

LEGISLATIVE BILL 265

Approved by the Governor May 27, 2015

Introduced by Campbell, 25.

A BILL FOR AN ACT relating to juveniles and child welfare; to amend sections 29-1816, 43-245, 43-246.01, 43-247, 43-297.01, 43-2,108.05, 43-1301, 43-1302, 43-1303, 43-1304, 43-1308, 43-1309, 43-1313, 43-1318, and 43-2404.02, Revised Statutes Cumulative Supplement, 2014; to change provisions relating to arraignment of juveniles, court jurisdiction of juveniles, placement of juveniles, foster care placements, duties of the Foster Care Review Office, membership of the Foster Care Advisory Committee, local foster care review boards, foster care records, and the Community-based Juvenile Services Aid Program; to define and redefine terms; to provide for a foster care case file review process; to exempt certain meetings of local foster care review boards from the Open Meetings Act; to create a pilot project and advisory group regarding data on out-of-home placements; to provide for development of a common data set relating to juveniles; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 29-1816, Revised Statutes Cumulative Supplement, 2014, is amended to read:

29-1816 (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 III felony was committed; ~~or~~

(iii) If the alleged offense is a traffic offense as defined in section 43-245; ~~or~~

(iv) Until January 1, 2017, if the accused was seventeen years of age when an alleged offense described in subdivision (1) of section 43-247 was committed.

(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 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) 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.

Sec. 2. Section 43-245, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-245 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) 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;
- (4) Civil citation means a noncriminal notice which cannot result in a criminal record and is described in section 43-248.02;
- (5) 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;
- (6) 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;
- (7) Criminal street gang member means a person who willingly or voluntarily becomes and remains a member of a criminal street gang;
- (8) Custodian means a nonparental caretaker having physical custody of the juvenile and includes an appointee described in section 43-294;
- (9) 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;
- (10) Juvenile means any person under the age of eighteen;
- (11) 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;
- (12) Juvenile detention facility has the same meaning as in section 83-4,125;
- (13) Legal custody has the same meaning as in section 43-2922;
- (14) Mediator for juvenile offender and victim mediation means a person who (a) has completed at least thirty hours of training in conflict resolution techniques, neutrality, agreement writing, and ethics set forth in section 25-2913, (b) has an additional eight hours of juvenile offender and victim mediation training, and (c) meets the apprenticeship requirements set forth in section 25-2913;
- (15) Mental health facility means a treatment facility as defined in section 71-914 or a government, private, or state hospital which treats mental illness;
- (16) 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;
- (17) Nonsecure detention means detention characterized by the absence of restrictive hardware, construction, and procedure. Nonsecure detention services may include a range of placement and supervision options, such as home detention, electronic monitoring, day reporting, drug court, tracking and monitoring supervision, staff secure and temporary holdover facilities, and group homes;
- (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) 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;
- (23) Secure detention means detention in a highly structured, residential, hardware-secured facility designed to restrict a juvenile's movement;
- (24) Staff secure juvenile facility has the same meaning as in section 83-4,125;
- (25) 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; ~~and~~
- (26) 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~~ -
- (27) Young adult means an individual older than eighteen years of age but under twenty-one years of age.

Sec. 3. Section 43-246.01, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-246.01 The juvenile court shall have:

(1) 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) Exclusive original jurisdiction as to:

(a) Beginning January 1, 2015, any juvenile who is alleged to have committed an offense under subdivision (1) of section 43-247 and who was sixteen years of age at the time the alleged offense was committed, and beginning January 1, 2017, 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

(b) 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.

Proceedings initiated under this subdivision (2) may be transferred as provided in section 43-274; and

(3) Concurrent original jurisdiction with the county court or district court as to:

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

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

(c) Any juvenile described in subdivision (1)(a)(ii) of section 29-1816; and -

(d) Until January 1, 2017, any juvenile who is alleged to have committed an offense under subdivision (1) of section 43-247 and who was seventeen years of age at the time the alleged offense was committed.

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

Sec. 4. Section 43-247, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-247 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;

(2) Any juvenile who has committed an act which would constitute a felony under the laws of this state;

(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; or 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, (b) who, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who 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;

(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; ~~and~~

(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.

Sec. 5. Section 43-297.01, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-297.01 (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.

