

AMENDMENTS TO LB670

(Amendments to E and R amendments, ER173)

Introduced by Vargas, 7.

1 1. Insert the following new sections:

2 Sec. 4. Section 43-251.01, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 43-251.01 All placements and commitments of juveniles for
5 evaluations or as temporary or final dispositions are subject to the
6 following:

7 (1) No juvenile shall be confined in an adult correctional facility
8 as a disposition of the court;

9 (2) A juvenile who is found to be a juvenile as described in
10 subdivision (3) of section 43-247 shall not be placed in an adult
11 correctional facility, the secure youth confinement facility operated by
12 the Department of Correctional Services, or a youth rehabilitation and
13 treatment center or committed to the Office of Juvenile Services;

14 (3) A juvenile who is found to be a juvenile as described in
15 subdivision (1), (2), or (4) of section 43-247 shall not be assigned or
16 transferred to an adult correctional facility or the secure youth
17 confinement facility operated by the Department of Correctional Services;

18 (4) A juvenile under the age of fourteen years shall not be placed
19 with or committed to a youth rehabilitation and treatment center;

20 (5)(a) Before July 1, 2019, a ~~(5)~~ A juvenile shall not be detained
21 in secure detention or placed at a youth rehabilitation and treatment
22 center unless detention or placement of such juvenile is a matter of
23 immediate and urgent necessity for the protection of such juvenile or the
24 person or property of another or if it appears that such juvenile is
25 likely to flee the jurisdiction of the court; and

26 (b) On and after July 1, 2019:

1 (i) A juvenile shall not be detained unless the physical safety of
2 persons in the community would be seriously threatened or detention is
3 necessary to secure the presence of the juvenile at the next hearing, as
4 evidenced by a demonstrable record of willful failure to appear at a
5 scheduled court hearing within the last twelve months;

6 (ii) A child twelve years of age or younger shall not be placed in
7 detention under any circumstances; and

8 (iii) A juvenile shall not be placed into detention:

9 (A) To allow a parent or guardian to avoid his or her legal
10 responsibility;

11 (B) To punish, treat, or rehabilitate such juvenile;

12 (C) To permit more convenient administrative access to such
13 juvenile;

14 (D) To facilitate further interrogation or investigation; or

15 (E) Due to a lack of more appropriate facilities;

16 (6) A juvenile alleged to be a juvenile as described in subdivision
17 (3) of section 43-247 shall not be placed in a juvenile detention
18 facility, including a wing labeled as staff secure at such facility,
19 unless the designated staff secure portion of the facility fully complies
20 with subdivision (5) of section 83-4,125 and the ingress and egress to
21 the facility are restricted solely through staff supervision; and

22 (7) A juvenile alleged to be a juvenile as described in subdivision
23 (1), (2), (3)(b), or (4) of section 43-247 shall not be placed out of his
24 or her home as a dispositional order of the court unless:

25 (a) All available community-based resources have been exhausted to
26 assist the juvenile and his or her family; and

27 (b) Maintaining the juvenile in the home presents a significant risk
28 of harm to the juvenile or community.

29 Sec. 6. Section 43-253, Revised Statutes Supplement, 2017, is
30 amended to read:

31 43-253 (1) Upon delivery to the probation officer of a juvenile who

1 has been taken into temporary custody under section 29-401, 43-248, or
2 43-250, the probation officer shall immediately investigate the situation
3 of the juvenile and the nature and circumstances of the events
4 surrounding his or her being taken into custody. Such investigation may
5 be by informal means when appropriate.

6 (2) The probation officer's decision to release the juvenile from
7 custody or place the juvenile in detention or an alternative to detention
8 shall be based upon the results of the standardized juvenile detention
9 screening instrument described in section 43-260.01.

