

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 927

Introduced by Howard, 9.

Read first time January 09, 2018

Committee:

1 A BILL FOR AN ACT relating to juveniles; to amend sections 29-2258,
2 29-2260.02, 43-247.02, 43-258, 43-281, 43-284, and 43-290.01,
3 Reissue Revised Statutes of Nebraska, and sections 43-254, 43-286,
4 and 43-2,129, Revised Statutes Supplement, 2017; to change duties of
5 the Office of Probation Administration, the Division of Children and
6 Family Services of the Department of Health and Human Services, the
7 Department of Health and Human Services, and juvenile courts
8 relating to juveniles in out-of-home placement as prescribed; to
9 change provisions relating to placement, care, custody, evaluations,
10 and payment of costs; to harmonize provisions; and to repeal the
11 original sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2258, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 29-2258 A district probation officer shall:

4 (1) Conduct juvenile intake interviews and investigations in
5 accordance with sections 43-253 and 43-260.01 and, beginning October 1,
6 2013, and until July 1, 2019, supervise delivery of preadjudication
7 juvenile services under subdivision (6) of section 43-254;

8 (2) Make presentence and other investigations, as may be required by
9 law or directed by a court in which he or she is serving;

10 (3) Supervise probationers in accordance with the rules and
11 regulations of the office and the directions of the sentencing court;

12 (4) Advise the sentencing court, in accordance with the Nebraska
13 Probation Administration Act and such rules and regulations of the
14 office, of violations of the conditions of probation by individual
15 probationers;

16 (5) Advise the sentencing court, in accordance with the rules and
17 regulations of the office and the direction of the court, when the
18 situation of a probationer may require a modification of the conditions
19 of probation or when a probationer's adjustment is such as to warrant
20 termination of probation;

21 (6) Provide each probationer with a statement of the period and
22 conditions of his or her probation;

23 (7) Whenever necessary, exercise the power of arrest as provided in
24 sections 29-2266.01 and 29-2266.02 or exercise the power of temporary
25 custody as provided in section 43-286.01;

26 (8) Establish procedures for the direction and guidance of deputy
27 probation officers under his or her jurisdiction and advise such officers
28 in regard to the most effective performance of their duties;

29 (9) Supervise and evaluate deputy probation officers under his or
30 her jurisdiction;

31 (10) Delegate such duties and responsibilities to a deputy probation

1 officer as he or she deems appropriate;

2 (11) Make such reports as required by the administrator, the judges
3 of the probation district in which he or she serves, or the Supreme
4 Court;

5 (12) Keep accurate and complete accounts of all money or property
6 collected or received from probationers and give receipts therefor;

7 (13) Cooperate fully with and render all reasonable assistance to
8 other probation officers;

9 (14) In counties with a population of less than twenty-five thousand
10 people, participate in pretrial diversion programs established pursuant
11 to sections 29-3601 to 29-3604 and juvenile pretrial diversion programs
12 established pursuant to sections 43-260.02 to 43-260.07 as requested by
13 judges of the probation district in which he or she serves or as
14 requested by a county attorney and approved by the judges of the
15 probation district in which he or she serves, except that participation
16 in such programs shall not require appointment of additional personnel
17 and shall be consistent with the probation officer's current caseload;

18 (15) Participate, at the direction of the probation administrator
19 pursuant to an interlocal agreement which meets the requirements of
20 section 29-2255, in non-probation-based programs and services;

21 (16) Perform such other duties not inconsistent with the Nebraska
22 Probation Administration Act or the rules and regulations of the office
23 as a court may from time to time direct; and

24 (17) Exercise all powers and perform all duties necessary and proper
25 to carry out his or her responsibilities.

