

AMENDMENTS TO LB595

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 25-2901, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           25-2901 Sections 25-2901 to 25-2921 and sections 11, 12, and 15 of  
6 this act shall be known and may be cited as the Dispute Resolution Act.

7           Sec. 2. Section 25-2902, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9           25-2902 The Legislature finds that:

10           (1) The resolution of certain disputes and offenses can be costly  
11 and time consuming in the context of a formal judicial proceeding;

12           (2) Employing restorative justice and mediation to address ~~Mediation~~  
13 ~~of disputes~~ can provide an avenue ~~has a great potential~~ for efficiently  
14 reducing the volume of matters which burden the court system in this  
15 state;

16           (3) Restorative justice practices and programs can meet the needs of  
17 Nebraska's residents by providing forums in which persons may participate  
18 in voluntary or court-ordered resolution of juvenile and adult offenses  
19 in an informal and less adversarial atmosphere;

20           (4) Employing restorative justice can provide an avenue for repair,  
21 healing, accountability, and community safety to address the harm  
22 experienced by victims as a result of an offense committed by youth or  
23 adult individuals;

24           (5) Restorative justice practices and programs are grounded in a  
25 wide body of research and evidence showing individuals who participate in  
26 restorative justice practices and programs are less likely to reoffend;

27           (6) ~~(3)~~ Unresolved disputes of those who do not have the resources

1 for formal resolution may be of small social or economic magnitude  
2 individually but are collectively of enormous social and economic  
3 consequences;

4 (7) (4) Many seemingly minor conflicts between individuals may  
5 escalate into major social problems unless resolved early in an  
6 atmosphere in which the persons involved disputants can discuss the  
7 dispute or offense ~~their differences~~ through a private and informal yet  
8 structured process;

9 (8) (5) There is a need in our society to reduce acrimony and  
10 improve relationships between people in conflict which has a long-term  
11 benefit of a more peaceful community of people;

12 (9) (6) There is a compelling need in a complex society for dispute  
13 resolution and restorative justice whereby people can participate in  
14 creating comprehensive, lasting, and realistic resolutions to conflicts  
15 and offenses;

16 (10) (7) Mediation can increase the public's access ~~of the public~~ to  
17 dispute resolution and thereby increase public regard and usage of the  
18 legal system; and

19 (11) Office-approved nonprofit (8) ~~Nonprofit~~ dispute resolution  
20 centers can make a substantial contribution to the operation and  
21 maintenance of the courts of this state by preserving the court's scarce  
22 resources for those disputes and offenses which cannot be resolved by  
23 means other than litigation.

24 Sec. 3. Section 25-2903, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 25-2903 For purposes of the Dispute Resolution Act:

27 (1) Approved center means ~~shall mean~~ a center that has applied for  
28 and received approval from the director under section 25-2909;

29 (2) Center means ~~shall mean~~ a nonprofit organization or a court-  
30 established program which makes dispute resolution procedures and  
31 restorative justice services available;

1 (3) Council means ~~shall mean~~ the Advisory Council on Dispute  
2 Resolution;

3 (4) Director means ~~shall mean~~ the Director of the Office of Dispute  
4 Resolution;

5 (5) Dispute resolution process means ~~shall mean~~ a process by which  
6 the parties involved in a dispute voluntarily agree to enter into  
7 informal discussion and negotiation with the assistance of a mediator;

8 (6) Mediation means ~~shall mean~~ the intervention into a dispute by a  
9 third party who has no decisionmaking authority and is impartial to the  
10 issues being discussed;

11 (7) Mediator means ~~shall mean~~ a person trained in the process of  
12 mediation who assists parties in dispute to reach a mutually acceptable  
13 resolution of their conflict; ~~and~~

14 (8) Office means ~~shall mean~~ the Office of Dispute Resolution; ~~and~~

15 (9) Restorative justice facilitator means a person trained to  
16 facilitate restorative justice practices as a staff member or affiliate  
17 of an approved center; and

18 (10) Restorative justice means practices, programs, or services  
19 described in section 11 of this act that emphasize repairing the harm  
20 caused to victims and the community by persons who have caused the harm  
21 or committed an offense.

22 Sec. 4. Section 25-2904, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 25-2904 The Office of Dispute Resolution is hereby established in  
25 the office of the State Court Administrator. The director of the office  
26 shall be hired by the Supreme Court. The director may but need not be an  
27 attorney and shall be hired on the basis of his or her training and  
28 experience in mediation, restorative justice, and dispute resolution. The  
29 director shall administer the Dispute Resolution Act and shall serve as  
30 staff to the council.

31 Sec. 5. Section 25-2905, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 25-2905 The Advisory Council on Dispute Resolution is hereby  
3 created. The council shall be comprised of individuals from a variety of  
4 disciplines who are trained and knowledgeable in mediation, restorative  
5 justice, and dispute resolution and selected to be representative of the  
6 geographical and cultural diversity of the state and to reflect gender  
7 fairness. The council shall consist of fifteen ~~eleven~~ voting members. The  
8 membership shall include a district court judge, county court judge, and  
9 juvenile court judge and a representative from the Office of Probation  
10 Administration, the Nebraska State Bar Association, and the Nebraska  
11 County Attorneys Association ~~a representative from the Nebraska District~~  
12 ~~Court Judges Association, the Nebraska County Court Judges Association,~~  
13 ~~and the Nebraska State Bar Association.~~ The council shall be appointed by  
14 ~~the Supreme Court or a designee.~~ Nominations for the remaining members  
15 may shall be solicited from such entities and from the Nebraska District  
16 Court Judges Association, the Nebraska County Court Judges Association,  
17 ~~the Nebraska State Bar Association,~~ the Nebraska Mediation Association  
18 ~~Coalition,~~ the Public Counsel, social workers, mental health  
19 professionals, diversion program administrators, educators, law  
20 enforcement entities, crime victim advocates, and former participants in  
21 restorative justice programs and related fields. The council shall be  
22 appointed by the Supreme Court or its designee ~~and other interested~~  
23 ~~groups or individuals.~~ The Supreme Court or its designee shall not be  
24 restricted to the solicited list of nominees in making its appointments.  
25 Two nonvoting, ex officio members shall be appointed by the council from  
26 among the approved centers.

27 Sec. 6. Section 25-2906, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 25-2906 The initial members of the council and the new members  
30 required by the changes to section 25-2905 made by this legislative bill  
31 shall be appointed for terms of one, two, or three years. All subsequent

1 appointments shall be made for terms of three years. Any vacancy on the  
2 council shall be filled ~~in the same manner in which the original~~  
3 ~~appointment was made~~ and shall last for the duration of the term vacated.  
4 Appointments to the council required by changes to section 25-2905 made  
5 by this legislative bill shall be made within ninety days after the  
6 effective date of this act ~~September 6, 1991~~. The council shall select a  
7 chairperson, a vice-chairperson, and such other officers as it deems  
8 necessary.

