with disabilities and their families in Nebraska. The statewide system shall include the following minimum components:

(a) A public awareness program, including a central directory;

(b) A comprehensive early identification system, including a system for identifying children and making referrals for infants or toddlers who may be eligible for early intervention services;

(c) Common intake, referral, and assessment processes, procedures, and forms to determine eligibility of infants and toddlers and their families referred for early intervention services;

(d) An individualized family service plan, including services coordination, for each eligible infant or toddler with disabilities and his or her family;

(e) A comprehensive system of personnel development;

(f) A uniform computer data base and reporting system which crosses agency lines; and

(g) Services coordination to access the following early intervention services: Audiology; family training, counseling, and home visits; health services; medical services only for diagnostic or evaluation purposes; nursing services; nutrition services; occupational therapy; physical therapy; psychological services; social work services; special instruction; speech-language pathology; transportation and related costs that are necessary to enable an eligible infant or toddler with disabilities and his or her family to receive early intervention services; assistive technology devices and assistive technology services; vision services; and hearing services.

(2) Collaborating agencies shall review standards to ensure that personnel are appropriately and adequately prepared and trained to carry out the Early Intervention Act.

(3) Collaborating agencies shall be responsible for designing, supporting, and implementing a statewide training and technical assistance plan which shall address preservice, inservice, and leadership development for service providers and parents of eligible infants and toddlers with disabilities.

(4) Policies and procedures shall be jointly examined and analyzed by the collaborating agencies to satisfy data collection requirements under the federal early intervention program and to assure the confidentiality of the data contained in the statewide system. Notwithstanding any other provision of state law, the collaborating agencies shall be permitted to share information and data necessary to carry out the provisions of the federal early intervention program, including the personal identification or other specific information concerning individual infants, toddlers, or their families, except that the vital and medical records and health information concerning individuals provided to the Department of Health and Human Services may be released only under the laws authorizing the provision of such records and information. Nothing in this section shall prohibit the use of such data to provide for the preparation of reports, fiscal information, or other documents required by the Early Intervention Act, but no information in such reports, fiscal information, or other documents shall be used in a manner which would allow for the personal identification of an individual infant, toddler, or family.

43-2507.01. Eligible infants and toddlers with disabilities; entitlements.

(1) Infants or toddlers who are referred because of possible disabilities shall be entitled, at no cost to their families, to early identification of eligible infants or toddlers, evaluation and assessment in order to determine eligibility under the Special Education Act, and procedural safeguards.

(2) By June 1, 1995, eligible infants or toddlers with disabilities shall also be entitled, at no cost to their families, to services coordination and development of the individualized family service plan.

(3) For other early intervention services not mandated under the Special Education Act and not paid through any other source, including, but not limited to, insurance, medicaid, or other third-party payor, payment for such services shall be the responsibility of the parent, guardian, or other person responsible for the eligible infant or toddler.

(4) Except for services coordination, the Early Intervention Act shall not be construed to create new early intervention or family services or establish an entitlement to such new services.

43-2507.02. State Department of Education; duties. The State Department of Education shall maintain its responsibility under the Special Education Act regarding special education and related services and may adopt and promulgate rules and regulations pursuant to section 43-2516 that meet the requirements of subchapter III of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1431 to 1445, as such act and sections existed on January 1, 2013, and the regulations adopted thereunder. The department shall provide grants for the costs of such programs to the school district of residence as provided in section 79-1132.

43-2508. Department of Health and Human Services; duties.

(1) The Department of Health and Human Services shall be responsible for providing or contracting for services.

(2) Whenever possible, the medical assistance program prescribed in the Medical Assistance Act shall be used for payment of services coordination.

(3) It is the intent of this section that the department shall apply for and implement a Title XIX medicaid waiver as a way to assist in the provision of services coordination to eligible infants or toddlers with disabilities and their families.

43-2509. Department of Health and Human Services; duties.

The Department of Health and Human Services is responsible for incorporating components required under the federal early intervention program into the state plans developed for the Special Supplemental Nutrition Program for Women, Infants, and Children, the Commodity Supplemental Food Program, the maternal and child health program, and the developmental disabilities program. The department shall provide technical assistance, planning, and coordination related to the incorporation of such components.

43-2510. Department of Health and Human Services; duties.

The Department of Health and Human Services is responsible for incorporating components required under the federal early intervention program into the mental health and developmental disabilities planning responsibilities of the department. The department shall provide technical assistance, planning, and coordination related to the incorporation of such components.

43-2511. Statewide billing system; establishment; participation required; implementation and administrative costs; how treated. There is hereby established a statewide billing system for accessing federal medicaid funds for special education and related services provided by school districts. The system shall apply to all students verified with disabilities from date of diagnosis to twenty-one years of age as allowed under the federal Medicare Catastrophic Coverage Act of 1988. The system shall be developed, implemented, and administered jointly by the Department of Health and Human Services and the State Department of Education. On or before October 1, 2015, the Department of Health and Human Services and the State Department of Education shall jointly revise the statewide billing system to streamline and simplify the claims process, to update reimbursement rates, and to incorporate services included in the state plan amendment submitted pursuant to subsection (4) of section 68-911. After the reimbursement rates have been updated pursuant to this section, such rates shall be reviewed at least once every five years. School districts, educational service units, or approved cooperatives providing special education and related services shall be required to participate in the statewide billing system. Eleven and fifty-four hundredths percent of federal medicaid funds received by school districts pursuant to such billing system shall be considered reimbursement for the costs to school districts associated with the implementation and administration of such a system, and such costs shall be included in the medicaid reimbursement rates to be established for each service. From the amount provided pursuant to section 43-2515 to aid in carrying out the Early Intervention Act, the Department of Health and Human Services shall retain, for the purposes of implementing and administering the statewide billing system and early intervention services coordination services, an amount equal to the lesser of the actual cost of implementing and administering the statewide billing system and early intervention services coordination services or (1) for fiscal year 2014-15, two

hundred forty-two thousand dollars, (2) for fiscal year 2015-16, three hundred thousand dollars, or (3) for fiscal year 2016-17 and each fiscal year thereafter, the amount retained for such purposes for the prior year increased by five percent.

43-2511.01. Statewide services coordination system; development; implementation.

The lead agencies shall develop and implement a statewide services coordination system for eligible infants or toddlers with disabilities and their families pursuant to the Early Intervention Act. The amount and duration of services coordination shall be based on need, as specified on the individualized family service plan. Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from whatever source.

43-2512. Interagency planning team; members; duties; Department of Health and Human Services; provide services coordination.

Each region established pursuant to section 79-1135 shall establish an interagency planning team, which planning team shall include representatives from school districts, social services, health and medical services, parents, and mental health, developmental disabilities, Head Start, and other relevant agencies or persons serving children from birth to age five and their families and parents or guardians. Each interagency planning team shall be responsible for assisting in the planning and implementation of the Early Intervention Act in each local community or region. The Department of Health and Human Services, in collaboration with each regional interagency planning team, shall provide or contract for services coordination.

43-2513. Special grant funds; designation.

For purposes of the general fund budget of expenditures as defined in section 79-1003, funds received to carry out the services coordination functions or designated as reimbursement for costs associated with the implementation and administration of the billing system pursuant to section 43-2511 shall be considered special grant funds.

43-2514. Repealed. Laws 1993, LB 520, § 31.

43-2515. Federal medicaid funds; certification; appropriations; legislative intent.

For years 1993 through 2015, on or before October 1, the Department of Health and Human Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to school districts pursuant to the Early Intervention Act for special education services for children five years of age and older for the immediately preceding fiscal year. The General Fund appropriation to the State Department of Education for state special education aid for the then-current fiscal year shall be decreased by an amount equal to the amount that would have been reimbursed with state general funds to the school districts through the special education reimbursement process for special education services for children five years of age and older that was paid to school districts or approved cooperatives with federal medicaid funds.

For fiscal years through fiscal year 2015-16, it is the intent of the Legislature that an amount equal to the amount that would have been reimbursed with state general funds to the school districts, certified to the budget administrator, be appropriated from the General Fund to aid in carrying out the provisions of the Early Intervention Act and other related early intervention services.

For 2015 and each year thereafter, on or before December 1, the Department of Health and Human Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the aggregate amount to be included in the local system formula resources pursuant to subdivision (15) of section 79-1018.01 for all local systems for aid to be calculated pursuant to the Tax Equity and Educational Opportunities Support Act for the next school fiscal year.

For fiscal year 2016-17 and each fiscal year thereafter, it is the intent of the Legislature that, in addition to other state and federal funds used to carry out the Early Intervention Act, funds equal to the lesser of the amount certified to the budget administrator or the amount appropriated or transferred for such purposes pursuant to this section for the immediately preceding fiscal year increased by five percent be appropriated from the General Fund to aid in carrying out the provisions of the Early Intervention Act and other related early intervention services.

43-2516. Rules and regulations. The lead agencies shall adopt and promulgate rules and regulations pursuant to the Early Intervention Act.

XVIII. CHILD SUPPORT AND PATERNITY

43-1401. Terms, defined.

(1) For purposes of sections 43-1401 to 43-1418:

(a) Except as provided in sections 43-1411 and 43-1414, child means a child under the age of eighteen years born out of wedlock;

(b) Child born out of wedlock means a child whose parents were not married to each other at the time of birth, except that a child shall not be considered as born out of wedlock if the parents were married at the time of the child's conception but divorced at the time of birth. The definition of legitimacy or illegitimacy for other purposes shall not be affected by sections 43-1401 to 43-1418; and

(c) Support includes reasonable education.

(2) The changes made to this section by Laws 2025, LB150, apply to actions under sections 43-1401 to 43-1418 that are pending on June 5, 2025, and to cases filed on or after such date.

43-1402. Child support; liability of parents. The father of a child whose paternity is established either by judicial proceedings or by acknowledgment as hereinafter provided shall be liable for its support to the same extent and in the same manner as the father of a child born in lawful wedlock is liable for its support. The mother of a child shall also be liable for its support. The liability of each parent may be determined, enforced, and discharged in accordance with the methods hereinafter provided.

43-1403. Support by county; conditions. In case of the neglect or inability of the parents, or either of them, to support a child, it shall be supported by the county chargeable therewith under the provisions of Chapter 68. Nothing in this section shall be construed to make a child ineligible to receive relief to which it might otherwise be entitled under any law enacted for the relief of children.

43-1404. Child support; liability of parents; discharge. The liability of the father or mother of a child for its support shall be discharged by compliance with the terms of a judicial decree for support or the terms of a judicially approved settlement or by the adoption of the child by some other person or persons.

43-1405. Child support; liability of father; discharge by settlement; requirements. A settlement provided for in section 43-1404 means a voluntary agreement between the father of the child and the mother or some person authorized to act in her behalf, or between the father and the next friend or guardian of the child, whereby the father promises to make adequate provision for the support of the child. In the event that such a settlement is made it shall be binding on all parties and shall bar all other remedies of the mother and child and the legal representatives of the child so long as it shall be performed by the father, if said settlement is approved by the court having jurisdiction to compel the support of the child. The court shall approve such settlement only if it shall find and determine that adequate provision is made for the support of the child and that the father shall have offered clear evidence of his willingness and ability to perform the agreement. The court, in its discretion, may require the father to furnish bond with proper sureties conditioned upon the performance of the settlement.

43-1406. Determination of paternity by other state or Indian tribe; full faith and credit; legitimacy of child.

(1) A determination of paternity made by any other state or by an Indian tribe as defined in section 43-1503, whether established through voluntary acknowledgment, genetic testing, tribal law, or administrative or judicial processes, shall be given full faith and credit by this state.

(2) A child whose parents marry is legitimate.

43-1407. Expenses of mother; liability of father; enforcement; payment by medical assistance program; recovery; procedure.

(1) The father of a child shall also be liable for the reasonable expenses of (a) the child that are associated with the birth of the child and (b) the mother of such child during the period of her pregnancy, confinement, and recovery. Such liability shall be determined and enforced in the same manner as the liability of the father for the support of the child.

(2) In cases in which any medical expenses associated with the birth of the child and the mother of such child during the period of her pregnancy, confinement, and recovery are paid by the medical assistance program, the county attorney or authorized attorney, as defined in section 43-1704, may petition the court for a judgment for all or a portion of the reasonable medical expenses paid by the medical assistance program. Any medical expenses associated with the birth of such child and the mother of such child during the period of her pregnancy, confinement, and recovery that are approved and paid by the medical assistance program shall be presumed to be medically reasonable. If the father challenges any such expenses as not medically reasonable, he has the burden of proving that such expenses were not medically reasonable.

(3) A civil proceeding to recover medical expenses pursuant to this section may be instituted within four years after the child's birth. Summons shall issue and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county

43-1408. Repealed. Laws 1991, LB 457, s. 47.

43-1408.01. Notarized acknowledgment of paternity; execution by alleged father; form; filing with Department of Health and Human Services; payment.

(1) During the period immediately before or after the in-hospital birth of a child whose mother was not married at the time of either conception or birth of the child or at any time between conception and birth of the child, the person in charge of such hospital or his or her designated representative shall provide to the child's mother and alleged father, if the alleged father is readily identifiable and available, the documents and written instructions for such mother and father to complete a notarized acknowledgment of paternity. Such acknowledgment, if signed by both parties and notarized, shall be filed with the Department of Health and Human Services at the same time at which the certificate of live birth is filed.

Nothing in this section shall be deemed to require the person in charge of such hospital or his or her designee to seek out or otherwise locate an alleged father who is not readily identifiable or available.

(2) The acknowledgment shall be executed on a form prepared by the department. Such form shall be in essentially the same form provided by the department and used for obtaining signatures required by section 71-640.02. The acknowledgment shall include, but not be limited to, (a) a statement by the mother consenting to the acknowledgment of paternity and a statement that the alleged father is the biological father of the child, (b) a statement by the alleged father that he is the biological father of the child, (c) written information regarding parental rights and responsibilities, and (d) the social security numbers of the parents.

(3) The form provided for in subsection (2) of this section shall also contain instructions for completion and filing with the department if it is not completed and filed with a birth certificate as provided in subsection (1) of this section.

(4) The department shall accept completed acknowledgment forms and make available to county attorneys or authorized attorneys a record of acknowledgments it has received, as provided in subsection (1) of section 71-

612. The department may prepare photographic, electronic, or other reproductions of acknowledgments. Such reproductions, when certified and approved by the department, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as provided by rules and regulations of the department.

(5) The department may by regulation establish a nominal payment and procedure for payment by the department for each acknowledgment filed with the department. The amount of such payments and the entities receiving such payments shall be within the limits allowed by Title IV-D of the federal Social Security Act, as amended.

43-1409. Notarized acknowledgment of paternity; rebuttable presumption; admissibility; rescission. The signing of a notarized acknowledgment, whether under section 43-1408.01 or otherwise, by the alleged father shall create a rebuttable presumption of paternity as against the alleged father. The signed, notarized acknowledgment is subject to the right of any signatory to rescind the acknowledgment within the earlier of (1) sixty days or (2) the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order in which the signatory is a party. After the rescission period a signed, notarized acknowledgment is considered a legal finding which may be challenged only on the basis of fraud, duress, or material mistake of fact with the burden of proof upon the challenger, and the legal responsibilities, including the child support obligation, of any signatory arising from the acknowledgment shall not be suspended during the challenge, except for good cause shown. Such a signed and notarized acknowledgment or a certified copy or certified reproduction thereof shall be admissible in evidence in any proceeding to establish support.

43-1410. Child support; decree or approved settlement; effect after death of parent. Any judicially approved settlement or order of support made by a court having jurisdiction in the premises shall be binding on the legal representatives of the father or mother in the event of his or her death, to the same extent as other contractual obligations and judicial judgments or decrees.

43-1411. Paternity; action to establish; venue; limitation; summons; person claiming to be biological father; action to establish; genetic testing.

(1) A civil proceeding to establish the paternity of a child may be instituted, in the court of the district where the child is domiciled or found or, for cases under the Uniform Interstate Family Support Act, where the alleged father is domiciled, by:

(a) The mother or the alleged father of such child, or a person who has reason to believe he is the biological father of the child, either during pregnancy or within four years after the child's birth, unless:

(i) A valid consent or relinquishment has been made pursuant to sections 43-104.08 to 43-104.24 or section 43-105 for purposes of adoption; or

(ii) A county court or separate juvenile court has jurisdiction over the custody of the child or jurisdiction over an adoption matter with respect to such child pursuant to sections 43-101 to 43-116; or

(b) The guardian or next friend of such child or the state, either during pregnancy or within eighteen years after the child's birth.

(2) Summons shall issue and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county.

(3)(a) Notwithstanding any other provision of law, a person who has reason to believe he is the biological father of a child over which the juvenile court already has jurisdiction may file a complaint to intervene in such juvenile proceeding to institute an action to establish the paternity of the child. The complaint to intervene shall be accompanied by an affidavit under oath that the complainant believes he is the biological father of the juvenile. No filing fee shall be charged for filing the complaint and affidavit.

(b) Upon filing of the complaint and affidavit, the juvenile court may enter an order pursuant to section 43-1414 to require genetic testing and to require the juvenile to be made available for genetic testing. The costs of genetic testing shall be paid by the complainant, the county, or the state at the discretion of the juvenile court.

(c) This subsection does not authorize intervention by a person whose parental rights to such child have been terminated by the order of any court of competent jurisdiction.

(4) For purposes of this section, child means a person under the age of eighteen years, regardless of whether the person was born out of wedlock.

(5) The changes made to this section by Laws 2025, LB150, apply to actions under sections 43-1401 to 43-1418 that are pending on June 5, 2025, and to cases filed on or after such date.

43-1411.01. Paternity or parental support; jurisdiction; termination of parental rights; provisions applicable.

(1) An action for paternity or parental support under sections 43-1401 to 43-1418 may be initiated by filing a complaint with the clerk of the district court as provided in section 25-2740. Such proceeding may be heard by the county court or the district court as provided in section 25-2740. A paternity determination under sections 43-1411 to 43-1418 may also be decided in a county court or separate juvenile court if the county court or separate juvenile court already has jurisdiction over the child whose paternity is to be determined.

(2) Whenever termination of parental rights is placed in issue in any case arising under sections 43-1401 to 43-1418, the Nebraska Juvenile Code and the Parenting Act shall apply to such proceedings.

(3) The court may stay the paternity action if there is a pending criminal allegation of sexual assault under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320 against the alleged father with regard to the conception of the child.

43-1412. Paternity; action to establish; procedure; public hearings prohibited; evidence; default judgment; decree; payment of costs and fees.

(1) The method of trial shall be the same as that in other civil proceedings, except that the trial shall be by the court without a jury unless a jury is requested (a) by the alleged father, in a proceeding instituted by the mother or the guardian or next friend, or (b) by the mother, in a proceeding instituted by the alleged father. It being contrary to public policy that such proceedings should be open to the general public, no one but the parties, their counsel, and others having a legitimate interest in the controversy shall be admitted to the courtroom during the trial of the case. The alleged father and the mother shall be competent to testify. The uncorroborated testimony (i) of the mother, in a proceeding instituted by the mother or the guardian or next friend, or (ii) of the alleged father, in a proceeding instituted by the alleged father, shall not alone be sufficient to support a verdict or finding that the alleged father is actually the father. Refusal by the alleged father to comply with an order of the court for genetic testing shall be deemed corroboration of the allegation of paternity. A signed and notarized acknowledgment of paternity or a certified copy or certified reproduction thereof shall be admissible in evidence in any proceeding to establish paternity without the need for foundation testimony or other proof of authenticity or accuracy.

If it is determined in this proceeding that the alleged father is actually the father of the child, a judgment shall be entered declaring the alleged father to be the father of the child.

(2) A default judgment shall be entered upon a showing of service and failure of the defendant to answer or otherwise appear.

(3) If a judgment is entered under this section declaring the alleged father to be the father of the child, the court shall retain jurisdiction of the cause and enter such order of support, including the amount, if any, of any court costs and attorney's fees which the court in its discretion deems appropriate to be paid by the father, as may be proper under the procedure and in the manner specified in section 43-512.04. If it is not determined in the proceeding that the alleged father is actually the father of the child, the court shall, if it finds that the action was

frivolous, award court costs and attorney's fees incurred by the alleged father, with such costs and fees to be paid by the plaintiff.

(4) All judgments under this section declaring the alleged father to be the father of the child shall include the father's social security number. The social security number of the declared father of the child shall be furnished to the clerk of the district court in a document accompanying the judgment.

43-1412.01. Legal determination of paternity set aside; when; guardian ad litem; court orders.

An individual may file a complaint for relief and the court may set aside a final judgment, court order, administrative order, obligation to pay child support, or any other legal determination of paternity if a scientifically reliable genetic test performed in accordance with sections 43-1401 to 43-1418 establishes the exclusion of the individual named as a father in the legal determination. The court shall appoint a guardian ad litem to represent the interest of the child. The filing party shall pay the costs of such test. A court that sets aside a determination of paternity in accordance with this section shall order completion of a new birth record and may order any other appropriate relief, including setting aside an obligation to pay child support. No support order may be retroactively modified, but may be modified with respect to any period during which there is a pending complaint for relief from a determination of paternity under this section, but only from the date that notice of the complaint was served on the nonfiling party. A court shall not grant relief from determination of paternity if the individual named as father (1) completed a notarized acknowledgment of paternity pursuant to section 43-1408.01, (2) adopted the child, or (3) knew that the child was conceived through artificial insemination.

43-1413. Child born out of wedlock; term substituted for other terms. In any local law, ordinance or resolution, or in any public or judicial proceeding, or in any process, notice, order, decree, judgment, record or other public document or paper, the terms bastard or illegitimate child shall not be used but the term child born out of wedlock shall be used in substitution therefor and with the same force and effect.

43-1414. Genetic testing; procedure; confidentiality; violation; penalty.

(1)(a) In any proceeding to establish paternity, the court may, on its own motion, or shall, on a timely request of a party, after notice and hearing, require the child, the mother, and the alleged father to submit to genetic testing to be performed on blood or any other appropriate genetic testing material. Failure to comply with such requirement for genetic testing shall constitute contempt and may be dealt with in the same manner as other contempts. If genetic testing is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures and shall appoint an expert in genetic testing and qualified as an examiner of genetic markers to analyze and interpret the results and to report to the court. The court shall determine the number of experts required.

(b) For purposes of this subsection, child means a person under the age of eighteen years, regardless of whether the person was born out of wedlock.

(2) In any proceeding to establish paternity, the Department of Health and Human Services, county attorneys, and authorized attorneys have the authority to require the child, the mother, and the alleged father to submit to genetic testing to be performed on blood or any other appropriate genetic testing material. All genetic testing shall be performed by a laboratory accredited by the College of American Pathologists or any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the college.

(3) Except as authorized under sections 43-1414 to 43-1418, a person shall not disclose information obtained from genetic paternity testing that is done pursuant to such sections.

(4) If an alleged father who is tested as part of an action under such sections is found to be the child's father, the testing laboratory shall retain the genetic testing material of the alleged father, mother, and child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. If a man is found not to be the child's father, the testing laboratory shall destroy the man's genetic testing material in the presence of a witness after such material is used in the paternity action. The witness may be an individual who is a party to the

destruction of the genetic testing material. After the man's genetic testing material is destroyed, the testing laboratory shall make and keep a written record of the destruction and have the individual who witnessed the destruction sign the record. The testing laboratory shall also expunge its records regarding the genetic paternity testing performed on the genetic testing material in accordance with the national standards under which the laboratory is accredited. The testing laboratory shall retain the genetic testing material of the mother and child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. After a testing laboratory destroys an individual's genetic testing material as provided in this subsection, it shall notify the adult individual, or the parent or legal guardian of a minor individual, by certified mail that the genetic testing material was destroyed.

(5) A testing laboratory is required to protect the confidentiality of genetic testing material, except as required for a paternity determination. The court and its officers shall not use or disclose genetic testing material for a purpose other than the paternity determination.

(6) A person shall not buy, sell, transfer, or offer genetic testing material obtained under sections 43-1414 to 43-1418.

(7) A testing laboratory shall annually have an independent audit verifying the contracting laboratory's compliance with this section. The audit shall not disclose the names of, or otherwise identify, the test subjects required to submit to testing during the previous year. The testing laboratory shall forward the audit to the department.

(8) Any person convicted of violating this section shall be guilty of a Class IV misdemeanor for the first offense and a Class III misdemeanor for the second or subsequent offense.

(9) For purposes of sections 43-1414 to 43-1418, an expert in genetic testing means a person who has formal doctoral training or postdoctoral training in human genetics.

(10) The changes made to this section by Laws 2025, LB150, apply to actions under sections 43-1401 to 43-1418 that are pending on June 5, 2025, and to cases filed on or after such date.

43-1415. Results of genetic tests; admissible evidence; rebuttable presumption.

(1) The results of the tests, including the statistical probability of paternity, shall be admissible evidence and, except as provided in subsection (2) of this section, shall be weighed along with other evidence of paternity.

(2) When the results of tests, whether or not such test were ordered pursuant to section 43-1414, show a probability of paternity of ninety-nine percent or more, there exists a rebuttable presumption of paternity.

(3) Such evidence may be introduced by verified written report without the need for foundation testimony or other proof of authenticity or accuracy unless there is a timely written request for personal testimony of the expert at least thirty days prior to trial.

43-1416. Genetic tests; chain of custody; competent evidence. The chain of custody of blood or tissue specimens shall be competent evidence and admissible by stipulation or by a verified written report, without the need for foundation testimony or other proof of authenticity, unless a timely written request for testimony is made at least thirty days prior to trial.

43-1417. Additional genetic testing; when. If the result of genetic testing or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that additional testing be done by the same laboratory or an independent laboratory at the expense of the party requesting additional testing.

43-1418. Genetic testing; costs. In cases where the court orders genetic testing at the request of a party, the requesting party shall initially pay such expense. In cases where the court orders genetic testing in the absence of a request of any party, the assessment of the cost of such testing shall be determined by the court. Whenever the disputing party prevails, the costs shall be borne by the other party.

XIX. GRANDPARENT VISITATION

43-1801. Grandparent, defined. As used in sections 43-1801 to 43-1803, unless the context otherwise requires, grandparent shall mean the biological or adoptive parent of a minor child's biological or adoptive parent. Such term shall not include a biological or adoptive parent of any minor child's biological or adoptive parent whose parental rights have been terminated.

43-1802. Visitation; conditions; order; modification.

(1) A grandparent may seek visitation with his or her minor grandchild if:

(a) The child's parent or parents are deceased;

(b) The marriage of the child's parents has been dissolved or petition for the dissolution of such marriage has been filed, is still pending, but no decree has been entered; or

(c) The parents of the minor child have never been married but paternity has been legally established.

(2) In determining whether a grandparent shall be granted visitation, the court shall require evidence concerning the beneficial nature of the relationship of the grandparent to the child. The evidence may be presented by affidavit and shall demonstrate that a significant beneficial relationship exists, or has existed in the past, between the grandparent and the child and that it would be in the best interests of the child to allow such relationship to continue. Reasonable rights of visitation may be granted when the court determines by clear and convincing evidence that there is, or has been, a significant beneficial relationship between the grandparent and the child, that it is in the best interests of the child that such relationship continue, and that such visitation will not adversely interfere with the parent-child relationship.

(3) The court may modify an order granting or denying such visitation upon a showing that there has been a material change in circumstances which justifies such modification and that the modification would serve the best interests of the child.

43-1803. Venue; petition; contents; service.

(1) If the minor child's parent or parents are deceased or have never been married, a grandparent seeking visitation shall file a petition in the district court in the county in which the minor child resides. If the marriage of the parents of a minor child has been dissolved or a petition for the dissolution of such marriage has been filed, is still pending, but no decree has been entered, a grandparent seeking visitation shall file a petition for such visitation in the district court in the county in which the dissolution was had or the proceedings are taking place. The county court or the district court may hear the proceedings as provided in section 25-2740. The form of the petition and all other pleadings required by this section shall be prescribed by the Supreme Court. The petition shall include the following:

(a) The name and address of the petitioner and his or her attorney;

(b) The name and address of the parent, guardian, or other party having custody of the child or children;

(c) The name and address of any parent not having custody of the child or children if applicable;

(d) The name and year of birth of each child with whom visitation is sought;

(e) The relationship of petitioner to such child or children;

(f) An allegation that the parties have attempted to reconcile their differences, but the differences are irreconcilable and such parties have no recourse but to seek redress from the court; and

(g) A statement of the relief sought.

(2) When a petition seeking visitation is filed, a copy of the petition shall be served upon the parent or parents or other party having custody of the child and upon any parent not having custody of such child by personal service or in the manner provided in section 25-517.02.

XX. GUARDIANSHIP OF MINORS

30-2605. Status of guardian of minor; general. A person becomes a guardian of a minor by acceptance of a testamentary appointment or upon appointment by the court. The guardianship status continues until terminated, without regard to the location from time to time of the guardian and minor ward.

30-2606. Testamentary appointment of guardian of minor; notice. The parent of a minor may appoint by will a guardian of an unmarried minor. Subject to the right of the minor under section 30-2607, a testamentary appointment becomes effective upon filing the guardian's acceptance in the court in which the will is probated if, before acceptance, both parents are dead or the surviving parent is adjudged incapacitated. If both parents are dead, an effective appointment by the parent who died later has priority. This state recognizes a testamentary appointment effected by filing the guardian's acceptance under a will probated in another state which is the testator's domicile. Upon acceptance of appointment, written notice of acceptance must be given by the guardian to the minor and to the person having his care, or to his nearest adult relation.

30-2607. Objection by minor of fourteen or older to testamentary appointment. A minor of fourteen or more years may prevent an appointment of his testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within thirty days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee, or any other suitable person.

30-2608. Natural guardians; court appointment of guardian of minor; standby guardian; conditions for appointment; child born out of wedlock; additional considerations; filings.

(a) The father and mother are the natural guardians of their minor children and are duly entitled to their custody and to direct their education, being themselves competent to transact their own business and not otherwise unsuitable. If either dies or is disqualified for acting, or has abandoned his or her family, the guardianship devolves upon the other except as otherwise provided in this section.

(b) In the appointment of a parent as a guardian when the other parent has died and the child was born out of wedlock, the court shall consider the wishes of the deceased parent as expressed in a valid will executed by the deceased parent. If in such valid will the deceased parent designates someone other than the other natural parent as guardian for the minor children, the court shall take into consideration the designation by the deceased parent. In determining whether or not the natural parent should be given priority in awarding custody, the court shall also consider the natural parent's acknowledgment of paternity, payment of child support, and whether the natural parent is a fit, proper, and suitable custodial parent for the child.

(c) The court may appoint a standby guardian for a minor whose parent is chronically ill or near death. The appointment of a guardian under this subsection does not suspend or terminate the parent's parental rights of custody to the minor. The standby guardian's authority would take effect, if the minor is left without a remaining parent, upon (1) the death of the parent, (2) the mental incapacity of the parent, or (3) the physical debilitation and consent of the parent.

(d) The court may appoint a guardian for a minor if all parental rights of custody have been terminated or suspended by prior or current circumstances or prior court order. The juvenile court may appoint a guardian for a child adjudicated to be under subdivision (3)(a) of section 43-247 as provided in section 43-1312.01. A guardian appointed by will as provided in section 30-2606 whose appointment has not been prevented or nullified under section 30-2607 has priority over any guardian who may be appointed by the court, but the court may proceed with an appointment upon a finding that the testamentary guardian has failed to accept the testamentary appointment within thirty days after notice of the guardianship proceeding.

(e) The petition and all other court filings for a guardianship proceeding shall be filed with the clerk of the county court. The party shall state in the petition whether such party requests that the proceeding be heard by the county court or, in cases in which a separate juvenile court already has jurisdiction over the child in need of a guardian under the Nebraska Juvenile Code, such separate juvenile court. Such proceeding is considered a county court proceeding even if heard by a separate juvenile court judge, and an order of the separate juvenile court in such guardianship proceeding has the force and effect of a county court order. The testimony in a guardianship proceeding heard before a separate juvenile court judge shall be preserved as in any other separate juvenile court proceeding.

30-2609. Court appointment of guardian of minor; venue. The venue for guardianship proceedings for a minor is in the place where the minor resides or is present or where property is located if he is a nonresident of this state.

30-2610. Court appointment of guardian of minor; qualification; priority of minor's nominee. The court may appoint as guardian any person whose appointment would be in the best interests of the minor. The court shall appoint a person nominated by the minor, if the minor is fourteen years of age or older, unless the court finds the appointment contrary to the best interests of the minor.

30-2611. Court appointment of guardian of minor; procedure.

(a) Notice of the time and place of hearing of a petition for the appointment of a guardian of a minor is to be given by the petitioner in the manner prescribed by section 30-2220 to:

(1) the minor, if he is fourteen or more years of age;

(2) the person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition; and

(3) any living parent of the minor.

(b) Upon hearing, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 30-2608 have been met, and the welfare and best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases the court may dismiss the proceedings, or make any other disposition of the matter that will best serve the interest of the minor.

(c) If necessary, the court may appoint a temporary guardian, with the status of an ordinary guardian of a minor, but the authority of a temporary guardian shall not last longer than six months. In an emergency, the court may appoint a temporary guardian of a minor without notice, pending notice and hearing.

(d) If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen years of age or older.

30-2612. Consent to service by acceptance of appointment; notice. By accepting a testamentary or court appointment as guardian, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person. Notice of any proceeding shall be delivered to the guardian, or mailed to him by ordinary mail at his address as listed in the court records and to his address as then known to the petitioner. Letters of guardianship must indicate whether the guardian was appointed by will or by court order.

30-2613. Powers and duties of guardian of minor.

(1) A guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his or her minor and unemancipated child, except that a guardian is not legally obligated to provide from his or her own funds for the ward and is not liable to third persons by reason of the parental relationship for acts of the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties:

(a) He or she must take reasonable care of his or her ward's personal effects and commence protective proceedings if necessary to protect other property of the ward.

