

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 879

Introduced by Cavanaugh, J., 9.

Read first time January 07, 2022

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to amend
- 2 sections 43-279 and 43-280, Reissue Revised Statutes of Nebraska; to
- 3 provide for answers of no contest in adjudication hearings; to
- 4 harmonize provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-279, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 43-279 (1) The adjudication portion of hearings shall be conducted
4 before the court without a jury, applying the customary rules of evidence
5 in use in trials without a jury. When the petition alleges the juvenile
6 to be within the provisions of subdivision (1), (2), (3)(b), or (4) of
7 section 43-247 and the juvenile or his or her parent, guardian, or
8 custodian appears with or without counsel, the court shall inform the
9 parties:

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

14 (b) Of such juvenile's right to counsel as provided in sections
15 43-272 and 43-273;

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

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

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

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

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

28 After giving such warnings and admonitions, the court may accept an
29 in-court admission or answer of no contest by the juvenile of all or any
30 part of the allegations in the petition if the court has determined from
31 examination of the juvenile and those present that such admission or

1 answer of no contest is intelligently, voluntarily, and understandingly
2 made and with an affirmative waiver of rights and that a factual basis
3 for such admission or answer of no contest exists. The waiver of the
4 right to counsel shall satisfy section 43-3102. The court may base its
5 adjudication provided in subsection (2) of this section on such admission
6 or answer of no contest.

7 (2) If the juvenile denies the petition or stands mute the court
8 shall first allow a reasonable time for preparation if needed and then
9 consider only the question of whether the juvenile is a person described
10 by section 43-247. After hearing the evidence on such question, the court
11 shall make a finding and adjudication, to be entered on the records of
12 the court, whether or not the juvenile is a person described by
13 subdivision (1), (2), (3)(b), or (4) of section 43-247 based upon proof
14 beyond a reasonable doubt. If an Indian child is involved, the standard
15 of proof shall be in compliance with the Nebraska Indian Child Welfare
16 Act, if applicable.

17 (3) If the court shall find that the juvenile named in the petition
18 is not within the provisions of section 43-247, it shall dismiss the
19 case. If the court finds that the juvenile named in the petition is such
20 a juvenile, it shall make and enter its findings and adjudication
21 accordingly, designating which subdivision or subdivisions of section
22 43-247 such juvenile is within; the court shall allow a reasonable time
23 for preparation if needed and then proceed to an inquiry into the proper
24 disposition to be made of such juvenile.

25 Sec. 2. Section 43-280, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 43-280 No adjudication by the juvenile court upon the status of a
28 juvenile shall be deemed a conviction nor shall the adjudication operate
29 to impose any of the civil disabilities ordinarily resulting from
30 conviction. The adjudication and the evidence given in the court shall
31 not operate to disqualify such juvenile in any future civil or military

1 service application or appointment. Any admission, answer of no contest,
2 confession, or statement made by the juvenile in court and admitted by
3 the court, in a proceeding under section 43-279, shall be inadmissible
4 against such juvenile in any criminal or civil proceeding but may be
5 considered by a court as part of a presentence investigation involving a
6 subsequent transaction.

7 Sec. 3. Original sections 43-279 and 43-280, Reissue Revised
8 Statutes of Nebraska, are repealed.