10 (3) No juvenile who has been taken into temporary custody under
11 subdivision (1)(c) of section 43-250 or subsection (6) of section
12 43-286.01 or pursuant to an alleged violation of an order for conditional
13 release shall be detained in any detention facility or be subject to an
14 alternative to detention infringing upon the juvenile's liberty interest
15 for longer than twenty-four hours, excluding nonjudicial days, after
16 having been taken into custody unless such juvenile has appeared
17 personally before a court of competent jurisdiction for a hearing to
18 determine if continued detention, services, or supervision is necessary.
19 The juvenile shall be represented by counsel at the hearing. Whether such
20 counsel shall be provided at the cost of the county shall be determined
21 as provided in subsection (1) of section 43-272. If continued secure
22 detention is ordered, such detention shall be in a juvenile detention
23 facility, except that a juvenile charged with a felony as an adult in
24 county or district court may be held in an adult jail as set forth in
25 subdivision (1)(c)(v) of section 43-250. A juvenile placed in an
26 alternative to detention, but not in detention, may waive this hearing
27 through counsel.

28 (4) When the probation officer deems it to be in the best interests
29 of the juvenile, the probation officer shall immediately release such
30 juvenile to the custody of his or her parent. If the juvenile has both a
31 custodial and a noncustodial parent and the probation officer deems that

1 release of the juvenile to the custodial parent is not in the best
2 interests of the juvenile, the probation officer shall, if it is deemed
3 to be in the best interests of the juvenile, attempt to contact the
4 noncustodial parent, if any, of the juvenile and to release the juvenile
5 to such noncustodial parent. If such release is not possible or not
6 deemed to be in the best interests of the juvenile, the probation officer
7 may release the juvenile to the custody of a legal guardian, a
8 responsible relative, or another responsible person.

9 (5) The court may admit such juvenile to bail by bond in such amount
10 and on such conditions and security as the court, in its sole discretion,
11 shall determine, or the court may proceed as provided in section 43-254.
12 In no case shall the court or probation officer release such juvenile if
13 it appears that:

14 (a) Before July 1, 2019, further detention or placement of such
15 juvenile is a matter of immediate and urgent necessity for the protection
16 of such juvenile or the person or property of another or if it appears
17 that such juvenile is likely to flee the jurisdiction of the court; and -

18 (b) On or after July 1, 2019, the physical safety of persons in the
19 community would be seriously threatened or that detention is necessary to
20 secure the presence of the juvenile at the next hearing, as evidenced by
21 a demonstrable record of willful failure to appear at a scheduled court
22 hearing within the last twelve months.

23 Sec. 7. Section 43-260.01, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 43-260.01 The need for preadjudication placement, services, or
26 supervision and the need for detention of a juvenile and whether
27 detention or an alternative to detention is indicated shall be subject to
28 subdivision (5) of section 43-251.01 and shall may be determined as
29 follows:

30 (1) The standardized juvenile detention screening instrument shall
31 be used to evaluate the juvenile;

1 (2) If the results indicate that detention is not required, the
2 juvenile shall be released without restriction or released to an
3 alternative to detention; and

4 (3) If the results indicate that detention is required, detention
5 shall be pursued.

6 Sec. 12. Section 43-2404.02, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 43-2404.02 (1) There is created a separate and distinct budgetary
9 program within the commission to be known as the Community-based Juvenile
10 Services Aid Program. Funding acquired from participation in the federal
11 act, state General Funds, and funding acquired from other sources which
12 may be used for purposes consistent with the Juvenile Services Act and
13 the federal act shall be used to aid in the establishment and provision
14 of community-based services for juveniles who come in contact with the
15 juvenile justice system.

16 (2)(a) Ten percent of the annual General Fund appropriation to the
17 Community-based Juvenile Services Aid Program, excluding administrative
18 budget funds, shall be set aside for the development of a common data set
19 and evaluation of the effectiveness of the Community-based Juvenile
20 Services Aid Program. The intent in creating this common data set is to
21 allow for evaluation of the use of the funds and the effectiveness of the
22 programs or outcomes in the Community-based Juvenile Services Aid
23 Program.