(b) He or she may receive money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship or custodianship. He or she also may receive money or property of the ward paid or delivered by virtue of section 30-2603. Any sums so received shall be applied to the ward's current needs for support, care and education, except as provided in subsections (2) and (3) of this section. He or she must exercise due care to conserve any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward, in which case such excess shall be paid over at least annually to the conservator. Sums so received by the guardian are not to be used for compensation for his or her services except as approved by order of court. A guardian may institute proceedings to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.

(c) The guardian is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented. A guardian may consent to the marriage or adoption of his or her ward.

(d) A guardian must report the condition of his or her ward and of the ward's estate which has been subject to his or her possession or control, as ordered by court on petition of any person interested in the minor's welfare or as required by court rule, and upon termination of the guardianship settle his or her accounts with the ward or his or her legal representatives and pay over and deliver all of the estate and effects remaining in his or her hands or due from him or her on settlement to the person or persons who shall be lawfully entitled thereto.

(2) The appointment of a guardian for a minor shall not relieve his or her parent or parents, liable for the support of such minor, from their obligation to provide for such minor. For the purposes of guardianship of minors, the application of guardianship income and principal after payment of debts and charges of managing the estate, in relationship to the respective obligations owed by fathers, mothers, and others, for the support, maintenance and education of the minor shall be:

(a) The income and property of the father and mother of the minor in such manner as they can reasonably afford, regard being had to the situation of the family and to all the circumstances of the case;

(b) The guardianship income, in whole or in part, as shall be judged reasonable considering the extent of the guardianship income and the parents' financial ability;

(c) The income and property of any other person having a legal obligation to support the minor, in such manner as the person can reasonably afford, regard being had to the situation of the person's family and to all the circumstances of the case; and

(d) The guardianship principal, either personal or real estate, in whole or in part, as shall be judged for the best interest of the minor, considering all the circumstances of the minor and those liable for his or her support.

(3) Notwithstanding the provisions of subsection (2) of this section, the court may from time to time authorize the guardian to use so much of the guardianship income or principal, whether personal or real estate, as it may deem proper, considering all the circumstances of the minor and those liable for his or her support, if it is shown that (a) an emergency exists which justifies an expenditure, or (b) a fund has been given to the minor for a special purpose and the court can, with reasonable certainty, ascertain such purpose.

(4) The court may require a guardian to furnish a bond in an amount and conditioned in accordance with the provisions of section 30-2640.

(5) A guardian shall not change a ward's place of abode to a location outside of the State of Nebraska without court permission.

30-2614. Termination of appointment of guardian; general. A guardian's authority and responsibility terminates upon the death, resignation or removal of the guardian or upon the minor's death, adoption, marriage or attainment of majority, but termination does not affect his liability for prior acts, nor his obligation to account for funds and assets of his ward. Resignation of a guardian does not terminate the guardianship until it has been approved by the court. A testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding.

30-2615. Proceedings subsequent to appointment; venue.

(a) The court where the ward resides has concurrent jurisdiction with the court which appointed the guardian, or in which acceptance of a testamentary appointment was filed, over resignation, removal, accounting and other proceedings relating to the guardianship.

(b) If the court located where the ward resides is not the court in which acceptance of appointment is filed, the court in which proceedings subsequent to appointment are commenced shall in all appropriate cases notify the other court, in this or another state, and after consultation with that court determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever is in the best interest of the ward. A copy of any order accepting a resignation or removing a guardian shall be sent to the court in which acceptance of appointment is filed.

30-2616. Resignation or removal proceedings.

(a) Any person interested in the welfare of a ward, or the ward, if fourteen or more years of age, may petition for removal of a guardian on the ground that removal would be in the best interest of the ward. A guardian may petition for permission to resign. A petition for removal or for permission to resign may, but need not, include a request for appointment of a successor guardian.

(b) After notice and hearing on a petition for removal or for permission to resign, the court may terminate the guardianship and make any further order that may be appropriate.

(c) If, at any time in the proceeding, the court determines that the interests of the ward are, or may be, inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen or more years of age.

XXI. ADOPTION OF CHILDREN

43-101. Children eligible for adoption.

(1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, any minor child may be adopted by any adult person or persons and any adult child may be adopted by the spouse of such child's parent in the cases and subject to sections 43-101 to 43-115, except that no person having a spouse may adopt a minor child unless the spouse joins in the petition therefor. If the spouse so joins in the petition therefor, the adoption shall be by them jointly, except that an adult spouse may adopt a child of the other spouse whether born in or out of wedlock.

(2) Any adult child may be adopted by any person or persons subject to sections 43-101 to 43-115, except that no person having a spouse may adopt an adult child unless the spouse joins in the petition therefor. If the spouse so joins the petition therefor, the adoption shall be by them jointly. The adoption of an adult child by another adult or adults who are not the stepparent of the adult child may be permitted if the adult child has had a parent-child relationship with the prospective parent or parents for a period of at least six months next preceding the adult child's age of majority and (a) the adult child has no living parents, (b) the adult child's parent or parents had been deprived of parental rights to such child by the order of any court of competent jurisdiction, (c) the parent or parents, if living, have relinquished the adult child for adoption by a written instrument, (d) the parent or parents had abandoned the child for at least six months next preceding the adult child's age of majority, or (e) the parent or parents are incapable of consenting. The substitute consent provisions of section 43-105 do not apply to adoptions under this subsection.

43-101.01. Terms, defined. For purposes of sections 43-101 to 43-115:

(1) Acknowledged father means an individual who has:

(a) Executed a valid acknowledgment of paternity; or

(b) Acknowledged paternity through establishment of a familial relationship with the child for a period of at least six months;

(2) Adjudicated father means an individual who has been determined by a court of competent jurisdiction, in this state or in another state or territory of the United States, to be the biological or legal father of a minor child; and

(3) Juvenile court means the separate juvenile court where it has been established pursuant to sections 43-2,111 to 43-2,127 and the county court sitting as a juvenile court in all other counties.

43-102. Petition requirements; decree; jurisdiction; filings.

(1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, any person or persons desiring to adopt a minor child or an adult child shall file a petition for adoption signed and sworn to by the person or persons desiring to adopt. The following shall be filed prior to the hearing required under section 43-103:

(a) The consent or consents required by sections 43-104 and 43-105 or section 43-104.07;

(b) The documents required by section 43-104.07 or the documents required by sections 43-104.08 to 43-104.24;

(c) A completed preplacement adoptive home study if required by section 43-107;

(d) The completed and signed affidavit described in section 43-104.09 if required by such section;

(e) The completed and signed affidavit described in section 43-104.16 if required by such section; and

(f) When a consent is not required under subdivision (4)(c) of section 43-104, a certified copy of the termination order.

(2) The county court of the county in which the person or persons desiring to adopt a child reside has jurisdiction of adoption proceedings, except that if a juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such juvenile court has concurrent jurisdiction with the county court in such adoption proceeding. If a child to be adopted is a ward of any court or a ward of the state at the time of placement and at the time of filing an adoption petition, the person or persons desiring to adopt shall not be

required to be residents of Nebraska. The petition and all other court filings for an adoption proceeding shall be filed with the clerk of the county court. The party shall state in the petition whether such party requests that the proceeding be heard by the county court or, in cases in which a juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such juvenile court. Such proceeding is considered a county court proceeding even if heard by a juvenile court judge and an order of the juvenile court in such adoption proceeding has the force and effect of a county court order. The testimony in an adoption proceeding heard before a juvenile court judge shall be preserved as in any other juvenile court proceeding.

43-102.01. Military personnel; deemed residents; when. For purposes of adoption, persons serving in the armed forces of the United States, who have been continuously stationed at any military base or installation in the State of Nebraska for the period of one year immediately preceding the filing of a petition for adoption shall be deemed residents in good faith of this state and the county where such military base or installation is located.

43-103. Petition; hearing; notice. Except as otherwise provided in the Nebraska Indian Child Welfare Act, upon the filing of a petition for adoption the court shall fix a time for hearing the same. The hearing shall be held not less than four weeks nor more than eight weeks after the filing of such petition unless any party for good cause shown requests a continuance of the hearing or all parties agree to a continuance. The court may require notice of the hearing to be given to the child, if over fourteen years of age, to the natural parent or parents of the child, and to such other interested persons as the judge may, in the exercise of discretion, deem advisable, in the manner provided for service of a summons in a civil action. If the judge directs notice by publication, such notice shall be published three successive weeks in a legal newspaper of general circulation in such county.

43-104. Adoption; consent required; exceptions; petition requirements; private adoption; requirements.

(1) Except as otherwise provided in this section and in the Nebraska Indian Child Welfare Act, no adoption shall be decreed unless written consents thereto are filed in the county court of the county in which the person or persons desiring to adopt reside or in the county court in which the juvenile court having jurisdiction over the custody of the child is located and the written consents are executed by:

(a) The minor child, if over fourteen years of age; and

(b) Both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, the mother of a child born out of wedlock, or both the mother and father of a child born out of wedlock as determined pursuant to sections 43-104.08 to 43-104.24.

(2) A written consent or relinquishment for adoption under this section shall not be valid unless signed at least forty-eight hours after the birth of the child.

(3) A petition for adoption shall attest that, at the time of filing:

(a) There were no pending motions in any other court having jurisdiction over the minor child; and

(b) If a juvenile court has jurisdiction over the child, that adoption is the permanency goal in proceedings in juvenile court.

(4) Consent shall not be required of any parent:

(a) Who relinquished the child for adoption by a written instrument;

(b) Who abandoned the child for at least six months next preceding the filing of the adoption petition;

(c) Whose parental rights to such child have been terminated by the order of any court of competent jurisdiction; or

(d) Who is incapable of consenting.

(5) Consent shall not be required of a putative father who has failed to timely file:

(a) A Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02 and, with respect to the absence of such filing, a certificate has been filed pursuant to section 43-104.04; or

(b) A petition pursuant to section 43-104.05 for the adjudication of such father's objection to the adoption and a determination of whether his consent to the adoption is required and the mother of the child has timely executed a valid relinquishment and consent to the adoption pursuant to such section.

(6) Consent shall not be required of an acknowledged or adjudicated father who has failed to timely file a petition pursuant to section 43-104.05 for the adjudication of such notice and a determination of whether his consent to the adoption is required and the mother of the child has timely executed a valid relinquishment and consent to the adoption pursuant to such section.

(7) Consent shall not be required of an acknowledged father, an adjudicated father, or a putative father who is not required to consent to the adoption pursuant to section 43-104.05 or 43-104.22.

(8) The validity of a relinquishment and consent for adoption is not affected by the fact that a relinquishing person is a minor.

(9)(a) In private adoptions not involving relinquishment of a child to the state or to a licensed child placement agency, a parent or parents who relinquish a child for adoption shall be provided legal counsel of their choice independent from that of the adoptive parent or parents. Such counsel shall be provided at the expense of the adoptive parent or parents prior to the execution of a written relinquishment and consent to adoption or execution of a communication and contact agreement under section 43-166, unless specifically waived in writing.

(b) In private adoptions and adoptions involving relinquishment of a child to a licensed child placement agency other than the state, a parent or parents contemplating relinquishment of a child for adoption shall be offered, at the expense of the adoptive parent or parents or the agency, at least three hours of professional counseling prior to executing a written relinquishment of parental rights or written consent to adoption. Such relinquishment or consent shall state whether the relinquishing parent or parents received or declined counseling.

43-104.01. Child born out of wedlock; putative father registry; Department of Health and Human Services; duties.

(1) The Department of Health and Human Services shall establish a putative father registry. The department shall maintain such registry and shall record the names and addresses of (a) any person adjudicated by a court of this state or by a court of another state or territory of the United States to be the biological father of a child born out of wedlock if a certified copy of the court order is filed with the registry by such person or any other person, (b) any putative father who has filed with the registry, prior to the receipt of notice under sections 43-104.12 to 43-104.16, a Request for Notification of Intended Adoption with respect to such child, and (c) any putative father who has filed with the registry a Notice of Objection to Adoption and Intent to Obtain Custody with respect to such child.

(2) A Request for Notification of Intended Adoption or a Notice of Objection to Adoption and Intent to Obtain Custody filed with the registry shall include (a) the putative father's name, address, and social security number, (b) the name and last-known address of the mother, (c) the month and year of the birth or the expected birth of the child, (d) the case name, court name, and location of any Nebraska court having jurisdiction over the custody of the child, and (e) a statement by the putative father that he acknowledges liability for contribution to the support and education of the child after birth and for contribution to the pregnancy-related medical expenses of the mother of the child. The person filing the notice shall notify the registry of any change of address pursuant to procedures prescribed in rules and regulations of the department.

(3) A request or notice filed under this section or section 43-104.02 shall be admissible in any action for paternity and shall estop the putative father from denying paternity of such child thereafter.

(4) Any putative father who files a Request for Notification of Intended Adoption or a Notice of Objection to Adoption and Intent to Obtain Custody with the putative father registry may revoke such filing. Upon receipt of such revocation by the registry, the effect shall be as if no filing had ever been made.

(5) The department may develop information about the registry and may distribute such information, through its existing publications, to the news media and the public. The department may provide information about the registry to the Department of Correctional Services, which may distribute such information through its existing publications.

43-104.02. Child born out of wedlock; Notice of Objection to Adoption and Intent to Obtain Custody; filing requirements.

(1) A Notice of Objection to Adoption and Intent to Obtain Custody shall be filed with the putative father registry under section 43-104.01 on forms provided by the Department of Health and Human Services:

(a) At any time during the pregnancy and no later than ten business days after the birth of the child; or

(b) If the notice required by section 43-104.13 is provided after the birth of the child:

(i) At any time during the pregnancy and no later than ten business days after receipt of the notice provided under section 43-104.12; or

(ii) No later than ten business days after the last date of any published notice provided under section 43-104.14, whichever notice is earlier.

(2) Such notice shall be considered to have been filed if it is received by the Department of Health and Human Services, Office of Vital Records, putative father registry or postmarked prior to the end of the tenth business day as provided in this section.

43-104.03. Child born out of wedlock; filing with putative father registry; department; notice; to whom given.

Within three days after the filing of a Request for Notification of Intended Adoption or a Notice of Objection to Adoption and Intent to Obtain Custody with the putative father registry pursuant to sections 43-104.01 and 43-104.02, the Department of Health and Human Services shall cause a certified copy of such request or notice to be mailed by certified mail to the mother or prospective mother of such child at the last-known address shown on the request or notice or an agent specifically designated in writing by the mother or prospective mother to receive such request or notice.

43-104.04. Child born out of wedlock; failure to file notice; effect.

If a Notice of Objection to Adoption and Intent to Obtain Custody is not timely filed with the putative father registry pursuant to section 43-104.02, the mother of a child born out of wedlock or an agent specifically designated in writing by the mother may request, and the Department of Health and Human Services shall supply, a certificate that no such notice has been filed with the putative father registry. The filing of such certificate pursuant to section 43-102 shall eliminate the need or necessity of a consent or relinquishment for adoption by the putative father of such child.

43-104.05. Child born out of wedlock; notice; filed; petition for adjudication of paternity; trial; guardian ad litem; court; jurisdiction.

(1)(a) A putative, acknowledged, or adjudicated father objecting to a proposed adoption may file a petition objecting to the adoption and seeking a determination of whether the objecting father's consent to the proposed

adoption is required. A putative father may only file such petition if he has timely filed a Notice of Objection to Adoption and Intent to Obtain Custody with the putative father registry pursuant to section 43-104.02.

(b) The petition shall be filed within forty-five days after the later of the child's birth or the objecting father's receipt of notice under sections 43-104.12 to 43-104.14.

(c)(i) Except as provided in subdivision (1)(c)(ii) of this section, the petition shall be filed in the county court in the county where such child was born or, if a juvenile court already has jurisdiction over the custody of the child, in the county court of the county in which such juvenile court is located.

(ii) If the child was not born in Nebraska, the petition shall be filed in the county court of the county where either the biological mother or objecting father resides.

(d) A timely petition objecting to the adoption must be filed by an objecting putative, acknowledged, or adjudicated father of a minor child born out of wedlock who is the subject of a proposed adoption.

(e) Such petition may be filed by and defended by a minor in the minor's own name.

(2) If a petition objecting to a proposed adoption is not filed within the deadline provided in subdivision (1)(b) of this section, and the mother of the child has executed a valid relinquishment and consent to the adoption within ninety days after the later of the birth of the child or the objecting father's receipt of notice under sections 43-104.12 to 43-104.14, the putative, acknowledged, or adjudicated father's consent to adoption of the child shall not be required, he is not entitled to any further notice of the adoption proceedings, his right to object to the adoption shall not be recognized thereafter in any court, and his parental rights to such child will be terminated upon entry of an adoption decree.

(3) After the timely filing of a petition objecting to a proposed adoption, the court shall set a trial date upon proper notice to the parties not less than twenty nor more than thirty days after the date of such filing. If the mother contests the objecting father's claim of paternity, the court shall order DNA testing to establish whether the objecting father is the biological father. The court shall assess the costs of such testing between the parties in an equitable manner. Whether the objecting father's consent to the adoption is required shall be determined pursuant to section 43-104.22, except that such consent is not required if the objecting father is not the biological father. The court shall appoint a guardian ad litem to represent the best interests of the child.

(4)(a) The county court or juvenile court having jurisdiction over the custody of the child shall have exclusive jurisdiction over proceedings under this section from the date of notice provided under section 43-104.12 or the last date of published notice under section 43-104.14, whichever notice is earlier, until thirty days after the conclusion of proceedings under this section, including appeals, unless such jurisdiction is transferred under subdivision (b) of this subsection.

(b) Except as provided in subdivision (4)(c) of this section, the court shall, upon the motion of any party, transfer the case to the district court for further proceedings on the matters of custody, visitation, and child support with respect to such child if:

(i) Such court determines under section 43-104.22 that the consent of the objecting father is required for adoption of the minor child and the objecting father refuses such consent; or

(ii) The mother of the child, within ninety days after the conclusion of proceedings under this section, including appeals, has not executed a valid relinquishment and consent to the adoption.

(c) The court, upon its own motion, may retain the case for good cause shown.

43-104.06. Repealed. Laws 1995, LB 712, § 31.

43-104.07. Child born in a foreign country; requirements. The petition for adoption of a child born in a foreign country shall be accompanied by:

(1) A document or documents from a court, official department, or government agency of the country of origin stating that the parent has consented to the adoption, stating that the parental rights of the parents of the child

have been terminated, or stating that the child to be adopted has been abandoned or relinquished by the natural parents and that the child is to immigrate to the United States for the purpose of adoption; and

(2) Written consent to the adoption of the child from a child placement agency licensed by the Department of Health and Human Services or the agency's duly authorized representative which placed the child with the adopting person or persons. The consent shall be signed and acknowledged before an officer authorized to acknowledge deeds in the state where the consent is signed and shall not require a witness.

Any document in a foreign language shall be translated into English by the Department of State or by a translator who shall certify the accuracy of the translation.

A guardian shall not be required to be appointed to give consent to the adoption of any child born in a foreign country when the consent requirements of this section have been met.

43-104.08. Child born out of wedlock; identify and inform biological father.

Whenever a child is claimed to be born out of wedlock and the biological mother contacts an adoption agency or attorney to relinquish her rights to the child, or the biological mother joins in a petition for adoption to be filed by her spouse, the agency or attorney contacted shall attempt to establish the identity of the biological father and further attempt to inform the biological father of his rights, including the right to object to the adoption and the procedure and required timing to object, and his right to execute a relinquishment and consent to adoption, or a denial of paternity and waiver of rights, in the form mandated by section 43-106, pursuant to sections 43-104.08 to 43-104.24.

43-104.09. Child born out of wedlock; biological mother; affidavit; form.

In all cases of adoption of a minor child born out of wedlock, the biological mother, or an individual acting on behalf of the biological mother and who possesses information provided by the biological mother if the biological mother is unavailable due to death, incapacity, abandonment, or termination of parental rights, shall complete and sign an affidavit in writing and under oath. The affidavit shall be completed and signed before or at the time of execution of the consent or relinquishment and shall be filed with the court prior to the hearing on the petition for adoption. If the biological mother is under the age of nineteen, the biological mother may sign the affidavit despite her minority or the affidavit may be completed and signed by the agency or attorney representing the biological mother based upon information provided by the biological mother. The affidavit shall be in substantially the following form:

AFFIDAVIT OF IDENTIFICATION

I, ..., the mother of a child, state under oath or affirm as follows:
(1) My child was born, or is expected to be born, on the ..... day of ....., ..., at ....., in the State of ..... .
(2) I reside at ....., in the City or Village of ....., County of ....., State of ..... .
(3) I am of the age of ..... years, and my date of birth is ..... .
(4) I acknowledge that I have been asked to identify the father of my child.
(5) (CHOOSE ONE)
(5A) I know and am identifying the biological father (or possible biological fathers) as follows:
The name of the biological father is ..... .
His last-known home address is ..... .
His last-known work address is ..... .
He is ..... years of age, or he is deceased, having died on or about the ..... day of ....., ..., at ....., in the State of ..... .

He has been adjudicated to be the biological father by the ..... Court of ..... county, State of ....., case name ....., docket number ..... .
He ... has ... has not acknowledged paternity in court or in connection with the child's birth certificate.
He ... has ... has not established a familial relationship with the child.
(For other possible biological fathers, please use additional sheets of paper as needed.)
(5B) I am unwilling or unable to identify the biological father (or possible biological fathers). I do not wish or I am unable to name the biological father of the child for the following reasons:
..... Conception of my child occurred as a result of sexual assault or incest
..... Providing notice to the biological father of my child would threaten my safety or the safety of my child
..... Other reason: ..... .
(6) If the biological mother is unable to name the biological father, the physical description of the biological father (or possible biological fathers) and other information which may assist in identifying him, including the city or county and state where conception occurred:
.....
.....
.....
(use additional sheets of paper as needed).
(7) Under penalty of perjury, the undersigned certifies that the statements set forth in this affidavit are true and correct.
(8) I have read this affidavit and have had the opportunity to review and question it. It was explained to me by ..... .
I am signing it as my free and voluntary act and understand the contents and the effect of signing it.
Dated this ..... day of ....., ...
(Acknowledgment)
.....
(Signature)

43-104.10. Child born out of wedlock; agency or attorney; duty to inform biological mother. The agency or attorney representing the biological mother shall inform the mother of the legal and medical need to determine, whenever possible, the paternity of the child prior to an adoption and that her failure or refusal to accurately identify the biological father or possible biological fathers could threaten the legal validity of any adoptive placement of the child.

43-104.11. Child born out of wedlock; father's relinquishment and consent; when effective. If the biological mother's affidavit, required by section 43-104.09, identifies only one possible biological father of the child and states that there are no other possible biological fathers of the child, and if the named father executes a valid relinquishment and consent to adoption of the child in the form mandated by section 43-106 or executes a denial of paternity and waiver of rights in the form mandated by section 43-106, the court may enter a decree of adoption pursuant to section 43-109 without regard to sections 43-104.12 to 43-104.16. A named biological father's relinquishment and consent or a named biological father's waiver of rights is irrevocable upon signing and is not voidable for any period after signing. Such relinquishment and consent or such waiver of rights may only be challenged on the basis of fraud or duress for up to six months after signing.

43-104.12. Child born out of wedlock; agency or attorney; duty to inform biological father.
In order to attempt to inform the biological father or possible biological fathers, whether putative, acknowledged, or adjudicated, of the right to execute a relinquishment and consent to adoption or a denial of paternity and waiver of rights, the agency or attorney representing the biological mother shall notify, by personal service of process or by registered or certified mail, restricted delivery, return receipt requested:
(1) Any acknowledged father or adjudicated father;

(2) Any person who has filed a Request for Notification of Intended Adoption or a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to sections 43-104.01 and 43-104.02;

(3) Any person who is recorded on the child's birth certificate as the child's father;

(4) Any person who might be the biological father of the child who was openly living with the child's biological mother within the twelve months prior to the birth of the child;

(5) Any person who has been identified as the biological father or possible biological father of the child by the child's biological mother pursuant to section 43-104.09;

(6) Any person who was married to the child's biological mother within six months prior to the birth of the child and prior to the execution of the relinquishment; and

(7) Any other person who the agency or attorney representing the biological mother may have reason to believe may be the biological father of the child.

43-104.13. Child born out of wedlock; notice to biological father; contents.

The notice sent by the agency or attorney pursuant to section 43-104.12 shall be served sufficiently in advance of the birth of the child, whenever possible, to allow compliance with subdivision (1)(a) of section 43-104.02 and shall state:

(1) The biological mother's name, the fact that she is pregnant or has given birth to the child, and the expected or actual date of delivery;

(2) That the child has been relinquished by the biological mother, that she intends to execute a relinquishment and consent to adoption, or that the biological mother has joined or plans to join in a petition for adoption to be filed by her spouse;

(3) That the person being notified has been identified as a possible biological father of the child, whether putative, acknowledged, or adjudicated;

(4) That the person being notified may have certain rights with respect to such child if he is in fact the biological father;

(5) That the person being notified has the right to (a) deny paternity, (b) waive any parental rights he may have, (c) relinquish and consent to adoption of the child, (d) file a Notice of Objection to Adoption and Intent to Obtain Custody any time during the pregnancy or as late as ten business days after birth pursuant to section 43-104.02 if he is a putative father, and (e) object to the adoption in court within forty-five days after the later of receipt of notice under this section or the birth of the child if he is an acknowledged or adjudicated father;

(6) That to deny paternity, to waive his parental rights, or to relinquish and consent to the adoption, the person being notified must contact the undersigned agency or attorney representing the biological mother, and that if he wishes to object to the adoption and seek custody of the child he should seek legal counsel from his own attorney immediately; and

(7) That if the person being notified is the biological father and if the child is not relinquished for adoption, he has a duty to contribute to the support and education of the child and to the pregnancy-related expenses of the mother and a right to seek a court order for custody, parenting time, visitation, or other access with the child.

The agency or attorney representing the biological mother may enclose with the notice a document which is an admission or denial of paternity and a waiver of rights by the person being notified, which such person may choose to complete, in the form mandated by section 43-106, and return to the agency or attorney.

43-104.14. Child born out of wedlock; agency or attorney; duty to notify biological father by publication; when.

(1) If the agency or attorney representing the biological mother is unable through reasonable efforts to locate and serve notice on the biological father or possible biological fathers as contemplated in sections 43-104.12 and 43-104.13, the agency or attorney shall notify the biological father or possible biological fathers by publication.

(2) The publication shall be made once a week for three consecutive weeks in a legal newspaper of general circulation in the Nebraska county or county of another state which is most likely to provide actual notice to the biological father. The publication shall include:

(a) The first name or initials of the father or possible father or the entry "John Doe, real name unknown", if applicable;

(b) A description of the father or possible father if his first name is or initials are unknown;

(c) The approximate date of conception of the child and the city and state in which conception occurred, if known;

(d) The date of birth or expected birth of the child;

(e) That he has been identified as the biological father or possible biological father of a child whom the biological mother currently intends to place for adoption and the approximate date that placement will occur;

(f) That he has the right to (i) deny paternity, (ii) waive any parental rights he may have, (iii) relinquish and consent to adoption of the child, (iv) file a Notice of Objection to Adoption and Intent to Obtain Custody any time during the pregnancy or as late as ten business days after birth pursuant to section 43-104.02 if he is a putative father, or (v) object to the adoption in court within forty-five days after the later of receipt of notice under this section or the birth of the child if he is an acknowledged or adjudicated father;

(g) That in order to deny paternity, waive his parental rights, relinquish and consent to the adoption, or receive additional information to determine whether he is the father of the child in question, he must contact the undersigned agency or attorney representing the biological mother; and

(h) That if he wishes to object to the adoption and seek custody of the child, he must seek legal counsel from his own attorney immediately.

43-104.15. Child born out of wedlock; notification to biological father; exceptions.

The notification procedure set forth in sections 43-104.12 to 43-104.14 shall, whenever possible, be completed prior to a child being placed in an adoptive home. If the information provided in the biological mother's affidavit prepared pursuant to section 43-104.09 presents clear evidence that providing notice to a biological father or possible biological father as contemplated in sections 43-104.12 to 43-104.14 would be likely to threaten the safety of the biological mother or the child or that conception was the result of sexual assault or incest, notice is not required to be given. If the biological father or possible biological fathers are not given actual or constructive notice prior to the time of placement, the agency or attorney shall give the adoptive parents a statement of legal risk indicating the legal status of the biological father's parental rights as of the time of placement, and the adoptive parents shall sign a statement of legal risk acknowledging their acceptance of the placement, notwithstanding the legal risk.

43-104.16. Child born out of wedlock; notice requirements; affidavit by agency or attorney.

In all cases involving the adoption of a minor child born out of wedlock, the agency or attorney representing the biological mother shall execute an affidavit stating that due diligence was used to identify and give actual or constructive notice to the biological father or possible biological fathers of the child and stating the methods used to attempt to identify and give actual or constructive notice to those persons or the reason why no attempts were made to identify and notify those persons. The affidavit shall be filed in the adoption proceeding prior to the hearing on the petition for adoption.

43-104.17. Child born out of wedlock; petition; evidence of compliance required; notice to biological father; when.

In all cases of adoption of a minor child born out of wedlock, the petition for adoption shall specifically allege compliance with sections 43-104.08 to 43-104.16, and all documents which are evidence of such compliance shall be filed with the court prior to the hearing on the petition. No notice of the filing of the petition to finalize or the hearing on the petition shall be given to a biological father or putative biological father who (1) executed a valid relinquishment and consent or a valid denial of paternity and waiver of rights pursuant to section 43-104.11, (2) was

a putative father provided notice under sections 43-104.12 to 43-104.14 and who failed to timely file a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02, (3) was a putative, acknowledged, or adjudicated father who failed to timely file a petition objecting to the adoption under section 43-104.05, or (4) is not required to consent to the adoption pursuant to proceedings conducted under section 43-104 or 43-104.22.

43-104.18. Child born out of wedlock; failure to establish compliance with notice requirements; court powers.

If a petition for adoption is filed and fails to establish substantial compliance with sections 43-104.08 to 43-104.16, the court shall receive evidence by affidavit of the facts and circumstances of the biological mother's relationship with the biological father or possible biological fathers at the time of conception of the child and at the time of the biological mother's relinquishment and consent to the adoption of the child, including any evidence that providing notice to a biological father or possible biological father would be likely to threaten the safety of the biological mother or the child or that the conception was the result of sexual assault or incest. If, under the facts and circumstances presented, the court finds that the agency or attorney representing the biological mother did not exercise due diligence in complying with sections 43-104.08 to 43-104.16, or if the court finds that there is no credible evidence that providing notice to a biological father or possible biological father would be likely to threaten the safety of the biological mother or the child or that the conception was the result of sexual assault or incest, the court shall order the attorney or agency to exercise due diligence in complying with sections 43-104.08 to 43-104.16.

43-104.19. Repealed. Laws 2022, LB741, § 56.

43-104.20. Repealed. Laws 2022, LB741, § 56.

43-104.21. Repealed. Laws 2022, LB741, § 56.

43-104.22. Child born out of wedlock; hearing; paternity of child; father's consent not required; when; determination of custody.

At any hearing to determine the parental rights of an acknowledged father, an adjudicated father, or a putative father of a minor child born out of wedlock and whether such father's consent is required for the adoption of such child, the county court or juvenile court having jurisdiction shall receive evidence with regard to the actual paternity of the child, if contested. The court shall determine that such father's consent is not required for a valid adoption of the child upon a finding of one or more of the following:

(1) The father abandoned or neglected the child after having knowledge of the child's birth;

(2) The father is not a fit, proper, and suitable custodial parent for the child;

(3) The father had knowledge of the child's birth and failed to provide reasonable financial support for the mother or child;

(4) The father abandoned the mother without reasonable cause and with knowledge of the pregnancy;

(5) The father had knowledge of the pregnancy and failed to provide reasonable support for the mother during the pregnancy;

(6) The child was conceived as a result of a nonconsensual sex act or an incestual act;

(7) Notice was provided pursuant to sections 43-104.12 to 43-104.14 and the putative father failed to timely file a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02;

(8) The acknowledged father, adjudicated father, or putative father failed to timely file a petition objecting to the adoption pursuant to section 43-104.05;

(9) The father executed a valid relinquishment or consent to adoption; or

(10) The man whether an acknowledged father, an adjudicated father, or a putative father, is not, in fact, the biological father of the child.

The court shall determine the custody of the child according to the best interest of the child, weighing the superior rights of a biological parent who has been found to be a fit, proper, and suitable parent against any detriment

the child would suffer if removed from the custody of persons with whom the child has developed a substantial relationship.

43-104.23. Child born out of wedlock; decree finalizing adoption without biological father's notification; when; appeal.

(1) The court shall enter a decree finalizing the adoption of the child if, after viewing the evidence submitted to support a petition for adoption, the court determines that:

(a) No biological father can be identified;

(b) No identified father can be notified without likely threat to the safety of the biological mother or the child; or

(c) That there has been due diligence and substantial compliance with sections 43-104.08 to 43-104.16 and that no biological father has timely filed under section 43-104.02 or 43-104.05.

(2) Subject to the disposition of an appeal, upon the expiration of thirty days after a decree is issued under this section, the decree shall not be reversed, vacated, or modified on the basis of fraud, misrepresentation, or failure to provide notice under sections 43-104.12 to 43-104.14.

43-104.24. Child born out of wedlock; proceedings; court priority.

All proceedings pursuant to sections 43-104.08 to 43-104.23 have the highest priority and shall be advanced on the court docket to provide for their earliest practical disposition. An adjournment or continuance of a proceeding pursuant to sections 43-104.08 to 43-104.23 shall not be granted without a showing of good cause.

43-104.25. Repealed. Laws 2022, LB741, § 56.

43-105. Substitute consents.

(1) If consent is not required of both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, or the mother or mother and father of a child born out of wedlock, because of the provisions of subdivision (1)(b) of section 43-104, substitute consents shall be filed as follows:

(a) Consent to the adoption of a minor child who has been committed to the Department of Health and Human Services may be given by the department or its duly authorized agent in accordance with section 43-906;

(b) When a parent has relinquished a minor child for adoption to any child placement agency licensed or approved by the department or its duly authorized agent, consent to the adoption of such child may be given by such agency; and

(c) When consent cannot be given as provided in section 43-104, consent shall be given by the guardian or guardian ad litem of such minor child appointed by a court, which consent shall be authorized by the court having jurisdiction of such guardian or guardian ad litem.

