

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 906**

Introduced by DeBoer, 10.

Read first time January 10, 2020

Committee:

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-728 and 28-730, Reissue Revised Statutes of Nebraska; to provide
- 3 for maintenance of and restrictions on the release and use of video
- 4 recordings of forensic interviews; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-728, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 28-728 (1) The Legislature finds that child abuse and neglect are  
4 community problems requiring a coordinated response by law enforcement,  
5 child advocacy centers, prosecutors, the Department of Health and Human  
6 Services, and other agencies or entities designed to protect children. It  
7 is the intent of the Legislature to create a child abuse and neglect  
8 investigation team in each county or contiguous group of counties and to  
9 create a child abuse and neglect treatment team in each county or  
10 contiguous group of counties.

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

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

31 (a) Mandatory reporting of child abuse and neglect as outlined in

1 section 28-711 to include training to professionals on identification and  
2 reporting of abuse;

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

5 (c) Outlining how reports will be shared between law enforcement and  
6 the Department of Health and Human Services under sections 28-712.01 and  
7 28-713;

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

10 (i) Defining cases that require a priority response;

11 (ii) Contacting the reporting party;

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

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

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

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

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

28 (viii) Interviewing the alleged perpetrator;

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

31 (f) Ensuring that the child is in safe surroundings, including

1 removing the perpetrator when necessary or arranging for temporary  
2 custody of the child when the child is seriously endangered in his or her  
3 surroundings and immediate removal appears to be necessary for the  
4 child's protection as provided in section 43-248;

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

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

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

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

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

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

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

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

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

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

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

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

8 Sec. 2. Section 28-730, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 28-730 (1) Notwithstanding any other provision of law regarding the  
11 confidentiality of records and when not prohibited by the federal Privacy  
12 Act of 1974, as amended, juvenile court records and any other pertinent  
13 information that may be in the possession of school districts, law  
14 enforcement agencies, county attorneys, the Attorney General, the  
15 Department of Health and Human Services, child advocacy centers, and  
16 other team members concerning a child whose case is being investigated or  
17 discussed by a child abuse and neglect investigation team or a child  
18 abuse and neglect treatment team shall be shared with the respective team  
19 members as part of the discussion and coordination of efforts for  
20 investigative or treatment purposes. Upon request by a team, any  
21 individual or agency with information or records concerning a particular  
22 child shall share all relevant information or records with the team as  
23 determined by the team pursuant to the appropriate team protocol. Only a  
24 team which has accepted the child's case for investigation or treatment  
25 shall be entitled to access to such information.

26 (2) All information acquired by a team member or other individuals  
27 pursuant to protocols developed by the team shall be confidential and  
28 shall not be disclosed except to the extent necessary to perform case  
29 consultations, to carry out a treatment plan or recommendations, or for  
30 use in a legal proceeding instituted by a county attorney or the Child  
31 Protection Division of the office of the Attorney General. Information,

1 documents, or records otherwise available from the original sources shall  
2 not be immune from discovery or use in any civil or criminal action  
3 merely because the information, documents, or records were presented  
4 during a case consultation if the testimony sought is otherwise  
5 permissible and discoverable. Any person who presented information before  
6 the team or who is a team member shall not be prevented from testifying  
7 as to matters within the person's knowledge.

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

18 (4) A member of a team who publicly discloses information regarding  
19 a case consultation in a manner not consistent with sections 28-728 to  
20 28-730 shall be guilty of a Class III misdemeanor.

21 (5) The child advocacy center where a forensic interview is  
22 conducted may maintain a video recording of the forensic interview or  
23 designate a law enforcement agency to do so. Such maintenance shall be in  
24 accordance with child abuse and neglect investigation team protocols  
25 established pursuant to section 28-728. The recording may be maintained  
26 digitally if adequate security measures are in place to ensure no  
27 unauthorized access.

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

31 (7) A custodian of a video recording of a forensic interview shall

1 not release or use the video recording or copies of such recording or  
2 consent, by commission or omission, to the release or use of the video  
3 recording or copies to or by any other party without a court order,  
4 notwithstanding any consent or release by the child victim or child  
5 witness, except that:

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

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

13 (c) Any custodian shall release or consent to the release or use of  
14 the video recording upon request pursuant to an investigation under the  
15 Office of Inspector General of Nebraska Child Welfare Act; and

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

24 Sec. 3. Original sections 28-728 and 28-730, Reissue Revised  
25 Statutes of Nebraska, are repealed.