26 Sec. 2. Section 29-2260.02, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 ~~29-2260.02~~ The Department of Health and Human Services, as the
29 single state agency administering the Title IV-E state plan, has the
30 authority to enter into the agreement with the Office of Probation
31 Administration to act as a surrogate of the Department of Health and

1 Human Services to administer the Title IV-E state plan for children it
2 has placement and care authority of. The Department of Health and Human
3 Services as the public agency administering or supervising the
4 administration of the Title IV-E state plan in accordance with section
5 472(a)(2)(B)(ii) of the federal Social Security Act, 42 U.S.C. 672(a)(2)
6 (B)(ii), to obtain federal reimbursement for allowable maintenance,
7 administrative, and training expenses in accordance with Title IV-E of
8 the federal Social Security Act, Public Law 96-272, Public Law 105-89,
9 and Public Law 110-351, maintains the ultimate responsibility to
10 supervise the Office of Probation Administration's activities regarding
11 the Title IV-E requirements for eligible children served under the
12 agreement.

13 Until July 1, 2019, the ~~The~~ Office of Probation Administration has
14 placement and care responsibility for juveniles in out-of-home placement,
15 also known as foster care, described in subdivision (1), (2), (3)(b), or
16 (4) of section 43-247. On and after July 1, 2019, the Division of
17 Children and Family Services of the Department of Health and Human
18 Services shall have placement and care responsibility for such juveniles.

19 Placement and care constitutes accountability for the day-to-day care and
20 protection of juveniles. The responsibility of having placement and care
21 includes the development of an individual case plan for the juvenile,
22 including periodic review of the appropriateness and suitability of the
23 plan and the foster care placement, to ensure that proper care and
24 services are provided to facilitate return to the juvenile's own home or
25 to make an alternative placement. The case plan activities include such
26 items as assessing family strength and needs, identifying and using
27 community resources, and the periodic review and determination of
28 continued appropriateness of placement. Placement and care does not
29 include rights retained by the legal custodian, including, but not
30 limited to, provisions and decisions surrounding education, morality,
31 religion, discipline, and medical care.

1 Sec. 3. Section 43-247.02, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 43-247.02 (1) Notwithstanding any other provision of Nebraska law,
4 on and after October 1, 2013, and until July 1, 2019, a juvenile court
5 shall not:

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

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

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

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

27 (2) Notwithstanding any other provision of Nebraska law, on and
28 after July 1, 2013, a juvenile court shall not commit a juvenile to the
29 Office of Juvenile Services for placement at a youth rehabilitation and
30 treatment center except as part of an order of intensive supervised
31 probation under subdivision (1)(b)(ii) of section 43-286.

1 (3) Nothing in this section shall be construed to limit the
2 authority or duties of the Department of Health and Human Services in
3 relation to juveniles adjudicated under subdivision (1), (2), (3)(b), or
4 (4) of section 43-247 who were committed to the care and custody of the
5 Department of Health and Human Services prior to October 1, 2013, to the
6 Office of Juvenile Services for community-based services prior to October
7 1, 2013, or to the Office of Juvenile Services for placement at a youth
8 rehabilitation and treatment center prior to July 1, 2013. The care and
9 custody of such juveniles with the Department of Health and Human
10 Services or the Office of Juvenile Services shall continue in accordance
11 with the Nebraska Juvenile Code and the Juvenile Services Act as such
12 acts existed on January 1, 2013, until:

13 (a) The juvenile reaches the age of majority;

14 (b) The juvenile is no longer under the care and custody of the
15 department pursuant to a court order or for any other reason, a guardian
16 other than the department is appointed for the juvenile, or the juvenile
17 is adopted;

18 (c) The juvenile is discharged pursuant to section 43-412, as such
19 section existed on January 1, 2013; or

20 (d) A juvenile court terminates its jurisdiction of the juvenile.

21 Sec. 4. Section 43-254, Revised Statutes Supplement, 2017, is
22 amended to read:

23 43-254 Pending the adjudication of any case, and subject to
24 subdivision (5) of section 43-251.01, if it appears that the need for
25 placement or further detention exists, the juvenile may be (1) placed or
26 detained a reasonable period of time on order of the court in the
27 temporary custody of either the person having charge of the juvenile or
28 some other suitable person, (2) kept in some suitable place provided by
29 the city or county authorities, (3) placed in any proper and accredited
30 charitable institution, (4) placed in a state institution, except any
31 adult correctional facility, when proper facilities are available and the