(2) Substitute consent provisions of this section do not apply to a biological father whose consent is not required under section 43-104.22 or subsection (5) or (6) of section 43-104.

43-106. Relinquishments and consents; signature; witnesses; acknowledgment.

Relinquishments and consents required to be given under sections 43-104 and 43-105 must be acknowledged before an officer authorized to acknowledge deeds in this state and signed in the presence of at least one witness, in addition to the officer.

43-106.01. Relinquishment; relief from parental duties; no impairment or right to inherit. When a child shall have been relinquished by written instrument, as provided by sections 43-104 and 43-106, to the Department of Health and Human Services or to a licensed child placement agency and the agency has, in writing,

accepted full responsibility for the child, the person so relinquishing shall be relieved of all parental duties toward and all responsibilities for such child and have no rights over such child. Nothing contained in this section shall impair the right of such child to inherit.

43-106.02. Relinquishment of child; presentation of nonconsent form required. Prior to the relinquishment of a child for adoption, a representative of the Department of Health and Human Services or of any child placement agency licensed by the department or an attorney and a witness shall present a copy or copies of the nonconsent form as provided in section 43-146.06 to the relinquishing parent or parents and explain the effects of signing such form.

43-107. Investigation by Department of Health and Human Services; adoptive home studies required; when; medical history; required; contents; exceptions; report required; case file; access; department; duties.

(1)(a) For adoption placements occurring or in effect prior to January 1, 1994, upon the filing of a petition for adoption, the county judge shall, except in the adoption of children by stepparents when the requirement of an investigation is discretionary, request the Department of Health and Human Services or any child placement agency licensed by the department to examine the allegations set forth in the petition and to ascertain any other facts relating to such minor child and the person or persons petitioning to adopt such child as may be relevant to the propriety of such adoption, except that the county judge shall not be required to request such an examination if the judge determines that information compiled in a previous examination or study is sufficiently current and comprehensive. Upon the request being made, the department or other licensed agency shall conduct an investigation and report its findings to the county judge in writing at least one week prior to the date set for hearing.

(b)(i) For adoption placements occurring on or after January 1, 1994, a preplacement adoptive home study shall be filed with the court prior to the hearing required in section 43-103, which study is completed by the Department of Health and Human Services or a licensed child placement agency within one year before the date on which the adoptee is placed with the petitioner or petitioners and indicates that the placement of a child for the purpose of adoption would be safe and appropriate.

(ii) An adoptive home study shall not be required when the petitioner is a stepparent of the adoptee unless required by the court. An adoptive home study may be waived by the court upon a showing of good cause by the petitioner when the petitioner is a biological grandparent or a step-grandparent who is married to the biological grandparent at the time of the adoption if both are adopting the child. For all petitions filed on or after January 1, 1994, the judge shall order the petitioner or his or her attorney to request the Nebraska State Patrol to file a national criminal history record information check by submitting the request accompanied by two sets of fingerprint cards or an equivalent electronic submission and the appropriate fee to the Nebraska State Patrol for a Federal Bureau of Investigation background check and to request the department to conduct and file a check of the central registry created in section 28-718 for any history of the petitioner of behavior injurious to or which may endanger the health or morals of a child. An adoption decree shall not be issued until such records are on file with the court. The petitioner shall pay the cost of the national criminal history record information check and the check of the central registry.

(iii) The placement of a child for foster care made by or facilitated by the department or a licensed child placement agency in the home of a person who later petitions the court to adopt the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the court at least one week prior to the hearing for adoption.

(iv) A voluntary placement for purposes other than adoption made by a parent or guardian of a child without assistance from an attorney, physician, or other individual or agency which later results in a petition for the adoption of the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or

petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the court at least one week prior to the hearing for adoption.

(v) The adoption of an adult child as provided in subsection (2) of section 43-101 shall be exempt from the requirements of an adoptive home study unless the court specifically orders otherwise. The court may order an adoptive home study, a background investigation, or both if the court determines that such would be in the best interests of the adoptive party or the person to be adopted.

(vi) Any adoptive home study required by this section shall be conducted by the department or a licensed child placement agency at the expense of the petitioner or petitioners unless such expenses are waived by the department or licensed child placement agency. The department or licensed agency shall determine the fee or rate for the adoptive home study.

(vii) The preplacement or postplacement adoptive home study shall be performed as prescribed in rules and regulations of the department and shall include at a minimum an examination into the facts relating to the petitioner or petitioners as may be relevant to the propriety of such adoption. Such rules and regulations shall require an adoptive home study to include a national criminal history record information check and a check of the central registry created in section 28-718 for any history of the petitioner or petitioners of behavior injurious to or which may endanger the health or morals of a child.

(2) Upon the filing of a petition for adoption, the judge shall require that a complete medical history be provided on the child, except that in the adoption of a child by a stepparent, biological grandparent, or step-grandparent who is married to the biological grandparent at the time of the adoption if both are adopting the child, the provision of a medical history shall be discretionary. On and after August 27, 2011, the complete medical history or histories required under this subsection shall include the race, ethnicity, nationality, Indian tribe when applicable and in compliance with the Nebraska Indian Child Welfare Act, or other cultural history of both biological parents, if available. A medical history shall be provided, if available, on the biological mother and father and their biological families, including, but not limited to, siblings, parents, grandparents, aunts, and uncles, unless the child is foreign born or was abandoned. The medical history or histories shall be reported on a form provided by the department and filed along with the report of adoption as provided by section 71-626. If the medical history or histories do not accompany the report of adoption, the department shall inform the court and the State Court Administrator. The medical history or histories shall be made part of the court record. After the entry of a decree of adoption, the court shall retain a copy and forward the original medical history or histories to the department. This subsection shall only apply when the relinquishment or consent for an adoption is given on or after September 1, 1988.

(3) After the filing of a petition for adoption and before the entry of a decree of adoption for a child who is committed to the Department of Health and Human Services, the person or persons petitioning to adopt the child shall be given the opportunity to read the case file on the child maintained by the department or its duly authorized agent. The department shall not include in the case file to be read any information or documents that the department determines cannot be released based upon state statute, federal statute, federal rule, or federal regulation. The department shall provide a document for such person's or persons' signatures verifying that he, she, or they have been given an opportunity to read the case file and are aware that he, she, or they can review the child's file at any time following finalization of the adoption upon making a written request to the department. The department shall file such document with the court prior to the entry of a decree of adoption in the case.

43-108. Personal appearance of parties; exceptions.

The minor child to be adopted, unless such child is over fourteen years of age, and the person or persons desiring to adopt the child must appear in person before the judge at the time of hearing, except that when the petitioners are married and one of them is present in court, the court, in its discretion, may accept the affidavit of an absent spouse who is in the armed forces of the United States and it appears to the court the absent spouse will not

be able to be present in court for more than a year because of his or her military assignment, which affidavit sets forth that the absent spouse favors the adoption.

43-109. Decree; conditions; content.

(1) If, upon the hearing, the court finds that such adoption is for the best interests of such minor child or such adult child, a decree of adoption shall be entered. No decree of adoption shall be entered unless:

(a) It appears that the child has resided with the person or persons petitioning for such adoption for at least six months next preceding the entering of the decree of adoption, except that such residency requirement shall not apply in an adoption of an adult child;

(b) The medical histories required by subsection (2) of section 43-107 have been made a part of the court record;

(c) The court record includes an affidavit or affidavits signed by the relinquishing biological parent, or parents if both are available, in which it is affirmed that, pursuant to section 43-106.02, prior to the relinquishment of the child for adoption, the relinquishing parent was, or parents if both are available were:

(i) Presented a copy or copies of the nonconsent form provided for in section 43-146.06; and

(ii) Given an explanation of the effects of filing or not filing the nonconsent form; and

(d) If the child to be adopted is committed to the Department of Health and Human Services, the document required by subsection (3) of section 43-107 is a part of the court record.

(2) If the adopted child was born out of wedlock, that fact shall not appear in the decree of adoption.

(3) The court may decree such change of name for the adopted child as the petitioner or petitioners may request.

43-110. Decree; effect as between parties.

After a decree of adoption is entered, the usual relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent shall thereafter exist between such adopted child and the person or persons adopting such child and his, her or their kindred.

43-111. Decree; effect as to natural parents.

Except as provided in sections 43-101 and 43-106.01 and the Nebraska Indian Child Welfare Act, after a decree of adoption has been entered, the natural parents of the adopted child shall be relieved of all parental duties toward and all responsibilities for such child and have no rights over such adopted child or to his or her property by descent and distribution.

43-111.01. Denial of petition; court; powers.

Except as otherwise provided in the Nebraska Indian Child Welfare Act, if, upon a hearing, the court shall deny a petition for adoption, the court may take custody of the child involved and determine whether or not it is in the best interests of the child to remain in the custody of the proposed adopting parents. The court may also, on its own motion, appoint a legal guardian over the person and property of such minor and make disposition in the best interests of the child without further notice, relinquishments, or consents as may otherwise be required by sections 43-101.01 to 43-112.

43-112. Decree; appeal.

An appeal shall be allowed from any final order, judgment, or decree, rendered under the authority of sections 43-101 to 43-115, from the county court to the Court of Appeals in the same manner as an appeal from district court to the Court of Appeals.

An appeal may be taken by any party and may also be taken by any person against whom the final judgment or final order may be made or who may be affected thereby. The judgment of the Court of Appeals shall not vacate the judgment of the county court. The judgment of the Court of Appeals shall be certified without cost to the county court for further proceedings consistent with the determination of the Court of Appeals.

43-113. Adoption records; access; retention. Except as otherwise provided in the Nebraska Indian Child Welfare Act, court adoption records may not be inspected by the public and shall be permanently retained as a preservation duplicate in the manner provided in section 84-1208 or in their original form in accordance with the Records Management Act. No person shall have access to such records except that:

(1) Access shall be provided on the order of the judge of the court in which the decree of adoption was entered on good cause shown or as provided in sections 43-138 to 43-140 or 43-146.11 to 43-146.13; or

(2) The clerk of the court shall provide three certified copies of the decree of adoption to the parents who have adopted a child born in a foreign country and not then a citizen of the United States within three days after the decree of adoption is entered. A court order is not necessary to obtain these copies. Certified copies shall only be provided upon payment of applicable fees.

43-114. Repealed. Laws 1949, c. 95, s. 2.

43-115. Prior adoptions. No adoption heretofore lawfully made shall be affected by the enactment of sections 43-101 to 43-115, but such adoptions shall continue in effect and operation according to the terms thereof.

43-116. Validity of decrees. When any court in the State of Nebraska shall (1) have entered of record a decree of adoption prior to August 27, 1949, it shall be conclusively presumed that such adoption and all instruments and proceedings in connection therewith are valid in all respects notwithstanding some defect or defects may appear on the face of the record, or the absence of any record of such court, unless an action shall be brought within two years from August 27, 1949, attacking its validity, or (2) hereafter enter of record such a decree of adoption, it shall in like manner be conclusively presumed that the adoption and all instruments and proceedings in connection therewith are valid in all respects notwithstanding some defect or defects may appear on the face of the record, or the absence of any record of such court, unless an action is brought within two years from the entry of such decree of adoption attacking its validity.

43-117. Adoptive parents; assistance; medical assessment of child.

(1) The Department of Health and Human Services may make payments as needed, after the legal completion of an adoption, on behalf of a child who immediately preceding the adoption was (a) a ward of the department with special needs or (b) the subject of a state-subsidized guardianship. Such payments to adoptive parents may include maintenance costs, medical and surgical expenses, and other costs incidental to the care of the child. Payments for maintenance and medical care shall terminate on or before the child's twentieth birthday.

(2) The Department of Health and Human Services shall pay the treatment costs for the care of an adopted minor child which are the result of an illness or condition if within three years after the decree of adoption is entered the child is diagnosed as having a physical or mental illness or condition which predates the adoption and the child was adopted through the department, the department did not inform the adopting parents of such condition prior to the adoption, and the condition is of such nature as to require medical, psychological, or psychiatric treatment and is more extensive than ordinary childhood illness.

(3) The Department of Health and Human Services shall conduct a medical assessment of the mental and physical needs of any child to be adopted through the department.

43-117.01. Ward of a child placement agency; adoptive parents; assistance. The Department of Health and Human Services may make payments as needed on behalf of a ward of a child placement agency with special needs after the legal completion of the child's adoption as authorized by the federal adoption assistance program, 42 U.S.C. 673. Such payments to adoptive parents may include maintenance costs, medical and surgical expenses, and other costs incidental to the care of the child. Payments for maintenance and medical care shall terminate on or before the child's nineteenth birthday.

43-117.02. Child with special needs; adoptive parents; reimbursement for adoption expenses. The Department of Health and Human Services may make a payment of up to two thousand dollars on behalf of a child with special needs after the legal completion of the child's adoption. The payment to the adoptive parents shall be a reimbursement for nonrecurring adoption expenses, including reasonable and necessary adoption fees, court costs, attorney's fees, and other expenses which are directly related to the legal adoption of the child, which are not incurred in violation of law, and which have not been reimbursed from any other source or funds.

43-117.03. Adoption assistance payments; cease; when; exceptions.

Payment of adoption assistance provided for by section 43-117 ceases upon the death of the adoptive parent or parents except (1) in cases in which the adoption assistance agreement provides for assignment to a guardian or conservator or (2) for up to six months pending the appointment of a guardian or conservator if the child is placed in the temporary custody of a family member or other individual.

Payment of adoption assistance provided by section 43-117 ceases upon placement of the child with the Department of Health and Human Services or a child placement agency.

43-118. Assistance; conditions. All actions of the Department of Health and Human Services under the programs authorized by sections 43-117 to 43-117.03 and 43-118.02 shall be subject to the following criteria:

(1) The child so adopted shall have been a child for whom adoption would not have been possible without the financial aid provided for by sections 43-117 to 43-117.03 and 43-118.02; and

(2) The department shall adopt and promulgate rules and regulations for the administration of sections 43-117 to 43-118 and 43-118.02.

43-118.01. Ward of state; adoption assistance payment.

(1) For adoptions decreed on or after January 1, 2000, and on or before October 1, 2002, every individual or couple that adopts a ward of the State of Nebraska shall be entitled to a payment of one thousand dollars for the year of adoption and for up to four succeeding years. Payments shall be made after approval of an application submitted by the adoptive parent or parents to the Department of Health and Human Services. The application shall be on a form prescribed by the department. An application shall be submitted during January of the year following the year for which the payment is sought. An applicant shall be eligible for payment for the year of adoption and for the earliest of four subsequent years or until the adopted child reaches the age of majority, is emancipated, or is no longer living in the home of the adoptive parent or parents. To be eligible for payment in the years subsequent to the adoption, the requirements of this section must be met for the entire year.

(2) The department shall review all applications for eligibility for payment. The department shall approve or deny payment within thirty days after receipt of the application. If approved, the department shall certify the

necessary information to the Director of Administrative Services for the issuance of a warrant. Warrants shall be issued within thirty days after certification. Any person aggrieved by a decision of the department may appeal. The appeal shall be in accordance with the Administrative Procedure Act.

(3) The department shall adopt and promulgate rules and regulations to carry out this section.

43-118.02. Written adoption assistance agreement; required; contents. Before a final decree of adoption is issued, the Department of Health and Human Services and the adoptive parent or parents shall enter into a written adoption assistance agreement stating the terms of assistance as provided for by sections 43-117 to 43-118 if the child is eligible for such assistance and designating a guardian for the child in case of the death of the adoptive parent or parents.

43-119. Definitions, where found. For purposes of sections 43-119 to 43-146.16, unless the context otherwise requires, the definitions found in sections 43-121 to 43-123.01 shall be used.

43-120. Repealed. Laws 1997, LB 307, s. 236.

43-121. Agency, defined. Agency shall mean a child placement agency licensed by the Department of Health and Human Services.

43-122. Department, defined. Department shall mean the Department of Health and Human Services.

43-123. Relative, defined. Relative shall mean the biological parents or biological siblings of an adopted person.

43-123.01. Medical history, defined. Medical history shall mean medical history as defined by the department in its rules and regulations and shall include the race, ethnicity, nationality, Indian tribe when applicable and in compliance with the Nebraska Indian Child Welfare Act, or other cultural history of both biological parents, if available.

43-124. Department; provide relative consent form. The department shall provide a form which may be signed by a relative indicating the fact that such relative consents to his or her name being released to such relative's adopted person as provided by sections 43-113, 43-119 to 43-146.16, 71-626, 71-626.01, and 71-627.02. Such consent shall be effective as of the time of filing the form with the department.

43-125. Relative; consent form. The form provided by section 43-124 shall contain the following information:

(1) The name of the person completing the form and, if different, the name of such person at the time of birth of the adopted person;

(2) The relationship of the person to the adopted person;

(3) The date of birth of the adopted person;

(4) The sex of the adopted person;

(5) The place of birth of the adopted person;

(6) Authorization that the name, last-known address, and last-known telephone number of the relative and the original birth certificate of the adopted person may be released to the adopted person as provided by sections 43-113, 43-119 to 43-146.16, 71-626, 71-626.01, and 71-627.02; and

(7) A notice in the following form:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form allows the Department of Health and Human Services to give your name and other information to the adopted person designated, upon his or her written request after reaching twenty-five years of age. You may file additional copies of this consent if your name or address changes. You may revoke this consent at any time by filing a revocation of consent with the Department of Health and Human Services.

43-126. Relative; revocation of consent; form. At any time after signing the consent form, a relative may revoke such consent form. A form for revocation of consent shall be provided by the department. The revocation shall be effective as of the time of filing the form with the department. The revocation form shall contain the following notice:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services will not disclose your name or address to any person without a court order. If you sign this form and later decide you do want your name and address given to a relative properly requesting the information, you may file another consent for that purpose.

43-127. Relative; consent and revocation forms; notarized; filing. The forms provided by sections 43-124 and 43-126 shall be notarized and filed with the department which shall keep such forms with all other records of an individual adopted person.

43-128. Medical history; access; contents. A child placement agency shall maintain, and shall provide to the adopting parents upon placement of the person with such parents and to the adopted person upon his or her request, the available medical history of the person placed for adoption and of the biological parents. The medical history shall not include the names of the biological parents of the adopted person or the place of birth of the adopted person.

43-129. Original birth certificate; access by medical professionals; when. If at any time an individual licensed to practice medicine and surgery pursuant to the Medicine and Surgery Practice Act or licensed to engage in the practice of psychology pursuant to the Psychology Practice Act, through his or her professional relationship with an adopted person, determines that information contained on the original birth certificate of the adopted person may be necessary for the treatment of the health of the adopted person, whether physical or mental in nature, he or she may petition a court of competent jurisdiction for the release of the information contained on the original birth certificate, and the court may release the information on good cause shown..

43-130. Adopted person; request for information; form. Except as otherwise provided in the Nebraska Indian Child Welfare Act, an adopted person twenty-five years of age or older born in this state who desires access to the names of relatives or access to his or her original certificate of birth shall file a written request for such information with the department. The department shall provide a form for making such a request.

43-131. Release of information; procedure.

(1) Upon receipt of a request for information, the department shall check the records of the adopted person making the request to determine whether the consent form provided by section 43-124 has been signed and filed by any relative of the adopted person and whether an unrevoked nonconsent form is on file from a biological parent or parents pursuant to section 43-132 or from an adoptive parent or parents pursuant to section 43-143.

(2) If the consent form has been signed and filed and has not been revoked and if no nonconsent form has been filed by an adoptive parent or parents pursuant to section 43-143, the department shall release the information on such form to the adopted person.

(3) If no consent forms have been filed, or if the consent form has been revoked, and if no nonconsent form has been filed pursuant to section 43-143, the following information shall be released to the adopted person:

(a) The name and address of the court which issued the adoption decree;

(b) The name and address of the child placement agency, if any, involved in the adoption; and

(c) The fact that an agency may assist the adopted person in searching for relatives as provided in sections 43-132 to 43-141.

(4) The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

43-132. Biological parent; notice of nonconsent; filing. A biological parent or parents may at any time, if they desire, file a notice of nonconsent with the department stating that at no time after his or her death and prior to the death of his or her spouse, if such spouse is not a biological parent, may any information on the adopted person's original birth certificate be released to such adopted person. The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

43-133. Biological parent; nonconsent form. The nonconsent form provided for in section 43-132 shall contain the following information:

(1) The name of the person completing the form and, if different, the name of such person at the time of birth of the adopted person;

(2) The relationship of the person to the adopted person;

(3) The date of birth of the adopted person;

(4) The sex of the adopted person;

(5) The place of birth of the adopted person;

(6) A statement that no information concerning the information contained in the original birth certificate of the adopted person shall be released following the death of the parent or parents signing the form and such information shall not be released to the adopted person prior to the death of the spouse of such parent or parents, if such spouse is not a biological parent; and

(7) A notice in the following form:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services will not disclose any information contained on the birth certificate of the adopted person to any person following your death and prior to the death of your spouse, if such spouse is not a biological parent, without a court order. If you later decide that you do not object to the release of such information you may file a form stating that purpose.

43-134. Biological parent; revocation of nonconsent; form. At any time after signing the notice of nonconsent provided for in section 43-132, the parent or parents may revoke such notice. A form of revocation shall be provided by the department and shall take effect at the time of filing of the form with the department. The revocation form shall contain the following notice:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services may disclose any information contained on the birth certificate of the adopted person following your death. If you sign this form and later decide you do not want this information released following your death and prior to the death of your spouse, if such spouse is not a biological parent, you may file another form for that purpose.

43-135. Biological parent; deceased; release of information. If the department has information indicating that both biological parents of the adopted person are deceased, or if only one biological parent is known and information indicates that such parent is deceased, and no nonconsent form, as provided in section 43-132 or 43-143, has been filed, all information on the adopted person's original birth certificate regarding such deceased parent or parents shall be released to the adopted person notwithstanding the fact that no consent form was signed and filed by such deceased parent or parents prior to death.

43-136. Release of original birth certificate; when. If a consent form has been signed and filed by both biological parents or by the biological mother of a child born out of wedlock, and no nonconsent form, as provided in section 43-143, has been filed, a copy of the adopted person's original birth certificate shall be provided to the adopted person.

43-137. Adopted person; contact child placement agency or department; when. If an adopted person twenty-five years of age or older, after following the procedures set forth in sections 43-130 and 43-131 is not able to obtain information about such person's relatives, such person may then contact the child placement agency which handled the adoption if the name of the agency has been given to the adopted person by the department. If it is not feasible for the adopted person to contact the agency, such person may contact the department.

43-138. Department or agency; acquire information in court or department records; disclosure requirements. After being contacted by an adopted person, if no valid nonconsent form, as provided in section 43-132 or 43-143, is on file, the department or agency as the case may be shall apply to the clerk of the court which issued the adoption decree or the department for any information in the records of the court or the department regarding the adopted person or his or her relatives, including names, locations, and any birth, marriage, divorce, or death certificates. Any information which is available shall be given only to the department or agency. The department or agency shall keep such information confidential and shall not disclose it either directly or indirectly to the adopted person. The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

43-139. Court or department records provided; record required. When any information is provided to the department or agency pursuant to section 43-138, the person providing the information shall record in the records of the adopted person the nature of the information disclosed, to whom the information was disclosed, and the date of the disclosure.

43-140. Department or agency; contact relative; limitations; reunion or release of information; when.

(1) Upon determining the identity and location of the relative being sought, the department or agency shall attempt to contact the relative to determine such relative's willingness to be contacted by the adopted person.

(2) In contacting the relative, the department or agency shall not discuss or reveal in any other manner to any person other than that particular relative who is being sought the nature of the contact, the name, nature, or business of the adoption agency, or any other information which might indicate or imply that such relative is the biological parent of an adopted person.

(3) In contacting the relative, the department or agency shall not reveal the identity or any other information about the adopted person.

(4) No reunion of a relative and an adopted person shall be arranged, nor shall any information about the relative be released to the adopted person until such relative has signed the consent form provided by section 43-124 and the form has been filed with the department.

43-141. Department or agency; fees; rules and regulations. The department or agency may charge a reasonable fee in an amount established by the department or agency in rules and regulations to recover expenses in carrying out sections 43-137 to 43-140. The department or agency shall use the fees to defray costs incurred to carry out such sections. The department or agency may waive the fee if the requesting party shows that the fee would work an undue financial hardship on the party. The department may adopt and promulgate rules and regulations to carry out such sections.

43-142. Department or agency; file report with clerk. The department or an agency which receives information as provided in section 43-138 shall file a written report with the clerk of the court within nine months of receipt of the information. The report shall indicate whether the relative has been located and whether a contact between the relative and the adopted person has been arranged or has occurred. If the relative has not been located, the report shall set forth the efforts made to identify and locate the relative.

43-143. Adoptive parent; notice of nonconsent; filing. For adoptions in which the relinquishment or consent for adoption was given prior to July 20, 2002: An adoptive parent or parents may at any time, if they desire, file a notice of nonconsent with the department stating that at no time prior to his or her death or the death of both parents if each signed the form may any information on the adopted person's original birth certificate be released to such adopted person. The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

43-144. Adoptive parent; nonconsent form. The nonconsent form provided for in section 43-143 shall contain the following information:

(1) The name of the person completing the form and, if different, the name of such person at the time of birth of the adopted person;

(2) The relationship of the person to the adopted person;

(3) The date of birth of the adopted person;

(4) The sex of the adopted person;

(5) The place of birth of the adopted person;

(6) A statement that no information concerning the information contained in the original birth certificate of the adopted person shall be released prior to the death of the adoptive parent or parents signing the form; and

(7) A notice in the following form:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services will not disclose any information contained on the birth certificate of the adopted person to any person prior to your death and the death of your spouse, if he or she signed the form, without a court order. If you later decide that you do not object to the release of such information you may file a form stating that purpose.

43-145. Adoptive parent; revocation of nonconsent; form. At any time after signing the notice of nonconsent provided for in section 43-143, the adoptive parent or parents may revoke such notice. A form of revocation shall be provided by the department and shall take effect at the time of filing of the form with the department. The revocation form shall contain the following notice:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services may disclose any information contained on the birth certificate of the adopted person pursuant to sections 43-113, 43-119 to 43-146.16, 71-626, 71-626.01, and 71-627.02. If you sign this form and later decide you do not want this information released prior to your death you may file another form for that purpose.

43-146. Forms; notarized; filing. The forms provided by sections 43-132, 43-134, 43-143, and 43-145 shall be notarized and filed with the department which shall keep such forms with all other records of an individual adopted person.

43-146.01. Sections; applicability.

(1) Sections 43-106.02, 43-121, 43-123.01, and 43-146.02 to 43-146.16 shall provide the procedures for gaining access to information concerning an adopted person when a relinquishment or consent for an adoption is given on or after September 1, 1988.

(2) Sections 43-119 to 43-142 shall remain in effect for a relinquishment or consent for an adoption which is given prior to September 1, 1988.

(3) Except as otherwise provided in subsection (2) of section 43-107 and subsection (4) of this section: Sections 43-101 to 43-118, 43-143 to 43-146, 43-146.17, 71-626, 71-626.01, and 71-627.02 shall apply to all adoptions.

(4) Sections 43-143 to 43-146 shall not apply to adopted persons for whom a relinquishment or consent for adoption was given on and after July 20, 2002.

43-146.02. Medical history; requirements. A child placement agency, the department, or a private agency handling the adoption, as the case may be, shall maintain and shall provide to the adopting parents upon placement of the person with such parents and to the adopted person, upon his or her request, the available medical history of the person placed for adoption and of the biological parents. The medical history shall not include the names of the biological parents of the adopted person or any other identifying information.

43-146.03. Information on original birth certificate; release; when. If at any time an individual licensed to practice medicine and surgery pursuant to the Medicine and Surgery Practice Act or licensed to engage in the practice of psychology pursuant to the Psychology Practice Act, through his or her professional relationship with an adopted person, determines that information contained on the original birth certificate of the adopted person may be necessary for the treatment of the health of the adopted person, whether physical or mental in nature, he or she may petition a court of competent jurisdiction for the release of the information contained on the original birth certificate, and the court may release the information on good cause shown.

43-146.04. Adopted person; request for information; form. An adopted person twenty-one years of age or older born in this state who desires access to the names of relatives or access to his or her original certificate of birth shall file a written request for such information with the department. The department shall provide a form for making such request.

43-146.05. Release of information; procedure.

(1) Upon receipt of a request for information made under section 43-146.04, the department shall check the records of the adopted person to determine whether an unrevoked nonconsent form is on file from a biological parent pursuant to section 43-146.06.

(2) If no nonconsent form has been filed pursuant to section 43-146.06, the following information shall be released to the adopted person:

(a) The name and address of the court which issued the adoption decree;

(b) The name and address of the child placement agency, if any, involved in the adoption;

(c) The fact that an agency or the department may assist the adopted person in searching for relatives as provided in sections 43-146.10 to 43-146.14;

(d) A copy of the person's original birth certificate; and

(e) A copy of the person's medical history and any medical records on file.

(3) If an unrevoked nonconsent form has been filed pursuant to section 43-146.06, no information may be released to the adopted person except a copy of the person's medical history as provided in section 43-107 if requested. The medical history shall not include the names of the biological parents or relatives of the adopted person or any other identifying information.

43-146.06. Biological parent; notice of nonconsent; filing; failure to sign; effect. A biological parent may at any time file a notice of nonconsent with the department stating that at no time prior to his or her death may any information on the adopted person's original birth certificate or any other identifying information, except medical histories as provided in section 43-107, be released to such adopted person. Failure by a biological parent to sign the notice of nonconsent shall be deemed a notice of consent by such parent to release the adopted person's original birth certificate to such adopted person.

43-146.07. Biological parent; nonconsent form. The nonconsent form provided for in section 43-146.06 shall be designed by the department and shall contain the following information:

(1) The name of the person completing the form and, if different, the name of such person at the time of birth of the adopted person;

(2) The relationship of the person to the adopted person;

(3) The date of birth of the adopted person;

(4) The sex of the adopted person;

(5) The place of birth of the adopted person;

(6) A statement that no information contained in the original birth certificate or any other identifying information, except medical histories as provided in section 43-107, shall be released prior to the death of the parent signing the form;

(7) A statement that the person signing understands the effect and consequences of filing or not filing a nonconsent form; and

(8) A notice in the following form:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services will not disclose any information contained in the

original birth certificate of the adopted person or any other identifying information to any person prior to your death without a court order. If you later decide that you do not object to the release of such information, you may file a form stating that purpose.

43-146.08. Biological parent; revocation of nonconsent; form. At any time after signing the notice of nonconsent provided for in section 43-146.06, the biological parent may revoke such notice. A form of revocation shall be provided by the department and shall take effect at the time of filing of the form with the department. The revocation form shall contain the following notice:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services may at any time disclose to the adopted person any information contained on the original birth certificate of the adopted person.

43-146.09. Biological parent; deceased; release of information. If the department has verified information indicating that both biological parents of the adopted person are deceased or if only one biological parent is known and verified information indicates that such parent is deceased, all information on the adopted person's original birth certificate regarding such deceased parent or parents shall be released to the adopted person upon request. The department shall establish a policy for verifying information about the death of the biological parent or parents.

43-146.10. Adopted person; contact child placement agency or department; when. If an adopted person twenty-one years of age or older, after following the procedures set forth in sections 43-146.04 and 43-146.05, is unable to obtain information about the adopted person's relatives and there is no unrevoked nonconsent form as provided in section 43-146.06 on file with the department, such person may then contact the child placement agency which handled the adoption or the department.

43-146.11. Department or agency; acquire information in court or department records; disclosure requirements. After being contacted by an adopted person as provided in section 43-146.10, the department or agency, as the case may be, shall verify that no unrevoked nonconsent form is on file with the department. If an unrevoked nonconsent form is not on file, the department or agency, as the case may be, shall apply to the clerk of the court which issued the adoption decree or the department for any information in the court or department records regarding the adopted person or his or her relatives, including names, locations, and any birth, marriage, divorce, or death certificates. Any information which is available shall be given by the court or department only to the department or agency. The department or agency shall keep such information confidential.

43-146.12. Court or department records provided; record required. When any information is provided to the department or agency pursuant to section 43-146.11, the person providing the information shall record in the records of the adopted person the nature of the information disclosed, to whom the information was disclosed, and the date of the disclosure.

43-146.13. Department or agency; contact relative; release of information; condition.

(1) Upon determining the identity and location of the relative being sought, the department or agency shall attempt to contact the relative to determine such relative's willingness to be contacted by the adopted person.

(2) Information about the relative shall not be released to the adopted person by the department or agency unless such relative agrees to be contacted by the adopted person.

43-146.14. Department or agency; fees; department; rules and regulations. The department or agency may charge a reasonable fee in an amount established by the department or agency in rules and regulations to recover expenses in carrying out sections 43-146.10 to 43-146.13. The department or agency shall use the fees to defray costs incurred to carry out such sections. The department or agency may waive the fee if the requesting party shows that the fee would work an undue financial hardship on the party. The department may adopt and promulgate rules and regulations to carry out sections 43-123.01 and 43-146.01 to 43-146.16.

43-146.15. Department or agency; written report; contents. The department or an agency which receives information as provided in section 43-146.11 shall file a written report with the clerk of the court or department within nine months of receipt of the information. The report shall indicate whether the relative has been located and whether a contact between the relative and the adopted person has been arranged or has occurred. If the relative has not been located, the report shall set forth the efforts made to identify and locate the relative.

43-146.16. Forms; notarized; filing. The forms provided by sections 43-146.06 and 43-146.08 shall be notarized and filed with the department which shall keep such forms with all other records of the adopted person.

43-146.17. Heir of adopted person; access to information; when; fee.