9 Sec. 7. Section 25-2908, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 25-2908 Consistent with the purposes and objectives of the Dispute  
12 Resolution Act and in consultation with the council, the director shall:

13 ~~(1) Make information on the formation of centers available statewide~~  
14 ~~and encourage the formation of centers;~~

15 ~~(1)~~ ~~(2)~~ Approve centers which meet requirements for approval;

16 ~~(2)~~ ~~(3)~~ Develop and supervise a uniform system of reporting and  
17 collecting statistical data from approved centers;

18 ~~(3)~~ ~~(4)~~ Develop and supervise a uniform system of evaluating  
19 approved centers;

20 ~~(4)~~ ~~(5)~~ Prepare a yearly budget for the implementation of the act  
21 and distribute funds to approved centers;

22 ~~(5)~~ ~~(6)~~ Develop and administer guidelines for a sliding scale of  
23 fees to be charged by approved centers;

24 ~~(6)~~ ~~(7)~~ Develop, initiate, or approve curricula and ~~initiate~~  
25 training sessions for mediators and staff of approved centers and of  
26 courts;

27 ~~(7)~~ ~~(8)~~ Establish volunteer training programs;

28 ~~(8)~~ ~~(9)~~ Promote public awareness of the restorative justice and  
29 dispute resolution process;

30 ~~(9)~~ ~~(10)~~ Apply for and receive funds from public and private sources  
31 for carrying out the purposes and obligations of the act; ~~and~~

1           ~~(10) (11)~~ Develop and supervise a uniform system to create and  
2 maintain a roster of approved centers and victim youth conferencing and  
3 other restorative justice facilitators who are affiliated with approved  
4 centers mediators for juvenile offender and victim mediation, as provided  
5 in section 43-245, and centers approved under section 25-2909. The roster  
6 shall be made available to courts and county attorneys; -

7           (11) Enhance the sustainability of approved centers;

8           (12) Support approved centers in the implementation of restorative  
9 justice programs;

10          (13) Coordinate the development and implementation of new  
11 restorative justice programs;

12          (14) Develop and administer a uniform system for reporting and  
13 collecting statistical data regarding restorative justice programs from  
14 approved centers;

15          (15) Develop and administer a uniform system for evaluating  
16 restorative justice programs administered by approved centers;

17          (16) Develop and administer a uniform system for evaluating quality  
18 assurance and fidelity to established restorative justice principles;

19          (17) Coordinate software and data management system quality  
20 assurance for the office and the approved centers;

21          (18) Coordinate restorative justice training sessions for  
22 restorative justice facilitators and staff of approved centers and the  
23 courts;

24          (19) Review and provide analyses of state and federal laws and  
25 policies and judicial branch policies relating to restorative justice  
26 programs for juvenile populations and adult populations;

27          (20) Promote public awareness of the restorative justice and dispute  
28 resolution process under the Dispute Resolution Act; and

29          (21) Seek and identify funds from public and private sources for  
30 carrying out new and ongoing restorative justice programs.

31          Sec. 8. Section 25-2909, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 25-2909 (1) The office shall annually award grants to approved  
3 centers. It is the intent of the Legislature that centers be established  
4 and grants distributed statewide.

5 (2) A center or an entity proposing a center may apply to the office  
6 for approval to provide services under ~~participate in the dispute~~  
7 ~~resolution process pursuant to~~ the Dispute Resolution Act by submitting  
8 an application which includes:

9 (a) A strategic plan for the operation of the center;

10 (b) The center's objectives;

11 (c) The areas of population to be served;

12 (d) The administrative organization;

13 (e) Record-keeping procedures;

14 (f) Procedures for intake, for scheduling, and for conducting and  
15 terminating restorative justice programs and dispute resolution sessions;

16 (g) Qualifications for mediators and restorative justice  
17 facilitators for the center;

18 (h) An annual budget for the center; ~~and~~

19 (i) The results of an audit of the center for a period covering the  
20 previous year if the center was in operation for such period; and

21 (j) (i) Proof of 501(c)(3) status under the Internal Revenue Code or  
22 proof of establishment by a court.

23 (3) The office may specify additional criteria for approval and for  
24 grants as it deems necessary.

25 (4) (3) Annual reports shall be required of each approved center.  
26 The reports shall include the number and types of cases handled in the  
27 year and a showing of continued compliance with the act. ~~Any programs~~  
28 existing on September 6, 1991, shall not be included in the act unless  
29 they apply and are approved under this section.

30 Sec. 9. Section 25-2911, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           25-2911 (1) The following types of cases may be accepted for  
2 restorative justice programs and dispute resolution at an approved  
3 center:

4           (a) Civil claims and disputes, including, but not limited to,  
5 consumer and commercial complaints, disputes between neighbors, disputes  
6 between business associates, disputes between landlords and tenants, and  
7 disputes within communities;

8           (b) Disputes concerning child custody, parenting time, visitation,  
9 or other access and other areas of domestic relations;

10           (c) Juvenile offenses and disputes involving juveniles when  
11 appropriate, which shall be determined according to the policies and  
12 procedures provided for in section 25-2918; and

13           (d) Disputes involving youth that occur in families, in educational  
14 settings, and in the community at large;

15           (e) Adult criminal offenses and disputes involving juvenile, adult,  
16 or community victims when appropriate, which shall be determined  
17 according to the policies and procedures provided for in section 25-2918;  
18 and

19           (f) ~~(d)~~ Contested guardianship and contested conservatorship  
20 proceedings.

21           (2) Restorative justice practices at an approved center may be used  
22 in addition to any other condition, consequence, or sentence imposed by a  
23 court, a probation officer, a diversion program, a school, or another  
24 community program.

25           (3) ~~(2)~~ An approved center may accept cases referred by a court, an  
26 attorney, a law enforcement officer, a social service agency, a school,  
27 or any other interested person or agency or upon the request of the  
28 parties involved. A case may be referred prior to the commencement of  
29 formal judicial proceedings or may be referred as a pending court case.  
30 ~~In order for a referral to be effective, all parties involved must~~  
31 ~~consent to such referral.~~ If a court refers a case to an approved center,



1 the center shall provide information to the court as to whether an  
2 agreement was reached. If the court requests a copy of the agreement, the  
3 center shall provide it.

4 Sec. 10. Section 25-2912, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 25-2912 Before the restorative justice or dispute resolution process  
7 begins, an approved center shall provide the parties with a written  
8 statement setting forth the procedures to be followed.

9 Sec. 11. Restorative justice practices, restorative justice  
10 services, or restorative justice programs include, but are not limited  
11 to, victim youth conferences, victim-offender mediation, family group  
12 conferences, circles, peer-to-peer mediation, truancy mediation, victim  
13 or community panels, and community conferences. Restorative justice  
14 programs may involve restorative projects or classes and facilitated  
15 meetings attended voluntarily by the victim, the victim's  
16 representatives, or a victim surrogate and the victim's supporters, as  
17 well as the youth or adult individual who caused harm and that  
18 individual's supporters, whether voluntarily or following a referral for  
19 assessment by court order. These meetings may also include community  
20 members, when appropriate. By engaging the parties to the offense or harm  
21 in voluntary dialogue, restorative justice provides an opportunity for  
22 healing for the victim and the individual who harmed the victim by:

23 (1) Holding the individual who caused harm accountable and providing  
24 the individual a platform to accept responsibility and gain empathy for  
25 the harm he or she caused to the victim and community;

26 (2) Providing the victim a platform to describe the impact that the  
27 harm had upon himself or herself or his or her family and to identify  
28 detriments experienced or any losses incurred;

29 (3) Providing the opportunity to enter into a reparation plan  
30 agreement; and

31 (4) Enabling the victim and the individual who caused harm the

1 opportunity to agree on consequences to repair the harm, to the extent  
2 possible. This includes, but is not limited to, apologies, community  
3 service, reparation, restitution, restoration, and counseling.