24 (b) The common data set shall be developed and maintained by the
25 commission and shall serve as a primary data collection site for any
26 intervention funded by the Community-based Juvenile Services Aid Program
27 designed to serve juveniles and deter involvement in the formal juvenile
28 justice system. The commission shall work with agencies and programs to
29 enhance existing data sets. To ensure that the data set permits
30 evaluation of recidivism and other measures, the commission shall work
31 with the Office of Probation Administration, juvenile diversion programs,

1 law enforcement, the courts, and others to compile data that demonstrates
2 whether a youth has moved deeper into the juvenile justice system. The
3 University of Nebraska at Omaha, Juvenile Justice Institute, shall assist
4 with the development of common definitions, variables, and training
5 required for data collection and reporting into the common data set by
6 juvenile justice programs. The common data set maintained by the
7 commission shall be provided to the University of Nebraska at Omaha,
8 Juvenile Justice Institute, to assess the effectiveness of the Community-
9 based Juvenile Services Aid Program.

10 (c) Providing the commission access to records and information for,
11 as well as the commission granting access to records and information
12 from, the common data set is not a violation of confidentiality
13 provisions under any law, rule, or regulation if done in good faith for
14 purposes of evaluation. Records and documents, regardless of physical
15 form, that are obtained or produced or presented to the commission for
16 the common data set are not public records for purposes of sections
17 84-712 to 84-712.09.

18 (d) The ten percent of the annual General Fund appropriation to the
19 Community-based Juvenile Services Aid Program, excluding administrative
20 budget funds, shall be appropriated as follows: In fiscal year 2015-16,
21 seven percent shall go to the commission for development of the common
22 data set and three percent shall go to the University of Nebraska at
23 Omaha, Juvenile Justice Institute, for evaluation. In fiscal year
24 2016-17, six percent shall go to the commission for development and
25 maintenance of the common data set and four percent shall go to the
26 University of Nebraska at Omaha, Juvenile Justice Institute, for
27 evaluation. Every fiscal year thereafter, beginning in fiscal year
28 2017-18, five percent shall go to the commission for development and
29 maintenance of the common data set and five percent shall go to the
30 University of Nebraska at Omaha, Juvenile Justice Institute, for
31 evaluation.

1 (e) The remaining funds in the annual General Fund appropriation to
2 the Community-based Juvenile Services Aid Program shall be apportioned as
3 aid in accordance with a formula established in rules and regulations
4 adopted and promulgated by the commission. The formula shall be based on
5 the total number of residents per county and federally recognized or
6 state-recognized Indian tribe who are twelve years of age through
7 eighteen years of age and other relevant factors as determined by the
8 commission. The commission may require a local match of up to forty
9 percent from the county, multiple counties, federally recognized or
10 state-recognized Indian tribe or tribes, or any combination of the three
11 which is receiving aid under such program. Any local expenditures for
12 community-based programs for juveniles may be applied toward such match
13 requirement.

14 (3)(a) In distributing funds provided under the Community-based
15 Juvenile Services Aid Program, aid recipients shall prioritize programs
16 and services that will divert juveniles from the juvenile justice system,
17 reduce the population of juveniles in juvenile detention and secure
18 confinement, and assist in transitioning juveniles from out-of-home
19 placements.

20 (b) Funds received under the Community-based Juvenile Services Aid
21 Program shall be used exclusively to assist the aid recipient in the
22 implementation and operation of programs or the provision of services
23 identified in the aid recipient's comprehensive juvenile services plan,
24 including programs for local planning and service coordination;
25 screening, assessment, and evaluation; diversion; alternatives to
26 detention; family support services; treatment services; truancy
27 prevention and intervention programs; pilot projects approved by the
28 commission; payment of transportation costs to and from placements,
29 evaluations, or services; personnel when the personnel are aligned with
30 evidence-based treatment principles, programs, or practices; contracting
31 with other state agencies or private organizations that provide evidence-

1 based treatment or programs; preexisting programs that are aligned with
2 evidence-based practices or best practices; and other services that will
3 positively impact juveniles and families in the juvenile justice system.