(1) Notwithstanding sections 43-119 to 43-146.16 and except as otherwise provided in this section, an heir twenty-one years of age or older of an adopted person shall have access to all information on file at the Department of Health and Human Services related to such adopted person, including information contained in the original birth certificate of the adopted person, if: (a)(i) The adopted person is deceased, (ii) both biological parents of the adopted person are deceased or, if only one biological parent is known, such parent is deceased, and (iii) each spouse of the biological parent or parents of the adopted person, if any, is deceased, if such spouse is not a biological parent; or (b) at least one hundred years has passed since the birth of the adopted person.

(2) The following information relating to an adopted person shall not be released to the heir of such person under this section: (a) Tests conducted for the human immunodeficiency virus or acquired immunodeficiency syndrome; (b) the revocation of a license to practice medicine in the State of Nebraska; (c) child protective services reports or records; (d) adult protective services reports or records; (e) information from the central registry of child protection cases and the Adult Protective Services Central Registry; or (f) law enforcement investigative reports.

(3) The department shall provide a form that an heir of an adopted person may use to request information under this section. The department may charge a reasonable fee in an amount established by rules and regulations of the department to recover expenses incurred by the department in carrying out this section. Such fee may be waived if the requesting party shows that the fee would work an undue financial hardship on the party. When any information is provided to an heir of an adopted person under this section, the disclosure of such information shall be recorded in the records of the adopted person, including the nature of the information disclosed, to whom the information was disclosed, and the date of the disclosure.

(4) For purposes of this section, an heir of an adopted person means a direct biological descendent of such adopted person.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

43-147. Legislative findings.

(1) Finding adoptive families for children for whom state assistance is provided pursuant to sections 43-117 to 43-118 and 43-118.02 and assuring the protection of the interests of the children affected during the entire assistance period require special measures when the adoptive parents move to other states or are residents of another state; and

(2) Providing medical and other necessary services for children, with state assistance, is more difficult when the services are provided in other states.

43-148. Purposes of sections. The purposes of sections 43-147 to 43-154 are to:

(1) Authorize the department to enter into interstate agreements with agencies of other states for the protection of children on whose behalf adoption assistance is being provided by the department; and

(2) Provide procedures for interstate children's adoption assistance payments, including medical payments.

43-149. Terms, defined. As used in sections 43-147 to 43-154, unless the context otherwise requires:

(1) Adoption assistance state shall mean the state that is signatory to an adoption assistance agreement in a particular case;

(2) Department shall mean the Department of Health and Human Services; and

(3) State shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

43-150. Interstate compact; department; powers; effect. The department may develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement one or more of the purposes set forth in sections 43-147 to 43-154. When entered into and for so long as it shall remain in force, such a compact shall have the force and effect of law.

43-151. Interstate compact; requirements. A compact entered into pursuant to sections 43-147 to 43-154 shall include:

(1) A provision making it available for joinder by all states;

(2) A provision for withdrawal from the compact upon written notice to the parties, but with a period of one year between the date of the notice and the effective date of the withdrawal;

(3) A requirement that the protection afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are residents and have their principal place of abode;

(4) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance and that any such agreement be expressly for the benefit

of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance; and

(5) Such other provisions as may be appropriate to implement the proper administration of the compact.

43-152. Interstate; compact; discretionary provisions. A compact entered into pursuant to sections 43-147 to 43-154 may contain provisions in addition to those required pursuant to section 43-151, including:

(1) Provisions establishing procedures and entitlements to medical, developmental, child care, or other social services for the child in accordance with applicable laws even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the costs thereof; and

(2) Such other provisions as may be appropriate or incidental to the proper administration of the compact.

43-153. Child with special needs; medical assistance identification; how obtained; payment; violations; penalty.

(1) A child with special needs residing in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance identification from this state upon the filing with the department of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with rules and regulations of the department, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(2) The department shall consider the holder of a medical assistance identification pursuant to this section the same as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) Any person who by means of a willfully false statement or representation or by impersonation or other device obtains or attempts to obtain or who aids or abets any other person in obtaining assistance under sections 43-147 to 43-154 shall, upon conviction thereof, be punished pursuant to section 68-1017.

(4) This section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

43-154. State plan; administer federal aid. Consistent with federal law, the department, in connection with the administration of sections 43-147 to 43-154 and any compact entered into pursuant to such sections, shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, Titles IV(e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The department shall apply for and administer all relevant federal aid in accordance with law.

XXII. ADOPTION-RELATED PROVISIONS

A. Exchange of Information Contracts:

43-155. Legislative intent. The Legislature finds that there are children in temporary foster care situations who would benefit from the stability of adoption. It is the intent of the Legislature that such situations be accommodated through the use of adoptions involving exchange-of-information contracts between the department and the adoptive or biological parent or parents.

43-156. Terms, defined. For purposes of sections 43-155 to 43-160, unless the context otherwise requires:

(1) Adoption involving exchange of information shall mean an adoption of a child in which one or both of the child's biological parents contract with the department for information about the child obtained through his or her adoptive family;

(2) Exchange-of-information contract shall mean a two-year, renewable obligation, voluntarily agreed to and signed by both the adoptive and biological parent or parents as well as the department; and

(3) Department shall mean the Department of Health and Human Services.

43-157. Determination by department. The department may, when planning the placement of a child for adoption, determine whether the best interests of such child might be served by placing the child in an adoption involving exchange of information.

43-158. Information included; effect on visitation. When the department determines that an adoption involving exchange of information would serve a child's best interests, it may enter into agreements with the child's proposed adoptive parent or parents for the exchange of information. The nature of the information promised to be provided shall be specified in an exchange-of-information contract and may include, but shall not be limited to, letters by the adoptive parent or parents at specified intervals providing information regarding the child's development or photographs of the child at specified intervals. Any agreement shall provide that the biological parent or parents keep the department informed of any change in address or telephone number and may include provision for communication by the biological parent or parents indirectly through the department or directly to the adoptive parent or parents. Nothing in sections 43-155 to 43-160 shall be interpreted to preclude or allow court-ordered parenting time, visitation, or other access with the child and the biological parent or parents.

43-159. Alteration. When, after placement of a child for adoption, it is determined by the department, in consultation with the adoptive parent or parents, that certain or all exchanges of information are no longer in the best interests of the child, the department may enter into an agreement with the biological parent or parents to alter the original contract made between the department and the biological parent or parents.

43-160. Effect; enforcement. The existence of any agreement or agreements of the kind specified in section 43-158 shall not operate to impair the validity of any relinquishment or any decree of adoption entered by a court of the State of Nebraska. The violation of the terms of any agreement or agreements of the kind specified in section 43-158 shall not operate to impair the validity of any relinquishment or any decree of adoption entered by a court of competent jurisdiction. The parties to an exchange-of-information contract shall have the authority to bring suit in a court of competent jurisdiction for the enforcement of any agreement entered into pursuant to section 43-158.

B. Communication or Contact Agreements:

43-162. Communication or contact agreement; authorized; approval. The prospective adoptive parent or parents and the birth parent or parents of a prospective adoptee may enter into an agreement regarding communication or contact after the adoption between or among the prospective adoptee and his or her birth parent or parents if the prospective adoptee is in the custody of the Department of Health and Human Services. Any such agreement shall not be enforceable unless approved by the court pursuant to section 43-163.

43-163. Guardian ad litem; appointment; order approving agreement; considerations.

(1) Before approving an agreement under section 43-162, the court shall appoint a guardian ad litem if the prospective adoptee is not already represented by a guardian ad litem, and the guardian ad litem of the prospective adoptee shall represent the best interests of the child concerning such agreement. The court may enter an order approving the agreement upon motion of one of the prospective adoptee's birth parents or one of the prospective adoptive parents if the terms of the agreement are approved in writing by the prospective adoptive parent or parents and the birth parent or parents and if the court finds, after consideration of the recommendations of the guardian ad litem and the Department of Health and Human Services and other factors, that such communication with the birth parent or parents and the maintenance of birth family history would be in the best interests of the prospective adoptee.

(2) In determining if the agreement is in the best interests of the prospective adoptee, the court shall consider the following factors as favoring communication with the birth parent or parents: Whether the prospective adoptee and birth parent or parents lived together for a substantial period of time; the prospective adoptee exhibits attachment or bonding to such birth parent or parents; and the adoption is a foster-parent adoption with the birth parent or parents having relinquished the prospective adoptee due to an inability to provide him or her with adequate parenting.

43-164. Failure to comply with court order; effect. Failure to comply with the terms of an order entered pursuant to section 43-163 shall not be grounds for setting aside an adoption decree, for revocation of a written consent to adoption after the consent has been approved by the court, or for revocation of a relinquishment of parental rights after the relinquishment has been accepted in writing by the Department of Health and Human Services as provided in section 43-106.01.

43-165. Enforcement of order; modification; when. An order entered pursuant to section 43-163 may be enforced by a civil action, and the prevailing party may be awarded, as part of the costs of the action, reasonable attorney's fees. The court shall not modify an order issued under such section unless it finds that the modification is necessary to serve the best interests of the adoptee and (1) that the modification is agreed to by the adoptive parent or parents and the birth parent or parents or (2) exceptional circumstances have arisen since the order was entered that justify modification of the order.

43-166. Communication and contact agreement; authorized; adoptee consent, when required; court approval; enforcement; civil action authorized; monetary award not allowed.

(1) The adoptive parent or parents and the parent or parents relinquishing a child for adoption may enter into a written agreement to permit continuing communication and contact after the placement of an adoptee between the

adoptive parent or parents and the relinquishing parent or parents in private or agency adoptions for adoptees not in the custody of the Department of Health and Human Services as provided under this section.

(2) The terms of a communication and contact agreement entered into under this section may include provisions for (a) future contact or communication between the relinquishing parent or parents and the adoptee or the adoptive parent or parents, or both, (b) sharing information about the adoptee, or (c) other matters related to communication or contact agreed to by the parties.

(3) If the adoptee is fourteen years of age or older at the time of placement, a communication and contact agreement under this section shall not be valid unless consented to in writing by the adoptee.

(4) A court may approve a communication and contact agreement entered into under this section by incorporating such agreement by reference and indicating the court's approval of such agreement in the decree of adoption. Enforceability of a communication and contact agreement is not contingent on court approval or its incorporation into the decree of adoption.

(5) Neither the existence of, nor the failure of any party to comply with the terms of, a communication and contact agreement entered into under this section shall be grounds for (a) setting aside an adoption decree, (b) revoking a written relinquishment of parental rights or written consent to adoption, (c) challenging the adoption on the basis of duress or coercion, or (d) challenging the adoption on the basis that the agreement retains some aspect of parental rights by the relinquishing parent or parents.

(6) A communication and contact agreement entered into under this section may be enforced by a civil action. A court in which such civil action is filed may enforce, modify, or terminate a communication and contact agreement entered into under this section if the court finds that (a) enforcing, modifying, or terminating the communication and contact agreement is necessary to serve the best interests of the adoptee, (b) the party seeking to enforce, modify, or terminate the communication and contact agreement participated in, or attempted to participate in, mediation in good faith or participated in other appropriate dispute resolution proceedings in good faith to resolve the dispute prior to filing the petition, and (c) when seeking to modify or terminate the agreement, a material change in circumstances has arisen since the parties entered into the communication and contact agreement that justifies modifying or terminating the agreement.

(7) If the adoption was through an agency, the agency which accepted the relinquishment from the relinquishing parent or parents shall be invited to participate in any mediation or other appropriate dispute resolution proceedings as provided in subsection (6) of this section.

(8) With any communication and contact agreement entered into under this section, the following shall appear on the communication and contact agreement: No adoption shall be set aside due to the failure of the adoptive parent or parents or the relinquishing parent or parents to follow the terms of this agreement or a later order modifying or terminating this agreement. Disagreement between the parties or a subsequent civil action brought to enforce, modify, or terminate this agreement shall not affect the validity of the adoption and shall not serve as a basis for orders affecting the custody of the child. The court shall not act on a petition to enforce, modify, or terminate this agreement unless the petitioner has participated in, or attempted to participate in, mediation in good faith or participated in other appropriate dispute resolution proceedings in good faith to resolve the dispute prior to filing the petition.

(9) The court shall not award monetary damages as a result of the filing of a civil action pursuant to subsection (6) of this section.

XXIII. FOREIGN NATIONAL MINORS

43-3801. Purpose of sections. (1) The purpose of sections 43-3801 to 43-3812 is to protect foreign national minors or minors having multiple nationalities within the State of Nebraska. (2) The Legislature recognizes that:

(a) Foreign national minors and minors having multiple nationalities are essential to the maintenance of their culture, traditions, and values;

(b) The governments of foreign countries have a duty to care for the interests of their nationals and citizens abroad, particularly foreign national minors and minors having multiple nationalities ;

(c) The governments of foreign countries have the right to information and access in all cases involving minors who are children of foreign nationals and minors having multiple nationalities; and

(d) The state should be able to identify foreign national minors and minors having multiple nationalities and their families in order to provide services for them.

43-3802. Terms, defined. For purposes of sections 43-3801 to 43-3812:

(1) Agency means the agency in a foreign country charged with ensuring the welfare of minors who are nationals of that country or who have multiple nationalities in that country and the United States;

(2) Custodian means the nonparental caretaker of a foreign national minor or minor having multiple nationalities who has been entrusted by the parent of the minor with the day-to-day care of the minor;

(3) Department means the Department of Health and Human Services;

(4) Foreign national minor means an unmarried person who is under the age of eighteen years and was born in a country other than the United States; and

(5) Minor having multiple nationalities means an unmarried person who is under the age of eighteen years and who holds citizenship simultaneously in the United States and one other country.

43-3803. Early identification; department; duties. The department, in conjunction with the appropriate consulate, shall provide a method of early identification of foreign national minors and minors having multiple nationalities and their families in order to provide services which assure all the protections afforded by all applicable treaties and laws.

43-3804. Ward of department; department; determination required; information provided to minor and parent or custodian; notify consulate; release of information.

(1) When a court makes a minor a ward of the department, the department shall determine whether the minor is a foreign national minor or a minor having multiple nationalities. If such minor is a foreign national minor or a minor having multiple nationalities, the department shall provide such minor and his or her parent or custodian with the following information:

(a) Written information in English and the minor's native language, explaining the juvenile court process and the rights of the minor and his or her parents or custodian; and

(b) The address and telephone number of the nearest consulate serving the minor.

(2) The department shall notify the appropriate consulate in writing within ten working days after (a) the initial date the department takes custody of a foreign national minor or a minor having multiple nationalities or the

date the department learns that a minor in its custody is a foreign national minor or a minor having multiple nationalities , whichever occurs first, (b) the parent of a foreign national minor or a minor having multiple nationalities has requested that the consulate be notified, or (c) the department determines that a noncustodial parent of a foreign national minor or a minor having multiple nationalities in its custody resides in the country represented by the consulate.

(3) The department shall provide the consulate with the name and date of birth of the foreign national minor or the minor having multiple nationalities, the name of his or her parent or custodian, and the name and telephone number of the departmental caseworker directly responsible for the case.

(4) If the consulate needs additional specific information regarding the case of the foreign national minor or the minor having multiple nationalities, the consulate may contact the department and the department may release any information not required to be kept confidential under the Nebraska Juvenile Code or other state or federal statutes.

43-3805. Interview by consular representative. A consular representative may interview a foreign national minor or minor having multiple nationalities who is a citizen of the country represented by the consulate. The consular representative shall contact the department to arrange for an interview of a foreign national minor or a minor having multiple nationalities.

43-3806. Ward of department; special immigrant juvenile status; documentation. If a court makes a foreign national minor or a minor having multiple nationalities a ward of the department and the minor has become eligible for special immigrant juvenile status as defined in 8 U.S.C. 1101(a)(27)(J), the consulate will assist the department in obtaining the necessary documentation for completion of the application for special immigrant juvenile status.

43-3807. Minor in custody of department; birth certificate; application. The department may obtain a birth certificate from the appropriate country for a foreign national minor or a minor having multiple nationalities in the custody of the department. The department may request the assistance of the consulate in obtaining the necessary documentation to complete the application for a birth certificate under this section.

48-3808. Home studies; other steps to ensure minor's welfare; department; duties.
(1) Upon notification to a consulate pursuant to section 43-3804, the department shall request that the consulate obtain through the agency the appropriate home studies of potential families in such country who may be involved in the case and forward the information to the departmental caseworker directly responsible for the case.

(2) When a foreign national minor is placed in his or her country or a minor having multiple nationalities is placed in the country other than the United States in which he or she holds citizenship, the department shall take all steps necessary to obtain the cooperation of the consulate and the agency to ensure the minorâ??s welfare and provide whatever services are needed. The department shall request copies of the monitoring reports prepared by the agency concerning the welfare of the minor.

43-3809. Court appearance; cooperation of consulate. The department will request the cooperation of the appropriate consulate in order to notify a person who resides in a foreign country and is required to appear in a court in this state regarding the case of a foreign national minor or a minor having multiple nationalities.

43-3810. Coordination of activities; chief executive officer of the department; duties. The chief executive officer of the department or his or her designee shall meet as necessary with consular officials to discuss, clarify, and coordinate activities, ideas and concerns of a high-profile nature, timely media attention, and joint prevention efforts regarding the protection and well-being of foreign national minors and minors having multiple nationalities and families.

43-3811. Rules and regulations. The department may adopt and promulgate rules and regulations to carry out sections 43-3801 to 43-3810.

43-3812. Sections; how construed. Nothing in sections 43-3801 to 43-3811 shall be construed as a waiver of immunities to which a consulate and its consular agents are entitled under international law, the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. 1602 et seq., and international treaties in force between the United States and foreign countries.

XXIV. COMPULSORY EDUCATION

79-201. Compulsory education; attendance required; violation; penalty; exceptions; reports required.

(1) For purposes of this section, a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year and (b) has not reached eighteen years of age.

(2)(a) Except as provided in subsection (3) of this section, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who is of mandatory attendance age or is enrolled in a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly a public, private, denominational, or parochial day school which meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session, except when excused by school authorities or when mental or physical illness or severe weather conditions make attendance impossible or impracticable.

(b) A violation of this subsection is a Class III misdemeanor.

(3) Subsection (2) of this section does not apply in the case of any child who:

(a) Has obtained a high school diploma by meeting the graduation requirements established in section 79-729;

(b) Has completed the program of instruction offered by a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements;

(c) Has reached sixteen years of age and has been withdrawn from school pursuant to section 79-202;

(d)(i) Will reach six years of age prior to January 1 of the then-current school year, but will not reach seven years of age prior to January 1 of such school year, (ii) such child's parent or guardian has signed an affidavit stating that the child is participating in an education program that the parent or guardian believes will prepare the child to enter grade one for the following school year, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;

(e)(i) Will reach six years of age prior to January 1 of the then-current school year but has not reached seven years of age, (ii) such child's parent or guardian has signed an affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to subsection (3) of section 79-1601 on or before the child's seventh birthday, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides; or

(f) Will not reach six years of age prior to January 1 of the then-current school year and such child was enrolled in a public school and has discontinued the enrollment according to the policy of the school board adopted pursuant to subsection (4) of this section.

(4) The board shall adopt policies allowing discontinuation of the enrollment of students who will not reach six years of age prior to January 1 of the then-current school year and specifying the procedures therefor.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

(a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;

(b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;

(c) The district's policy on excessive absenteeism; and

(d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on excessive absenteeism.

79-202. Compulsory attendance; withdrawal of child from school; exempt from mandatory attendance; exit interview; withdrawal form; validity; child at least sixteen years of age; other enrollment options; later enrollment; effect; Commissioner of Education; duties.

(1) A person who has legal or actual charge or control of a child who is at least sixteen years of age but less than eighteen years of age may withdraw such child from school before graduation and be exempt from the mandatory attendance requirements of section 79-201 if an exit interview is conducted and the withdrawal form is signed as required by subsections (2) through (5) of this section for a child enrolled in a public, private, denominational, or parochial school or if a signed release form is filed with the Commissioner of Education as required by subsection (6) of this section for a child enrolled in a school that elects pursuant to section 79-1601 not to meet accreditation or approval requirements.

(2) Upon the written request of any person who has legal or actual charge or control of a child who is at least sixteen years of age but less than eighteen years of age, the superintendent of a school district or the superintendent's designee shall conduct an exit interview if the child (a) is enrolled in a school operated by the school district or (b) resides in the school district and is enrolled in a private, denominational, or parochial school.

(3) The superintendent or the superintendent's designee shall set the time and place for the exit interview which shall be personally attended by: (a) The child, unless the withdrawal is being requested due to an illness of the child making attendance at the exit interview impossible or impracticable; (b) the person who has legal or actual charge or control of the child who requested the exit interview; (c) the superintendent or the superintendent's designee; (d) the child's principal or the principal's designee if the child at the time of the exit interview is enrolled in a school operated by the school district; and (e) any other person requested by any of the required parties who agrees to attend the exit interview and is available at the time designated for the exit interview which may include, but need not be limited to, other school district personnel or the child's principal or such principal's designee if the child is enrolled in a private, denominational, or parochial school.

(4) At the exit interview, the person making the written request pursuant to subsection (2) of this section shall present evidence that (a) the person has legal or actual charge or control of the child and (b) the child would be withdrawing due to either (i) financial hardships requiring the child to be employed to support the child's family or one or more dependents of the child or (ii) an illness of the child making attendance impossible or impracticable. The superintendent or superintendent's designee shall identify all known alternative educational opportunities, including vocational courses of study, that are available to the child in the school district and how withdrawing from school is likely to reduce potential future earnings for the child and increase the likelihood of the child being unemployed in the future. Any other relevant information may be presented and discussed by any of the parties in attendance.

(5)(a) At the conclusion of the exit interview, the person making the written request pursuant to subsection (2) of this section may sign the withdrawal form provided by the school district agreeing to the withdrawal of the child or may rescind the written request for the withdrawal.

(b) Any withdrawal form signed by the person making the written request pursuant to subsection (2) of this section shall be valid only if (i) the child signs the form unless the withdrawal is being requested due to an illness of the child making attendance at the exit interview impossible or impracticable and (ii) the superintendent or superintendent's designee signs the form acknowledging that the interview was held, the required information was provided and discussed at the interview, and, in the opinion of the superintendent or the superintendent's designee, the person making the written request pursuant to subsection (2) of this section does in fact have legal or actual charge or control of the child and the child is experiencing either (A) financial hardships requiring the child to be employed to support the child's family or one or more dependents of the child or (B) an illness making attendance impossible or impracticable.

(6) A person who has legal or actual charge or control of the child who is at least sixteen years of age but less than eighteen years of age may withdraw such a child before graduation and be exempt from the mandatory attendance requirements of section 79-201 if such child has been enrolled in a school that elects pursuant to section 79-1601 not to meet the accreditation or approval requirements by filing with the State Department of Education a signed release on a form prescribed by the Commissioner of Education.

(7) A child who has been withdrawn from school pursuant to this section may enroll in a school district at a later date as provided in section 79-215 or may enroll in a private, denominational, or parochial school or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Any such enrollment shall void the withdrawal form previously entered, and the provisions of sections 79-201 to 79-210 shall apply to the child.

(8) The commissioner shall prescribe the required form for withdrawals pursuant to this section and determine and direct either that (a) withdrawal forms of school districts for any child who is withdrawn from school pursuant to this section and subdivision (3)(c) of section 79-201 shall be provided annually to the department or (b) data regarding such students shall be collected under subsection (2) of section 79-528.

79-203. Compulsory attendance; necessarily employed children; permit. In case the services or earnings of a child are necessary for his or her own support or the support of those actually dependent upon him or her and the child is fourteen years of age or more and not more than sixteen years of age and has completed the work of the eighth grade, the person having legal or actual charge of such child may apply to the superintendent of the school district in which the child resides or a person designated in writing by the superintendent. The superintendent or designee may, in his or her discretion, issue a permit allowing such child to be employed.

79-204. Compulsory attendance; necessarily employed children; continuation schools; attendance required. All children who are fourteen years of age or more and not more than sixteen years of age, who reside in a school district in which a part-time continuation school is maintained by authority of the public school district and who are granted permits to be employed under section 79-203, shall attend a public, private, denominational, or parochial part-time continuation school eight hours of each week during the entire school year

79-205. Compulsory attendance; records required.
Each school district and each private, denominational, or parochial school shall keep a record showing the name, age, and address of each child enrolled. Each teacher in such school district or school shall record the number of days each pupil was present and the number of days absent and the cause of absence. On the third day on which a public, private, denominational, and parochial school is in session at the beginning of each school year, each superintendent of a school district and each administrator of a private, denominational, or parochial school shall compile a list of the pupils enrolled in such district or school with the age, grade, and address of each pupil.

79-206. Compulsory attendance; nonattendance lists; transmission to enforcement officers.
Each superintendent of a school district, using the list specified in section 79-205, shall (1) compare the names of the children enrolled with the last census report on file in his or her office from such district, (2) prepare a list of all children resident in such district under his or her jurisdiction who are not attending school as provided in section 79-201, and (3) transmit the list to the officer or officers in such district whose duty it is to enforce the provisions of such section.

79-207. Compulsory attendance; entry or withdrawal of student; teachers' attendance reports.
Whenever any child enters or withdraws from any school after the third day in which school is in session, each teacher shall transmit at once the name of such child to the superintendent and the superintendent shall use such information in whatever way he or she deems necessary for the purpose of enforcing section 79-201. At the end of each week, each teacher shall report all absences and the cause of absence to the proper superintendent. At the close

of each period, each teacher shall transmit to the superintendent a report showing (1) the name, age, and address of each child enrolled, (2) the number of half days each child was absent, (3) the number enrolled and the number attending on the last day of the period, and (4) the average daily attendance for the period. The provisions of this section requiring reports from each teacher shall not apply to individual teachers in schools employing more than one teacher but shall in such case apply to the head teacher, superintendent, or administrator, who shall obtain the required information from the teachers under his or her supervision or control. All reports and lists required in this section shall be as prescribed by the Commissioner of Education.

79-208. Compulsory attendance; attendance officers; powers and duties; compensation.

School boards shall appoint one or more attendance officers who shall be vested with police powers and shall enforce the provisions of section 79-201 in the school districts for which they act. Attendance officers shall be compensated for their services in such sums as are determined by the school board, to be paid out of the general school fund of the district.

79-209. Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.

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

(2) All school boards shall have a written policy on attendance developed and annually reviewed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district will handle cases in which excessive absences are due to illness. The policy shall also state the circumstances and number of absences or the hourly equivalent upon which the school shall render all services to address barriers to attendance. Such services shall be provided upon twenty days of absence, and shall include, but not be limited to:

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

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

(i) The physical, mental, or behavioral health of the child;

(ii) Educational counseling;

(iii) Referral to community agencies for economic services;

(iv) Family or individual counseling;

(v) Assisting the family in working with other community services; and

(vi) Referral to restorative justice practices or services.

(3) The school may report to the county attorney of the county in which the person resides when the school has documented the efforts it has made as required by subsection (2) of this section that the collaborative plan to reduce barriers identified to improve regular attendance has not been successful and that the child has been absent more than twenty days per school year. The school shall notify the child's family in writing prior to referring the child to the county attorney. Failure by the school to document the efforts required by subsection (2) of this section is a defense to prosecution under section 79-201 and to adjudication under subdivision (3)(a) or (3)(b) of section 43-247

based upon such absences. Illness that makes attendance impossible or impracticable shall not be the basis for referral to the county attorney.

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

79-210. Compulsory attendance; rules and regulations.

The State Board of Education may adopt and promulgate rules and regulations to carry out sections 79-201 to 79-209.

XXV. CHILDREN'S BEHAVIORAL HEALTH TASK FORCE

43-4001. Children's Behavioral Health Task Force; created; members; expenses; chairperson; termination.

(1) The Children's Behavioral Health Task Force is created. The task force terminates on July 1, 2026. The task force shall consist of the following members:

(a) The chairperson of the Health and Human Services Committee of the Legislature or another member of the committee as his or her designee;

(b) The chairperson of the Appropriations Committee of the Legislature or another member of the committee as his or her designee;

(c) Two providers of community-based behavioral health services to children, appointed by the chairperson of the Health and Human Services Committee of the Legislature;

(d) One regional administrator appointed under section 71-808, appointed by the chairperson of the Health and Human Services Committee of the Legislature;

(e) Two representatives of organizations advocating on behalf of consumers of children's behavioral health services and their families, appointed by the chairperson of the Health and Human Services Committee of the Legislature;

(f) One juvenile court judge, appointed by the Chief Justice of the Supreme Court; and

(g) The probation administrator or his or her designee.

(2) Members of the task force shall serve without compensation but shall be reimbursed from the Nebraska Health Care Cash Fund for expenses as provided in sections 81-1174 to 81-1177.

(3) The chairperson of the Health and Human Services Committee of the Legislature or his or her designee shall serve as chairperson of the task force. Administrative and staff support for the task force shall be provided by the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature.

(4) This section terminates on July 1, 2026.

43-4002. Repealed. Laws 2020, LB1188, § 21.

43-4003. Repealed. Laws 2025, LB346, § 73.

XXVI. NEBRASKA CHILDREN'S COMMISSION

43-4201. Legislative findings, declarations, and intent.

(1) The Legislature finds and declares that:

(a) The Health and Human Services Committee of the Legislature documented serious problems with the child welfare system in its 2011 report of the study that was conducted under Legislative Resolution 37, One Hundred Second Legislature, First Session, 2011;

(b) Improving the safety and well-being of Nebraska's children and families is a critical priority which must guide policy decisions in a variety of areas;

(c) To improve the safety and well-being of children and families in Nebraska, the legislative, judicial, and executive branches of government must work together to ensure:

(i) The integration, coordination, and accessibility of all services provided to children and families by the state, whether directly or pursuant to contract;

(ii) Reasonable access to appropriate services statewide and efficiency in service delivery; and

(iii) The availability of accurate and complete data as well as ongoing data analysis to identify important trends and problems as they arise; and

(d) As the primary state agency serving children and families, the Department of Health and Human Services must exemplify leadership, responsiveness, transparency, and efficiency and program managers within the agency must strive cooperatively to ensure that their programs view the needs of children and families comprehensively as a system rather than individually in isolation, including pooling funding when possible and appropriate.

(2) It is the intent of the Legislature in creating the Nebraska Children's Commission to provide for the needs identified in subsection (1) of this section, to provide strategic priorities for research or policy development within the child welfare system and juvenile justice system, and to provide a structure to the commission that maintains the framework of the three branches of government and their respective powers and duties.

43-4202. Nebraska Children's Commission; created; duties; members; expenses; meetings; staff; consultant.

(1) The Nebraska Children's Commission is created as a high-level leadership body to monitor and evaluate the child welfare and juvenile justice systems. The commission shall provide a permanent forum for collaboration among state, local, community, public, and private stakeholders in child welfare and juvenile justice programs and services.

(2)(a) The Governor shall appoint fifteen voting members. The members appointed pursuant to this subdivision shall represent stakeholders in the child welfare and juvenile justice systems and shall include: (i) A biological parent currently or previously involved in the child welfare system or juvenile justice system; (ii) a young adult previously in foster care; and (iii) a representative of a federally recognized Indian tribe residing within the State of Nebraska and appointed from a list of three nominees submitted by the Commission on Indian Affairs.

(b) The Nebraska Children's Commission shall have the following nonvoting, ex officio members: (i) The chairperson of the Health and Human Services Committee of the Legislature or a committee member designated by the chairperson; (ii) the chairperson of the Judiciary Committee of the Legislature or a committee member designated by the chairperson; (iii) the chairperson of the Appropriations Committee of the Legislature or a committee member designated by the chairperson; (iv) three persons appointed by the State Court Administrator; (v) the executive director of the Foster Care Review Office; (vi) the Director of Children and Family Services of the Division of Children and Family Services of the Department of Health and Human Services or his or her designee; (vii) the Director of Behavioral Health of the Division of Behavioral Health of the Department of Health and Human Services or his or her designee; (viii) the Commissioner of Education or his or her designee; and (ix) the Inspector General of Nebraska Child Welfare.

(3) The nonvoting members may attend commission meetings and participate in the discussions of the commission, provide information to the commission on the policies, programs, and processes within their areas of expertise, and gather information for the commission. The commission may hire staff to carry out the responsibilities of the commission.

(4) For administrative purposes, the offices of the staff of the commission shall be located in the Foster Care Review Office. The commission may hire a consultant with experience in facilitating strategic planning to provide neutral, independent assistance in updating the statewide strategic plan.

(5) The commission, with assistance from the executive director of the Foster Care Review Office, shall employ a policy analyst to provide research and expertise to the commission relating to the child welfare system. The policy analyst shall work in conjunction with the staff of the commission. His or her responsibilities may include, but are not limited to: (a) Monitoring the Nebraska child welfare system and juvenile justice system to provide information to the commission; (b) analyzing child welfare and juvenile justice public policy through research and literature reviews and drafting policy reports when requested; (c) managing or leading projects or tasks and providing resource support to commission members and committees as determined by the chairperson of the commission; (d) serving as liaison among child welfare and juvenile justice stakeholders and the public and responding to information inquiries as required; and (e) other duties as assigned by the commission.

(6) Members of the commission shall be reimbursed for expenses as members of such commission as provided in sections 81-1174 to 81-1177. No member of the commission shall have any private financial interest, profit, or benefit from any work of the commission.

(7) It is the intent of the Legislature to fund the operations of the commission using the Nebraska Health Care Cash Fund for fiscal years 2019-20 and 2020-21.

43-4203. Nebraska Children's Commission; duties; committees created; termination; establish networks; organize subcommittees; conflict of interest.

(1) The Nebraska Children's Commission shall create a committee to examine the Office of Juvenile Services and the Juvenile Services Division of the Office of Probation Administration. Such committee shall review the role and effectiveness of out-of-home placements utilized in the juvenile justice system, including the youth rehabilitation and treatment centers, and make recommendations to the commission on the juvenile justice continuum of care, including what populations should be served in out-of-home placements and what treatment services should be provided at the centers in order to appropriately serve those populations. Such committee shall also review how mental and behavioral health services are provided to juveniles in residential placements and the need for such services throughout Nebraska and make recommendations to the commission relating to those systems of care in the juvenile justice system. The committee shall collaborate with the Juvenile Justice Institute at the University of Nebraska at Omaha, the Center for Health Policy at the University of Nebraska Medical Center, the behavioral health regions as established in section 71-807, and state and national juvenile justice experts to develop recommendations. The recommendations shall include a plan to implement a continuum of care in the juvenile justice system to meet the needs of Nebraska families, including specific recommendations for the rehabilitation and treatment model. The recommendations shall be delivered to the commission and electronically to the Judiciary Committee of the Legislature annually by September 1.