1 only local facility is a city or county jail, at the expense of the
2 committing county on a per diem basis as determined from time to time by
3 the head of the particular institution, (5) placed in the temporary care
4 and custody of the Department of Health and Human Services when it does
5 not appear that there is any need for secure detention, except that
6 beginning October 1, 2013, and until July 1, 2019, no juvenile alleged to
7 be a juvenile described in subdivision (1), (2), (3)(b), or (4) of
8 section 43-247 shall be placed in the care and custody or under the
9 supervision of the Department of Health and Human Services, or (6)
10 beginning October 1, 2013, and until July 1, 2019, offered supervision
11 options as determined pursuant to section 43-260.01, through the Office
12 of Probation Administration as ordered by the court and agreed to in
13 writing by the parties, if the juvenile is alleged to be a juvenile
14 described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and
15 it does not appear that there is any need for secure detention. The court
16 may assess the cost of such placement or detention in whole or in part to
17 the parent of the juvenile as provided in section 43-290.

18 If a juvenile has been removed from his or her parent, guardian, or
19 custodian pursuant to subdivision (2) of section 43-248, the court may
20 enter an order continuing detention or placement upon a written
21 determination that continuation of the juvenile in his or her home would
22 be contrary to the health, safety, or welfare of such juvenile and that
23 reasonable efforts were made to preserve and reunify the family if
24 required under section 43-283.01.

25 Sec. 5. Section 43-258, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 43-258 (1) Pending the adjudication of any case under the Nebraska
28 Juvenile Code, the court may order the juvenile examined by a physician,
29 surgeon, psychiatrist, duly authorized community mental health service
30 program, or psychologist to aid the court in determining (a) a material
31 allegation in the petition relating to the juvenile's physical or mental

1 condition, (b) the juvenile's competence to participate in the
2 proceedings, (c) the juvenile's responsibility for his or her acts, or
3 (d) whether or not to provide emergency medical treatment.

4 (2)(a) Pending the adjudication of any case under the Nebraska
5 Juvenile Code and after a showing of probable cause that the juvenile is
6 within the court's jurisdiction, for the purposes of subsection (1) of
7 this section, the court may order such juvenile to be placed with the
8 Department of Health and Human Services for evaluation, except that on
9 and after October 1, 2013, and until July 1, 2019, no juvenile alleged to
10 be a juvenile as described in subdivision (1), (2), (3)(b), or (4) of
11 section 43-247 shall be placed with the Department of Health and Human
12 Services. If a juvenile is placed with the Department of Health and Human
13 Services under this subdivision, the department shall make arrangements
14 for an appropriate evaluation. The department shall determine whether the
15 evaluation will be made on a residential or nonresidential basis. On and
16 after October 1, 2013, and until July 1, 2019, placement ~~Placement~~ with
17 the department for the purposes of this section shall be for a period not
18 to exceed thirty days. If necessary to complete the evaluation, the court
19 may order an extension not to exceed an additional thirty days. Any
20 temporary placement of a juvenile made under this section shall be in the
21 least restrictive environment consistent with the best interests of the
22 juvenile and the safety of the community. On and after July 1, 2019, the
23 court may order such juvenile to be placed with the Division of Children
24 and Family Services of the Department of Health and Human Services for
25 evaluation.

26 (b) Beginning October 1, 2013, and until July 1, 2019, pending the
27 adjudication of any case in which a juvenile is alleged to be a juvenile
28 as described in subdivision (1), (2), (3)(b), or (4) of section 43-247
29 and after a showing of probable cause that the juvenile is within the
30 court's jurisdiction, for the purposes of subsection (1) of this section,
31 the court may order an evaluation to be arranged by the Office of

1 Probation Administration. On and after July 1, 2019, the court may order
2 such evaluation to be arranged by the division. Any temporary placement
3 of a juvenile made under this section shall be in the least restrictive
4 environment consistent with the best interests of the juvenile and the
5 safety of the community.