4 Sec. 12. The office and the approved centers shall strive to  
5 conduct restorative justice programs in accordance with best practices,  
6 including evidence-based programs, and shall adopt policies and  
7 procedures to accomplish this goal.

8 Sec. 13. Section 25-2913, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 25-2913 (1) Mediators and restorative justice facilitators of  
11 approved centers shall have completed at least thirty hours of basic  
12 mediation training, including in conflict resolution techniques,  
13 neutrality, agreement writing, and ethics. For disputes involving marital  
14 dissolution, mediators of approved centers shall have an additional  
15 thirty hours in family mediation. An initial apprenticeship with an  
16 experienced mediator shall be required for at least three sessions for  
17 all mediators without prior mediation experience.

18 (2) In addition to the basic mediation training required under  
19 subsection (1) of this section:

20 (a) For disputes involving marital dissolution, parenting, or child  
21 custody, mediators of approved centers shall have additional training in  
22 family mediation; and

23 (b) For disputes involving harm done to others or the community,  
24 restorative justice facilitators of approved centers shall have  
25 additional restorative justice training that has been approved by the  
26 office. Such training should include, but not be limited to, topics such  
27 as restorative justice basics, trauma-informed practices, juvenile  
28 developmental characteristics, and crime victimization.

29 (3) (2) An approved center may provide for the compensation of  
30 mediators and restorative justice facilitators, or utilize the services  
31 of volunteer mediators and restorative justice facilitators, or utilize

1 the services of both paid and volunteer mediators and restorative justice  
2 facilitators.

3 (4) (3) The mediator or restorative justice facilitator shall  
4 provide an opportunity for assist the parties to achieve in reaching a  
5 mutually acceptable resolution of their dispute, in joint or separate  
6 sessions, as appropriate, including a reparation plan agreement regarding  
7 reparations through dialogue discussion and negotiation. A The mediator  
8 shall be impartial, neutral, and unbiased and shall make no decisions for  
9 the parties.

10 (5) (4) The mediator or restorative justice facilitator shall  
11 officially terminate the process if the parties are unable to agree or  
12 if, in the judgment of the mediator, the agreement would be  
13 unconscionable. The termination shall be without prejudice to either  
14 party in any other proceeding.

15 (6) (5) The mediator or restorative justice facilitator has no  
16 authority to make or impose any adjudicatory sanction or penalty upon the  
17 parties.

18 (7) (6) The mediator or restorative justice facilitator shall be  
19 aware of and recommend outside resources to the parties whenever  
20 appropriate. The mediator or restorative justice facilitator shall advise  
21 participants to obtain legal review of agreements as necessary.

22 Sec. 14. Section 25-2914, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 25-2914 (1) Any verbal, written, or electronic communication made  
25 in or in connection with matters referred to mediation which relates to  
26 the controversy or dispute being mediated and agreements resulting from  
27 the mediation, whether made to the mediator, the staff of an approved  
28 center, a party, or any other person attending the mediation session,  
29 shall be confidential.

30 (2) Mediation proceedings shall be regarded as settlement  
31 negotiations, and no admission, representation, or statement made in

1 mediation, not otherwise discoverable or obtainable, shall be admissible  
2 as evidence or subject to discovery.

3 (3) A mediator shall not be subject to process requiring the  
4 disclosure of any matter discussed during mediation proceedings unless  
5 all the parties consent to a waiver.

6 (4) Confidential communications and materials are subject to  
7 disclosure when all parties agree in writing to waive confidentiality  
8 regarding specific verbal, written, or electronic communications relating  
9 to the mediation session or the agreement.

10 (5) This section shall not apply if a party brings an action against  
11 the mediator or center, if the communication was made in furtherance of a  
12 crime or fraud, or if this section conflicts with other legal  
13 requirements.

14 Sec. 15. (1) Any verbal, written, or electronic communication made  
15 in or in connection with matters referred to a restorative justice  
16 program which relates to the controversy or dispute undergoing  
17 restorative justice and agreements resulting from the restorative justice  
18 program, whether made to the restorative justice facilitator, the staff  
19 of an approved center, a party, or any other person attending the  
20 restorative justice program, shall be confidential and privileged.

21 (2) No admission, confession, or incriminating information obtained  
22 from a juvenile in the course of any restorative justice program that is  
23 conducted in conjunction with proceedings under the Dispute Resolution  
24 Act or as directed by a court, including, but not limited to, school-  
25 based disciplinary proceedings, juvenile diversion, court-ordered  
26 detention, or probation, shall be admitted into evidence against such  
27 juvenile, except as rebuttal or impeachment evidence, in any future  
28 adjudication hearing under the Nebraska Juvenile Code or in any criminal  
29 proceeding. Such admission, confession, or incriminating information may  
30 be considered by a court at sentencing or by a juvenile court during  
31 disposition proceedings.

1           (3) Confidential communications and materials are subject to  
2 disclosure when all parties to the restorative justice program agree in  
3 writing to waive confidentiality regarding specific verbal, written, or  
4 electronic communications relating to the restorative justice program or  
5 the agreement.

6           (4) This section shall not apply if:

7           (a) A party brings an action against the restorative justice  
8 facilitator or approved center;

9           (b) The communication was made in furtherance of a crime or fraud;

10           (c) The communication is required to be reported under section  
11 28-711 and is a new allegation of child abuse or neglect which was not  
12 previously known or reported; or

13           (d) This section conflicts with other legal requirements.

14           Sec. 16. Section 25-2915, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16           25-2915 No mediator, restorative justice facilitator, staff member,  
17 or member of a governing board of an approved center may be held liable  
18 for civil damages for any statement or decision made in the process of  
19 restorative justice or dispute resolution unless such person acted in a  
20 manner exhibiting willful or wanton misconduct.

21           Sec. 17. Section 25-2916, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23           25-2916 (1) If the parties involved in mediation ~~the dispute~~ reach  
24 an agreement, the agreement may be reduced to writing and signed by the  
25 parties. The agreement shall set forth the settlement of the issues and  
26 the future responsibilities of each party. If a court referred the case,  
27 the agreement as signed and approved by the parties may be presented to  
28 the court as a stipulation and, if approved by the court, shall be  
29 enforceable as an order of the court.

30           (2) If the parties involved in a restorative justice program reach a  
31 reparation plan agreement, the agreement may be reduced to writing and

1 signed by the parties. The agreement shall set forth the reparations  
2 agreed upon by the parties to repair the specific circumstances of the  
3 offense. These may include, but are not limited to, service to the  
4 victim, an apology to the victim, financial restitution, services for the  
5 individual who caused the harm, community service, or any other  
6 reparation agreed upon by the parties. The agreement shall specify the  
7 time period during which such individual must comply with the  
8 requirements specified therein.

9       Sec. 18. Section 25-2917, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11       25-2917 During the period of the restorative justice or dispute  
12 resolution process, any applicable civil statute of limitations shall be  
13 tolled as to the parties. The tolling shall commence on the date the  
14 approved center accepts the case and shall end on the date of the last  
15 restorative justice or mediation session. This period shall be no longer  
16 than sixty days without consent of all the parties.