(2) The commission shall collaborate with juvenile justice specialists of the Office of Probation Administration and county officials with respect to any county-operated practice model participating in the Crossover Youth Program of the Center for Juvenile Justice Reform at Georgetown University.

(3) The commission shall analyze case management workforce issues and make recommendations to the Health and Human Services Committee of the Legislature regarding:

(a) Salary comparisons with other states and the current pay structure based on job descriptions;

(b) Utilization of incentives for persons who work in the area of child welfare;

(c) Evidence-based training requirements for persons who work in the area of child welfare and their supervisors; and

(d) Collaboration with the University of Nebraska to increase and sustain such workforce.

(4) The Foster Care Reimbursement Rate Committee created pursuant to section 43-4216, the Nebraska Strengthening Families Act Committee created pursuant to section 43-4716, and the Bridge to Independence Advisory Committee created pursuant to section 43-4513 shall be under the jurisdiction of the commission. The Foster Care Reimbursement Rate Committee and the Bridge to Independence Advisory Committee terminate on July 1, 2026, and the commission shall take over their duties pursuant to sections 43-4215, 43-4217, and 43-4513.

(5) The commission shall work with the office of the State Court Administrator, as appropriate, and entities which coordinate facilitated conferencing as described in section 43-247.03.

(6) The commission shall work with administrators from each of the service areas designated pursuant to section 81-3116, the teams created pursuant to section 28-728, local foster care review boards, child advocacy centers, the teams created pursuant to the Supreme Court's Through the Eyes of the Child Initiative, community stakeholders, and advocates for child welfare programs and services to establish networks in each of such service areas. Such networks shall permit collaboration to strengthen the continuum of services available to child welfare agencies and to provide resources for children and juveniles outside the child protection system.

(7) The commission may organize subcommittees as it deems necessary. Members of the subcommittees may be members of the commission or may be individuals who have knowledge of the subcommittee's subject matter, professional expertise to assist the subcommittee in completing its assigned responsibilities, or the ability to collaborate within the subcommittee and with the commission to carry out the powers and duties of the commission. A subcommittee shall meet as necessary to complete the work delegated by the commission and shall report its findings to the relevant committee within the commission.

(8) No member of any committee or subcommittee created pursuant to this section shall have any private financial interest, profit, or benefit from any work of such committee or subcommittee.

43-4204. Strategic child welfare priorities for research or policy development.

The Nebraska Children's Commission shall determine three to five strategic child welfare priorities for research or policy development for each biennium to carry out the legislative intent stated in section 43-4201 for child welfare program and service reform in Nebraska. In determining the strategic child welfare priorities, the commission shall consider the findings and recommendations set forth in the annual report of the Foster Care Review Board, the annual report of the Office of Inspector General for Child Welfare, and the federal Child and Family Services Reviews outcomes.

43-4205. Repealed. Laws 2019, LB600, § 23.

43-4206. Department of Health and Human Services; Office of Probation Administration; cooperate with Nebraska Children's Commission.

The Department of Health and Human Services and the Office of Probation Administration shall fully cooperate with the Nebraska Children's Commission. The department shall provide to the commission all requested information on children and juveniles in Nebraska, including, but not limited to, departmental reports, data, programs, processes, finances, and policies.

43-4207. Nebraska Children's Commission; report; hearing.

The Nebraska Children's Commission shall annually provide a written report to the Governor and an electronic report to the Health and Human Services Committee of the Legislature defining its strategic child welfare priorities and progress toward addressing such priorities, summarizing reports from each committee and subcommittee of the commission, and making recommendations on or before September 1 of each year. The commission shall present a summary of such report in an annual public hearing before the Health and Human Services Committee of the Legislature on or before December 1 of each year.

43-4208. Repealed. Laws 2019, LB600, § 23.
43-4209. Repealed. Laws 2019, LB600, § 23.
43-4210. Repealed. Laws 2019, LB600, § 23.
43-4211. Repealed. Laws 2019, LB600, § 23.
43-4212. Repealed. Laws 2013, LB 530, § 9.
43-4213. Repealed. Laws 2019, LB600, § 23.
43-4214. Repealed. Laws 2019, LB600, § 23.

43-4215. Reimbursement rate recommendations; legislative findings and intent; Division of Children and Family Services of Department of Health and Human Services; implementation; pilot project; reports; contents.

(1) On or before July 1, 2014, the Division of Children and Family Services of the Department of Health and Human Services shall implement the reimbursement rate recommendations of the Foster Care Reimbursement Rate Committee as reported to the Legislature pursuant to section 43-4212 as such section existed before June 5, 2013.

(2) It is the intent of the Legislature to create additional levels of caregiving for youth in foster care and to create an implementation plan for treatment family care services in order to expand the service array for high-acuity youth in the foster care system.

(3) The Legislature finds that (a) there is a need for consistency in the implementation of additional tiers of caregiving across the state, (b) additional tiers of caregiving and reimbursement exist in the continuum of foster care services available in Nebraska, however, there is a variation in the rates, implementation and outcomes, (c) the use of rates outside of the established rate structure can create barriers to permanency for children entering adoption and guardianship and prohibits the state from accessing federal foster care funds that would otherwise be available under Title IV-E of the federal Social Security Act, and (d) additional tiers of caregiving should be utilized to support the exceptional caregiving needs of children.

(4) The Legislature further finds that (a) additional treatment services are needed to support the behavioral and mental health needs of youth who are at risk of entering, or who are stepping down from, congregate treatment placement, and (b) treatment family care services uses blended funding to support caregivers and prevent placement disruption.

(5) On or before October 1, 2022, the Division of Children and Family Services of the Department of Health and Human Services shall, in collaboration with the Foster Care Reimbursement Rate Committee, implement additional statewide tiers of foster care reimbursements for specialized caregiving with standardized rates for foster parents and child placing agencies.

(6)(a) On or before July 1, 2013, the Division of Children and Family Services of the Department of Health and Human Services shall develop a pilot project as provided in this subsection to implement the standardized level of care assessment tools recommended by the Foster Care Reimbursement Rate Committee as reported to the Legislature pursuant to section 43-4212 as such section existed before June 5, 2013.

(b)(i) The pilot project shall comprise two groups: One in an urban area and one in a rural area. The size of each group shall be determined by the division to ensure an accurate estimate of the effectiveness and cost of implementing such tools statewide.

(ii) The Nebraska Children's Commission shall review and provide a progress report on the pilot project by October 1, 2013, to the department and electronically to the Health and Human Services Committee of the Legislature; shall provide to the department and electronically to the committee by December 1, 2013, a report including recommendations and any legislation necessary, including appropriations, to adopt the recommendations, regarding the adaptation or continuation of the implementation of a statewide standardized level of care assessment; and shall provide to the department and electronically to the committee by February 1, 2014, a final report and final recommendations of the commission.

43-4216. Foster Care Reimbursement Rate Committee; created; members; terms; vacancies; termination.

(1) The Foster Care Reimbursement Rate Committee is created. The committee shall be convened at least once every four years. The committee terminates on July 1, 2026.

(2) The Foster Care Reimbursement Rate Committee shall consist of no fewer than nine members, including:

(a) The following voting members: (i) Representatives from a child welfare agency that contracts directly with foster parents, from each of the service areas designated pursuant to section 81-3116; (ii) a representative from an advocacy organization which deals with legal and policy issues that include child welfare; (iii) a representative from an advocacy organization, the singular focus of which is issues impacting children; (iv) a representative from a foster and adoptive parent association; (v) a representative from a lead agency; (vi) a representative from a child

advocacy organization that supports young adults who were in foster care as children; (vii) a foster parent who contracts directly with the Department of Health and Human Services; and (viii) a foster parent who contracts with a child welfare agency; and

(b) The following nonvoting, ex officio members: (i) The chief executive officer of the Department of Health and Human Services or his or her designee and (ii) representatives from the Division of Children and Family Services of the department from each service area designated pursuant to section 81-3116, including at least one division employee with a thorough understanding of the current foster care payment system and at least one division employee with a thorough understanding of the N-FOCUS electronic data collection system. The nonvoting, ex officio members of the committee may attend committee meetings and participate in discussions of the committee and shall gather and provide information to the committee on the policies, programs, and processes of each of their respective bodies. The nonvoting, ex officio members shall not vote on decisions or recommendations by the committee.

(3) Members of the committee shall serve for terms of four years and until their successors are appointed and qualified. The Nebraska Children's Commission shall appoint the members of the committee and the chairperson of the committee and may fill vacancies on the committee as they occur.

(4) This section terminates on July 1, 2026.

43-4217. Foster Care Reimbursement Rate Committee; duties; reports.

(1) The Foster Care Reimbursement Rate Committee created in section 43-4216 shall review and make recommendations in the following areas: Foster care reimbursement rates, the statewide standardized level of care assessment, and adoption assistance payments as required by section 43-117. In making recommendations to the Legislature, the committee shall use the then-current foster care reimbursement rates as the beginning standard for setting reimbursement rates. The committee shall adjust the standard to reflect the reasonable cost of achieving measurable outcomes for all children in foster care in Nebraska. The committee shall (a) analyze then-current consumer expenditure data reflecting the costs of caring for a child in Nebraska, (b) identify and account for additional costs specific to children in foster care, and (c) apply a geographic cost-of-living adjustment for Nebraska. The reimbursement rate structure shall comply with funding requirements related to Title IV-E of the federal Social Security Act, as amended, and other federal programs as appropriate to maximize the utilization of federal funds to support foster care.

(2) The committee shall review the role and effectiveness of and make recommendations on the statewide standardized level of care assessment containing standardized criteria to determine a foster child's placement needs and to identify the appropriate foster care reimbursement rate. The committee shall review other states' assessment models and foster care reimbursement rate structures in completing the statewide standardized level of care assessment review and the standard statewide foster care reimbursement rate structure. The committee shall ensure the statewide standardized level of care assessment and the standard statewide foster care reimbursement rate structure provide incentives to tie performance in achieving the goals of safety, maintaining family connection, permanency, stability, and well-being to reimbursements received. The committee shall review and make recommendations on assistance payments to adoptive parents as required by section 43-117. The committee shall make recommendations to ensure that changes in foster care reimbursement rates do not become a disincentive to permanency.

(3) The Foster Care Reimbursement Rate Committee shall provide electronic reports with its recommendation to the Health and Human Services Committee of the Legislature on July 1, 2016, and every four years thereafter.

43-4218. Transferred to section 43-4716. [as part of the Nebraska Strengthening Families Act]

43-4219. Foster care reimbursement rates; increases; legislative intent.

It is the intent of the Legislature that beginning July 1, 2021, the Division of Children and Family Services of the Department of Health and Human Services shall implement a two-percent increase to foster care reimbursement rates for fiscal year 2021-22 and beginning July 1, 2022, the division shall implement a two-percent increase to foster care reimbursement rates for fiscal year 2022-23.

XXVII. OFFICE OF THE INSPECTOR GENERAL OF NEBRASKA CHILD WELFARE ACT

50-1801. Act, how cited.

Sections 50-1801 to 50-1821 shall be known and may be cited as the Office of Inspector General of Nebraska Child Welfare Act.

50-1802. Office of Inspector General of Nebraska Child Welfare; legislative findings and declarations.

The Legislature finds and declares that:

(1) It is within the inherent power of the Legislature to secure needed information in order to legislate, hold hearings, and conduct investigations of matters related to the operation of state government. This power of inquiry is broad and indispensable;

(2) Article IV, section 23, of the Constitution of Nebraska specifically provides that the Legislature may at any time require that information be provided to it from the officers and employees of state agencies relating to the condition, management, and expenses of their respective offices; and

(3) In order to establish a full-time program of investigation and oversight of the Nebraska child welfare and juvenile justice systems and assist in the development of legislation related to such systems, the Legislature created the office of Inspector General of Nebraska Child Welfare.

50-1803. Legislative intent.

(1) It is the intent of the Legislature that the Office of Inspector General of Nebraska Child Welfare:

(a) Assist in improving operations of the Nebraska child welfare system;

(b) Provide an independent form of inquiry for concerns regarding the actions of individuals and agencies responsible for the care and protection of children and youth in the Nebraska child welfare system. Confusion of the roles, responsibilities, and accountability structures between individuals, private contractors, branches of government, and agencies in the current system make it difficult for the Legislature to monitor and oversee the Nebraska child welfare system; and

(c) Provide a process for investigation and review to determine if individual complaints and issues of investigation and inquiry reveal a problem in the child welfare system, not just individual cases, that necessitates legislative action for improved policies and restructuring of the child welfare system.

(2) It is not the intent of the Legislature in enacting the Office of Inspector General of Nebraska Child Welfare Act to interfere with the duties of the Legislative Auditor or the Legislative Fiscal Analyst or to interfere with the statutorily defined investigative responsibilities or prerogatives of any officer, agency, board, bureau, commission, association, society, or institution of the executive or judicial branch of state government, except that the act does not preclude an inquiry on the sole basis that another agency has the same responsibility. The act shall not be construed to interfere with or supplant the responsibilities or prerogatives of the Governor to investigate, monitor, and report on the activities of the agencies, boards, bureaus, commissions, associations, societies, and institutions of the executive branch under the Governor's administrative direction.

50-1804. Terms, define.

For purposes of the Office of Inspector General of Nebraska Child Welfare Act:

(1) Administrator means a person charged with administration of a program, an office, or a division of the department or administration of a private agency or licensed child care facility or the executive director;

(2) Child welfare system means public and private agencies and parties that provide or effect services or supervision to system-involved children and their families;

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

(4) Department means the Department of Health and Human Services;

(5) Director means the chief executive officer of the department;

(6) Executive director means the executive director of the commission;

(7) Inspector General means the Inspector General of Nebraska Child Welfare appointed under section 50-1805;

(8) Juvenile services division means the Juvenile Services Division of the Office of Probation Administration;

(9) Licensed child care facility means a facility or program licensed under the Child Care Licensing Act, the Children's Residential Facilities and Placing Licensure Act, or sections 71-1901 to 71-1906.01;

(10) Malfeasance means a wrongful act that the actor has no legal right to do or any wrongful conduct that affects, interrupts, or interferes with performance of an official duty;

(11) Management means supervision of subordinate employees;

(12) Misfeasance means the improper performance of some act that a person may lawfully do;

(13) Obstruction means hindering an investigation, preventing an investigation from progressing, stopping or delaying the progress of an investigation, or making the progress of an investigation difficult or slow;

(14) Office means the office of Inspector General of Nebraska Child Welfare and includes the Inspector General and other employees of the office;

(15) Private agency means a child welfare agency that contracts with the department or the Office of Probation Administration or contracts to provide services to another child welfare agency that contracts with the department or the Office of Probation Administration;

(16) Record means any recording, in written, audio, electronic transmission, or computer storage form, including, but not limited to, a draft, memorandum, note, report, computer printout, notation, or message, and includes, but is not limited to, medical records, mental health records, case files, clinical records, financial records, and administrative records. Such term does not include any such materials used exclusively as part of a judge's deliberative process; and

(17) Responsible individual means a foster parent, a relative provider of foster care, or an employee of the department, the juvenile services division, the commission, a foster home, a private agency, a licensed child care facility, or another provider of child welfare programs and services responsible for the care or custody of records, documents, and files.

50-1805. Office of Inspector General of Nebraska Child Welfare; created; purpose; Inspector General; appointment; term; certification; employees; removal.

(1) The office of Inspector General of Nebraska Child Welfare is created within the Division of Legislative Oversight for the purpose of conducting investigations, audits, inspections, and other oversight of the Nebraska child welfare system for the Legislature. The Inspector General shall be appointed by the Director of Legislative Oversight with approval from the chairperson of the Executive Board of the Legislative Council, the chairperson of the Legislative Oversight Committee, and the chairperson of the Health and Human Services Committee of the Legislature.

(2) The Inspector General shall be appointed for a term of five years and may be reappointed. The Inspector General shall be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields. No former or current executive or manager of the department may be appointed Inspector General within five years after such former or current executive's or manager's period of service with the department. Not later than two years after the date of appointment, the Inspector General shall obtain certification as a Certified Inspector General by the Association of Inspectors General, its successor, or another nationally recognized organization that provides and sponsors educational programs and establishes professional qualifications, certifications, and licensing for inspectors general. During the Inspector General's employment, the Inspector General shall not be actively involved in partisan affairs.

(3) The Inspector General shall employ such investigators and support staff as the Inspector General deems necessary to carry out the duties of the office within the amount available by appropriation through the Division of Legislative Oversight for the office of Inspector General of Nebraska Child Welfare. The Inspector General shall be subject to the control and supervision of the Director of Legislative Oversight, except that removal of the Inspector General shall require approval of the chairperson of the Legislative Oversight Committee. The Inspector General may also be removed by a two-thirds majority vote of the Legislative Oversight Committee.

50-1806. Office; duties; reports of death, serious injury, or allegations of sexual abuse; when required; reports of occurrences at youth rehabilitation and treatment center; state agencies, law enforcement agencies, and prosecuting attorneys; cooperation; confidentiality; witness; counsel; powers of office.

(1) The office shall investigate:

(a) Allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of statutes or of rules or regulations of:

(i) The department by an employee of or person under contract with the department, a private agency, a licensed child care facility, a foster parent, or any other provider of child welfare services or which may provide a basis for discipline pursuant to the Uniform Credentialing Act;

(ii) Subject to subsection (5) of this section, the juvenile services division by an employee of or person under contract with the juvenile services division, a private agency, a licensed facility, a foster parent, or any other provider of juvenile justice services;

(iii) The commission by an employee of or person under contract with the commission related to programs and services supported by the Nebraska County Juvenile Services Plan Act, the Community-based Juvenile Services Aid Program, juvenile pretrial diversion programs, or inspections of juvenile facilities; and

(iv) A juvenile detention facility and staff secure juvenile facility by an employee of or person under contract with such facilities;

(b) Death or serious injury in foster homes, private agencies, child care facilities, juvenile detention facilities, staff secure juvenile facilities, and other programs and facilities licensed by or under contract with the department or the juvenile services division when the office, upon review, determines the death or serious injury did not occur by chance;

(c) Death or serious injury in any case in which services are provided by the department or the juvenile services division to a child or the child's parents when the office upon review determines that the death or serious injury did not occur by chance;

(d) Death or serious injury in any case involving an investigation under the Child Protection and Family Safety Act if the investigation took place within the twelve months prior to the death or serious injury and if the office upon review determines the death or serious injury did not occur by chance; and

(e) Any other matter as provided in the annual work plans or key performance indicators approved by the Legislative Oversight Committee pursuant to section 50-1702.

(2) The department, the juvenile services division, each juvenile detention facility, and each staff secure juvenile facility shall report to the office as soon as reasonably possible:

(a) All cases of death or serious injury:

(i) Of a child in a foster home, private agency, child care facility or program, or other program or facility licensed by the department or inspected through the commission;

(ii) In any case in which services are provided to a child or the child's parents; and

(iii) Involving an investigation under the Child Protection and Family Safety Act if the investigation took place within the twelve months prior to the death or serious injury and upon review determines the death or serious injury did not occur by chance; and

(b) All allegations of sexual abuse of a state ward, a juvenile on probation, a juvenile in a detention facility, and a juvenile in a residential child-caring agency.

(3)(a) The Office of Juvenile Services shall report to the office of Inspector General of Nebraska Child Welfare as soon as reasonably possible after any of the following instances occur at a youth rehabilitation and treatment center:

(i) An assault;

(ii) An escape or elopement;

(iii) An attempted suicide;

(iv) Self-harm by a juvenile;

(v) Property damage not caused by normal wear and tear;

(vi) The use of mechanical restraints on a juvenile;

(vii) A significant medical event suffered by a juvenile; and

(viii) Internally substantiated violations of 34 U.S.C. 30301 et seq.

(b) The Office of Juvenile Services and the office of Inspector General of Nebraska Child Welfare shall, if requested by either party, work in collaboration to clarify the specific parameters to comply with subdivision (3)(a) of this section.

(4) The department shall notify the office of Inspector General of Nebraska Child Welfare of any leadership changes within the Office of Juvenile Services and the youth rehabilitation and treatment centers.

(5) With respect to any investigation conducted by the Inspector General pursuant to subdivision (1)(a) of this section that involves possible misconduct by an employee of the juvenile services division, the Inspector General shall immediately notify the probation administrator and provide the information pertaining to potential personnel matters to the Office of Probation Administration.

(6) Any investigation conducted by the Inspector General shall be independent of and separate from an investigation pursuant to the Child Protection and Family Safety Act. The Inspector General and his or her staff are subject to the reporting requirements of the Child Protection and Family Safety Act.

(7) The department shall notify the Inspector General as soon as practicable when a criminal investigation involving a death or serious injury required to be reported to the office under subdivision (2)(a) of this section has commenced and when such criminal investigation has concluded.

(8) Notwithstanding the fact that a criminal investigation, a criminal prosecution, or both are in progress, all law enforcement agencies and prosecuting attorneys may cooperate with any investigation conducted by the Inspector General and may, upon request by the Inspector General, provide the Inspector General with copies of all law enforcement reports which are relevant to the Inspector General's investigation. All law enforcement reports which have been provided to the Inspector General pursuant to this section are not public records for purposes of sections 84-712 to 84-712.09 and shall not be subject to discovery by any other person or entity. Except to the extent that disclosure of information is otherwise provided for in the Office of Inspector General of Nebraska Child Welfare Act, the Inspector General shall maintain the confidentiality of all law enforcement reports received pursuant to its request under this section. Law enforcement agencies and prosecuting attorneys may, when requested by the Inspector General, collaborate with the Inspector General regarding all other information relevant to the Inspector General's investigation. The Inspector General shall, when requested to do so by a law enforcement agency or prosecuting attorney, suspend an investigation by the office until a criminal investigation or prosecution is completed or has proceeded to a point that, in the judgment of the Inspector General, reinstatement of the Inspector General's investigation will not impede or infringe upon the criminal investigation or prosecution. Under no circumstance shall the Inspector General interview any minor who has already been interviewed by a law enforcement agency, personnel of the Division of Children and Family Services of the department, or staff of a child advocacy center in connection with a relevant ongoing investigation of a law enforcement agency.

(9) Consistent with the Nebraska Rules of Professional Conduct, counsel for the entity under investigation shall not represent a witness. A witness may request that counsel for the entity under investigation be present while being questioned, but such entity shall not require a witness to make such a request. If such a request is made, the entity under investigation shall inform the witness that such entity's counsel does not represent the witness. For purposes of this subsection, entity under investigation means the entity that is the subject of an investigation under the Office of Inspector General of Nebraska Child Welfare Act and includes the department, the juvenile services division, the commission, a private agency, a licensed child care facility, a juvenile detention facility, a staff secure juvenile facility, or another provider of child welfare services or juvenile justice services.

(10) The office may conduct audits, inspections, investigations, and other oversight as necessary to perform the duties of the office and to carry out the purposes of the Office of Inspector General of Nebraska Child Welfare Act.

(11) For purposes of this section, serious injury means an injury or illness caused by suspected abuse, neglect, maltreatment, self-harm, or assault which requires urgent medical treatment.

50-1807. Complaints to office; form; full investigation; when; notice.

(1) Complaints to the office may be made in writing. The office shall also maintain a toll-free telephone line for complaints. A complaint shall be evaluated to determine if it alleges possible misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations pursuant to section 50-1806. All complaints shall be evaluated to determine whether a full investigation is warranted.

(2) The office shall not conduct a full investigation of a complaint unless:

(a) The complaint alleges misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations pursuant to section 50-1806;

(b) The complaint is against a person within the jurisdiction of the office; and

(c) The allegations can be independently verified through investigation.

(3) After receipt of a complaint, the Inspector General shall determine whether the office will conduct a full investigation. A complaint alleging facts which, if verified, would provide a basis for discipline under the Uniform Credentialing Act shall be referred to the appropriate credentialing board under the act.

(4) When a full investigation is opened on a private agency that contracts with the Office of Probation Administration, the Inspector General shall give notice of such investigation to the Office of Probation Administration.

50-1808. Office; access to information and personnel; cooperation with office; when required.

(1) The office shall have access to all information and personnel necessary to perform the duties of the office and to carry out the Office of Inspector General of Nebraska Child Welfare Act.

(2) All employees of the department, the juvenile services division as directed by the juvenile court or the Office of Probation Administration, or the commission, all foster parents, and all owners, operators, managers, supervisors, and employees of private agencies, licensed child care facilities, juvenile detention facilities, staff secure juvenile facilities, and other providers of child welfare services or juvenile justice services shall cooperate with the office. Cooperation includes, but is not limited to, the following:

(a) Provision of full access to and production of records and information. Providing access to and producing records and information for the office is not a violation of confidentiality provisions under any law, statute, rule, or regulation if done in good faith for purposes of the Office of Inspector General of Nebraska Child Welfare Act;

(b) Fair and honest disclosure of records and information reasonably requested by the office pursuant to the act;

(c) Encouraging employees to fully comply with reasonable requests of the office pursuant to the act;

(d) Prohibition of retaliation by owners, operators, or managers against employees for providing records or information or filing or otherwise making a complaint to the office;

(e) Not requiring employees to gain supervisory approval prior to filing a complaint with or providing records or information to the office;

(f) Not requiring employees to report filing a complaint with or providing records or information to the office; and

(g) Not requiring employees to request that counsel for the employer be present while being questioned in the course of an investigation.

50-1809. Failure to cooperate; effect.

Failure to cooperate with an investigation by the office may result in public disclosure of the failure to cooperate.

50-1810. Subpoenas; request of Inspector General; Legislative Oversight Committee; powers and duties; litigation; appeal; fees and expenses.

(1) At the request of the Inspector General, and after receiving prior approval by a majority vote of the Executive Board of the Legislative Council, the Legislative Oversight Committee may issue subpoenas in connection with a specific inquiry or investigation undertaken pursuant to the Office of Inspector General of Nebraska Child Welfare Act to compel the production of records and information and sworn testimony or other evidence relevant to such inquiry or investigation. The committee shall vote to determine whether to issue a subpoena within ten days after receipt of the request.

(2) When authorized to issue subpoenas under this section, the committee may require any employees of the department, the juvenile services division, or the commission, any foster parents, or any owners, operators, managers, supervisors, and employees of private agencies, licensed child care facilities, juvenile detention facilities, staff secure juvenile facilities, and other providers of child welfare services or juvenile justice services to provide the

records or information requested within thirty days after the request, except as otherwise provided for in the subpoena, or to appear at a hearing on the date set in the subpoena.

(3) Litigation to compel or quash compliance with the authority exercised pursuant to this section shall be advanced on the trial docket and heard and decided by the court as quickly as possible. The court shall issue its decision no later than twenty days after the filing of the application or petition or a motion to quash, whichever is filed first. Either party may appeal to the Court of Appeals within ten days after a decision is rendered.

(4) The district court of Lancaster County has jurisdiction over all litigation arising under this section. In all such litigation, the executive board shall provide for legal representation for the committee.

(5) In case of disobedience on the part of any employees of the department, the juvenile services division, or the commission, any foster parents, or any owners, operators, managers, supervisors, and employees of private agencies, licensed child care facilities, juvenile detention facilities, staff secure juvenile facilities, and other providers of child welfare services or juvenile justice services to comply with any subpoena issued pursuant to this section, the committee shall vote on whether to find the person in contempt or to find that the failure to comply was not willful.

(6) If the committee finds a person in contempt as provided in subsection (5) of this section, the committee may, by application or petition to the district court of Lancaster County, request that the court compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court. The application or petition shall be filed by the chairperson of the committee.

(7) A person required to provide information under this section shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state and shall also be entitled to have counsel present while being questioned. Any fees associated with counsel present under this section shall not be the responsibility of the office or the Legislative Council.

50-1811. Office; full investigation; access to records; subpoena; records; statement of record integrity and security; contents; treatment of records; interviews.

(1) A full investigation conducted by the office shall consist of (a) access to, and retrieval of all, relevant records through compliance with a request of the office, by voluntary production, or by subpoena, (b) review of all relevant records, and (c) interviews of all relevant persons.

(2) The office may request or request the issuance of a subpoena for any record necessary for the investigation from the department, the juvenile services division as permitted by law, the commission, a foster parent, a licensed child care facility, a juvenile detention facility, a staff secure juvenile facility, or a private agency that is pertinent to an investigation. All case files, licensing files, medical records, financial and administrative records, and records required to be maintained pursuant to applicable licensing rules shall be produced for review by the office in the course of an investigation.

(3) Compliance with a request of the office includes:

(a) Production of all records requested;

(b) A diligent search to ensure that all appropriate records are included;

(c) A continuing obligation to immediately forward to the office any relevant records received, located, or generated after the date of the request;

(d) Provision of complete and truthful answers to questions posed by the office in the course of an investigation; and

(e) Not willfully interfering with or obstructing an investigation.

(4) The office shall seek access in a manner that respects the dignity and human rights of all persons involved, maintains the integrity of the investigation, and does not unnecessarily disrupt child welfare programs or services. When advance notice to a foster parent or to an administrator or his or her designee is not provided, the office investigator shall, upon arrival at the departmental or division office, the private agency, the licensed child care facility, the juvenile detention facility, the staff secure juvenile facility, or the location of another provider of child welfare services, request that an onsite employee notify the administrator or his or her designee of the investigator's arrival.

(5) When required by circumstances of an audit, inspection, investigation, or other oversight, the office may make an unannounced visit to a foster home, a departmental or division office, a licensed child care facility, a

juvenile detention facility, a staff secure juvenile facility, a youth rehabilitation and treatment center, a private agency, or another provider. The office may request relevant records during such visit.

(6) A responsible individual or an administrator may be asked to sign a statement of record integrity and security when a record is secured by request as the result of a visit by the office, stating:

(a) That the responsible individual or the administrator has made a diligent search of the departmental or division office, private agency, licensed child care facility, juvenile detention facility, staff secure juvenile facility, or other provider's location to determine that all appropriate records in existence at the time of the request were produced;

(b) That the responsible individual or the administrator agrees to immediately forward to the office any relevant records received, located, or generated after the visit;

(c) The persons who have had access to the records since they were secured; and

(d) Whether, to the best of the knowledge of the responsible individual or the administrator, any records were removed from or added to the record since it was secured.

(7) The office shall permit a responsible individual, an administrator, or an employee of a departmental or division office, a private agency, a licensed child care facility, a juvenile detention facility, a staff secure juvenile facility, or another provider to make photocopies of the original records within a reasonable time in the presence of the office for purposes of creating a working record in a manner that assures confidentiality.

(8) The office shall present to the responsible individual or the administrator or other employee of the departmental or division office, private agency, licensed child care facility, juvenile detention facility, staff secure juvenile facility, or other service provider a copy of the request, stating the date and the titles of the records received.

(9) If an original record is provided during an investigation, the office shall return the original record as soon as practical but no later than ten business days after the date of the compliance request.

50-1812. Reports of investigations; distribution; redact confidential information; powers of office; disclosure of confidential information; summarized final report; release.

(1) Reports of investigations conducted by the office shall not be distributed beyond the entity that is the subject of the report without the consent of the Inspector General.

(2) Except when a report is provided to a guardian ad litem or an attorney in the juvenile court pursuant to subsection (2) of section 50-1814, the office shall redact confidential information before distributing a report of an investigation.

(3) The office may disclose confidential information to the chairperson of the Legislative Oversight Committee at the chairperson's request. The office may also disclose confidential information to the chairperson of the Legislative Oversight Committee, the chairperson of the Executive Board of the Legislative Council, the chairperson of the Health and Human Services Committee of the Legislature, or the chairperson of the Judiciary Committee of the Legislature when such disclosure is, in the judgment of the Director of Legislative Oversight, appropriate to keep the Legislature informed of important events, issues, and developments in the Nebraska child welfare system.

(4) The office may also disclose such confidential information to the Legislative Oversight Committee when such disclosure is, in the judgment of the chairperson of the Legislative Oversight Committee, appropriate to keep the Legislature informed of important events, issues, and developments in the Nebraska child welfare system.

(5)(a) A summarized final report based on an investigation may be publicly released in order to bring awareness to systemic issues.

(b) Such report shall be released only:

(i) After a disclosure is made to the chairperson of the Legislative Oversight Committee pursuant to subsection (3) of this section; and

(ii) If a determination is made by the Inspector General with the chairperson of the Legislative Oversight Committee that doing so would be in the best interest of the public.

(c) If there is disagreement about whether releasing the report would be in the best interest of the public, the chairperson of the Executive Board of the Legislative Council shall make the final decision.

(d) The Legislative Oversight Committee shall be notified prior to a report of an investigation being publicly released under this section.

(6) Records and documents, regardless of physical form, that are obtained or produced by the office in the course of an investigation are not public records for purposes of sections 84-712 to 84-712.09. Reports of investigations conducted by the office are not public records for purposes of sections 84-712 to 84-712.09.

(7) The office may withhold the identity of sources of information to protect from retaliation any person who files a complaint or provides information in good faith pursuant to the Office of Inspector General of Nebraska Child Welfare Act.

50-1813. Department; commission; juvenile services division; provide access to information; manner; objections.

(1) The department shall provide the Director of Legislative Oversight and the office with access to records, reports, and documents maintained by the department in connection with administration of the Nebraska child welfare system.

(2) The commission shall provide the office with access to records, reports, and documents maintained in connection with administration of juvenile justice services.

(3) The juvenile services division, as directed by the juvenile court or the Office of Probation Administration, shall provide the office with access to records, reports, and documents maintained by the juvenile services division in connection with a specific case under investigation.