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

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

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

21 Sec. 6. Section 43-281, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 43-281 (1) Following an adjudication of jurisdiction and prior to
24 final disposition, the court may place the juvenile with the Office of
25 Juvenile Services or the Department of Health and Human Services for
26 evaluation, except that on and after October 1, 2013, and until July 1,
27 2019, no juvenile adjudicated under subdivision (1), (2), (3)(b), or (4)
28 of section 43-247 shall be placed with the office or the department. The
29 office or department shall arrange and pay for an appropriate evaluation
30 if the office or department determines that there are no parental funds
31 or private or public insurance available to pay for such evaluation,

1 except that on and after October 1, 2013, and until July 1, 2019, the
2 office and the department shall not be responsible for such evaluations
3 of any juvenile adjudicated under subdivision (1), (2), (3)(b), or (4) of
4 section 43-247.

5 (2) On and after October 1, 2013, and until July 1, 2019, following
6 an adjudication of jurisdiction under subdivision (1), (2), (3)(b), or
7 (4) of section 43-247 and prior to final disposition, the court may order
8 an evaluation to be arranged by the Office of Probation Administration.
9 On and after July 1, 2019, the court may order such evaluation to be
10 arranged by the Division of Children and Family Services of the
11 Department of Health and Human Services. For a juvenile in detention, the
12 court shall order that such evaluation be completed and the juvenile
13 returned to the court within twenty-one days after the evaluation. For a
14 juvenile who is not in detention, the evaluation shall be completed and
15 the juvenile returned to the court within thirty days. The physician,
16 psychologist, licensed mental health practitioner, licensed drug and
17 alcohol counselor, or other provider responsible for completing the
18 evaluation shall have up to ten days to complete the evaluation after
19 receiving the referral authorizing the evaluation.

20 (3) A juvenile pending evaluation ordered under subsection (1) or
21 (2) of this section shall not reside in a detention facility at the time
22 of the evaluation or while waiting for the completed evaluation to be
23 returned to the court unless detention of such juvenile is a matter of
24 immediate and urgent necessity for the protection of such juvenile or the
25 person or property of another or if it appears that such juvenile is
26 likely to flee the jurisdiction of the court.

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

31 Sec. 7. Section 43-284, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-284 When any juvenile is adjudged to be under subdivision (3),
3 (4), or (8) of section 43-247, the court may permit such juvenile to
4 remain in his or her own home subject to supervision or may make an order
5 committing the juvenile to (1) the care of some suitable institution, (2)
6 inpatient or outpatient treatment at a mental health facility or mental
7 health program, (3) the care of some reputable citizen of good moral
8 character, (4) the care of some association willing to receive the
9 juvenile embracing in its objects the purpose of caring for or obtaining
10 homes for such juveniles, which association shall have been accredited as
11 provided in section 43-296, (5) the care of a suitable family, or (6) the
12 care and custody of the Department of Health and Human Services, except
13 that a juvenile who is adjudicated to be a juvenile described in
14 subdivision (3)(b) or (4) of section 43-247 shall not be committed to the
15 care and custody or supervision of the department on or after October 1,
16 2013, and on or before July 1, 2019.

17 Under subdivision (1), (2), (3), (4), or (5) of this section, upon a
18 determination by the court that there are no parental, private, or other
19 public funds available for the care, custody, education, and maintenance
20 of a juvenile, the court may order a reasonable sum for the care,
21 custody, education, and maintenance of the juvenile to be paid out of a
22 fund which shall be appropriated annually by the county where the
23 petition is filed until suitable provisions may be made for the juvenile
24 without such payment.

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

29 The court may enter a dispositional order removing a juvenile from
30 his or her home upon a written determination that continuation in the
31 home would be contrary to the health, safety, or welfare of such juvenile

1 and that reasonable efforts to preserve and reunify the family have been
2 made if required under section 43-283.01.

3 Sec. 8. Section 43-286, Revised Statutes Supplement, 2017, is
4 amended to read:

5 43-286 (1) When any juvenile is adjudicated to be a juvenile
6 described in subdivision (1), (2), or (4) of section 43-247:

7 (a)(i) This subdivision applies until October 1, 2013, and on and
8 after July 1, 2019. The court may continue the dispositional portion of
9 the hearing, from time to time upon such terms and conditions as the
10 court may prescribe, including an order of restitution of any property
11 stolen or damaged or an order requiring the juvenile to participate in
12 community service programs, if such order is in the interest of the
13 juvenile's reformation or rehabilitation, and, subject to the further
14 order of the court, may:

15 (A) Place the juvenile on probation subject to the supervision of a
16 probation officer;

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

20 (C) Cause the juvenile to be placed in a suitable family home or
21 institution, subject to the supervision of the probation officer. If the
22 court has committed the juvenile to the care and custody of the
23 Department of Health and Human Services, the department shall pay the
24 costs of the suitable family home or institution which are not otherwise
25 paid by the juvenile's parents.