17       Sec. 19. Section 25-2918, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19       25-2918 (1) The Supreme Court, upon recommendation by the director  
20 in consultation with the council, shall adopt and promulgate rules and  
21 regulations to carry out the Dispute Resolution Act.

22       (2) The office may adopt and promulgate policies and procedures to  
23 carry out the Dispute Resolution Act.

24       Sec. 20. Section 25-2919, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26       25-2919 The Dispute Resolution Act shall apply only to approved  
27 centers and mediators and restorative justice facilitators of such  
28 centers.

29       Sec. 21. Section 25-2920, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31       25-2920 The director shall provide an annual report regarding report

1 ~~annually to the Chief Justice, the Governor, and the Legislature on the~~  
2 ~~implementation of the Dispute Resolution Act. The report shall be~~  
3 ~~available to the public on the Supreme Court's web site. The report~~  
4 ~~submitted to the Legislature shall be submitted electronically. The~~  
5 report shall include the number and types of disputes received, the  
6 disposition of the disputes, any problems encountered, and any  
7 recommendations to address problems, ~~and a comparison of the cost of~~  
8 ~~mediation and litigation.~~

9       Sec. 22. Section 25-2921, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11       25-2921 The Dispute Resolution Cash Fund is created. The State Court  
12 Administrator shall administer the fund. The fund shall consist of  
13 proceeds received pursuant to subdivision (9) ~~(10)~~ of section 25-2908 and  
14 section 33-155. ~~The Except as otherwise directed by the Supreme Court~~  
15 ~~during the period from November 21, 2009, until June 30, 2013, the fund~~  
16 shall be used to supplement the administration of the office and the  
17 support of the approved centers. ~~It is the intent of the Legislature that~~  
18 ~~any General Fund money supplanted by the Dispute Resolution Cash Fund may~~  
19 ~~be used for the support and maintenance of the State Library. Any money~~  
20 in the fund available for investment shall be invested by the state  
21 investment officer pursuant to the Nebraska Capital Expansion Act and the  
22 Nebraska State Funds Investment Act.

23       Sec. 23. Section 43-245, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25       43-245 For purposes of the Nebraska Juvenile Code, unless the  
26 context otherwise requires:

27       (1) Abandonment means a parent's intentionally withholding from a  
28 child, without just cause or excuse, the parent's presence, care, love,  
29 protection, and maintenance and the opportunity for the display of  
30 parental affection for the child;

31       (2) Age of majority means nineteen years of age;

1 (3) Alternative to detention means a program or directive that  
2 increases supervision of a youth in the community in an effort to ensure  
3 the youth attends court and refrains from committing a new law violation.  
4 Alternative to detention includes, but is not limited to, electronic  
5 monitoring, day and evening reporting centers, house arrest, tracking,  
6 family crisis response, and temporary shelter placement. Except for the  
7 use of manually controlled delayed egress of not more than thirty  
8 seconds, placements that utilize physical construction or hardware to  
9 restrain a youth's freedom of movement and ingress and egress from  
10 placement are not considered alternatives to detention;

11 (4) Approved center means a center that has applied for and received  
12 approval from the Director of the Office of Dispute Resolution under  
13 section 25-2909;

14 (5) Civil citation means a noncriminal notice which cannot result in  
15 a criminal record and is described in section 43-248.02;

16 (6) Cost or costs means (a) the sum or equivalent expended, paid, or  
17 charged for goods or services, or expenses incurred, or (b) the  
18 contracted or negotiated price;

19 (7) Criminal street gang means a group of three or more people with  
20 a common identifying name, sign, or symbol whose group identity or  
21 purposes include engaging in illegal activities;

22 (8) Criminal street gang member means a person who willingly or  
23 voluntarily becomes and remains a member of a criminal street gang;

24 (9) Custodian means a nonparental caretaker having physical custody  
25 of the juvenile and includes an appointee described in section 43-294;

26 (10) Guardian means a person, other than a parent, who has qualified  
27 by law as the guardian of a juvenile pursuant to testamentary or court  
28 appointment, but excludes a person who is merely a guardian ad litem;

29 (11) Juvenile means any person under the age of eighteen;

30 (12) Juvenile court means the separate juvenile court where it has  
31 been established pursuant to sections 43-2,111 to 43-2,127 and the county



1 court sitting as a juvenile court in all other counties. Nothing in the  
2 Nebraska Juvenile Code shall be construed to deprive the district courts  
3 of their habeas corpus, common-law, or chancery jurisdiction or the  
4 county courts and district courts of jurisdiction of domestic relations  
5 matters as defined in section 25-2740;

6 (13) Juvenile detention facility has the same meaning as in section  
7 83-4,125;

8 (14) Legal custody has the same meaning as in section 43-2922;

9 ~~(15) Mediator for juvenile offender and victim mediation means a~~  
10 ~~person who (a) has completed at least thirty hours of training in~~  
11 ~~conflict resolution techniques, neutrality, agreement writing, and ethics~~  
12 ~~set forth in section 25-2913, (b) has an additional eight hours of~~  
13 ~~juvenile offender and victim mediation training, and (c) meets the~~  
14 ~~apprenticeship requirements set forth in section 25-2913;~~

15 (15) ~~(16)~~ Mental health facility means a treatment facility as  
16 defined in section 71-914 or a government, private, or state hospital  
17 which treats mental illness;

18 (16) ~~(17)~~ Nonoffender means a juvenile who is subject to the  
19 jurisdiction of the juvenile court for reasons other than legally  
20 prohibited conduct, including, but not limited to, juveniles described in  
21 subdivision (3)(a) of section 43-247;

22 (17) ~~(18)~~ Parent means one or both parents or stepparents when the  
23 stepparent is married to a parent who has physical custody of the  
24 juvenile as of the filing of the petition;

25 (18) ~~(19)~~ Parties means the juvenile as described in section 43-247  
26 and his or her parent, guardian, or custodian;

27 (19) ~~(20)~~ Physical custody has the same meaning as in section  
28 43-2922;

29 (20) ~~(21)~~ Except in proceedings under the Nebraska Indian Child  
30 Welfare Act, relative means father, mother, grandfather, grandmother,  
31 brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle,

1 aunt, first cousin, nephew, or niece;

2 (21) Restorative justice means practices, programs, or services that  
3 emphasize repairing the harm caused to victims and the community by  
4 persons who have caused the harm or committed an offense. Restorative  
5 justice practices may include, but are not limited to, victim youth  
6 conferencing, victim-offender mediation, youth or community dialogue,  
7 panels, circles, and truancy mediation;

8 (22) Restorative justice facilitator means a qualified individual  
9 who has been trained to facilitate restorative justice practices. A  
10 qualified individual shall be approved by the referring county attorney,  
11 city attorney, or juvenile or county court judge. Factors for approval  
12 may include, but are not limited to, an individual's education and  
13 training in restorative justice principles and practices; experience in  
14 facilitating restorative justice sessions; understanding of the necessity  
15 to do no harm to either the victim or the person who harmed the victim;  
16 and proven commitment to ethical practices;

17 (23) {22} Seal a record means that a record shall not be available  
18 to the public except upon the order of a court upon good cause shown;