(4) Information shall be provided in the most efficient and timely way, in a manner that is least burdensome to the department, commission, or juvenile services division, and in a manner which maintains the confidentiality of the information. This may include providing information through secure electronic access to case files and secure access to information maintained electronically in databases and case management systems. The office, by and through the Executive Board of the Legislative Council, may enter into information-sharing agreements with the department, the commission, or the juvenile services division to assist in the implementation of and compliance with the Office of Inspector General of Nebraska Child Welfare Act.

(5)(a) The department, commission, or juvenile services division may object to the production or disclosure of records, reports, and documents in writing on the grounds that such records, reports, and documents are legally privileged, identifying the specific grounds for such objection. Following such objection, the office and the department, commission, or juvenile services division may negotiate terms of production or disclosure pursuant to this section.

(b) In the event that satisfactory terms of production or disclosure cannot be reached between the office and the department, commission, or juvenile services division, the office may request the issuance of a subpoena pursuant to section 50-1810.

50-1814. Inspector General's report of investigation; contents; distribution.

(1) The Inspector General's report of an investigation shall be in writing and may contain recommendations for systemic reform. A report of an investigation shall be presented to the Director of Legislative Oversight and the chairperson of the Legislative Oversight Committee. The Inspector General shall present the report of an investigation to the director, the probation administrator, or the executive director within three business days after the report is presented to the Director of Legislative Oversight and the chairperson of the Legislative Oversight Committee.

(2) Any person receiving a report under this section shall not further distribute the report or any confidential information contained in the report beyond the entity that is the subject of the report. The Inspector General, upon notifying the Director of Legislative Oversight and the director, the probation administrator, or the executive director, may distribute the report, to the extent that it is relevant to a child's welfare, to the guardian ad litem and attorneys in the juvenile court in which a case is pending involving the child or family who is the subject of the report. The report shall not be distributed beyond the parties except through the appropriate court procedures to the judge.

(3) A report that identifies misconduct, misfeasance, malfeasance, or violation of statute, rules, or regulations by an employee of the department, the juvenile services division, the commission, a private agency, a licensed child care facility, or another provider that is relevant to providing appropriate supervision of an employee may be shared

with the employer of such employee. The employer shall not further distribute the report or any confidential information contained in the report.

50-1815. Report; director, probation administrator, or executive director; accept, reject, or request modification; when final; written response; corrected report; credentialing issue; how treated.

(1) Within fifteen business days after a report is presented to the director, the probation administrator, or the executive director under section 50-1814, the director, probation administrator, or executive director may determine whether to accept, reject, or request modification of the recommendations contained in the report. Any response shall be in writing and may include corrections of factual errors. The Inspector General, with input from the Director of Legislative Oversight, may consider any request for modifications but is not obligated to accept such request. Such report shall become final (a) upon the decision of the director, the probation administrator, or the executive director to accept or reject the recommendations in the report, (b) within fifteen business days after the director, the probation administrator, or the executive director requests modifications or after the Inspector General incorporates such modifications, whichever occurs earlier, or (c) fifteen days after the report is presented to the director, the probation administrator, or the executive director if no response is received by the Inspector General. If the Inspector General does not accept a requested modification, the recommendation for which such modification was requested shall be considered to be rejected by the director, probation administrator, or executive director.

(2) After the recommendations have been accepted, rejected, or modified, the report shall be presented to the foster parent, private agency, licensed child care facility, or other provider of child welfare services or juvenile justice services that is the subject of the report and to persons involved in the implementation of the recommendations in the report. Within fifteen business days after receipt of the report, the foster parent, private agency, licensed child care facility, or other provider may submit a written response to the office to correct any factual errors in the report and may determine whether to accept, reject, or request in writing modification of the recommendations contained in the report. The Inspector General, with input from the Director of Legislative Oversight, shall consider all materials submitted under this subsection to determine whether a corrected report shall be issued. If the Inspector General determines that a corrected report is necessary, the corrected report shall be issued within fifteen business days after receipt of the written response.

(3) If the Inspector General does not issue a corrected report pursuant to subsection (2) of this section, or if the corrected report does not address all issues raised in the written response, the foster parent, private agency, licensed child care facility, or other provider may request that its written response, or portions of the response, be appended to the report or corrected report.

(4) A report which raises issues related to credentialing under the Uniform Credentialing Act shall be submitted to the appropriate credentialing board under the act.

50-1816. Report or work product; no court review.

No report or other work product of an investigation by the Inspector General shall be reviewable in any court. Neither the Inspector General nor any member of the Inspector General's staff shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters within such person's official cognizance except in a proceeding brought to enforce the Office of Inspector General of Nebraska Child Welfare Act.

50-1817. Inspector General; investigation of complaints; priority and selection.

The Office of Inspector General of Nebraska Child Welfare Act does not require the Inspector General to investigate all complaints. The Inspector General, with input from the Director of Legislative Oversight, shall prioritize and select investigations and inquiries that further the intent of the act and assist in legislative oversight of the Nebraska child welfare system and juvenile justice system. If the Inspector General determines that the office will not investigate a complaint, the Inspector General may recommend to the parties alternative means of resolution of the issues in the complaint.

50-1818. Report; contents.

On or before September 15 of each year, the Inspector General shall provide to the Legislature, the Supreme Court, and the Governor a report that includes a summary of reports and investigations made under the Office of Inspector General of Nebraska Child Welfare Act for the preceding year. The report to the Legislature shall be submitted electronically and filed with the Clerk of the Legislature. The report shall detail recommendations and the status of implementation of recommendations and may also include recommendations to the Legislature regarding issues discovered through investigation, audits, inspections, and reviews by the office that will (1) increase accountability and legislative oversight of the Nebraska child welfare system, (2) improve operations of the department, the juvenile services division, the commission, and the Nebraska child welfare system, or (3) deter and identify fraud, abuse, and illegal acts. The report shall include summaries of alternative response cases under alternative response implemented in accordance with sections 28-710.01, 28-712, and 28-712.01 reviewed by the Inspector General. The report shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.

50-1819. Disclosure of information by employee; personnel actions prohibited.

Any person who has authority to recommend, approve, direct, or otherwise take or affect personnel action shall not, with respect to such authority:

(1) Take personnel action against an employee because of the disclosure of information by the employee to the office which the employee reasonably believes evidences wrongdoing under the Office of Inspector General of Nebraska Child Welfare Act;

(2) Take personnel action against an employee as a reprisal for the submission of an allegation of wrongdoing under the act to the office by such employee; or

(3) Take personnel action against an employee as a reprisal for providing information or testimony pursuant to actions initiated and undertaken by the office.

50-1820. Inspector General; report conduct; when.

If the Inspector General has reason to believe that any public officer or employee has acted in a manner that warrants criminal or disciplinary action or proceedings, the Inspector General shall report the matter to the department, the juvenile services division, the commission, or other appropriate authorities.

50-1821. Confidential information and confidential records; access; sharing; restrictions; grounds for dismissal.

(1) Notwithstanding any other provision of law, the office shall have access to confidential information and confidential records necessary to carry out its responsibilities.

(2) Except as otherwise provided by law, any confidential information or confidential records shared with the office shall remain confidential and shall not be shared by an employee of the office with any person who is not an employee of the office, including any member of the Legislative Oversight Committee.

(3) If any employee of the office knowingly divulges or makes known, in any manner not permitted by law, confidential information or confidential records, it shall be grounds for dismissal.

XXVIII. CHILD WELFARE SYSTEM REPORTING AND EVALUATION REQUIREMENTS OF DHHS

43-4401. Terms, defined.

For purposes of sections 43-4401 to 43-4407:

(1) Department means the Department of Health and Human Services; and

(2) Service area means a geographic area administered by the department and designated pursuant to section 81-3116.

43-4402. Legislative findings.

The Legislature finds that the department needs a uniform electronic data collection system to collect and evaluate data regarding children served, the quality of child welfare services provided, and the outcomes produced by such child welfare services.

43-4403. Legislative intent.

It is the intent of the Legislature:

(1) To provide for (a) legislative oversight of the child welfare system through an improved electronic data collection system, (b) improved child welfare outcome measurements through increased reporting by the department, and (c) an independent evaluation of the child welfare system; and

(2) To develop an electronic data collection system to integrate child welfare information into one system to more effectively manage, track, and share information, especially in child welfare case management.

43-4404. Child welfare information system; department; duties; objectives; capacity.

(1) The department shall develop and implement a web-based, statewide automated child welfare information system to integrate child welfare information into one system. Objectives for the web-based, statewide automated child welfare information system shall include: (a) Improving efficiency and effectiveness by reducing paperwork and redundant data entry, allowing case managers to spend more time working with families and children; (b) improving access to information and tools that support consistent policy and practice standards across the state; (c) facilitating timely and quality case management decisions and actions by providing alerts and accurate information, including program information and prior child welfare case histories within the department or a division thereof or from other agencies; (d) providing consistent and accurate data management to improve reporting capabilities, accountability, workload distribution, and child welfare case review requirements; (e) establishing integrated payment processes and procedures for tracking services available and provided to children and accurately paying for those services; (f) improving the capacity for case managers to complete major functional areas of their work, including intake, investigations, placements, foster care eligibility determinations, reunifications, adoptions, financial management, resource management, and reporting; (g) utilizing business intelligence software to track progress through dashboards; (h) access to real-time data to identify specific child welfare cases and take immediate corrective and supportive actions; (i) helping case managers to expediently identify foster homes and community resources available to meet each child's needs; and (j) providing opportunity for greater accuracy, transparency, and oversight of the child welfare system through improved reporting and tracking capabilities.

(2) The capacity of the web-based, statewide automated child welfare information system shall include: (a) Integration across related social services programs through automated interfaces, including, but not limited to, the courts, medicaid eligibility, financial processes, and child support; (b) ease in implementing future system modifications as user requirements or policies change; (c) compatibility with multiple vendor platforms; (d) system architecture that provides multiple options to build additional capacity to manage increased user transactions as system volume requirements increase over time; (e) protection of the system at every tier in case of hardware, software, power, or other system component failure; (f) vendor portals to support direct entry of child welfare case information, as appropriate, by private providers' staff serving children, to increase collaboration between private providers and the department; (g) key automated process analysis to allow supervisors and management to identify

child welfare cases not meeting specified goals, identify issues, and report details and outcome measures to cellular telephones or other mobile communication devices used by management and administration; (h) web-based access and availability twenty-four hours per day, seven days per week; (i) automated application of policy and procedures, to make application of policy less complex and easier to follow; (j) automated prompts and alerts when actions are due, to enable case managers and supervisors to manage child welfare cases more efficiently; and (k) compliance with federal regulations related to statewide automated child welfare information systems at 45 C.F.R. 1355.50 through 1355.57, implementing section 474(a)(3)(C) and (D) of Title IV-E of the federal Social Security Act, 42 U.S.C. 674(a)(3)(C) and (D), as such regulations and section existed on January 1, 2012.

43-4405. Statewide automated child welfare information system; report; contents.

On or before December 1, 2012, the department, with assistance from other agencies as necessary, including the data coordinator for the State Foster Care Review Board or a successor entity to the powers and duties of the board, shall report in writing to the Legislature on a plan for the statewide automated child welfare information system described in section 43-4404. The report shall include a review of the design, development, implementation, and cost of the system. The report shall describe the requirements of the system and all available options and compare costs of the options. The report shall include, but not be limited to, a review of the options for (1) system functionality, (2) the potential of the system's use of shared services in areas including, but not limited to, intake, rules, financial information, and reporting, (3) integration, (4) maintenance costs, (5) application architecture to enable flexibility and scalability, (6) deployment costs, (7) licensing fees, (8) training requirements, and (9) operational costs and support needs. The report shall compare the costs and benefits of a custom-built system and a commercial off-the-shelf system, the total cost of ownership, including both direct and indirect costs, and the costs of any other options considered. In conjunction with the report, the department shall prepare the advance planning document required to qualify for federal funding for the statewide automated child welfare information system pursuant to 45 C.F.R. 1355.50 through 1355.57, implementing section 474(a)(3)(C) and (D) of Title IV-E of the federal Social Security Act, 42 U.S.C. 674(a)(3)(C) and (D), as such regulations and section existed on January 1, 2012. The advance planning document shall describe the proposed plan for managing the design, development, and operations of a statewide automated child welfare information system that meets such federal requirements and the state's needs in an efficient, comprehensive, and cost-effective manner.

43-4406. Child welfare services; report; contents.

On or before each September 15, the department shall report electronically to the Health and Human Services Committee of the Legislature the following information regarding child welfare services, with respect to children served by the department:

(1) The percentage of children served and the allocation of the child welfare budget, categorized by service area, including:

(a) The percentage of children served, by service area and the corresponding budget allocation; and

(b) The percentage of children served who are wards of the state and the corresponding budget allocation;

(2) The number of siblings in out-of-home care placed with siblings as of the June 30 immediately preceding the date of the report, categorized by service area;

(3) The number of waivers granted under subsection (2) of section 71-1904;

(4) The following information as obtained for each service area:

(a) Case manager education, including college degree, major, and level of education beyond a baccalaureate degree;

(b) Average caseload per case manager;

(c) Average number of case managers per child during the preceding twelve months;

(d) Average number of case managers per child for children who have been in the child welfare system for three months, for six months, for twelve months, and for eighteen months and the consecutive yearly average for children until the age of majority or permanency is attained;

(e) Monthly case manager turnover;

(f) Monthly face-to-face contacts between each case manager and the children on his or her caseload;

(g) Monthly face-to-face contacts between each case manager and the parent or parents of the children on his or her caseload;

(h) Case documentation of monthly consecutive team meetings per quarter;

(i) Case documentation of monthly consecutive parent contacts per quarter;

(j) Case documentation of monthly consecutive child contacts with case manager per quarter;

(k) Case documentation of monthly consecutive contacts between child welfare service providers and case managers per quarter;

(l) Timeliness of court reports; and

(m) Non-court-involved children, including the number of children served, the types of services requested, the specific services provided, the cost of the services provided, and the funding source;

(5) All placements in residential treatment settings made or paid for by the child welfare system, the Office of Juvenile Services, the State Department of Education or local education agencies, and the medical assistance program, including, but not limited to:

(a) Child variables;

(b) Reasons for placement;

(c) The percentage of children denied medicaid-reimbursed services and denied the level of placement requested;

(d) With respect to each child in a residential treatment setting:

(i) If there was a denial of initial placement request, the length and level of each placement subsequent to denial of initial placement request and the status of each child before and immediately after, six months after, and twelve months after placement;

(ii) Funds expended and length of placements;

(iii) Number and level of placements;

(iv) Facility variables; and

(v) Identification of specific child welfare services unavailable in the child's community that, if available, could have prevented the need for residential treatment; and

(e) Identification of child welfare services unavailable in the state that, if available, could prevent out-of-state placements;

(6) For any individual involved in the child welfare system receiving a service or a placement through the department or its agent for which referral is necessary, the date when such referral was made by the department or its agent and the date and the method by which the individual receiving the services was notified of such referral. To the extent the department becomes aware of the date when the individual receiving the referral began receiving such services, the department or its agent shall document such date;

(7) The number of sexual abuse allegations that occurred for children being served by the Division of Children and Family Services of the Department of Health and Human Services and placed at a residential child-caring agency and the number of corresponding (a) screening decision occurrences by category, (b) open investigations by category, and (c) agency substantiations, court substantiations, and court-pending status cases; and

(8) Information on children who are reported or suspected victims of sex trafficking of a minor or labor trafficking of a minor, as defined in section 28-830, including:

(a) The number of reports to the statewide toll-free number pursuant to section 28-711 alleging sex trafficking of a minor or labor trafficking of a minor and the number of children alleged to be victims;

(b) The number of substantiated victims of sex trafficking of a minor or labor trafficking of a minor, including demographic information and information on whether the children were already served by the department;

(c) The number of children determined to be reported or suspected victims of sex trafficking of a minor or labor trafficking of a minor, including demographic information and information on whether the children were previously served by the department;

(d) The types and costs of services provided to children who are reported or suspected victims of sex trafficking of a minor or labor trafficking of a minor; and

(e) The number of ongoing cases opened due to allegations of sex trafficking of a minor or labor trafficking of a minor and number of children and families served through these cases.

43-4407. Service area administrator; annual survey; duties; reports.

(1) Each service area administrator shall annually survey children, parents, foster parents, judges, guardians ad litem, attorneys representing parents, and service providers involved with the child welfare system to monitor satisfaction with (a) adequacy of communication by the case manager, (b) response by the department to requests and problems, (c) transportation issues, (d) medical and psychological services for children and parents, (e) visitation schedules, (f) payments, (g) support services to foster parents, (h) adequacy of information about foster children provided to foster parents, and (i) the case manager's fulfillment of his or her responsibilities. A summary of the survey shall be reported electronically to the Health and Human Services Committee of the Legislature on September 15, 2012, and each September 15 thereafter.

(2) Each service area administrator shall provide monthly reports to the child advocacy center that corresponds with the geographic location of the child regarding the services provided through the department when the child is identified as a voluntary or non-court-involved child welfare case. The monthly report shall include the plan implemented by the department for the child and family and the status of compliance by the family with the plan. The child advocacy center shall report electronically to the Health and Human Services Committee of the Legislature on September 15, 2012, and every September 15 thereafter, or more frequently if requested by the committee.

43-4408. Repealed. Laws 2022, LB1173, § 23.

43-4409. Repealed. Laws 2022, LB1173, § 23.

43-4410. Contract to provide child welfare services; evidence of financial stability and liquidity required; prohibited acts.

(1) Any entity seeking to enter into a contract with the Department of Health and Human Services to provide child welfare services shall provide evidence of financial stability and liquidity prior to executing such contract.

(2) An entity contracting with the department to provide child welfare services shall not require any subcontractor or employee of such contractor or subcontractor to sign an agreement not to compete with such contractor as a condition of subcontracting or employment.

XXIX. YOUNG ADULT BRIDGE TO INDEPENDENCE ACT

43-4501. Act, how cited.

Sections 43-4501 to 43-4514 shall be known and may be cited as the Young Adult Bridge to Independence Act.

43-4502. Purpose of act.

The purpose of the Young Adult Bridge to Independence Act is to provide support for former state or tribal wards, and for other youth who are exiting state care, who are disconnected from family support, and who are at risk of homelessness, as they transition to adulthood, become self-sufficient, and create permanent relationships. The bridge to independence program shall at all times recognize and respect the autonomy of the young adult. Nothing in the Young Adult Bridge to Independence Act shall be construed to abrogate any other rights that a person who has attained eighteen or nineteen years of age may have as an adult under state or tribal law.

43-4503. Terms, defined.

For purposes of the Young Adult Bridge to Independence Act:

(1) Age of eligibility means:

(a) Nineteen years of age; or

(b) Eighteen years of age if the young adult has attained the age of majority under tribal law;

(2) Bridge to independence program means the extended services and support available to a young adult under the Young Adult Bridge to Independence Act other than extended guardianship assistance described in section 43-4511 and extended adoption assistance described in section 43-4512;

(3) Child means an individual who has not attained twenty-one years of age;

(4) Department means the Department of Health and Human Services;

(5) Supervised independent living setting means an independent supervised setting, consistent with 42 U.S.C. 672(c). Supervised independent living settings shall include, but not be limited to, single or shared apartments, houses, host homes, college dormitories, or other postsecondary educational or vocational housing;

(6) Voluntary services and support agreement means a voluntary placement agreement as defined in 42 U.S.C. 672(f) between the department and a young adult as his or her own guardian; and

(7) Young adult means an individual who has attained the age of eligibility but who has not attained twenty-one years of age.

43-4504. Bridge to independence program; availability.

The bridge to independence program is available, on a voluntary basis, to a young adult:

(1) Who has attained the age of eligibility;

(2) Who was adjudicated to be a juvenile described in:

(a) Subdivision (3)(a) of section 43-247 or the equivalent under tribal law;

(b) Subdivision (8) of section 43-247 or the equivalent under tribal law if the young adult's guardianship or state-funded adoption assistance agreement was disrupted or terminated after he or she had attained the age of sixteen years and (i) who, upon attaining the age of eligibility, was in an out-of-home placement or had been discharged to independent living or (ii) with respect to whom a kinship guardianship assistance agreement or an adoption assistance agreement was in effect pursuant to 42 U.S.C. 673 if the young adult had attained sixteen years of age before the agreement became effective or with respect to whom a state-funded guardianship assistance agreement or a state-funded adoption assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective; or

(c) Subdivision (1), (2), or (3)(b) of section 43-247 and (i) after January 1, 2025, upon one day prior to attaining nineteen years of age or the age of majority under relevant tribal law, was in a court-ordered out-of-home placement and (ii) such placement had been authorized or reauthorized in the six months prior to the juvenile attaining nineteen years of age in a court order finding that it would be contrary to the welfare of the juvenile to remain in or return to the juvenile's family home;

(3) Who is:
(a) Completing secondary education or an educational program leading to an equivalent credential;
(b) Enrolled in an institution which provides postsecondary or vocational education;
(c) Employed for at least eighty hours per month;
(d) Participating in a program or activity designed to promote employment or remove barriers to employment; or
(e) Incapable of doing any of the activities described in subdivisions (3)(a) through (d) of this section due to a medical condition, which incapacity is supported by regularly updated information in the case plan of the young adult;

(4) Who is a Nebraska resident, except that this requirement shall not disqualify a young adult who was a Nebraska resident but was placed outside Nebraska pursuant to the Interstate Compact for the Placement of Children; and

(5) Who does not meet the level of care for a nursing facility as defined in section 71-424, for a skilled nursing facility as defined in section 71-429, or for an intermediate care facility for persons with developmental disabilities as defined in section 71-421.

43-4505. Extended services and support; services enumerated.

Extended services and support provided under the bridge to independence program include, but are not limited to:
(1) Medical care under the medical assistance program for young adults who meet the eligibility requirements of section 43-4504 and have signed a voluntary services and support agreement as provided in section 43-4506;
(2) Medical care under the medical assistance program for young adults who meet the eligibility requirements of subdivision (2)(c) of section 43-4504, are eligible for a category of medical assistance pursuant to section 68-915 or other medical assistance category under federal law, and have signed a voluntary services and support agreement as provided in section 43-4506;
(3) Housing, placement, and support in the form of foster care maintenance payments which shall remain at least at the rate set immediately prior to the young adult's exit from foster care. As decided by and with the young adult, young adults may reside in a foster family home, a supervised independent living setting, an institution, or a foster care facility. Placement in an institution or a foster care facility should occur only if necessary due to a young adult's developmental level or medical condition. A young adult who is residing in a foster care facility upon leaving foster care may choose to temporarily stay until he or she is able to transition to a more age-appropriate setting. For young adults residing in a supervised independent living setting:
(a) The department may send all or part of the foster care maintenance payments directly to the young adult. This should be decided on a case-by-case basis by and with the young adult in a manner that respects the independence of the young adult; and
(b) Rules and restrictions regarding housing options should be respectful of the young adult's autonomy and developmental maturity. Specifically, safety assessments of the living arrangements shall be age-appropriate and consistent with federal guidance on a supervised setting in which the individual lives independently. A clean background check shall not be required for an individual residing in the same residence as the young adult; and
(4) Case management services that are young-adult driven. Case management shall be a continuation of the independent living transition proposal in section 43-1311.03, including a written description of additional resources that will help the young adult in creating permanent relationships and preparing for the transition to adulthood and independent living. Case management shall include the development of a case plan, developed jointly by the department and the young adult, that includes a description of the identified housing situation or living arrangement, the resources to assist the young adult in the transition from the bridge to independence program to adulthood, and the needs listed in subsection (1) of section 43-1311.03. The case plan shall incorporate the independent living transition proposal in section 43-1311.03. A new plan shall be developed for young adults who have no previous independent living transition proposal. Case management shall also include, but not be limited to, documentation that assistance has been offered and provided that would help the young adult meet his or her personal goals, if such assistance is appropriate and if the young adult is eligible and consents to receive such assistance. This shall include, but not be limited to, assisting the young adult to:
(a) Obtain employment or other financial support;

(b) Obtain a government-issued identification card;
(c) Open and maintain a bank account;
(d) Obtain appropriate community resources, including health, mental health, developmental disability, and other disability services and support;
(e) When appropriate, satisfy any juvenile justice system requirements and assist with sealing the young adult's juvenile court record if the young adult is eligible under section 43-2,108.01;
(f) Complete secondary education;
(g) Apply for admission and aid for postsecondary education or vocational courses;
(h) Obtain the necessary state court findings and then apply for special immigrant juvenile status as defined in 8 U.S.C. 1101(a)(27)(J) or apply for other immigration relief that the young adult may be eligible for;
(i) Create a health care power of attorney, health care proxy, or other similar document recognized under state law, at the young adult's option, pursuant to the federal Patient Protection and Affordable Care Act, Public Law 111-148;
(j) Obtain a copy of health and education records of the young adult;
(k) Apply for any public benefits or benefits that the young adult may be eligible for or may be due through his or her parents or relatives, including, but not limited to, aid to dependent children, supplemental security income, social security disability insurance, social security survivors benefits, the Special Supplemental Nutrition Program for Women, Infants, and Children, the Supplemental Nutrition Assistance Program, and low-income home energy assistance programs;
(l) Maintain relationships with individuals who are important to the young adult, including searching for individuals with whom the young adult has lost contact;
(m) Access information about maternal and paternal relatives, including any siblings;
(n) Access young adult empowerment opportunities, such as Project Everlast and peer support groups; and
(o) Access pregnancy and parenting resources and services.

43-4506. Participation in bridge to independence program; voluntary services and support agreement; contents; services provided; independence coordinator; department; duties.

(1) If a young adult chooses to participate in the bridge to independence program and is eligible under section 43-4504, the young adult and the department shall sign, and the young adult shall be provided a copy of, a voluntary services and support agreement that includes, at a minimum, information regarding all of the following:

(a) The requirement that the young adult continue to be eligible under section 43-4504 for the duration of the voluntary services and support agreement and any other expectations of the young adult;

(b) The services and support the young adult shall receive through the bridge to independence program;

(c) The voluntary nature of the young adult's participation and the young adult's right to terminate the voluntary services and support agreement at any time; and

(d) Conditions that may result in the termination of the voluntary services and support agreement and the young adult's early discharge from the bridge to independence program as described in section 43-4507.

(2) As soon as the young adult and the department sign the voluntary services and support agreement and the department determines that the young adult is eligible for the bridge to independence program under section 43-4504, but not longer than fifteen days after signing the agreement, the department shall provide services and support to the young adult in accordance with the voluntary services and support agreement.

(3) A young adult participating in the bridge to independence program shall be assigned an independence coordinator to provide case management services for the young adult. Independence coordinators and their supervisors shall be specialized in primarily providing services for young adults in the bridge to independence program or shall, at minimum, have specialized training in providing transition services and support to young adults.

(4) The department shall provide continued efforts at achieving permanency and creating permanent connections for a young adult participating in the bridge to independence program.

(5) The department shall fulfill all case plan obligations consistent with 42 U.S.C. 675(1).

(6) As soon as possible after the young adult is determined eligible for the bridge to independence program under section 43-4504 and signs the voluntary services and support agreement, the department shall conduct a determination of income eligibility for purposes of Title IV-E of the federal Social Security Act, 42 U.S.C. 672.

43-4507. Termination of voluntary services and support agreement; notice; appeal; procedure; department; duties.

(1) A young adult may choose to terminate the voluntary services and support agreement and stop receiving services and support under the bridge to independence program at any time. If a young adult chooses to terminate the voluntary services and support agreement, the department shall provide the young adult with a clear and developmentally appropriate written notice informing the young adult of the potential negative effects of terminating the voluntary services and support agreement early, the option to reenter the bridge to independence program at any time before attaining twenty-one years of age, the procedures for reentering the bridge to independence program, and information about and contact information for community resources that may benefit the young adult, specifically including information regarding state programs established pursuant to 42 U.S.C. 677.

(2) If the department determines that the young adult is no longer eligible for the bridge to independence program under section 43-4504, the department may terminate the voluntary services and support agreement and stop providing services and support to the young adult. Academic breaks in postsecondary education attendance, such as semester and seasonal breaks, and other transitions between eligibility requirements under section 43-4504, including education and employment transitions of no longer than thirty days, shall not be a basis for termination. Even if a young adult's voluntary services and support agreement has been previously terminated by either the department or the young adult, the young adult may come back into the bridge to independence program by entering into another voluntary services and support agreement at any time, so long as he or she is eligible under section 43-4504. At least thirty days prior to the termination of the voluntary services and support agreement, the department shall provide a clear and developmentally appropriate written notice to the young adult informing the young adult of the termination of the voluntary services and support agreement and a clear and developmentally appropriate explanation of the basis for the termination. The written termination notice shall also provide information about the process for appealing the termination, information about the option to enter into another voluntary services and support agreement once the young adult reestablishes eligibility under section 43-4504, and information about and contact information for community resources that may benefit the young adult, specifically including information regarding state programs established pursuant to 42 U.S.C. 677. In addition, the independence coordinator shall make efforts to meet with the young adult in person to explain the information in the written termination notice and to assist the young adult in reestablishing eligibility if the young adult wishes to continue participating in the program. The young adult may appeal the termination of the voluntary services and support agreement and any other actions or inactions by the department administratively, as allowed under the Administrative Procedure Act.

(3) If the young adult remains in the bridge to independence program until attaining twenty-one years of age, the department shall provide the young adult with a clear and developmentally appropriate written notice informing the young adult of the termination of the voluntary services and support agreement and information about and contact information for community resources that may benefit the young adult, specifically including information regarding state programs established pursuant to 42 U.S.C. 677.

43-4508. Department; filing with juvenile court; contents; jurisdiction of court; bridge to independence program file; hearing for permanency review; appointment of hearing officer; department; duties; court review services and support; confidentiality; waiver.

(1) Within fifteen days after the voluntary services and support agreement is signed, the department shall file a petition with the juvenile court describing the young adult's current situation, including the young adult's name, date of birth, and current address and the reasons why it is in the young adult's best interests to participate in the bridge to independence program. The department shall also provide the juvenile court with a copy of the signed voluntary services and support agreement, a copy of the case plan, and any other information the department or the young adult wants the court to consider.

(2) The department shall ensure continuity of care and eligibility by working with a child who wants to participate in the bridge to independence program and, pursuant to section 43-4504, is likely to be eligible to participate in such program immediately following the termination of the juvenile court's jurisdiction pursuant to subdivision (1), (2), (3)(a), or (3)(b) of section 43-247 or subdivision (8) of section 43-247 if the young adult's

guardianship or state-funded adoption assistance agreement was disrupted or terminated after he or she had attained the age of sixteen years. The voluntary services and support agreement shall be signed and the petition filed with the court upon the child's nineteenth birthday or within ten days thereafter. There shall be no interruption in the foster care maintenance payment and medical assistance coverage for a child who is eligible and chooses to participate in the bridge to independence program immediately following the termination of the juvenile court's jurisdiction pursuant to subdivision (1), (2), (3)(a), or (3)(b) of section 43-247.

(3) The court has the jurisdiction to review the voluntary services and support agreement signed by the department and the young adult under section 43-4506 and to conduct permanency reviews as described in this section. Upon the filing of a petition under subsection (1) of this section, the court shall open a bridge to independence program file for the young adult for the purpose of determining whether continuing in such program is in the young adult's best interests and for the purpose of conducting permanency reviews.

(4) The court shall make the best interests determination as described in subsection (3) of this section not later than one hundred eighty days after the young adult and the department enter into the voluntary services and support agreement.

(5) The court shall conduct a hearing for permanency review consistent with 42 U.S.C. 675(5)(C) as described in subsection (6) of this section regarding the voluntary services and support agreement at least once per year and may conduct such hearing at additional times, but not more times than is reasonably practicable, at the request of the young adult, the department, or any other party to the proceeding. The court shall make a reasonable effort finding required by subdivision (6)(c) of this section within twelve months after the court makes its best interests determination under subsection (4) of this section. Upon the filing of the petition as provided in subsection (1) of this section or anytime thereafter, the young adult may request, in the voluntary services and support agreement or by other appropriate means, a timeframe in which the young adult prefers to have the permanency review hearing scheduled and the court shall seek to accommodate the request as practicable and consistent with 42 U.S.C. 675(5)(C). The juvenile court may request the appointment of a hearing officer pursuant to section 24-230 to conduct permanency review hearings. The department is not required to have legal counsel present at such hearings. The juvenile court shall conduct the permanency reviews in an expedited manner and shall issue findings and orders, if any, as speedily as possible.

(6)(a) The primary purpose of the permanency review is to ensure that the bridge to independence program is providing the young adult with the needed services and support to help the young adult move toward permanency and self-sufficiency. This shall include that, in all permanency reviews or hearings regarding the transition of the young adult from foster care to independent living, the court shall consult, in an age-appropriate manner, with the young adult regarding the proposed permanency or transition plan for the young adult. The young adult shall have a clear self-advocacy role in the permanency review in accordance with section 43-4510, and the hearing shall support the active engagement of the young adult in key decisions. Permanency reviews shall be conducted on the record and in an informal manner and, whenever possible, outside of the courtroom.

(b) The department shall prepare and present to the juvenile court a report, at the direction of the young adult, addressing progress made in meeting the goals in the case plan, including the independent living transition proposal, and shall propose modifications as necessary to further those goals.

(c) The court shall determine whether the bridge to independence program is providing the appropriate services and support as provided in the voluntary services and support agreement to carry out the case plan. The court shall also determine whether reasonable efforts have been made to achieve the permanency goal as set forth in the case plan and the department's report provided under subdivision (6)(b) of this section. The court shall issue specific written findings regarding such reasonable efforts. The court has the authority to determine whether the young adult is receiving the services and support he or she is entitled to receive under the Young Adult Bridge to Independence Act and the department's policies or state or federal law to help the young adult move toward permanency and self-sufficiency. If the court believes that the young adult requires additional services and support to achieve the goals documented in the case plan or under the Young Adult Bridge to Independence Act and the department's policies or state or federal law, the court may make appropriate findings or order the department to take action to ensure that the young adult receives the identified services and support.

