

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 870

Introduced by Pansing Brooks, 28; Ebke, 32; Howard, 9; Krist, 10;
Morfeld, 46; Quick, 35; Wishart, 27.

Read first time January 05, 2018

Committee:

- 1 A BILL FOR AN ACT relating to juvenile facilities; to amend section
- 2 83-4,134.01, Revised Statutes Cumulative Supplement, 2016; to
- 3 provide for room confinement for juveniles as prescribed; to
- 4 harmonize provisions; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-4,134.01, Revised Statutes Cumulative
2 Supplement, 2016, is amended to read:

3 83-4,134.01 (1) It is the intent of the Legislature to establish a
4 system of investigation and performance review in order to provide
5 increased accountability and oversight regarding the use of room
6 confinement for juveniles in a juvenile facility.

7 (2) The following and section 2 of this act shall apply regarding
8 placement in room confinement of a juvenile in a juvenile facility:

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

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

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

1 the general population of the juvenile facility were unsuccessful. The
2 report shall also detail all corrective measures taken in response to
3 noncompliance with this section. The report shall be delivered
4 electronically to the Legislature. The initial quarterly report shall be
5 submitted within two weeks after the quarter ending on September 30,
6 2016. Subsequent reports shall be submitted for the ensuing quarters
7 within two weeks after the end of each quarter; and

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

17 Sec. 2. (1) For purposes of this section:

18 (a) Juvenile facility means any facility operated by the Department
19 of Correctional Services or by any county that houses youth under the age
20 of majority or a youth rehabilitation and treatment center; and

21 (b) Room confinement has the definition found in section 83-4,125.

22 (2) A juvenile shall not be placed in room confinement for any of
23 the following reasons:

24 (a) As a punishment or a disciplinary sanction;

25 (b) Due to a staffing shortage; or

26 (c) For purposes of retaliation by staff.

27 (3) A juvenile shall not be placed in room confinement unless all
28 other less-restrictive alternatives have been exhausted and the juvenile
29 poses an immediate and substantial risk of harm to self or others.

30 (4) A juvenile may only be held in room confinement according to the
31 following conditions:

1 (a) A juvenile shall not be held in room confinement longer than the
2 minimum time required to eliminate the substantial and immediate risk of
3 harm to self or others and shall be released from room confinement as
4 soon as the substantial and immediate risk of harm to self or others is
5 resolved; and

6 (b) A juvenile shall only be held in room confinement for a period
7 that does not compromise or harm the mental or physical health of the
8 juvenile.

9 (5) Any juvenile placed in room confinement shall be released
10 immediately upon regaining sufficient control so as to no longer engage
11 in behavior that threatens substantial and immediate risk of harm to
12 himself or herself or to others or not later than (a) three hours after
13 being placed in room confinement, in the case of a juvenile who poses a
14 substantial and immediate risk of physical harm to others or (b) thirty
15 minutes after being placed in room confinement, in the case of a juvenile
16 who poses a serious and immediate risk of physical harm to himself or
17 herself.

18 (6) Upon release from room confinement, the juvenile must be
19 returned to the general population. If, after the maximum time period
20 allowed for room confinement, the juvenile still poses a serious and
21 immediate risk of harm to himself or herself or to others, the juvenile
22 may instead be:

23 (a) Transported to a mental health facility upon the recommendation
24 of a mental health professional;

25 (b) Transferred to the medical unit in the juvenile facility; or

26 (c) Provided special individualized programming within the general
27 population of the juvenile facility that provides concrete goals that the
28 juvenile understands and that he or she can work toward to be removed
29 from special programming.

30 (7) Not later than one business day after the date on which a
31 juvenile facility places a juvenile in room confinement, the facility

1 shall provide notice of the placement in room confinement to the attorney
2 of record for the juvenile. Not later than twenty-four hours after a
3 juvenile is transferred from a juvenile facility to another location, the
4 facility shall provide notice of such transfer and placement to an
5 authorized parent or guardian of the juvenile and the attorney of record
6 for the juvenile.

7 (8) All rooms used for room confinement shall have adequate and
8 operating lighting, heating and cooling, and ventilation for the comfort
9 of the juvenile. Rooms shall be clean and resistant to suicide and self-
10 harm. Juveniles in room confinement shall have access to drinking water,
11 toilet facilities, hygiene supplies, and reading materials approved by a
12 licensed mental health professional.

13 (9) Juveniles in room confinement shall have the same access as
14 provided to juveniles in the general population of the facility to meals,
15 contact with parents or legal guardians, legal assistance, and access to
16 educational programming.

17 (10) Juveniles in room confinement shall have access to appropriate
18 medical and mental health services. Mental health staff shall promptly
19 provide mental health services as needed.

20 (11) Juveniles in room confinement shall be continuously monitored
21 by staff of the facility.

22 (12) The use of consecutive periods of room confinement to avoid the
23 spirit and purpose of this section is prohibited.

24 Sec. 3. Original section 83-4,134.01, Revised Statutes Cumulative
25 Supplement, 2016, is repealed.