19 (24) {23} Secure detention means detention in a highly structured,  
20 residential, hardware-secured facility designed to restrict a juvenile's  
21 movement;

22 (25) {24} Staff secure juvenile facility means a juvenile  
23 residential facility operated by a political subdivision (a) which does  
24 not include construction designed to physically restrict the movements  
25 and activities of juveniles who are in custody in the facility, (b) in  
26 which physical restriction of movement or activity of juveniles is  
27 provided solely through staff, (c) which may establish reasonable rules  
28 restricting ingress to and egress from the facility, and (d) in which the  
29 movements and activities of individual juvenile residents may, for  
30 treatment purposes, be restricted or subject to control through the use  
31 of intensive staff supervision. Staff secure juvenile facility does not

1 include any institution operated by the Department of Correctional  
2 Services;

3 ~~(26)~~ (25) Status offender means a juvenile who has been charged with  
4 or adjudicated for conduct which would not be a crime if committed by an  
5 adult, including, but not limited to, juveniles charged under subdivision  
6 (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02;

7 ~~(27)~~ (26) Traffic offense means any nonfelonious act in violation of  
8 a law or ordinance regulating vehicular or pedestrian travel, whether  
9 designated a misdemeanor or a traffic infraction; and

10 ~~(28)~~ (27) Young adult means an individual older than eighteen years  
11 of age but under twenty-one years of age.

12 Sec. 24. Section 43-246, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 43-246 Acknowledging the responsibility of the juvenile court to act  
15 to preserve the public peace and security, the Nebraska Juvenile Code  
16 shall be construed to effectuate the following:

17 (1) To assure the rights of all juveniles to care and protection and  
18 a safe and stable living environment and to development of their  
19 capacities for a healthy personality, physical well-being, and useful  
20 citizenship and to protect the public interest;

21 (2) To provide for the intervention of the juvenile court in the  
22 interest of any juvenile who is within the provisions of the Nebraska  
23 Juvenile Code, with due regard to parental rights and capacities and the  
24 availability of nonjudicial resources;

25 (3) To remove juveniles who are within the Nebraska Juvenile Code  
26 from the criminal justice system whenever possible and to reduce the  
27 possibility of their committing future law violations through the  
28 provision of social and rehabilitative services to such juveniles and  
29 their families;

30 (4) To offer selected juveniles the opportunity to take direct  
31 personal responsibility for their individual actions by reconciling with

1 the victims, or victim surrogates when appropriate, through restorative  
2 justice practices juvenile offender and victim mediation and fulfilling  
3 the terms of the resulting reparation plan agreement which may require  
4 apologies, restitution, and community service, or other agreed-upon means  
5 of making amends;

6 (5) To achieve the purposes of subdivisions (1) through (3) of this  
7 section in the juvenile's own home whenever possible, separating the  
8 juvenile from his or her parent when necessary for his or her welfare,  
9 the juvenile's health and safety being of paramount concern, or in the  
10 interest of public safety and, when temporary separation is necessary, to  
11 consider the developmental needs of the individual juvenile in all  
12 placements, to consider relatives as a preferred potential placement  
13 resource, and to make reasonable efforts to preserve and reunify the  
14 family if required under section 43-283.01;

15 (6) To promote adoption, guardianship, or other permanent  
16 arrangements for children in the custody of the Department of Health and  
17 Human Services who are unable to return home;

18 (7) To provide a judicial procedure through which these purposes and  
19 goals are accomplished and enforced in which the parties are assured a  
20 fair hearing and their constitutional and other legal rights are  
21 recognized and enforced;

22 (8) To assure compliance, in cases involving Indian children, with  
23 the Nebraska Indian Child Welfare Act; and

24 (9) To make any temporary placement of a juvenile in the least  
25 restrictive environment consistent with the best interests of the  
26 juvenile and the safety of the community.

27 Sec. 25. Section 43-247.03, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 43-247.03 (1) In any juvenile case, the court may provide the  
30 parties the opportunity to address issues involving the child's care and  
31 placement, services to the family, ~~restorative justice,~~ and other

1 concerns through restorative justice practices. Restorative justice  
2 practices facilitated conferencing or mediation. Facilitated conferencing  
3 may include, but are is not limited to, prehearing conferences, family  
4 group conferences, expedited family group conferences, child welfare  
5 mediation, permanency prehearing conferences, termination of parental  
6 rights prehearing conferences, ~~and juvenile victim-offender dialogue,~~  
7 victim youth conferencing, victim-offender mediation, youth or community  
8 dialogue, panels, circles, and truancy mediation. The Office of Dispute  
9 Resolution shall be responsible for funding ~~Funding~~ and management for  
10 such services provided by approved centers ~~will be part of the office of~~  
11 ~~the State Court Administrator~~. All discussions taking place during such  
12 restorative justice practices facilitated conferences, including plea  
13 negotiations, shall be ~~considered~~ confidential and privileged  
14 communications as provided in section 15 of this act ~~, except~~  
15 ~~communications required by mandatory reporting under section 28-711 for~~  
16 ~~new allegations of child abuse or neglect which were not previously known~~  
17 ~~or reported~~.

18 (2) For purposes of this section:

19 (a) Expedited family group conference means an expedited and  
20 limited-scope facilitated planning meeting which engages a child's or  
21 juvenile's parents, the child or juvenile when appropriate, other  
22 critical family members, services providers, and staff members from  
23 either the Department of Health and Human Services or the Office of  
24 Probation Administration to address immediate placement issues for the  
25 child or juvenile;

26 (b) Family group conference means a facilitated meeting involving a  
27 child's or juvenile's family, the child or juvenile when appropriate,  
28 available extended family members from across the United States, other  
29 significant and close persons to the family, service providers, and staff  
30 members from either the Department of Health and Human Services or the  
31 Office of Probation Administration to develop a family-centered plan for

1 the best interests of the child and to address the essential issues of  
2 safety, permanency, and well-being of the child;

3 (c) Juvenile victim-offender dialogue means a court-connected  
4 process in which a facilitator meets with the juvenile offender and the  
5 victim in an effort to convene a dialogue in which the offender takes  
6 responsibility for his or her actions and the victim is able to address  
7 the offender and request an apology and restitution, with the goal of  
8 creating an agreed-upon written plan;~~and~~

9 (d) Prehearing conference means a facilitated meeting prior to  
10 appearing in court and held to gain the cooperation of the parties, to  
11 offer services and treatment, and to develop a problem-solving atmosphere  
12 in the best interests of children involved in the juvenile court system.  
13 A prehearing conference may be scheduled at any time during the child  
14 welfare or juvenile court process, from initial removal through  
15 permanency, termination of parental rights, and juvenile delinquency  
16 court processes; ~~and -~~

17 (e) Victim youth conferencing means a process in which a restorative  
18 justice facilitator meets with the juvenile and the victim, when  
19 appropriate, in an effort to convene a dialogue in which the juvenile  
20 takes responsibility for his or her actions and the victim or victim  
21 surrogate is able to address the juvenile and create a reparation plan  
22 agreement, which may include apologies, restitution, community services,  
23 or other agreed-upon means of amends.