(7) All pleadings, filings, documents, and reports filed pursuant to this section and subdivision (11) of section 43-247 shall be confidential. The proceedings pursuant to this section and subdivision (11) of section 43-247 shall

be confidential unless a young adult provides a written waiver or a verbal waiver in court. Such waiver may be made by the young adult in order to permit the proceedings to be held outside of the courtroom or for any other reason. The Foster Care Review Office shall have access to any and all pleadings, filings, documents, reports, and proceedings necessary to complete its case review process. This section shall not prevent the juvenile court from issuing an order identifying individuals and agencies who shall be allowed to receive otherwise confidential information for legitimate and official purposes as authorized by section 43-3001.

43-4508.01. Permanency review or case review; independence coordinator; duties.

At least thirty days prior to each permanency review or case review, the independence coordinator shall meet with the young adult to notify the young adult of the date, time, and location of the review, to explain the purpose of the review, and to identify additional persons the young adult would like to attend the review and assist in making arrangements for their attendance.

43-4509. Department; periodic case reviews; written notice; contents.

(1) The department and at least one person who is not responsible for case management, in collaboration with the young adult and additional persons identified by the young adult, shall conduct periodic case reviews consistent with 42 U.S.C. 675(5)(B) not less than once every one hundred eighty days to evaluate progress made toward meeting the goals set forth in the case plan. The department is not required to have legal counsel present at such reviews. The department shall utilize a team approach in conducting such reviews and shall seek to facilitate the participation of the young adult. Reviews shall be conducted in an informal manner and, whenever possible, scheduled at times that allow for the attendance and participation of the young adult.

(2) At the end of each case review, the reviewer conducting the periodic case review shall notify the young adult of his or her right to request a client-directed attorney and an additional permanency review and shall provide the young adult with a clear and developmentally appropriate written notice regarding the young adult's right to request a client-directed attorney, the benefits and role of such attorney, the specific steps to take to request that an attorney be appointed, the young adult's right to request an additional permanency review hearing, the potential benefits and purpose of such a hearing, and the specific steps to take to request an additional permanency review hearing.

43-4510. Court-appointed attorney; continuation of guardian ad litem or defense counsel; independence coordinator; duties; notice; court appointed special advocate volunteer.

(1) If desired by the young adult, the young adult shall be provided a court-appointed attorney who has received training appropriate to the role. The attorney's representation of the young adult shall be client-directed. The attorney shall protect the young adult's legal rights and vigorously advocate for the young adult's wishes and goals, including assisting the young adult as necessary to ensure that the bridge to independence program is providing the young adult with the services and support required under the Young Adult Bridge to Independence Act. For young adults who were appointed a guardian ad litem or defense counsel before the young adult attained the age of eligibility, the guardian ad litem's or defense counsel's appointment may be continued, with consent from the young adult, but under a client-directed model of representation. Before entering into a voluntary services and support agreement and at least sixty days prior to each permanency and case review, the independence coordinator shall notify the young adult of his or her right to request a client-directed attorney if the young adult would like an attorney to be appointed and shall provide the young adult with a clear and developmentally appropriate written notice regarding the young adult's right to request a client-directed attorney, the benefits and role of such attorney, and the specific steps to take to request that an attorney be appointed if the young adult would like an attorney appointed.

(2) The court has discretion to appoint a court appointed special advocate volunteer or continue the appointment of a previously appointed court appointed special advocate volunteer with the consent of the young adult.

43-4511. Extended guardianship assistance and medical care; eligibility; use.

(1) The department shall provide extended guardianship assistance and medical care under the medical assistance program for a young adult who has attained the age of eligibility but is less than twenty-one years of age

and with respect to whom a kinship guardianship assistance agreement was in effect pursuant to 42 U.S.C. 673 if the young adult had attained sixteen years of age before the agreement became effective or with respect to whom a state-funded guardianship assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective and if the young adult meets at least one of the following conditions for eligibility:

(a) The young adult is completing secondary education or an educational program leading to an equivalent credential;

(b) The young adult is enrolled in an institution that provides postsecondary or vocational education;

(c) The young adult is employed for at least eighty hours per month;

(d) The young adult is participating in a program or activity designed to promote employment or remove barriers to employment; or

(e) The young adult is incapable of doing any part of the activities in subdivisions (1)(a) through (d) of this section due to a medical condition, which incapacity must be supported by regularly updated information in the case plan of the young adult.

(2) The guardian shall ensure that any guardianship assistance funds provided by the department and received by the guardian shall be used for the benefit of the young adult. The department shall adopt and promulgate rules and regulations defining services and supports encompassed by such benefit.

(3) The changes made to this section by Laws 2015, LB243, become operative on July 1, 2015.

43-4511.01. Participation in extended guardianship or bridge to independence program; participation in extended adoption assistance or bridge to independence program; choice of participant; notice; contents; department; duties.

(1)(a) Young adults who are eligible to participate under both extended guardianship assistance as provided in section 43-4511 and the bridge to independence program as provided in subdivision (2)(b)(ii) of section 43-4504 may choose to participate in either program.

(b) Young adults who are eligible to participate under both extended adoption assistance as provided in section 43-4512 and the bridge to independence program as provided in subdivision (2)(b)(ii) of section 43-4504 may choose to participate in either program.

(2) The department shall create a clear and developmentally appropriate written notice discussing the rights of young adults who are eligible under both extended guardianship assistance and the bridge to independence program and a notice for young adults who are eligible under both extended adoption assistance and the bridge to independence program. The notice shall explain the benefits and responsibilities and the process to apply. The department shall provide the written notice and make efforts to provide a verbal explanation to a young adult with respect to whom a kinship guardianship assistance agreement or an adoption assistance agreement was in effect pursuant to 42 U.S.C. 673 if the young adult had attained sixteen years of age before the agreement became effective or with respect to whom a state-funded guardianship assistance agreement or state-funded adoption assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective. The department shall provide the notice yearly thereafter until such young adult reaches nineteen years of age and not later than ninety days prior to the young adult attaining nineteen years of age.

43-4512. Extended adoption assistance and medical care; eligibility; use.

(1) The department shall provide extended adoption assistance and medical care under the medical assistance program for a young adult who has attained the age of eligibility but is less than twenty-one years of age and with respect to whom an adoption assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective and who meets at least one of the following conditions of eligibility:

(a) The young adult is completing secondary education or an educational program leading to an equivalent credential;

(b) The young adult is enrolled in an institution that provides postsecondary or vocational education;

(c) The young adult is employed for at least eighty hours per month;

(d) The young adult is participating in a program or activity designed to promote employment or remove barriers to employment; or

(e) The young adult is incapable of doing any part of the activities in subdivisions (1)(a) through (d) of this section due to a medical condition, which incapacity must be supported by regularly updated information in the case plan of the young adult.

(2) The adoptive parent or parents shall ensure that any adoption assistance funds provided by the department and received by the adoptive parent shall be used for the benefit of the young adult. The department shall adopt and promulgate rules and regulations defining services and supports encompassed by such benefit.

43-4513. Bridge to Independence Advisory Committee; created; members; terms; duties; report; contents.

(1) The Bridge to Independence Advisory Committee is created within the Nebraska Children's Commission to advise and make recommendations to the Legislature and the Nebraska Children's Commission regarding ongoing implementation of the bridge to independence program, extended guardianship assistance described in section 43-4511, and extended adoption assistance described in section 43-4512. The Bridge to Independence Advisory Committee terminates on July 1, 2026, and the Nebraska Children's Commission shall carry out the duties under this section. The Bridge to Independence Advisory Committee shall provide a written report regarding ongoing implementation, including participation in the bridge to independence program, extended guardianship assistance described in section 43-4511, and extended adoption assistance described in section 43-4512 and early discharge rates and reasons obtained from the department, to the Nebraska Children's Commission, the Health and Human Services Committee of the Legislature, the department, and the Governor by September 1 of each year. The report to the Health and Human Services Committee of the Legislature shall be submitted electronically.

(2) The members of the Bridge to Independence Advisory Committee shall include, but not be limited to, (a) representatives from all three branches of government, and the representatives from the legislative and judicial branches of government shall be nonvoting, ex officio members, (b) no less than three young adults currently or previously in foster care, which may be filled on a rotating basis by members of Project Everlast or a similar youth support or advocacy group, (c) one or more representatives from a child welfare advocacy organization, (d) one or more representatives from a child welfare service agency, and (e) one or more representatives from an agency providing independent living services.

(3) Members of the committee shall be appointed for terms of two years. The Nebraska Children's Commission shall appoint the chairperson of the committee and may fill vacancies on the committee as they occur.

43-4514. Department; submit amended state plan amendment to seek federal funding; department; duties; rules and regulations; references to United States Code; how construed.

(1) The department shall submit an amended state plan amendment by October 1, 2023, to seek federal Title IV-E funding under 42 U.S.C. 672 for any newly eligible young adult who was adjudicated to be a juvenile described in subdivision (1), (2), or (3)(b) of section 43-247 and who meets the requirements under subdivision (2)(c) of section 43-4504.

(2) The department shall implement the bridge to independence program, extended guardianship assistance described in section 43-4511, and extended adoption assistance described in section 43-4512 in accordance with the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 673 and 42 U.S.C. 675(8)(B) and in accordance with requirements necessary to obtain federal Title IV-E funding under 42 U.S.C. 672 and 42 U.S.C. 673.

(3) The department shall adopt and promulgate rules and regulations as needed to carry out this section by July 1, 2024.

(4) All references to the United States Code in the Young Adult Bridge to Independence Act refer to sections of the code as such sections existed on January 1, 2015.

XXX. ADULT PROTECTIVE SERVICES ACT (for Vulnerable Adults)

28-348. Act, how cited. Sections 28-348 to 28-387 shall be known and may be cited as the Adult Protective Services Act.

28-349. Legislative intent. The Legislature recognizes the need for the investigation and provision of services to certain persons who are substantially impaired and are unable to protect themselves from abuse, neglect, or exploitation. Often such persons cannot find others able or willing to render assistance. The Legislature intends through the Adult Protective Services Act to establish a program designed to fill this need and to assure the availability of the program to all eligible persons. It is also the intent of the Legislature to authorize the least restriction possible on the exercise of personal and civil rights consistent with the person's need for services.

28-350. Definitions, where found. For purposes of the Adult Protective Services Act, unless the context otherwise requires, the definitions found in sections 28-351 to 28-371 shall be used.

28-351. Abuse, defined.
Abuse means any knowing or intentional act on the part of a caregiver or any other person which results in physical injury, unreasonable confinement, cruel punishment, sexual abuse, or sexual exploitation of a vulnerable adult.

28-352. Adult protective services, defined.
Adult protective services means those services provided by the department for the prevention, correction, or discontinuance of abuse, neglect, or exploitation. Such services shall be those necessary and appropriate under the circumstances to protect an abused, neglected, or exploited vulnerable adult, ensure that the least restrictive alternative is provided, prevent further abuse, neglect, or exploitation, and promote self-care and independent living. Such services shall include, but not be limited to: (1) Receiving and investigating reports of alleged abuse, neglect, or exploitation; (2) developing social service plans; (3) arranging for the provision of services such as medical care, mental health care, legal services, fiscal management, housing, or home health care; (4) arranging for the provision of items such as food, clothing, or shelter; and (5) arranging or coordinating services for caregivers.

28-353. Caregiver, defined.
Caregiver shall mean any person or entity which has assumed the responsibility for the care of a vulnerable adult voluntarily, by express or implied contract, or by order of a court of competent jurisdiction.

28-354. Cruel punishment, defined.
Cruel punishment shall mean punishment which intentionally causes physical injury to a vulnerable adult.

28-355. Transferred to section 28-361.01.

28-356. Department, defined.
Department shall mean the Department of Health and Human Services.

28-357. Essential services, defined.

Essential services shall mean those services necessary to safeguard the person or property of a vulnerable adult. Such services shall include, but not be limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision.

28-358. Exploitation, defined.

Exploitation means the wrongful or unauthorized taking, withholding, appropriation, conversion, control, or use of money, funds, securities, assets, or any other property of a vulnerable adult or senior adult by any person by means of undue influence, breach of a fiduciary relationship, deception, extortion, intimidation, force or threat of force, isolation, or any unlawful means or by the breach of a fiduciary duty by the guardian, conservator, agent under a power of attorney, trustee, or any other fiduciary of a vulnerable adult or senior adult.

28-358.01. Isolation, defined.

(1) Isolation means intentional acts (a) committed for the purpose of preventing, and which do prevent, a vulnerable adult or senior adult from having contact with family, friends, or concerned persons; (b) committed to prevent a vulnerable adult or senior adult from receiving his or her mail or telephone calls; (c) of physical or chemical restraint of a vulnerable adult or senior adult committed for purposes of preventing contact with visitors, family, friends, or other concerned persons; or (d) which restrict, place, or confine a vulnerable adult or senior adult in a restricted area for purposes of social deprivation or preventing contact with family, friends, visitors, or other concerned persons.

(2) Isolation does not include (a) medical isolation prescribed by a licensed physician caring for the vulnerable adult or senior adult; (b) action taken in compliance with a protection order issued under the Protection Orders Act, a valid foreign protection order recognized pursuant to section 26-123 or 26-124, or an order excluding a person from certain premises issued pursuant to section 42-357; or (c) action authorized by an administrator of a nursing home pursuant to section 71-6021.

28-359. Law enforcement agency, defined.

Law enforcement agency shall mean the police department or the town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol.

28-360. Least restrictive alternative, defined.

Least restrictive alternative shall mean adult protective services provided in a manner no more restrictive of a vulnerable adult's liberty and no more intrusive than necessary to achieve and ensure essential services.

28-361. Living independently, defined.

Living independently shall include, but not be limited to, using the telephone, shopping, preparing food, housekeeping, and administering medications.

28-361.01. Neglect, defined.

Neglect means any knowing or intentional act or omission on the part of a caregiver to provide essential services or the failure of a vulnerable adult, due to physical or mental impairments, to perform self-care or obtain essential services to such an extent that there is actual physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.

28-362. Permit, defined.

Permit shall mean to allow a vulnerable adult over whom one has a proximate or direct degree of control to perform an act or acts or be in a situation which the controlling person could have prevented by the reasonable exercise of such control.

28-363. Physical injury, defined.

Physical injury shall mean damage to bodily tissue caused by nontherapeutic conduct, including, but not limited to, fractures, bruises, lacerations, internal injuries, or dislocations, and shall include, but not be limited to, physical pain, illness, or impairment of physical function.

28-364. Proper supervision, defined.

Proper supervision shall mean care and control of a vulnerable adult which a reasonable and prudent person would exercise under similar facts and circumstances.

28-365. Registry, defined.

Registry shall mean the Adult Protective Services Central Registry established by section 28-376.

28-366. Self-care, defined.

Self-care shall include, but not be limited to, personal hygiene, eating, and dressing.

28-366.01. Senior adult, defined.

Senior adult means any person sixty-five years of age or older.

28-367. Sexual abuse, defined.

Sexual abuse shall include sexual assault as described in section 28-319 or 28-320 and incest as described in section 28-703.

28-367.01. Sexual exploitation, defined.

Sexual exploitation includes, but is not limited to, a violation of section 28-311.08 and causing, allowing, permitting, inflicting, or encouraging a vulnerable adult to engage in voyeurism, in exhibitionism, in prostitution, or in the lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult.

28-368. Substantial functional impairment, defined.

Substantial functional impairment shall mean a substantial incapability, because of physical limitations, of living independently or providing self-care as determined through observation, diagnosis, investigation, or evaluation.

28-369. Substantial mental impairment, defined.

Substantial mental impairment shall mean a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care as revealed by observation, diagnosis, investigation, or evaluation.

28-370. Unreasonable confinement, defined.

Unreasonable confinement means confinement which intentionally causes physical injury to a vulnerable adult or false imprisonment as described in section 28-314 or 28-315.

28-371. Vulnerable adult, defined.

Vulnerable adult means any person eighteen years of age or older who has a substantial mental or functional impairment or for whom a guardian or conservator has been appointed under the Nebraska Probate Code.

28-372. Report of abuse, neglect, or exploitation; required; contents; notification; toll-free number established.

(1) When any physician, psychologist, physician assistant, nurse, nursing aide, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the department, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation, he or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the department. Any other person may report abuse, neglect, or exploitation if such person has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation.

(2) Such report may be made by telephone, with the caller giving his or her name and address, and, if requested by the department, shall be followed by a written report within forty-eight hours. To the extent available the report shall contain: (a) The name, address, and age of the vulnerable adult; (b) the address of the caregiver or caregivers of the vulnerable adult; (c) the nature and extent of the alleged abuse, neglect, or exploitation or the conditions and circumstances which would reasonably be expected to result in such abuse, neglect, or exploitation; (d) any evidence of previous abuse, neglect, or exploitation, including the nature and extent of the abuse, neglect, or exploitation; and (e) any other information which in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse, neglect, or exploitation and the identity of the perpetrator or perpetrators.

(3) Any law enforcement agency receiving a report of abuse, neglect, or exploitation shall notify the department no later than the next working day by telephone or mail.

(4) A report of abuse, neglect, or exploitation made to the department which was not previously made to or by a law enforcement agency shall be communicated to the appropriate law enforcement agency by the department no later than the next working day by telephone or mail.

(5) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night and any day of the week to make reports of abuse, neglect, or exploitation.

28-373. Report of abuse, neglect, or exploitation; law enforcement agency; duties.

(1) Upon the receipt of a report concerning abuse, neglect, or exploitation pursuant to section 28-372, it shall be the duty of the law enforcement agency (a) to make an investigation if deemed warranted because of alleged violations of section 28-386, (b) to take immediate steps, if necessary, to protect the vulnerable adult, and (c) to institute legal proceedings if appropriate. The law enforcement agency shall notify the department if an investigation is undertaken. Such notification shall be made no later than the next working day following receipt of the report.

(2) The law enforcement agency shall make a written report or a case summary to the department of all investigated cases of abuse, neglect, or exploitation and action taken with respect to all such cases.

28-374. Alleged abuse, neglect, or exploitation; department; duties.

(1) The department shall investigate each case of alleged abuse, neglect, or exploitation of a vulnerable adult and shall provide such adult protective services as are necessary and appropriate under the circumstances.

(2) In each case of alleged abuse, neglect, or exploitation, the department may make a request for further assistance from the appropriate law enforcement agency or initiate such action as may be appropriate under the circumstances.

(3) The department shall make a written report or case summary to the appropriate law enforcement agency and to the registry of all reported cases of abuse, neglect, or exploitation and action taken.

(4) The department shall deliver a written report or case summary to the appropriate county attorney if the investigation indicates a reasonable cause to believe that a violation of section 28-386 has occurred.

28-374.01. Alleged abuse, neglect, or exploitation; completion of investigation; decision regarding entry into registry; notice; contents; right to amend or expunge information.

(1) Upon completion of the investigation pursuant to sections 28-373 and 28-374, the person who allegedly abused, neglected, or exploited a vulnerable adult shall be given written notice of the determination of the investigation and whether the person who allegedly abused, neglected, or exploited a vulnerable adult will be entered into the registry.

(2) If the person who allegedly abused, neglected, or exploited a vulnerable adult will be entered into the registry, the notice shall be sent by certified mail with return receipt requested or first-class mail to the last-known address of the person who allegedly abused, neglected, or exploited a vulnerable adult and shall include:

(a) The nature of the report;

(b) The classification of the report; and

(c) The right of the person who allegedly abused, neglected, or exploited a vulnerable adult to request the department to amend or expunge identifying information from the report or to remove the substantiated report from the registry in accordance with section 28-380.

(3) If the person who allegedly abused, neglected, or exploited a vulnerable adult will not be entered into the registry, the notice shall be sent by first-class mail and shall include:

(a) The nature of the report; and

(b) The classification of the report.

28-375. Immunity from liability; when.

Any person participating in an investigation or the making of a report pursuant to the Adult Protective Services Act or participating in a judicial proceeding resulting therefrom shall be immune from any liability except (1) as otherwise provided in the Adult Protective Services Act, (2) for malfeasance in office or willful or wanton neglect of duty, or (3) for false statements of fact made with malicious intent.

28-376. Adult Protective Services Central Registry; established; access; name-change order; treatment.

(1) The department shall establish and maintain an Adult Protective Services Central Registry which shall contain any substantiated report regarding a person who has allegedly abused, neglected, or exploited a vulnerable adult.

(2) Upon request, a vulnerable adult who is the subject of a report or, if the vulnerable adult is legally incapacitated, the guardian or guardian ad litem of the vulnerable adult and the person who has allegedly abused, neglected, or exploited the vulnerable adult shall be entitled to receive a copy of all information contained in the registry pertaining to such report. The department shall not release data that would be harmful or detrimental to the vulnerable adult or that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.

(3) The department shall establish classifications for all cases in the registry.

(4) The department shall determine whether a name-change order received from the clerk of a district court pursuant to section 25-21,271 is for a person on the Adult Protective Services Central Registry and, if so, shall include the changed name with the former name in the registry and file or cross-reference the information under both names.

28-377. Records relating to abuse; access.

Except as otherwise provided in sections 28-376 to 28-380, no person, official, or agency shall have access to the records relating to abuse unless in furtherance of purposes directly connected with the administration of the Adult Protective Services Act and section 28-726. Persons, officials, and agencies having access to such records shall include, but not be limited to:

(1) A law enforcement agency investigating a report of known or suspected abuse;

(2) A county attorney in preparation of an abuse petition;

(3) A physician who has before him or her a person whom he or she reasonably suspects may be abused;

(4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused vulnerable adult;

(5) Defense counsel in preparation of the defense of a person charged with abuse;

(6) Any person engaged in bona fide research or auditing, except that no information identifying the subjects of the report shall be made available to the researcher or auditor. The researcher shall be charged for any costs of such research incurred by the department at a rate established by rules and regulations adopted and promulgated by the department;

(7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000, as the act existed on September 1, 2001, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed on September 1, 2001, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness; and

(8) The department, as required or authorized by state law, federal law, federal regulation, or applicable federal program provisions and in furtherance of its programs.

28-378. Records relating to abuse; release of information; when.

The department or appropriate law enforcement agency shall provide requested information to any person legally authorized by sections 28-376 to 28-380 to have access to records relating to abuse when ordered by a court of competent jurisdiction or upon compliance by such person with identification requirements established by rules and regulations of the department or law enforcement agency. Such information shall not include the name and address of the person making the report, except that the department may use the name and address as required or authorized by state law, federal law, federal regulation, or applicable federal program provisions and in furtherance of its programs and the county attorney's office may request and receive the name and address of the person making the report with such person's written consent. The name and other identifying data of any person requesting or receiving information from the registry and the dates and the circumstances under which requests are made or information is released shall be entered in the registry.

28-379. Report of abuse; summary by department; when provided.

Upon request, a physician or the person in charge of an institution, facility, or agency making a legally mandated report shall receive a summary of the findings of and actions taken by the department in response to such report. The amount of detail such summary contains and the purposes for which it may be used shall depend on the source of the report and shall be established by rules and regulations adopted and promulgated by the department.

28-380. Amendment or expungement of records; inaccurate or inconsistent with act; procedure.

At any time subsequent to the completion of the department's investigation, if a vulnerable adult, the guardian of a vulnerable adult, or a person who allegedly abused a vulnerable adult and who is mentioned in a report believes the information in the report is inaccurate or being maintained in a manner inconsistent with the Adult Protective Services Act, such person may request the department to amend or expunge identifying information from the report or remove the record of such report from the registry. If the department refuses to do so or does not act within thirty days, the vulnerable adult or person who allegedly abused a vulnerable adult shall have the right to a hearing to determine whether the record of the report should be amended, expunged, or removed on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with such act. Such hearing shall be held within a reasonable time after a request is made and at a reasonable place and hour. At the hearing the burden of proving the accuracy and consistency of the record shall be on the department. The hearing shall be conducted by the chief executive officer of the department or his or her designated representative, who is hereby authorized and empowered to order the amendment, expunction, or removal of the record to make such record accurate or consistent with the requirements of the Adult Protective Services Act. The decision shall be made in writing within thirty days of the close of the hearing and shall state the reasons upon which it is based. Decisions of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

28-381. Amendment or expungement of records; good cause; notice.

At any time, the department may amend, expunge, or remove from the registry any record upon good cause. Upon request, written notice of any amendment, expunction, or removal of any record made pursuant to the Adult Protective Services Act shall be served upon the vulnerable adult who is the subject of the report or the person who allegedly abused the vulnerable adult. The department shall advise any other individuals or agencies who received a copy of the record pursuant to the Adult Protective Services Act to amend, expunge, or destroy such record. All information identifying the subjects of unsubstantiated reports shall be expunged from the registry.

28-382. Law concerning confidentiality; applicability.

(1) No rule of evidence or other provision of law concerning confidential communications shall apply to prevent reports made pursuant to the Adult Protective Services Act unless otherwise specifically mentioned in the act.

(2) Evidence shall not be excluded from any judicial proceeding resulting from a report made pursuant to the Adult Protective Services Act on the ground that it is a confidential communication protected by the privilege granted to husband and wife, patient and physician, or client and professional counselor.

28-383. Treatment by spiritual means alone; not considered abuse.

No person shall be considered to be abused for the sole reason that such person relies upon spiritual means alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment.

28-384. Failure to make report; penalty.

Any person who willfully fails to make any report required by the Adult Protective Services Act shall be guilty of a Class III misdemeanor.

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28-385. Release of confidential information; penalty.

Any person who knowingly releases information required to be kept confidential by the Adult Protective Services Act, except as provided in the act, shall be guilty of a Class III misdemeanor.

28-386. Knowing and intentional abuse, neglect, or exploitation of a vulnerable adult or senior adult; penalty.

(1) A person commits knowing and intentional abuse, neglect, or exploitation of a vulnerable adult or senior adult if he or she through a knowing and intentional act causes or permits a vulnerable adult or senior adult to be:

(a) Physically injured;
(b) Unreasonably confined;
(c) Sexually abused;
(d) Exploited;
(e) Cruelly punished;
(f) Neglected; or
(g) Sexually exploited.

(2) Knowing and intentional abuse, neglect, or exploitation of a vulnerable adult or senior adult is a Class IIIA felony.

28-387. Short-term protective services; temporary placement; authorized; when; procedure.

(1) A county court may issue an ex parte order authorizing the provision of short-term involuntary adult protective services or temporary placement for a vulnerable adult for up to forty-eight hours, excluding nonjudicial days, pending the hearing for a need for continuing services, after finding on the record that:

(a) The person is a vulnerable adult;
(b) An emergency exists; and
(c) There are compelling reasons for ordering protective services or temporary placement.

(2) An ex parte order shall be issued only if other protective custody services are unavailable or other services provide insufficient protection.

(3) The department shall contact the appropriate county attorney to file an application for short-term involuntary adult protective services or temporary placement if an investigation indicates probable cause to believe that an emergency exists for a vulnerable adult. The department shall not be given legal custody nor be made guardian of

such vulnerable adult. A vulnerable adult shall be responsible for the costs of services provided either through his or her own income or other programs for which he or she may be eligible.

(4) A law enforcement officer accompanied by a representative of the department may enter the premises where the vulnerable adult is located after obtaining the court order and announcing his or her authority and purpose. Forcible entry may be made only after the court order has been obtained unless there is probable cause to believe that the delay of such entry would cause the vulnerable adult to be in imminent danger of life-threatening physical injury or neglect.

(5) When, from the personal observations of a representative of the department and a law enforcement officer, it appears probable that the vulnerable adult is likely to be in imminent danger of life-threatening physical injury or neglect if he or she is not immediately removed from the premises, the law enforcement agency shall, when authorized by the court order, take into custody and transport the vulnerable adult to an appropriate medical or protective placement facility.

(6) When action is taken under this section, a hearing shall be held within forty-eight hours of the signing of the court order, excluding nonjudicial days, to establish probable cause for short-term involuntary adult protective services or for protective placement. Unless the vulnerable adult has counsel of his or her own choice or has indicated a desire for an attorney of his or her own choice, the court shall appoint an attorney to represent him or her in the proceeding, who shall have the powers and duties of a guardian ad litem.

(7) Notice of the hearing shall be served personally on the vulnerable adult. Waiver of notice by the vulnerable adult shall not be effective unless he or she attends the hearing or such notice is waived by the guardian ad litem. Notice of the hearing shall be given to the following parties whose whereabouts can be readily ascertained: (a) The spouse of the vulnerable adult; (b) children of the vulnerable adult; and (c) any other party specified by the court.

(8) A judgment authorizing continuance of short-term involuntary adult protective services shall prescribe those specific adult protective services which are to be provided, the duration of the services which shall not exceed sixty days, and the person or persons who are authorized or ordered to provide them.

XXXI. SELECTED CRIMINAL STATUTES AND MISCELLANEOUS PROVISIONS

A. False Imprisonment and Unlawful Intrusion

28-314. False imprisonment in the first degree; penalty.

(1) A person commits false imprisonment in the first degree if he or she knowingly restrains or abducts another person (a) under terrorizing circumstances or under circumstances which expose the person to the risk of serious bodily injury; or (b) with intent to hold him or her in a condition of involuntary servitude.

(2) False imprisonment in the first degree is a Class IIIA felony.

28-311.08. Unlawful intrusion; photograph, film, or record image or video of intimate area; distribute or make public; penalty; court; duties; registration under Sex Offender Registration Act; statute of limitations.

(1) It shall be unlawful for any person to knowingly intrude upon any other person without his or her consent in a place of solitude or seclusion. Violation of this subsection is a Class I misdemeanor. A second or subsequent violation of this subsection is a Class IV felony.

(2) It shall be unlawful for any person to knowingly and intentionally photograph, film, or otherwise record an image or video of the intimate area of any other person without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether such other person is located in a public or private place. Violation of this subsection is a Class IV felony.

(3) It shall be unlawful for any person to knowingly and intentionally distribute or otherwise make public an image or video of another person recorded in violation of subsection (2) of this section without that person's consent. A first or second violation of this subsection is a Class IIA felony. A third or subsequent violation of this subsection is a Class II felony.

(4) It shall be unlawful for any person to knowingly and intentionally distribute or otherwise make public an image or video of another person's intimate area or of another person engaged in sexually explicit conduct (a) if the other person had a reasonable expectation that the image would remain private, (b) knowing the other person did not consent to distributing or making public the image or video, and (c) if distributing or making public the image or video serves no legitimate purpose. Violation of this subsection is a Class I misdemeanor. A second or subsequent violation of this subsection is a Class IV felony.

(5) It shall be unlawful for any person to threaten to distribute or otherwise make public an image or video of another person's intimate area or of another person engaged in sexually explicit conduct with the intent to intimidate, threaten, or harass any person. Violation of this subsection is a Class I misdemeanor.

(6) As part of sentencing following a conviction for a violation of subsection (1), (2), or (3) of this section, the court shall make a finding as to the ages of the defendant and the victim at the time the offense occurred. If the defendant is found to have been nineteen years of age or older and the victim is found to have been less than eighteen years of age at such time, then the defendant shall be required to register under the Sex Offender Registration Act.

(7) No person shall be prosecuted under this section unless the indictment for such offense is found by a grand jury or a complaint filed before a magistrate within three years after the later of:

(a) The commission of the crime;

(b) Law enforcement's or a victim's receipt of actual or constructive notice of either the existence of a video or other electronic recording made in violation of this section or the distribution of images, video, or other electronic recording made in violation of this section; or

(c) The youngest victim of a violation of this section reaching the age of twenty-one years.

(8) For purposes of this section:

(a) Intimate area means the naked or undergarment-clad genitalia, pubic area, buttocks, or female breast of an individual;

(b) Intrude means either:

(i) Viewing another person in a state of undress as it is occurring; or

(ii) Recording another person in a state of undress by video, photographic, digital, or other electronic means; and

(c) Place of solitude or seclusion means a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room.

B. Criminal Sexual Assault:

28-317. Sexual assault; legislative intent. It is the intent of the Legislature to enact laws dealing with sexual assault and related criminal sexual offenses which will protect the dignity of the victim at all stages of judicial process, which will insure that the alleged offender in a criminal sexual offense case have preserved the constitutionally guaranteed due process of law procedures, and which will establish a system of investigation, prosecution, punishment, and rehabilitation for the welfare and benefit of the citizens of this state as such system is employed in the area of criminal sexual offenses.

28-318. Terms, defined.

As used in sections 28-317 to 28-322.05, unless the context otherwise requires:

(1) Actor means a person accused of sexual assault;

(2) Intimate parts means the genital area, groin, inner thighs, buttocks, or breasts;

(3) Past sexual behavior means sexual behavior other than the sexual behavior upon which the sexual assault is alleged;

(4) Serious personal injury means great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ;

(5) Sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact also means the touching by the victim of the actor's sexual or intimate parts or the clothing covering the immediate area of the actor's sexual or intimate parts when such touching is intentionally caused by the actor. Sexual contact includes only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party. Sexual contact also includes the touching of a child with the actor's sexual or intimate parts on any part of the child's body for purposes of sexual abuse by a school worker under section 28-316.01 or sexual assault of a child under sections 28-319.01 and 28-320.01;

(6) Sexual penetration means sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the actor's or victim's body or any object manipulated by the actor into the genital or anal openings of the victim's body which can be reasonably construed as being for nonmedical, nonhealth, or nonlaw enforcement purposes. Sexual penetration shall not require emission of semen;

(7) Victim means the person alleging to have been sexually assaulted;

(8) Without consent means:

(a)(i) The victim was compelled to submit due to the use of force or threat of force or coercion, or (ii) the victim expressed a lack of consent through words, or (iii) the victim expressed a lack of consent through conduct, or (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor;

(b) The victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent; and

(c) A victim need not resist verbally or physically where it would be useless or futile to do so; and

(9) Force or threat of force means (a) the use of physical force which overcomes the victim's resistance or (b) the threat of physical force, express or implied, against the victim or a third person that places the victim in fear of death or in fear of serious personal injury to the victim or a third person where the victim reasonably believes that the actor has the present or future ability to execute the threat.

28-319. Sexual assault; first degree; penalty.

(1) Any person who subjects another person to sexual penetration (a) without the consent of the victim, (b) who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct, or (c) when the actor is nineteen years of age or older and the victim is at least twelve but less than sixteen years of age is guilty of sexual assault in the first degree.