Sec. 6. Section 43-2,108.05, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-2,108.05 (1) If the court orders the record of a juvenile sealed pursuant to section 43-2,108.04, 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) to the Nebraska Commission on Law Enforcement and Criminal Justice, (ii) if the record includes impoundment or prohibition to obtain a license or permit pursuant to section 43-287, to the Department of Motor Vehicles, (iii) 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 (iv) 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 what sealing the record means verbally if the juvenile is present in the court at the time the court issues the sealing order or 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.

(2) The effect of having a record sealed under section 43-2,108.04 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 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, and to any attorney representing the subject of the sealed record. 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) Upon application, by the person who is the subject of the sealed record and by persons authorized by the person who is the subject of the sealed record who are named in that application;

(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, only if the research results in no disclosure of the person's identity and protects the confidentiality of the sealed record; or

(h) By a law enforcement agency if a person whose record has been sealed applies for employment with the law enforcement agency.

(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 web site 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 violates this section may be held in contempt of court.

Sec. 7. Section 43-1301, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-1301 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 section 43-247, (b) all types of placements of neglected, dependent, or delinquent children, including those made directly by the Department of Health and Human Services, by the court, by parents, or by third parties, (c) all types of and placements of children who have been voluntarily relinquished pursuant to section 43-106.01 to the department ~~Department of Health and Human Services~~ 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 Department of Health and Human Services;

(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; ~~and~~

(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.

Sec. 8. Section 43-1302, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-1302 (1)(a) 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 ~~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 i) determine key issues of the foster care system and ways to resolve the issues and to otherwise improve the system and (b ii) make policy recommendations.

~~(b) All equipment and effects of the State Foster Care Review Board on July 1, 2012, shall be transferred to the Foster Care Review Office, and all staff of the board, except the executive director and interim executive director, shall be transferred to the office. The State Foster Care Review Board shall terminate on July 1, 2012. Beginning on July 1, 2012, the data coordinator of the board, as such position existed prior to such date, shall serve as the executive director of the office until the Foster Care Advisory Committee hires an executive director as prescribed by this section. It is the intent of the Legislature that the staff of the board employed prior to July 1, 2012, shall continue to be employed by the office until such time as the executive director is hired by the committee.~~

~~(c) It is the intent of the Legislature that the funds appropriated to the State Foster Care Review Board be transferred to the Foster Care Review Office for FY2012-13.~~

(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 Governor shall appoint three members from a list of twelve local board members submitted by the Health and Human Services Committee of the Legislature, one member from a list of four persons with data analysis experience submitted by the Health and Human Services Committee of the Legislature, and one member from a list of four persons who are residents of the state and are representative of the public at large submitted by the Health and Human Services Committee of the Legislature. 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 initial members and 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 in the same manner as the original appointments 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 actual and necessary 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.

Sec. 9. Section 43-1303, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-1303 (1) The office shall maintain the statewide register of all foster care placements occurring within the state, and there shall be a ~~weekly~~ monthly 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 ~~monthly~~ report shall consist of identifying information, placement information, and the plan or permanency plan developed by the person or court in charge of the child pursuant to section 43-1312. 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, ~~social security number~~, date of birth, gender, race, ~~and religion, and ethnicity~~;

(b) Identification information for parents and stepparents, including name, ~~social security number~~, address, and status of parental rights;

(c) Placement information, including initial placement date, current placement date, and the name and address of the foster care placement provider;

(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. ; and

~~(g) Permanency plan objective.~~

(2)(a) The Foster Care Review Office 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) v) 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) vi) 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) 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. 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. The report and recommendations submitted to the Legislature shall be submitted electronically. In addition, the Foster Care Review Office office shall provide copies of such reports and

recommendations to each court having the authority to make foster care placements. ~~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.~~ The executive director of the office shall also provide, at a time specified by the Health and Human Services Committee of the Legislature, regular electronic updates regarding child welfare data and information at least quarterly, and a fourth-quarter report which shall be the annual report. The executive director shall include issues, policy concerns, and problems which have come to the office and the executive director from analysis of the data. The executive director shall recommend alternatives to the identified problems and related needs of the office and the foster care system to the committee. The Health and Human Services Committee shall coordinate and prioritize data and information requests submitted to the office by members of the Legislature. The annual report of the office shall be completed by December 1 each year, beginning December 1, 2012, and shall be submitted electronically to the committee.

(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.

Sec. 10. Section 43-1304, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-1304 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. ~~Members of local boards serving on July 1, 2012, shall continue to serve the unexpired portion of their terms.~~ 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.

Sec. 11. Section 43-1308, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-1308 (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.