24 Sec. 26. Section 43-247.04, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 43-247.04 (1) It is the intent of the Legislature to transfer four  
27 hundred fifty thousand dollars in General Funds from the Department of  
28 Health and Human Services' 2014-15 budget to the office of the State  
29 Court Administrator's budget for the purpose of making the State Court  
30 Administrator directly responsible for contracting and paying for court-  
31 connected prehearing conferences, family group conferences, expedited

1 family group conferences, child welfare mediation, permanency prehearing  
2 conferences, termination of parental rights prehearing conferences,  
3 victim youth conferencing, juvenile victim-offender dialogue, and other  
4 restorative justice practices ~~related services~~. Such funds shall be  
5 transferred on or before October 15, 2014.

6 (2) The Department of Health and Human Services shall continue to be  
7 responsible for contracting with mediation centers approved by the Office  
8 of Dispute Resolution to provide family group conferences, mediation, and  
9 related services for non-court-involved and voluntary child welfare or  
10 juvenile cases through June 30, 2017, unless extended by the Legislature.

11 Sec. 27. Section 43-260.06, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 43-260.06 A juvenile diversion agreement shall include, but not be  
14 limited to, one or more of the following:

15 (1) A letter of apology;

16 (2) Community service, not to be performed during school hours if  
17 the juvenile offender is attending school;

18 (3) Restitution;

19 (4) Attendance at educational or informational sessions at a  
20 community agency;

21 (5) Requirements to remain during specified hours at home, school,  
22 and work and restrictions on leaving or entering specified geographical  
23 areas; and

24 (6) Participation in an appropriate restorative justice practice or  
25 service ~~Upon agreement of the victim, participation in juvenile offender~~  
26 ~~and victim mediation.~~

27 Sec. 28. Section 43-274, Revised Statutes Cumulative Supplement,  
28 2018, is amended to read:

29 43-274 (1) The county attorney or city attorney, having knowledge of  
30 a juvenile within his or her jurisdiction who appears to be a juvenile  
31 described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and

1 taking into consideration the criteria in section 43-276, may proceed as  
2 provided in this section.

3 (2) The county attorney or city attorney may offer pretrial  
4 diversion to the juvenile in accordance with a juvenile pretrial  
5 diversion program established pursuant to sections 43-260.02 to  
6 43-260.07.

7 (3)(a) If a juvenile appears to be a juvenile described in  
8 subdivision (1), (2), (3)(b), or (4) of section 43-247, the county  
9 attorney or city attorney may utilize restorative justice practices or  
10 services as a form of, or condition of, diversion or plea bargaining or  
11 as a recommendation as a condition of disposition, through a referral to  
12 a restorative justice facilitator.

13 (b) For victim-involved offenses, a restorative justice facilitator  
14 shall conduct a separate individual intake and assessment session with  
15 each juvenile and victim to determine which, if any, restorative justice  
16 practice is appropriate. All participation by the victim shall be  
17 voluntary. If the victim declines to participate in any or all parts of  
18 the restorative justice practice, a victim surrogate may be invited to  
19 participate with the juvenile. If, after assessment, participation by the  
20 juvenile is deemed inappropriate, the restorative justice facilitator  
21 shall return the referral to the referring county attorney or city  
22 attorney.

23 (c) A victim or his or her parent or guardian shall not be charged a  
24 fee. A juvenile or his or her parent or guardian may be charged a fee  
25 according to the policies and procedures of the restorative justice  
26 facilitator and the referring county attorney or city attorney.  
27 Restorative justice facilitators shall use a sliding fee scale based on  
28 income and shall not deny services based upon the inability of a juvenile  
29 or his or her parent or guardian to pay, if funding is otherwise  
30 available.

31 (d) Prior to participating in any restorative justice practice or



1 service under this section, the juvenile, the juvenile's parent or  
2 guardian, and the victim, if he or she is participating, shall sign a  
3 consent to participate form.

4 (e) If a reparation plan agreement is reached, the restorative  
5 justice facilitator shall forward a copy of the agreement to the  
6 referring county attorney or city attorney. The terms of the reparation  
7 plan agreement shall specify provisions for reparation, monitoring,  
8 completion, and reporting. An agreement may include, but is not limited  
9 to, one or more of the following:

10 (i) Participation by the juvenile in certain community service  
11 programs;

12 (ii) Payment of restitution by the juvenile to the victim;

13 (iii) Reconciliation between the juvenile and the victim;

14 (iv) Apology, when appropriate, between the juvenile and the victim;

15 and

16 (v) Any other areas of agreement.

17 (f) The restorative justice facilitator shall give notice to the  
18 county attorney or city attorney regarding the juvenile's compliance with  
19 the terms of the reparation plan agreement. If the juvenile does not  
20 satisfactorily complete the terms of the agreement, the county attorney  
21 or city attorney may:

22 (i) Refer the matter back to the restorative justice facilitator for  
23 further restorative justice practices or services; or

24 (ii) Proceed with filing a juvenile court petition or criminal  
25 charge.

26 (g) If a juvenile meets the terms of the reparation plan agreement,  
27 the county attorney or city attorney shall either:

28 (i) Not file a juvenile court petition or criminal charge against  
29 the juvenile for the acts for which the juvenile was referred for  
30 restorative justice practice or services when referred as a diversion or  
31 an alternative to diversion; or

1        (ii) File a reduced charged as previously agreed when referred as a  
2 part of a plea negotiation.

3        ~~(3)(a) If a juvenile appears 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, the county attorney or city attorney may offer~~  
6 ~~mediation to the juvenile and the victim of the juvenile's act. If both~~  
7 ~~the juvenile and the victim agree to mediation, the juvenile, his or her~~  
8 ~~parent, guardian, or custodian, and the victim shall sign a mediation~~  
9 ~~consent form and select a mediator or approved center from the roster~~  
10 ~~made available pursuant to section 25-2908. The county attorney or city~~  
11 ~~attorney shall refer the juvenile and the victim to such mediator or~~  
12 ~~approved center. The mediation sessions shall occur within thirty days~~  
13 ~~after the date the mediation referral is made unless an extension is~~  
14 ~~approved by the county attorney or city attorney. The juvenile or his or~~  
15 ~~her parent, guardian, or custodian shall pay the mediation fees. The fee~~  
16 ~~shall be determined by the mediator in private practice or by the~~  
17 ~~approved center. A juvenile shall not be denied services at an approved~~  
18 ~~center because of an inability to pay.~~

19        ~~(b) Terms of the mediation agreement shall specify monitoring,~~  
20 ~~completion, and reporting requirements. The county attorney or city~~  
21 ~~attorney, the court, or the probation office shall be notified by the~~  
22 ~~designated monitor if the juvenile does not complete the agreement within~~  
23 ~~the agreement's specified time.~~

24        ~~(c) Terms of the agreement may include one or more of the following:~~

25        ~~(i) Participation by the juvenile in certain community service~~  
26 ~~programs;~~

27        ~~(ii) Payment of restitution by the juvenile to the victim;~~

28        ~~(iii) Reconciliation between the juvenile and the victim; and~~

29        ~~(iv) Any other areas of agreement.~~

30        ~~(d) If no mediation agreement is reached, the mediator or approved~~  
31 ~~center will report that fact to the county attorney or city attorney~~

1 ~~within forty-eight hours of the final mediation session excluding~~  
2 ~~nonjudicial days.~~