4 (c) Funds received under the Community-based Juvenile Services Aid
5 Program may be used one time by an aid recipient:

6 (i) To convert an existing juvenile detention facility or other
7 existing structure for use as an alternative to detention as defined in
8 section 43-245;

9 (ii) To invest in capital construction, including both new
10 construction and renovations, for a facility for use as an alternative to
11 detention; or

12 (iii) For the initial lease of a facility for use as an alternative
13 to detention.

14 (d) ~~(e)~~ Funds received under the Community-based Juvenile Services
15 Aid Program shall not be used for the following:

16 (i) Construction of secure detention facilities, secure youth
17 treatment facilities, or secure youth confinement facilities;

18 (ii) ~~Capital~~ capital construction or the lease or acquisition of
19 facilities beyond the one-time use described in subdivision (3)(c) of
20 this section;

21 (iii) ~~Programs~~ programs, services, treatments, evaluations, or other
22 preadjudication services that are not based on or grounded in evidence-
23 based practices, principles, and research, except that the commission may
24 approve pilot projects that authorize the use of such aid; or

25 (iv) ~~Office~~ office equipment, office supplies, or office space.

26 (e) ~~(d)~~ Any aid not distributed to counties under this subsection
27 shall be retained by the commission to be distributed on a competitive
28 basis under the Community-based Juvenile Services Aid Program for a
29 county, multiple counties, federally recognized or state-recognized
30 Indian tribe or tribes, or any combination of the three demonstrating
31 additional need in the funding areas identified in this subsection.

1 (f) ~~(e)~~ If a county, multiple counties, or a federally recognized or
2 state-recognized Indian tribe or tribes is denied aid under this section
3 or receives no aid under this section, the entity may request an appeal
4 pursuant to the appeal process in rules and regulations adopted and
5 promulgated by the commission. The commission shall establish appeal and
6 hearing procedures by December 15, 2014. The commission shall make appeal
7 and hearing procedures available on its web site.

8 (4)(a) Any recipient of aid under the Community-based Juvenile
9 Services Aid Program shall electronically file an annual report as
10 required by rules and regulations adopted and promulgated by the
11 commission. Any program funded through the Community-based Juvenile
12 Services Aid Program that served juveniles shall report data on the
13 individual youth served. Any program that is not directly serving youth
14 shall include program-level data. In either case, data collected shall
15 include, but not be limited to, the following: The type of juvenile
16 service, how the service met the goals of the comprehensive juvenile
17 services plan, demographic information on the juveniles served, program
18 outcomes, the total number of juveniles served, and the number of
19 juveniles who completed the program or intervention.

20 (b) Any recipient of aid under the Community-based Juvenile Services
21 Aid Program shall be assisted by the University of Nebraska at Omaha,
22 Juvenile Justice Institute, in reporting in the common data set, as set
23 forth in the rules and regulations adopted and promulgated by the
24 commission. Community-based aid utilization and evaluation data shall be
25 stored and maintained by the commission.

26 (c) Evaluation of the use of funds and the evidence of the
27 effectiveness of the programs shall be completed by the University of
28 Nebraska at Omaha, Juvenile Justice Institute, specifically:

29 (i) The varying rates of recidivism, as defined by rules and
30 regulations adopted and promulgated by the commission, and other measures
31 for juveniles participating in community-based programs; and

1 (ii) Whether juveniles are sent to staff secure or secure juvenile
2 detention after participating in a program funded by the Community-based
3 Juvenile Services Aid Program.