26 Under subdivision (1)(a)(i) of this section, upon a determination by
27 the court that there are no parental, private, or other public funds
28 available for the care, custody, and maintenance of a juvenile, the court
29 may order a reasonable sum for the care, custody, and maintenance of the
30 juvenile to be paid out of a fund which shall be appropriated annually by
31 the county where the petition is filed until a suitable provision may be

1 made for the juvenile without such payment.

2 (ii) This subdivision applies beginning October 1, 2013, and until
3 July 1, 2019. The court may continue the dispositional portion of the
4 hearing, from time to time upon such terms and conditions as the court
5 may prescribe, including an order of restitution of any property stolen
6 or damaged or an order requiring the juvenile to participate in community
7 service programs, if such order is in the interest of the juvenile's
8 reformation or rehabilitation, and, subject to the further order of the
9 court, may:

10 (A) Place the juvenile on probation subject to the supervision of a
11 probation officer; or

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

15 (b)(i) This subdivision applies to all juveniles committed to the
16 Office of Juvenile Services prior to July 1, 2013. The court may commit
17 such juvenile to the Office of Juvenile Services, but a juvenile under
18 the age of fourteen years shall not be placed at the Youth Rehabilitation
19 and Treatment Center-Geneva or the Youth Rehabilitation and Treatment
20 Center-Kearney unless he or she has violated the terms of probation or
21 has committed an additional offense and the court finds that the
22 interests of the juvenile and the welfare of the community demand his or
23 her commitment. This minimum age provision shall not apply if the act in
24 question is murder or manslaughter.

25 (ii) This subdivision applies to all juveniles committed to the
26 Office of Juvenile Services for placement at a youth rehabilitation and
27 treatment center on or after July 1, 2013.

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

1 follows:

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

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

8 (I) All levels of probation supervision have been exhausted;

9 (II) All options for community-based services have been exhausted;
10 and

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

15 After the hearing, the court may commit such juvenile to the Office
16 of Juvenile Services for placement at a youth rehabilitation and
17 treatment center as a condition of an order of intensive supervised
18 probation. Upon commitment by the court to the Office of Juvenile
19 Services, the court shall immediately notify the Office of Juvenile
20 Services of the commitment. Intensive supervised probation for purposes
21 of this subdivision means that the Office of Juvenile Services shall be
22 responsible for the care and custody of the juvenile until the Office of
23 Juvenile Services discharges the juvenile from commitment to the Office
24 of Juvenile Services. Upon discharge of the juvenile, the court shall
25 hold a review hearing on the conditions of probation and enter any order
26 allowed under subdivision (1)(a) of this section.

27 The Office of Juvenile Services shall notify those required to be
28 served by sections 43-262 to 43-267, all interested parties, and the
29 committing court of the pending discharge of a juvenile from the youth
30 rehabilitation and treatment center sixty days prior to discharge and
31 again in every case not less than thirty days prior to discharge. Upon

1 notice of pending discharge by the Office of Juvenile Services, the court
2 shall set a continued disposition hearing in anticipation of reentry. The
3 Office of Juvenile Services shall work in collaboration with the Office
4 of Probation Administration or, on and after July 1, 2019, the Division
5 of Children and Family Services of the Department of Health and Human
6 Services, as appropriate, in developing an individualized reentry plan
7 for the juvenile as provided in section 43-425. The Office of Juvenile
8 Services shall provide a copy of the individualized reentry plan to the
9 juvenile, the juvenile's attorney, and the county attorney or city
10 attorney prior to the continued disposition hearing. At the continued
11 disposition hearing, the court shall review and approve or modify the
12 individualized reentry plan, place the juvenile under probation
13 supervision, and enter any other order allowed by law. No hearing is
14 required if all interested parties stipulate to the individualized
15 reentry plan by signed motion. In such a case, the court shall approve
16 the conditions of probation, approve the individualized reentry plan, and
17 place the juvenile under probation supervision.