3 ~~(e) If a mediation agreement is reached and the agreement does not~~  
4 ~~violate public policy, the agreement shall be approved by the county~~  
5 ~~attorney or city attorney. If the agreement is not approved and the~~  
6 ~~victim agrees to return to mediation (i) the juvenile may be referred~~  
7 ~~back to mediation with suggestions for changes needed in the agreement to~~  
8 ~~meet approval or (ii) the county attorney or city attorney may proceed~~  
9 ~~with the filing of a criminal charge or juvenile court petition. If the~~  
10 ~~juvenile agrees to return to mediation but the victim does not agree to~~  
11 ~~return to mediation, the county attorney or city attorney may consider~~  
12 ~~the juvenile's willingness to return to mediation when determining~~  
13 ~~whether or not to file a criminal charge or a juvenile court petition.~~

14 ~~(f) If the juvenile meets the terms of an approved mediation~~  
15 ~~agreement, the county attorney or city attorney shall not file a criminal~~  
16 ~~charge or juvenile court petition against the juvenile for the acts for~~  
17 ~~which the juvenile was referred to mediation.~~

18 (4) The county attorney or city attorney shall file the petition in  
19 the court with jurisdiction as outlined in section 43-246.01.

20 (5) When a transfer from juvenile court to county court or district  
21 court is authorized because there is concurrent jurisdiction, the county  
22 attorney or city attorney may move to transfer the proceedings. Such  
23 motion shall be filed with the juvenile court petition unless otherwise  
24 permitted for good cause shown. The juvenile court shall schedule a  
25 hearing on such motion within fifteen days after the motion is filed. The  
26 county attorney or city attorney has the burden by a preponderance of the  
27 evidence to show why such proceeding should be transferred. The juvenile  
28 shall be represented by counsel at the hearing and may present the  
29 evidence as to why the proceeding should be retained. After considering  
30 all the evidence and reasons presented by both parties, the juvenile  
31 court shall retain the proceeding unless the court determines that a

1 preponderance of the evidence shows that the proceeding should be  
2 transferred to the county court or district court. The court shall make a  
3 decision on the motion within thirty days after the hearing. The juvenile  
4 court shall set forth findings for the reason for its decision.

5 An order granting or denying transfer of the case from juvenile  
6 court to county or district court shall be considered a final order for  
7 the purposes of appeal. Upon the entry of an order, any party may appeal  
8 to the Court of Appeals within ten days. Such review shall be advanced on  
9 the court docket without an extension of time granted to any party except  
10 upon a showing of exceptional cause. Appeals shall be submitted,  
11 assigned, and scheduled for oral argument as soon as the appellee's brief  
12 is due to be filed. The Court of Appeals shall conduct its review in an  
13 expedited manner and shall render the judgment and opinion, if any, as  
14 speedily as possible. During the pendency of any such appeal, the  
15 juvenile court may continue to enter temporary orders in the best  
16 interests of the juvenile pursuant to section 43-295.

17 If the proceeding is transferred from juvenile court to the county  
18 court or district court, the county attorney or city attorney shall file  
19 a criminal information in the county court or district court, as  
20 appropriate, and the accused shall be arraigned as provided for a person  
21 eighteen years of age or older in subdivision (1)(b) of section 29-1816.

22 Sec. 29. Section 43-275, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 43-275 Whenever a juvenile is detained or placed in custody under  
25 the provisions of section 43-253, a petition, complaint, or restorative  
26 justice program ~~mediation~~ consent form must be filed within forty-eight  
27 hours excluding nonjudicial days.

28 Sec. 30. Section 43-276, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 43-276 (1) The county attorney or city attorney, in making the  
31 determination whether to file a criminal charge, file a juvenile court

1 petition, offer juvenile pretrial diversion or restorative justice  
2 ~~mediation~~, or transfer a case to or from juvenile court, and the juvenile  
3 court, county court, or district court in making the determination  
4 whether to transfer a case, shall consider: (a) The type of treatment  
5 such juvenile would most likely be amenable to; (b) whether there is  
6 evidence that the alleged offense included violence; (c) the motivation  
7 for the commission of the offense; (d) the age of the juvenile and the  
8 ages and circumstances of any others involved in the offense; (e) the  
9 previous history of the juvenile, including whether he or she had been  
10 convicted of any previous offenses or adjudicated in juvenile court; (f)  
11 the best interests of the juvenile; (g) consideration of public safety;  
12 (h) consideration of the juvenile's ability to appreciate the nature and  
13 seriousness of his or her conduct; (i) whether the best interests of the  
14 juvenile and the security of the public may require that the juvenile  
15 continue in secure detention or under supervision for a period extending  
16 beyond his or her minority and, if so, the available alternatives best  
17 suited to this purpose; (j) whether the victim or juvenile agree ~~agrees~~  
18 to participate in restorative justice ~~mediation~~; (k) whether there is a  
19 juvenile pretrial diversion program established pursuant to sections  
20 43-260.02 to 43-260.07; (l) whether the juvenile has been convicted of or  
21 has acknowledged unauthorized use or possession of a firearm; (m) whether  
22 a juvenile court order has been issued for the juvenile pursuant to  
23 section 43-2,106.03; (n) whether the juvenile is a criminal street gang  
24 member; and (o) such other matters as the parties deem relevant to aid in  
25 the decision.

26 (2) Prior to filing a petition alleging that a juvenile is a  
27 juvenile as described in subdivision (3)(b) of section 43-247, the county  
28 attorney shall make reasonable efforts to refer the juvenile and family  
29 to community-based resources available to address the juvenile's  
30 behaviors, provide crisis intervention, and maintain the juvenile safely  
31 in the home. Failure to describe the efforts required by this subsection

1 shall be a defense to adjudication.

2 Sec. 31. Section 43-286, Revised Statutes Cumulative Supplement,  
3 2018, is amended to read:

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

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

13 (A) Place the juvenile on probation subject to the supervision of a  
14 probation officer;

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

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

24 Under subdivision (1)(a)(i) of this section, upon a determination by  
25 the court that there are no parental, private, or other public funds  
26 available for the care, custody, and maintenance of a juvenile, the court  
27 may order a reasonable sum for the care, custody, and maintenance of the  
28 juvenile to be paid out of a fund which shall be appropriated annually by  
29 the county where the petition is filed until a suitable provision may be  
30 made for the juvenile without such payment.

31 (ii) This subdivision applies beginning October 1, 2013. The court

1 may continue the dispositional portion of the hearing, from time to time  
2 upon such terms and conditions as the court may prescribe, including an  
3 order of restitution of any property stolen or damaged or an order  
4 requiring the juvenile to participate in restorative justice programs or  
5 community service programs, if such order is in the interest of the  
6 juvenile's reformation or rehabilitation, and, subject to the further  
7 order of the court, may:

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

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

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

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

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

31 (A) The motion shall set forth specific factual allegations that

1 support the motion and a copy of such motion shall be served on all  
2 persons required to be served by sections 43-262 to 43-267; and

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

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

7 (II) All options for community-based services have been exhausted;

8 and

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

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

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



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

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

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

24 (2) When any juvenile is found by the court to be a juvenile  
25 described in subdivision (3)(b) of section 43-247, the court may enter  
26 such order as it is empowered to enter under subdivision (1)(a) of this  
27 section or until October 1, 2013, enter an order committing or placing  
28 the juvenile to the care and custody of the Department of Health and  
29 Human Services.