4 (5) The commission shall report annually to the Governor and the
5 Legislature on the distribution and use of funds for aid appropriated
6 under the Community-based Juvenile Services Aid Program. The report shall
7 include, but not be limited to, an aggregate report of the use of the
8 Community-based Juvenile Services Aid Program funds, including the types
9 of juvenile services and programs that were funded, whether any
10 recipients used the funds for a purpose described in subdivision (3)(c)
11 of this section, demographic information on the total number of juveniles
12 served, program success rates, the total number of juveniles sent to
13 secure juvenile detention or residential treatment and secure
14 confinement, and a listing of the expenditures of all counties and
15 federally recognized or state-recognized Indian tribes for detention,
16 residential treatment, and secure confinement. The report submitted to
17 the Legislature shall be submitted electronically.

18 (6) The commission shall adopt and promulgate rules and regulations
19 for the Community-based Juvenile Services Aid Program in consultation
20 with the Director of the Community-based Juvenile Services Aid Program,
21 the Director of Juvenile Diversion Programs, the Office of Probation
22 Administration, the Nebraska Association of County Officials, and the
23 University of Nebraska at Omaha, Juvenile Justice Institute. The rules
24 and regulations shall include, but not be limited to:

25 (a) The required elements of a comprehensive juvenile services plan
26 and planning process;

27 (b) The Community-based Juvenile Services Aid Program formula,
28 review process, match requirements, and fund distribution. The
29 distribution process shall ensure a conflict of interest policy;

30 (c) A distribution process for funds retained under subsection (3)
31 of this section;

1 (d) A plan for evaluating the effectiveness of plans and programs
2 receiving funding;

3 (e) A reporting process for aid recipients;

4 (f) A reporting process for the commission to the Governor and
5 Legislature. The report shall be made electronically to the Governor and
6 the Legislature; and

7 (g) Requirements regarding the use of the common data set.

8 Sec. 13. Section 43-2409, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 43-2409 (1) The coalition shall review periodically the performance
11 of eligible applicants participating under the Commission Grant Program
12 and the federal act to determine if substantial compliance criteria are
13 being met. The commission shall establish criteria for defining
14 substantial compliance.

15 (2) Grants received by an eligible applicant under the Commission
16 Grant Program shall not be used to replace or supplant any funds
17 currently being used to support existing programs for juveniles.

18 (3) Grants received under the Commission Grant Program shall not be
19 used for capital construction or the lease or acquisition of facilities
20 except as provided in subdivision (3)(c) of section 43-2404.02.

21 2. On page 18, line 20, after "issues" insert ", including an
22 examination of disproportionate minority contact in order to identify
23 juvenile delinquency prevention efforts and system improvement efforts
24 designed to reduce, without establishing or requiring numerical standards
25 or quotas, the disproportionate number of juvenile members of minority
26 groups who come into contact with the juvenile justice system".

27 3. On page 19, line 12 after "offenders" insert ", including an
28 examination of disproportionate minority contact in order to identify
29 juvenile delinquency prevention efforts and system improvement efforts
30 designed to reduce, without establishing or requiring numerical standards
31 or quotas, the disproportionate number of juvenile members of minority

1 groups who come into contact with the juvenile justice system".

2 4. On page 20, line 6, after "Program" insert ", including an
3 examination of disproportionate minority contact in order to identify
4 juvenile delinquency prevention efforts and system improvement efforts
5 designed to reduce, without establishing or requiring numerical standards
6 or quotas, the disproportionate number of juvenile members of minority
7 groups who come into contact with the juvenile justice system"; and in
8 line 13 after "outcomes" insert ", including an examination of
9 disproportionate minority contact in order to identify juvenile
10 delinquency prevention efforts and system improvement efforts designed to
11 reduce, without establishing or requiring numerical standards or quotas,
12 the disproportionate number of juvenile members of minority groups who
13 come into contact with the juvenile justice system".

14 5. Renumber the remaining sections and correct internal references
15 accordingly.

16 6. Correct the operative date and repealer sections so that the
17 sections added by this amendment become operative on their effective date
18 with the emergency clause.