(2) Sexual assault in the first degree is a Class II felony. The sentencing judge shall consider whether the actor caused serious personal injury to the victim in reaching a decision on the sentence.

(3) Any person who is found guilty of sexual assault in the first degree for a second time when the first conviction was pursuant to this section or any other state or federal law with essentially the same elements as this section shall be sentenced to a mandatory minimum term of twenty-five years in prison.

28-319.01 Sexual assault of a child; first degree; penalty.

(1) A person commits sexual assault of a child in the first degree:

(a) When he or she subjects another person under twelve years of age to sexual penetration and the actor is at least nineteen years of age or older; or

(b) When he or she subjects another person who is at least twelve years of age but less than sixteen years of age to sexual penetration and the actor is twenty-five years of age or older.

(2) Sexual assault of a child in the first degree is a Class IB felony with a mandatory minimum sentence of fifteen years in prison for the first offense.

(3) Any person who is found guilty of sexual assault of a child in the first degree under this section and who has previously been convicted (a) under this section, (b) under section 28-319 of first degree or attempted first degree sexual assault, (c) under section 28-320.01 before July 14, 2006, of sexual assault of a child or attempted sexual assault of a child, (d) under section 28-320.01 on or after July 14, 2006, of sexual assault of a child in the second or third degree or attempted sexual assault of a child in the second or third degree, or (e) in any other state or federal court under laws with essentially the same elements as this section, section 28-319, or section 28-320.01 as it existed before, on, or after July 14, 2006, shall be guilty of a Class IB felony with a mandatory minimum sentence of twenty-five years in prison.

(4) In any prosecution under this section, the age of the actor shall be an essential element of the offense that must be proved beyond a reasonable doubt.

28-320. Sexual assault; second or third degree; penalty.

(1) Any person who subjects another person to sexual contact (a) without consent of the victim, or (b) who knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in either the second degree or third degree.

(2) Sexual assault shall be in the second degree and is a Class IIA felony if the actor shall have caused serious personal injury to the victim.

(3) Sexual assault shall be in the third degree and is a Class I misdemeanor if the actor shall not have caused serious personal injury to the victim.

28-320.01. Sexual assault of a child; second or third degree; penalties.

(1) A person commits sexual assault of a child in the second or third degree if he or she subjects another person fourteen years of age or younger to sexual contact and the actor is at least nineteen years of age or older.

(2) Sexual assault of a child is in the second degree if the actor causes serious personal injury to the victim. Sexual assault of a child in the second degree is a Class II felony for the first offense.

(3) Sexual assault of a child is in the third degree if the actor does not cause serious personal injury to the victim. Sexual assault of a child in the third degree is a Class IIIA felony for the first offense.

(4) Any person who is found guilty of second degree sexual assault of a child under this section and who has previously been convicted (a) under this section, (b) under section 28-319 of first degree or attempted first degree sexual assault, (c) under section 28-319.01 for first degree or attempted first degree sexual assault of a child, or (d) in any other state or federal court under laws with essentially the same elements as this section , section 28-319 , or section 28-319.01 shall be guilty of a Class IC felony and shall be sentenced to a mandatory minimum term of twenty-five years in prison.

(5) Any person who is found guilty of third degree sexual assault of a child under this section and who has previously been convicted (a) under this section, (b) under section 28-319 of first degree or attempted first degree sexual assault, (c) under section 28-319.01 for first degree or attempted first degree sexual assault of a child, or (d) in any other state or federal court under laws with essentially the same elements as this section, section 28-319, or 28-319.01 shall be guilty of a Class IC felony.

28-320.02. Sexual assault; use of electronic communication device; prohibited acts; penalties.

(1) No person shall knowingly solicit, coax, entice, or lure (a) a child sixteen years of age or younger or (b) a peace officer who is believed by such person to be a child sixteen years of age or younger, by means of an electronic communication device as that term is defined in section 28-833, to engage in an act which would be in violation of section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320. A person shall not be convicted of both a violation of this subsection and a violation of section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320 if the violations arise out of the same set of facts or pattern of conduct and the individual solicited, coaxed, enticed, or lured under this subsection is also the victim of the sexual assault under section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320.

(2) A person who violates this section is guilty of a Class ID felony. If a person who violates this section has previously been convicted of a covered offense as defined in 28-1802, the person is guilty of a Class IC felony.

C. Methamphetamine:

28-457. Methamphetamine; prohibited acts; violation; penalties.

(1) For purposes of this section:

(a) Bodily injury has the same meaning as in section 28-109;

(b) Chemical substance means a substance intended to beused as an immediate precursor or reagent in the manufacture of methamphetamine or any other chemical intended to be used in the manufacture of methamphetamine. Intent for purposes of this subdivision may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or manufacturing equipment;

(c) Child means a person under the age of nineteen years;

(d) Methamphetamine means methamphetamine, its salts, optical isomers, and salts of its isomers;

(e) Paraphernalia means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body;

(f) Prescription has the same meaning as in section 28-401;

(g) Serious bodily injury has the same meaning as in section 28-109; and

(h) Vulnerable adult has the same meaning as in section 28-371.

(2) Any person who knowingly or intentionally causes or permits a child or vulnerable adult to inhale or have contact with methamphetamine, a chemical substance, or paraphernalia is guilty of a Class I misdemeanor. For any second or subsequent conviction under this subsection, any person so offending is guilty of a Class IV felony.

(3) Any person who knowingly or intentionally causes or permits a child or vulnerable adult to ingest methamphetamine, a chemical substance, or paraphernalia is guilty of a Class I misdemeanor. For any second or subsequent conviction under this subsection, any person so offending shall be guilty of a Class IIIA felony.

(4) Any child or vulnerable adult who resides with a person violating subsection (2) or (3) of this section shall be taken into protective custody as provided in the Adult Protective Services Act or the Nebraska Juvenile Code.

(5) Any person who violates subsection (2) or (3) of this section and a child or vulnerable adult actually suffers serious bodily injury by ingestion of, inhalation of, or contact with methamphetamine, a chemical substance, or paraphernalia is guilty of a Class IIIA felony unless the ingestion, inhalation, or contact results in the death of the child or vulnerable adult, in which case the person is guilty of a Class IB felony.

(6) It is an affirmative defense to a violation of this section that the chemical substance was provided by lawful prescription for the child or vulnerable adult and that it was administered to the child or vulnerable adult in accordance with the prescription instructions provided with the chemical substance.

D. Human Trafficking:

28-830. Human trafficking; forced labor or services; terms, defined.

For purposes of sections 28-830 and 28-831, the following definitions apply:

(1) Actor means a person who solicits, procures, or supervises the services or labor of another person;

(2) Commercial sexual activity means any sex act on account of which anything of value is given, promised to, or received by any person;

(3) Debt bondage means inducing another person to provide:

(a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or

(b) Labor or services in payment toward or satisfaction of a real or purported debt if:

(i) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(ii) The length of the labor or services is not limited and the nature of the labor or services is not defined;

(4) Financial harm means theft by extortion as described by section 28-513;

(5) Forced labor or services means labor or services that are performed or provided by another person and are obtained or maintained through:

(a) Inflicting or threatening to inflict serious personal injury, as defined by section 28-318, on another person;

(b) Physically restraining or threatening to physically restrain the other person;

(c) Abusing or threatening to abuse the legal process against another person to cause arrest or deportation for violation of federal immigration law;

(d) Controlling or threatening to control another person's access to a controlled substance listed in Schedule I, II or III of section 28-405;

(e) Exploiting another person's substantial functional impairment as defined in section 28-368 or substantial mental impairment as defined in section 28-369;

(f) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document of the other person; or

(g) Causing or threatening to cause financial harm to another person, including debt bondage;

(6) Labor or services means work or activity of economic or financial value;

(7) Labor trafficking means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or attempting to recruit, entice, harbor, transport, provide, or obtain by any means a person eighteen years of age or older intending or knowing that the person will be subjected to forced labor or services;

(8) Labor trafficking of a minor means knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or attempting to recruit, entice, harbor, transport, provide, or obtain by any means a minor intending or knowing that the minor will be subjected to forced labor or services;

(9) Maintain means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement by the other person to perform such type of service;

(10) Minor means a person younger than eighteen years of age;

(11) Sex trafficking means knowingly recruiting, enticing, harboring, transporting, providing, soliciting, or obtaining by any means or knowingly attempting to recruit, entice, harbor, transport, provide, solicit, or obtain by any means a person eighteen years of age or older for the purpose of having such person engage without consent, as

defined in section 28-318, in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a person eighteen years of age or older to engage without consent, as defined in section 28-318, in commercial sexual activity, sexually explicit performance, or the production of pornography;

(12) Sex trafficking of a minor means knowingly recruiting, enticing, harboring, transporting, providing, soliciting, or obtaining by any means or knowingly attempting to recruit, entice, harbor, transport, provide, solicit, or obtain by any means a minor for the purpose of having such minor engage in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of pornography;

(13) Sexually-explicit performance means a live or public play, dance, show, or other exhibition intended to arouse or gratify sexual desire or to appeal to prurient interests; and

(14) Trafficking victim means a person subjected to any act or acts prohibited by section 28-831.

28-831. Human trafficking; labor trafficking or sex trafficking; labor trafficking of a minor or sex trafficking of a minor; prohibited acts; penalties.
(1) Any person who engages in labor trafficking of a minor or sex trafficking of a minor is guilty of a Class IB felony.
(2) Any person who engages in labor trafficking or sex trafficking is guilty of a Class II felony.
(3) Any person, other than a trafficking victim, who knowingly benefits from or participates in a venture which has, as part of the venture, an act that is in violation of this section is guilty of a Class IIA felony.
(4) It is not a defense in a prosecution under this section (a) that consent was given by the minor victim, (b) that the defendant believed that the minor victim gave consent, or (c) that the defendant believed that the minor victim was an adult.

E. Criminal Offenses Involving the Family Relation:

28-703. Incest; penalty.
(1) Any person who shall knowingly intermarry or engage in sexual penetration with any person who falls within the degrees of consanguinity set forth in section 28-702 or any person who engages in sexual penetration with his or her stepchild who is under nineteen years of age commits incest.

(2) Incest is a Class III felony, except that incest with a person who is under eighteen years of age is a Class IIA felony.

(3) (a) For purposes of this section, the definitions found in section 28-318 shall be used.
(b) The testimony of a victim shall be entitled to the same weight as the testimony of victims of other crimes under this code.

28-705. Abandonment of spouse, child, or dependent stepchild; prohibited acts; penalty.
(1) Any person who abandons and neglects or refuses to maintain or provide for his or her spouse or his or her child or dependent stepchild, whether such child is born in or out of wedlock, commits abandonment of spouse, child, or dependent stepchild.

(2) For the purposes of this section, child shall mean an individual under the age of sixteen years.

(3) When any person abandons and neglects to provide for his or her spouse or his or her child or dependent stepchild for three consecutive months or more, it shall be prima facie evidence of intent to violate the provisions of subsection (1) of this section.

(4) A designation of assets for or use of income by an individual in accordance with section 68-922 shall be considered just cause for failure to use such assets or income to provide medical support of such individual's spouse.

(5) Abandonment of spouse, child, or dependent stepchild is a Class I misdemeanor.

28-706. Criminal nonsupport; penalty; exceptions.

(1) Any person who intentionally fails, refuses, or neglects to provide proper support which he or she knows or reasonably should know he or she is legally obliged to provide to a spouse, minor child, minor stepchild, or other dependent commits criminal nonsupport.

(2) A parent or guardian who refuses to pay hospital costs, medical costs, or any other costs arising out of or in connection with an abortion procedure performed on a minor child or minor stepchild does not commit criminal nonsupport if:

(a) Such parent or guardian was not consulted prior to the abortion procedure; or

(b) After consultation, such parent or guardian refused to grant consent for such procedure, and the abortion procedure was not necessary to preserve the minor child or stepchild from an imminent peril that substantially endangered her life or health.

(3) Support includes, but is not limited to, food, clothing, medical care, and shelter.

(4) A designation of assets for or use of income by an individual in accordance with section 68-922 shall be considered just cause for failure to use such assets or income to provide medical support of such individual's spouse.

(5) This section does not exclude any applicable civil remedy.

(6) Except as provided in subsection (7) of this section, criminal nonsupport is a Class II misdemeanor.

(7) Criminal nonsupport is a Class IV felony if it is in violation of any order of any court.

28-707. Child abuse; privileges not available; penalties.

(1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

(a) Placed in a situation that endangers his or her life or physical or mental health;

(b) Cruelly confined or cruelly punished;

(c) Deprived of necessary food, clothing, shelter, or care;

(d) Placed in a situation to be sexually exploited through sex trafficking of a minor as defined in section 28-830 or by allowing, encouraging, or forcing such minor child to engage in debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

(e) Placed in a situation to be sexually abused as defined in section 28-319, 28-319.01, or 28-320.01; or

(f) Placed in a situation to be a trafficking victim as defined in section 28-830.

(2) The statutory privilege between patient and physician, between client and professional counselor, and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury as defined in section 28-109 or death.

(4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109 or death.

(5) Child abuse is a Class IIIA felony if the offense is committed negligently and results in serious bodily injury as defined in section 28-109.

(6) Child abuse is a Class IIA felony if the offense is committed negligently and results in the death of such child.

(7) Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in such section.

(8) Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child.

(9) For purposes of this section, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly, as defined in section 28-109, with respect to the safety or health of the minor child.

28-709. Contributing to the delinquency of a child; penalty; definitions.

(1) Any person who, by any act, encourages, causes, or contributes to the delinquency or need for special supervision of a child under eighteen years of age, so that such child becomes, or will tend to become, a delinquent child, or a child in need of special supervision, commits contributing to the delinquency of a child.

(2) The following definitions shall be applicable to this section:

(a) Delinquent child shall mean any child under the age of eighteen years who has violated any law of the state or any city or village ordinance; and

(b) A child in need of special supervision shall mean any child under the age of eighteen years (i) who, by reason of being wayward or habitually disobedient, is uncontrolled by his parent, guardian, or custodian; (ii) who is habitually truant from school or home; or (iii) who deports himself so as to injure or endanger seriously the morals or health of himself or others.

(3) Contributing to the delinquency of a child is a Class I misdemeanor.

F. Classification of Criminal Penalties:

28-105. Felonies; classification of penalties; sentences; where served; eligibility for probation.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into ten classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I felony	Death
Class IA felony	Life imprisonment
Class IB felony	Maximum—life imprisonment Minimum—twenty years imprisonment
Class IC felony	Maximum—fifty years imprisonment Mandatory minimum—five years imprisonment
Class ID felony	Maximum—fifty years imprisonment Mandatory minimum—three years imprisonment
Class II felony	Maximum—fifty years imprisonment Minimum—one year imprisonment
Class IIA felony	Maximum—twenty years imprisonment Minimum—none
Class III felony	Maximum—four years imprisonment and two years post-release supervision or twenty-five thousand dollars fine, or both Minimum—none for imprisonment and none for post-release supervision
Class IIIA felony	Maximum—three years imprisonment and eighteen months post-release supervision or ten thousand dollars fine, or both Minimum—none for imprisonment and none for post-release supervision
Class IV felony	Maximum—two years imprisonment and twelve months post-release supervision or ten thousand dollars fine, or both Minimum—none for imprisonment and none for post-release supervision

(2) All sentences for maximum terms of imprisonment for one year or more for felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. All sentences for maximum terms of imprisonment of less than one year shall be served in the county jail.

(3) Nothing in this section shall limit the authority granted in sections 29-2221 and 29-2222 to increase sentences for habitual criminals.

(4) A person convicted of a felony for which a mandatory minimum sentence is prescribed shall not be eligible for probation.

(5) All sentences of post-release supervision shall be served under the jurisdiction of the Office of Probation Administration and shall be subject to conditions imposed pursuant to section 29-2262 and subject to sanctions authorized pursuant to section 29-2266.02.

(6) Any person who is sentenced to imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony and sentenced concurrently or consecutively to imprisonment for a Class III, IIIA, or IV felony shall not be subject to post-release supervision pursuant to subsection (1) of this section.

(7) Any person who is sentenced to imprisonment for a Class III, IIIA, or IV felony committed prior to August 30, 2015, and sentenced concurrently or consecutively to imprisonment for a Class III, IIIA, or IV felony committed on or after August 30, 2015, shall not be subject to post-release supervision pursuant to subsection (1) of this section.

(8) The changes made to the penalties for Class III, IIIA, and IV felonies by Laws 2015, LB605, do not apply to any offense committed prior to August 30, 2015, as provided in section 28-116.

28-105.01 and 28-105.02. [Intentionally omitted.]

28-106. Misdemeanors; classification of penalties; sentences; where served.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I misdemeanor.....	Maximum — not more than one year imprisonment, or one thousand dollars fine, or both Minimum — none
Class II misdemeanor.....	Maximum — six months imprisonment, or one thousand dollars fine, or both Minimum — none
Class III misdemeanor.....	Maximum — three months imprisonment, or five hundred dollars fine, or both Minimum — none
Class IIIA misdemeanor.....	Maximum — seven days imprisonment, five hundred dollars fine, or both Minimum — none
Class IV misdemeanor.....	Maximum — no imprisonment, five hundred dollars fine Minimum — none
Class V misdemeanor.....	Maximum — no imprisonment, one hundred dollars fine Minimum — none
Class W misdemeanor.....	Driving under the influence or implied consent

	First conviction Maximum — sixty days imprisonment and five hundred dollars fine Mandatory minimum — seven days imprisonment and five hundred dollars fine Second conviction Maximum — six months imprisonment and five hundred dollars fine Mandatory minimum — thirty days imprisonment and five hundred dollars fine Third conviction Maximum — one year imprisonment and one thousand dollars fine Mandatory minimum — ninety days imprisonment and one thousand dollars fine

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that such sentences may be served in institutions under the jurisdiction of the Department of Correctional Services if the sentence is to be served concurrently or consecutively with a term for conviction of a felony and the combined sentences total a term of one year or more. A determinate sentence shall be imposed for a misdemeanor if the sentence is to be served concurrently or consecutively with a determinate sentence for a Class III, IIIA, or IV felony.

G. "Safe Haven" Provisions: The Newborn Safe Haven Act

43-4901. Act, how cited.

Sections 43-4901 to 43-4903 shall be known and may be cited as the Newborn Safe Haven Act.

43-4902. Public information program.

(1) Subject to available funding, it is the intent of the Legislature to appropriate sixty-five thousand dollars to the Department of Health and Human Services for fiscal year 2024-25 and ten thousand dollars each fiscal year thereafter, to develop, implement, and maintain a public information program to inform the general public of the Newborn Safe Haven Act.

(2) Components of the program shall include, but not be limited to:

(a) Creation and maintenance of a permanent, interactive website that provides information to the public about the Newborn Safe Haven Act, including authorized drop-off locations;

(b) Distribution of literature at statewide locations, as determined by the department, including the toll-free telephone number of the National Safe Haven Alliance;

(c) Development of educational, promotional, and informational materials in print, audio, video, electronic, and other media formats which includes the toll-free telephone number of the National Safe Haven Alliance; and

(d) Training to carry out the provisions of the Newborn Safe Haven Act for emergency care providers, 911 operators, hospital staff, firefighters, law enforcement officers, or any member of the public expressing an interest in such training.

43-4903. Leaving child at a hospital, a staffed fire station, a staffed law enforcement agency, or an emergency care provider; no prosecution for crime; custody of child; duty.

(1) No person shall be prosecuted for any crime based solely upon the act of leaving a child ninety days old or younger in the custody of an employee on duty at: (a) A hospital licensed by the State of Nebraska; (b) a staffed fire station; (c) a staffed law enforcement agency; or (d) an emergency care provider.

(2) The hospital, staffed fire station, staffed law enforcement agency, or emergency care provider shall promptly contact appropriate authorities to take custody of the child.

H. Statute of Limitations for Criminal Offenses:

29-110. Prosecutions; complaint, indictment, or information; filing; time limitations; exceptions.

(1) Except as otherwise provided by law, no person shall be prosecuted for any felony unless the indictment is found by a grand jury within three years next after the offense has been done or committed or unless a complaint for the same is filed before the magistrate within three years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(2) Except as otherwise provided by law, no person shall be prosecuted, tried, or punished for any misdemeanor or other indictable offense below the grade of felony or for any fine or forfeiture under any penal statute unless the suit, information, or indictment for such offense is instituted or found within one year and six months from the time of committing the offense or incurring the fine or forfeiture or within one year for any offense the punishment of which is restricted by a fine not exceeding one hundred dollars and to imprisonment not exceeding three months.

(3) Except as otherwise provided by law, no person shall be prosecuted for kidnapping under section 28-313, false imprisonment under section 28-314 or 28-315, child abuse under section 28-707, pandering under section 28-802, debauching a minor under section 28-805, or an offense under section 28-813 when the victim is under sixteen years of age at the time of the offense (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim's sixteenth birthday, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim's sixteenth birthday, whichever is later, and a warrant for the arrest of the defendant has been issued.

(4) Except as otherwise provided by law, no person shall be prosecuted for a violation of subsection (2) or (3) of section 28-831 (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim's eighteenth birthday, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim's eighteenth birthday, whichever is later, and a warrant for the arrest of the defendant has been issued.

(5) Except as otherwise provided by law, no person shall be prosecuted for an offense under section 28-1803 or 28-1804 (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim's eighteenth birthday, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been

committed or within seven years next after the victim's eighteenth birthday, whichever is later, and a warrant for the arrest of the defendant has been issued.

(6) No person shall be prosecuted for a violation of the Securities Act of Nebraska under section 8-1117 unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(7) No person shall be prosecuted for criminal impersonation under section 28-638, identity theft under section 28-639, or identity fraud under section 28-640 unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(8) No person shall be prosecuted for a violation of section 68-1017 if the aggregate value of all funds and other benefits obtained or attempted to be obtained is five hundred dollars or more unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(9) No person shall be prosecuted for knowing and intentional abuse, neglect, or exploitation of a vulnerable adult or senior adult under section 28-386 unless the indictment for such offense is found by a grand jury within six years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within six years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(10) Except as otherwise provided by law, no person shall be prosecuted for an offense under section 28-717 (a) unless the indictment for such offense is found by a grand jury within one year and six months next after the offense has been committed or within one year and six months next after the child reaches the age of majority, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within one year and six months next after the offense has been committed or within one year and six months next after the child reaches the age of majority, whichever is later, and a warrant for the arrest of the defendant has been issued.

(11) There shall not be any time limitations for prosecution or punishment for treason, murder, arson, forgery, sexual assault in the first or second degree under section 28-319 or 28-320, sexual assault of a child in the second or third degree under section 28-320.01, incest under section 28-703, sexual assault of a child in the first degree under section 28-319.01, labor trafficking of a minor or sex trafficking of a minor under subsection (1) of section 28-831, or an offense under section 28-1805; nor shall there be any time limitations for prosecution or punishment for sexual assault in the third degree under section 28-320 when the victim is under sixteen years of age at the time of the offense.

(12) The time limitations prescribed in this section shall include all inchoate offenses pursuant to the Nebraska Criminal Code and compounding a felony pursuant to section 28-301.

(13) The time limitations prescribed in this section shall not extend to any person fleeing from justice.

(14) When any suit, information, or indictment for any crime or misdemeanor is limited by any statute to be brought or exhibited within any other time than is limited by this section, then the suit, information, or indictment shall be brought or exhibited within the time limited by such statute.

(15) If any suit, information, or indictment is quashed or the proceedings set aside or reversed on writ of error, the time during the pendency of such suit, information, or indictment so quashed, set aside, or reversed shall not be reckoned within this statute so as to bar any new suit, information, or indictment for the same offense.

(16) The changes made to this section by Laws 2004, LB 943, shall apply to offenses committed prior to April 16, 2004, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(17) The changes made to this section by Laws 2005, LB 713, shall apply to offenses committed prior to September 4, 2005, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(18) The changes made to this section by Laws 2009, LB 97, and Laws 2006, LB 1199, shall apply to offenses committed prior to May 21, 2009, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(19) The changes made to this section by Laws 2010, LB809, shall apply to offenses committed prior to July 15, 2010, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(20) The changes made to this section by Laws 2016, LB934, shall apply to offenses committed prior to April 19, 2016, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(21) The changes made to this section by Laws 2019, LB519, shall apply to offenses committed prior to September 1, 2019, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

I. Justifiable Use of Force:

28-1413. Use of force by person with special responsibility for care, discipline, or safety of others.
The use of force upon or toward the person of another is justifiable if:

(1) The actor is the parent or guardian or other person similarly responsible for the general care and supervision of a minor or a person acting at the request of such parent, guardian, or other responsible person and:

(a) Such force is used for the purpose of safeguarding or promoting the welfare of the minor, including the prevention or punishment of his or her misconduct; and

(b) Such force used is not designed to cause or known to create a substantial risk of causing death, serious bodily harm, disfigurement, extreme pain or mental distress, or gross degradation;

(2) The actor is the guardian or other person similarly responsible for the general care and supervision of an incompetent person and:

(a) Such force is used for the purpose of safeguarding or promoting the welfare of the incompetent person, including the prevention of his or her misconduct, or, when such incompetent person is in a hospital or other institution for his or her care and custody, for the maintenance of reasonable discipline in such institution; and

(b) Such force used is not designed to cause or known to create a substantial risk of causing death, serious bodily harm, disfigurement, extreme or unnecessary pain, mental distress, or humiliation;

(3) The actor is a doctor or other therapist or a person assisting him or her at his or her discretion and:

(a) Such force is used for the purpose of administering a recognized form of treatment which the actor believes to be adapted to promoting the physical or mental health of the patient; and

(b) Such treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of his or her parent or guardian or other person legally competent to consent in his or her behalf or the treatment is administered in an emergency when the actor believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent;

(4) The actor is a warden or other authorized official of a correctional institution and:

(a) He or she believes that the force used is necessary for the purpose of enforcing the lawful rules or procedures of the institution, unless his or her belief in the lawfulness of the rule or procedure sought to be enforced is erroneous and his or her error is the result of ignorance or mistake as to the provisions or sections 28-1406 to 28-1416, any other provision of the criminal law, or the law governing the administration of the institution;

(b) The nature or degree of force used is not forbidden by section 28-1408 or 28-1409; and

(c) If deadly force is used, its use is otherwise justifiable under sections 28-1406 to 28-1416;

(5) The actor is a person responsible for the safety of a vessel or an aircraft or a person acting at his or her direction and:

(a) He or she believes that the force used is necessary to prevent interference with the operation of the vessel or aircraft or obstruction of the execution of a lawful order unless such belief in the lawfulness of the order is erroneous and such error is the result of ignorance or mistake as to the law defining such authority; and

(b) If deadly force is used, its use is otherwise justifiable under sections 28-1406 to 28-1416; and

(6) The actor is a person who is authorized or required by law to maintain order or decorum in a vehicle, train, or other carrier or in a place where others are assembled, and:

(a) He or she believes that the force used is necessary for such purpose; and

(b) Such force used is not designed to cause or know to create a substantial risk of causing death, bodily harm, or extreme mental distress.

J. <u>Definition of Detention Facilities</u>:

83-4,125. Detention and juvenile facilities; terms, defined.

For purposes of sections 83-4,124 to 83-4,134.02:

(1) Criminal detention facility means any institution operated by a political subdivision or a combination of political subdivisions for the careful keeping or rehabilitative needs of adult or juvenile criminal offenders or those persons being detained while awaiting disposition of charges against them. Criminal detention facility does not include any institution operated by the Department of Correctional Services. Criminal detention facilities shall be classified as follows:

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

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

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

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

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

(4) Room confinement means the involuntary restriction of a juvenile placed alone in a cell, alone in a room, or alone in another area, including a juvenile's own room, except during normal sleeping hours, whether or not such cell, room, or other area is subject to video or other electronic monitoring; and

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

K. <u>Request for Transfer of Criminal Case to Juvenile Court</u>:

29-1816. Arraignment of accused; when considered waived; accused younger than eighteen years of age; move court to waive jurisdiction to juvenile court; findings for decision; transfer to juvenile court; effect; appeal; admission, confession, or statement made by the accused; inadmissible; when.

(1)(a) The accused may be arraigned in county court or district court:

(i) If the accused was eighteen years of age or older when the alleged offense was committed;

(ii) If the accused was younger than eighteen years of age and was fourteen years of age or older when an alleged offense punishable as a Class I, IA, IB, IC, ID, II, or IIA felony was committed; or

(iii) If the alleged offense is a traffic offense as defined in section 43-245.

(b) Arraignment in county court or district court shall be by reading to the accused the complaint or information, unless the reading is waived by the accused when the nature of the charge is made known to him or her. The accused shall then be asked whether he or she is guilty or not guilty of the offense charged. If the accused appears in person and by counsel and goes to trial before a jury regularly impaneled and sworn, he or she shall be deemed to have waived arraignment and a plea of not guilty shall be deemed to have been made.

(2) At the time of the arraignment, the county court or district court shall advise the accused, if the accused was younger than eighteen years of age at the time the alleged offense was committed, that the accused may move the county court or district court at any time not later than thirty days after arraignment, unless otherwise permitted by the court for good cause shown, to waive jurisdiction in such case to the juvenile court for further proceedings under the Nebraska Juvenile Code. This subsection does not apply if the case was transferred to county court or district court from juvenile court.

(3) For motions to transfer a case from the county court or district court to juvenile court:

(a) The county court or district court shall schedule a hearing on such motion within fifteen days. The customary rules of evidence shall not be followed at such hearing. The accused shall be represented by an attorney. The criteria set forth in section 43-276 shall be considered at such hearing. After considering all the evidence and reasons presented by both parties, the case shall be transferred to juvenile court unless a sound basis exists for retaining the case in county court or district court; and

(b) The county court or district court shall make a decision on such motion within thirty days after the hearing and shall set forth findings for the reason for its decision. If the county court or district court determines that the accused should be transferred to the juvenile court, the complete file in the county court or district court shall be transferred to the juvenile court and the complaint, indictment, or information may be used in place of a petition therein. The county court or district court making a transfer shall order the accused to be taken forthwith to the juvenile court and designate where the juvenile shall be kept pending determination by the juvenile court. The juvenile court shall then proceed as provided in the Nebraska Juvenile Code.

(4) An order granting or denying transfer of the case from county or district court to juvenile court shall be considered a final order for the purposes of appeal. Upon entry of an order, any party may appeal to the Court of Appeals within ten days. Such review shall be advanced on the court docket without an extension of time granted to any party except upon a showing of exceptional cause. Appeals shall be submitted, assigned, and scheduled for oral argument as soon as the appellee's brief is due to be filed. The Court of Appeals shall conduct its review in an expedited manner and shall render the judgment and opinion, if any, as speedily as possible. During the pendency of an appeal from an order transferring the case to juvenile court, the juvenile court may enter temporary orders in the best interests of the juvenile.

(5)(a) Except as provided in subdivision (5)(b) of this section, any admission, confession, or statement made by the accused to a psychiatrist, psychologist, therapist, or licensed mental health practitioner for purposes of a motion to transfer a case from county court or district court to juvenile court shall be inadmissible in any criminal or civil proceeding.

(b) Subdivision (5)(a) of this section does not prevent any such admission, confession, or statement from being:

(i) Admissible in proceedings relating to such motion to transfer;

(ii) Admissible in disposition proceedings of such accused under the Nebraska Juvenile Code if the case is transferred to juvenile court;

(iii) Included in any presentence investigation report for such accused if the case is not transferred to juvenile court; and

(iv) Admissible in such case to impeach such accused during cross-examination if the accused testifies at trial or during juvenile court proceedings and such testimony is materially inconsistent with a prior statement made by the accused to a psychiatrist, psychologist, therapist, or licensed mental health practitioner for purposes of the motion to transfer such case.

(6) When the accused was younger than eighteen years of age when an alleged offense was committed, the county attorney or city attorney shall proceed under section 43-274.

L. Unlawful Possession of a Firearm by a Prohibited Juvenile Offender:

28-1204.05. Unlawful possession of a firearm by a prohibited juvenile offender; penalty; exceptions; reinstatement of right to possess firearm; procedure; court; considerations; order; how construed.

(1) Except as provided in subsections (3) and (4) of this section, a person under the age of twenty-five years who knowingly possesses a firearm commits the offense of possession of a firearm by a prohibited juvenile offender if he or she has previously been adjudicated an offender in juvenile court for an act which would constitute a felony or an act which would constitute a misdemeanor crime of domestic violence. This subsection includes an adjudication for which a juvenile record has been sealed upon termination of probation.

(2) Possession of a firearm by a prohibited juvenile offender is a Class IV felony for a first offense and a Class IIIA felony for a second or subsequent offense.

(3) Subsection (1) of this section does not apply to the possession of firearms by members of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers' Training Corps or peace officers or other duly authorized law enforcement officers when on duty or training.

(4)(a) Prior to reaching the age of twenty-five years, a person subject to the prohibition of subsection (1) of this section may file a petition for exemption from such prohibition and thereby have his or her right to possess a firearm reinstated. A petitioner who is younger than nineteen years of age shall petition the juvenile court in which he or she was adjudicated for the underlying offense. A petitioner who is nineteen years of age or older shall petition the district court in the county in which he or she resides.

(b) In determining whether to grant a petition filed under subdivision (4)(a) of this section, the court shall consider:

(i) The behavior of the person after the underlying adjudication;

(ii) The likelihood that the person will engage in further criminal activity; and

(iii) Any other information the court considers relevant.

(c) The court may grant a petition filed under subdivision (4)(a) of this section and issue an order exempting the person from the prohibition of subsection (1) of this section when in the opinion of the court the order will be in the best interests of the person and consistent with the public welfare.

(5) The fact that a person subject to the prohibition under subsection (1) of this section has reached the age of twenty-five or that a court has granted a petition under subdivision (4)(a) of this section shall not be construed to mean that such adjudication has been set aside. Nothing in this section shall be construed to authorize the setting aside of such an adjudication or conviction except as otherwise provided by law.

(6) For purposes of this section, misdemeanor crime of domestic violence has the same meaning as in section 28-1206.

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