18 The Office of Juvenile Services is responsible for transportation of
19 the juvenile to and from the youth rehabilitation and treatment center.
20 The Office of Juvenile Services may contract for such services. A plan
21 for a juvenile's transport to return to the community shall be a part of
22 the individualized reentry plan. The Office of Juvenile Services may
23 approve family to provide such transport when specified in the
24 individualized reentry plan; or

25 (c) Beginning July 1, 2013, and until October 1, 2013, the court may
26 commit such juvenile to the Office of Juvenile Services for community
27 supervision.

28 (2) When any juvenile is found by the court to be a juvenile
29 described in subdivision (3)(b) of section 43-247, the court may enter
30 such order as it is empowered to enter under subdivision (1)(a) of this
31 section or until October 1, 2013, enter an order committing or placing

1 the juvenile to the care and custody of the Department of Health and
2 Human Services.

3 (3) When any juvenile is adjudicated to be a juvenile described in
4 subdivision (1), (2), (3)(b), or (4) of section 43-247 because of a
5 nonviolent act or acts and the juvenile has not previously been
6 adjudicated to be such a juvenile because of a violent act or acts, the
7 court may, with the agreement of the victim, order the juvenile to attend
8 juvenile offender and victim mediation with a mediator or at an approved
9 center selected from the roster made available pursuant to section
10 25-2908.

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

15 (5)(a) When a juvenile is placed on probation or under the
16 supervision of the court and it is alleged that the juvenile is again a
17 juvenile described in subdivision (1), (2), (3)(b), or (4) of section
18 43-247, a petition may be filed and the same procedure followed and
19 rights given at a hearing on the original petition. If an adjudication is
20 made that the allegations of the petition are true, the court may make
21 any disposition authorized by this section for such adjudications and the
22 county attorney may file a motion to revoke the juvenile's probation.

23 (b) When a juvenile is placed on probation or under the supervision
24 of the court for conduct under subdivision (1), (2), (3)(b), or (4) of
25 section 43-247 and it is alleged that the juvenile has violated a term of
26 probation or supervision or that the juvenile has violated an order of
27 the court, a motion to revoke probation or supervision or to change the
28 disposition may be filed and proceedings held as follows:

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

1 (ii) The juvenile shall be entitled to a hearing before the court to
2 determine the validity of the allegations. At such hearing the juvenile
3 shall be entitled to those rights relating to counsel provided by section
4 43-272 and those rights relating to detention provided by sections 43-254
5 to 43-256. The juvenile shall also be entitled to speak and present
6 documents, witnesses, or other evidence on his or her own behalf. He or
7 she may confront persons who have given adverse information concerning
8 the alleged violations, may cross-examine such persons, and may show that
9 he or she did not violate the conditions of his or her probation or
10 supervision or an order of the court or, if he or she did, that
11 mitigating circumstances suggest that the violation does not warrant
12 revocation of probation or supervision or a change of disposition. The
13 hearing shall be held within a reasonable time after the juvenile is
14 taken into custody;

15 (iii) The hearing shall be conducted in an informal manner and shall
16 be flexible enough to consider evidence, including letters, affidavits,
17 and other material, that would not be admissible in an adversarial
18 criminal trial;

19 (iv) The juvenile shall not be confined, detained, or otherwise
20 significantly deprived of his or her liberty pursuant to the filing of a
21 motion described in this section unless the requirements of subdivision
22 (5) of section 43-251.01 and section 43-260.01 have been met. In all
23 cases when the requirements of subdivision (5) of section 43-251.01 and
24 section 43-260.01 have been met and the juvenile is confined, detained,
25 or otherwise significantly deprived of his or her liberty as a result of
26 his or her alleged violation of probation, supervision, or a court order,
27 the juvenile shall be given a preliminary hearing. Such preliminary
28 hearing shall be held before an impartial person other than his or her
29 probation officer or any person directly involved with the case. If, as a
30 result of such preliminary hearing, probable cause is found to exist, the
31 juvenile shall be entitled to a hearing before the court in accordance

1 with this subsection;

2 (v) If the juvenile is found by the court to have violated the terms
3 of his or her probation or supervision or an order of the court, the
4 court may modify the terms and conditions of the probation, supervision,
5 or other court order, extend the period of probation, supervision, or
6 other court order, or enter any order of disposition that could have been
7 made at the time the original order was entered; and

8 (vi) In cases when the court revokes probation, supervision, or
9 other court order, it shall enter a written statement as to the evidence
10 relied on and the reasons for revocation.