Sec. 12. Section 43-1309, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-1309 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 , or upon the request of the Department of Health and Human Services, any records pertaining to a case assigned to the department, shall be furnished to the office or designated local board or department by the agency charged with the child or 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 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.~~

Sec. 13. Section 43-1313, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-1313 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 included in the 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.

Sec. 14. (1) An Out-of-Home Data Pilot Project is created. The purpose of the project is to demonstrate, under the supervision of the Out-of-Home Data Pilot Project Advisory Group, how an existing state agency data system or systems currently used to account for children and juveniles in out-of-home placement could serve as a foundation for an independent, external oversight data warehouse. The pilot project shall be administered by the Foster Care Review Office and shall terminate on January 1, 2017.

(2) The Out-of-Home Data Pilot Project Advisory Group is created. The group shall include the Inspector General of Nebraska Child Welfare or his or her designee, the State Court Administrator or his or her designee, the probation administrator of the Office of Probation Administration or his or her designee, the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice or his or her designee, the Commissioner of Education or his or her designee, the executive director of the Foster Care Review Office or his or her designee, a representative of the University of Nebraska at Omaha, Juvenile Justice Institute, the Chief Information Officer of the office of Chief Information Officer or his or her designee, and one representative each from the Division of Children and Family Services of the Department of Health and Human Services, the Division of Developmental Disabilities of the Department of Health and Human Services, the Division of Behavioral Health of the Department of Health and Human Services, and the Division of Medicaid and Long-Term Care of the Department of Health and Human Services.

(3) The purposes of the Out-of-Home Data Pilot Project Advisory Group are to oversee the Out-of-Home Data Pilot Project and to consider whether an independent, external oversight data warehouse could be created by building on an existing state agency data system or systems currently used to account for children and juveniles in out-of-home placement. The group shall consider the features and capabilities of existing state agency data systems that include: information on children and juveniles in out-of-home placement; where an independent, external oversight data warehouse might be located within state government for administrative purposes; possible costs associated with establishing and operating an independent, external oversight data warehouse; challenges of data collection; barriers to data sharing; protection of confidential information; restrictions on access to confidential information; and other issues pertinent to the group's purpose. The group shall submit a report electronically to the Legislature, the Governor, and the Supreme Court by December 15, 2015.

(4) For purposes of this section, an independent, external oversight data warehouse means a data system which allows data analysis to: (a) Account for children and juveniles in out-of-home placement regardless of whether they entered out-of-home placement through the Department of Health and Human Services or through court involvement; (b) determine whether out-of-home placement outcomes for children and juveniles meet policy goals for children and juveniles in out-of-home placement; (c) determine whether children are better off as a result of out-of-home placement; (d) identify indicators for successful outcomes of out-of-home placement; and (e) project future needs for children and juveniles in out-of-home placement.

Sec. 15. Section 43-1318, Revised Statutes Cumulative Supplement, 2014, is amended to read:

43-1318 Sections 43-1301 to 43-1321 and section 14 of this act shall be known and may be cited as the Foster Care Review Act.

Sec. 16. Section 43-2404.02, Revised Statutes Cumulative Supplement, 2014,

is amended to read:

43-2404.02 (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 2) 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 shall not be used for the following: Construction of secure detention

facilities, secure youth treatment facilities, or secure youth confinement facilities; capital construction or the lease or acquisition of facilities; 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 office equipment, office supplies, or office space.

(d) 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.

(e) 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 report shall include, but not be limited to, the type of juvenile service, how the service met the goals of the comprehensive juvenile services plan, demographic information on the total number of juveniles served, program outcomes success rates, the total number of juveniles served, and the number of juveniles who completed the program or intervention sent to secure juvenile detention or residential treatment and secure confinement, and a listing of the expenditures for detention, residential treatment, and nonresidential treatment.

(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, 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; ~~and~~

(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.

Sec. 17. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, and 19 of this act become operative three calendar months after the adjournment of

this legislative session. The other sections of this act become operative on their effective date.

Sec. 18. Original section 43-1318, Revised Statutes Cumulative Supplement, 2014, is repealed.

Sec. 19. Original sections 29-1816, 43-245, 43-246.01, 43-247, 43-297.01, 43-2,108.05, 43-1301, 43-1302, 43-1303, 43-1304, 43-1308, 43-1309, 43-1313, and 43-2404.02, Revised Statutes Cumulative Supplement, 2014, are repealed.

Sec. 20. Since an emergency exists, this act takes effect when passed and approved according to law.