11 (6) Costs incurred on behalf of a juvenile under this section shall
12 be paid as provided in section 43-290.01.

13 (7) When any juvenile is adjudicated to be a juvenile described in
14 subdivision (4) of section 43-247, the juvenile court shall within thirty
15 days of adjudication transmit to the Director of Motor Vehicles an
16 abstract of the court record of adjudication.

17 Sec. 9. Section 43-290.01, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 43-290.01 (1) Payment of costs for juveniles described in or alleged
20 to be described in subdivision (1), (2), (3)(b), or (4) of section
21 43-247, except as ordered by the court pursuant to section 43-290, shall
22 be paid by:

23 (a) The county for the period of time prior to adjudication, except
24 as provided in subdivision (1)(b) of this section. Such costs paid for by
25 the county include, but are not limited to, the costs of detention,
26 services, detention alternatives, treatment, voluntary services, and
27 transportation;

28 (b) Before July 1, 2019, the The Office of Probation Administration,
29 and on and after such date the Department of Health of Human Services,
30 for:

31 (i) The period of time after adjudication until termination of court

1 jurisdiction, including, but not limited to, the costs of evaluations,
2 detention, services, placement that is not detention, detention
3 alternatives, treatment, voluntary services, and transportation, other
4 than transportation paid under subdivision (1)(c) of this section;

5 (ii) The time period prior to adjudication for a juvenile who is on
6 probation and is alleged to have committed a new violation or is a
7 juvenile who is subject to a motion to revoke probation; and

8 (iii) Preadjudication evaluations and preadjudication placements
9 that are not detention; and

10 (c) The Office of Juvenile Services for any period of time from when
11 the court commits the juvenile to the Office of Juvenile Services until
12 the juvenile is discharged by the Office of Juvenile Services, including,
13 but not limited to, the costs of evaluations, placement, services,
14 detention including detention costs prior to placement, and
15 transportation to and from the youth rehabilitation and treatment center.

16 (2) For payment of costs involved in the adjudication and
17 disposition of juveniles, other than those described in subsection (1) or
18 (3) of this section:

19 (a) The Department of Health and Human Services shall pay the costs
20 incurred during an evaluation or placement with the department that is
21 ordered by the court except as otherwise ordered by the court pursuant to
22 section 43-290;

23 (b) Payment of costs for juveniles with a court adjudication or
24 disposition under section 43-284: Upon a determination by the court that
25 there are no parental, private, or other funds available for the care,
26 custody, education, and maintenance of the juvenile, the court may order
27 a reasonable sum for the care, custody, education, and maintenance of the
28 juvenile to be paid out of a fund appropriated annually by the county
29 where the petition is filed until suitable provisions are made for the
30 juvenile without such payment. The amount to be paid by a county for
31 education shall not exceed the average cost for education of a public

1 school student in the county in which the juvenile is placed and shall be
2 paid only for education in kindergarten through grade twelve; and

3 (c) Other costs shall be as provided in section 43-290.

4 (3) Payment of costs of medical expenses of juveniles under the
5 Nebraska Juvenile Code shall be as provided in section 43-290.

6 Sec. 10. Section 43-2,129, Revised Statutes Supplement, 2017, is
7 amended to read:

8 43-2,129 Sections 43-245 to 43-2,129 and section 2 of this act shall
9 be known and may be cited as the Nebraska Juvenile Code.

10 Sec. 11. Original sections 29-2258, 29-2260.02, 43-247.02, 43-258,
11 43-281, 43-284, and 43-290.01, Reissue Revised Statutes of Nebraska, and
12 sections 43-254, 43-286, and 43-2,129, Revised Statutes Supplement, 2017,
13 are repealed.