30 (3) When any juvenile is adjudicated to be a juvenile described in  
31 subdivision (1), (2), (3)(b), or (4) of section 43-247—because of a

1 ~~nonviolent act or acts and the juvenile has not previously been~~  
2 ~~adjudicated to be such a juvenile because of a violent act or acts, the~~  
3 ~~court may order the juvenile to be assessed for referral to participate~~  
4 ~~in a restorative justice program. Factors that the judge may consider for~~  
5 ~~such referral include, but are not limited to: The juvenile's age,~~  
6 ~~intellectual capacity, and living environment; the ages of others who~~  
7 ~~were part of the offense; the age and capacity of the victim; and the~~  
8 ~~nature of the case , with the agreement of the victim, order the juvenile~~  
9 ~~to attend juvenile offender and victim mediation with a mediator or at an~~  
10 ~~approved center selected from the roster made available pursuant to~~  
11 ~~section 25-2908.~~

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

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

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

30 (i) The motion shall set forth specific factual allegations of the  
31 alleged violations and a copy of such motion shall be served on all

1 persons required to be served by sections 43-262 to 43-267;

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

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

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

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

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

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

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

16 Sec. 32. Section 43-2,108.01, Reissue Revised Statutes of Nebraska,  
17 is amended to read:

18 43-2,108.01 Sections 43-2,108.01 to 43-2,108.05 apply only to  
19 persons who were under the age of eighteen years when the offense took  
20 place and, after being taken into custody, arrested, cited in lieu of  
21 arrest, or referred for prosecution without citation, the county attorney  
22 or city attorney (1) released the juvenile without filing a juvenile  
23 petition or criminal complaint, (2) offered juvenile pretrial diversion,  
24 ~~or~~ mediation, or restorative justice to the juvenile under the Nebraska  
25 Juvenile Code, (3) filed a juvenile court petition describing the  
26 juvenile as a juvenile described in subdivision (1), (2), (3)(b), or (4)  
27 of section 43-247, (4) filed a criminal complaint in county court against  
28 the juvenile under state statute or city or village ordinance for  
29 misdemeanor or infraction possession of marijuana or misdemeanor or  
30 infraction possession of drug paraphernalia, or (5) filed a criminal  
31 complaint in county court against the juvenile for any other misdemeanor

1 or infraction under state statute or city or village ordinance, other  
2 than for a traffic offense that may be waived.

3 Sec. 33. Section 43-2,108.02, Reissue Revised Statutes of Nebraska,  
4 is amended to read:

5 43-2,108.02 For a juvenile described in section 43-2,108.01, the  
6 county attorney or city attorney shall provide the juvenile with written  
7 notice that:

8 (1) States in plain language that the juvenile or the juvenile's  
9 parent or guardian may file a motion to seal the record with the court  
10 when the juvenile has satisfactorily completed the diversion, mediation,  
11 restorative justice, probation, supervision, or other treatment or  
12 rehabilitation program provided under the Nebraska Juvenile Code or has  
13 satisfactorily completed the diversion or sentence ordered by a county  
14 court; and

15 (2) Explains in plain language what sealing the record means.

16 Sec. 34. Section 43-2,108.03, Reissue Revised Statutes of Nebraska,  
17 is amended to read:

18 43-2,108.03 (1) If a juvenile described in section 43-2,108.01 was  
19 taken into custody, arrested, cited in lieu of arrest, or referred for  
20 prosecution without citation but no juvenile petition or criminal  
21 complaint was filed against the juvenile with respect to the arrest or  
22 custody, the county attorney or city attorney shall notify the government  
23 agency responsible for the arrest, custody, citation in lieu of arrest,  
24 or referral for prosecution without citation that no criminal charge or  
25 juvenile court petition was filed.

26 (2) If the county attorney or city attorney offered and a juvenile  
27 described in section 43-2,108.01 has agreed to pretrial diversion, ~~or~~  
28 mediation, restorative justice, the county attorney or city attorney  
29 shall notify the government agency responsible for the arrest or custody  
30 when the juvenile has satisfactorily completed the resulting diversion, ~~or~~  
31 mediation, or restorative justice practice.

1           (3) If the juvenile was taken into custody, arrested, cited in lieu  
2 of arrest, or referred for prosecution without citation and charges were  
3 filed but later dismissed and any required pretrial diversion, ~~or~~  
4 mediation, or restorative justice practice for any related charges have  
5 been completed and no related charges remain under the jurisdiction of  
6 the court, the county attorney or city attorney shall notify the  
7 government agency responsible for the arrest, custody, citation in lieu  
8 of arrest, or referral for prosecution without citation and the court  
9 where the charge or petition was filed that the charge or juvenile court  
10 petition was dismissed.

11           (4) Upon receiving notice under subsection (1), (2), or (3) of this  
12 section, the government agency or court shall immediately seal all  
13 records housed at that government agency or court pertaining to the  
14 citation, arrest, record of custody, complaint, disposition, diversion,  
15 ~~or~~ mediation, or restorative justice practice.

16           (5) If a juvenile described in section 43-2,108.01 has  
17 satisfactorily completed such juvenile's probation, supervision, or other  
18 treatment or rehabilitation program provided under the Nebraska Juvenile  
19 Code or has satisfactorily completed such juvenile's diversion or  
20 sentence in county court:

21           (a) The court may initiate proceedings pursuant to section  
22 43-2,108.04 to seal the record pertaining to such disposition or  
23 adjudication under the juvenile code or sentence of the county court; and

24           (b) If the juvenile has attained the age of seventeen years, the  
25 court shall initiate proceedings pursuant to section 43-2,108.04 to seal  
26 the record pertaining to such disposition or adjudication under the  
27 juvenile code or diversion or sentence of the county court, except that  
28 the court is not required to initiate proceedings to seal a record  
29 pertaining to a misdemeanor or infraction not described in subdivision  
30 (4) of section 43-2,108.01 under a city or village ordinance that has no  
31 possible jail sentence. Such a record may be sealed under subsection (6)

1 of this section.

2 (6) If a juvenile described in section 43-2,108.01 has  
3 satisfactorily completed diversion, mediation, restorative justice,  
4 probation, supervision, or other treatment or rehabilitation program  
5 provided under the Nebraska Juvenile Code or has satisfactorily completed  
6 the diversion or sentence ordered by a county court, the juvenile or the  
7 juvenile's parent or guardian may file a motion in the court of record  
8 asking the court to seal the record pertaining to the offense which  
9 resulted in such disposition, adjudication, or diversion of the juvenile  
10 court or diversion or sentence of the county court.

11 Sec. 35. Section 43-2,108.04, Reissue Revised Statutes of Nebraska,  
12 is amended to read:

13 43-2,108.04 (1) When a proceeding to seal the record is initiated,  
14 the court shall promptly notify the county attorney or city attorney  
15 involved in the case that is the subject of the proceeding to seal the  
16 record of the proceedings, and shall promptly notify the Department of  
17 Health and Human Services of the proceedings if the juvenile whose record  
18 is the subject of the proceeding is a ward of the state at the time the  
19 proceeding is initiated or if the department was a party in the  
20 proceeding.

21 (2) A party notified under subsection (1) of this section may file a  
22 response with the court within thirty days after receiving such notice.

23 (3) If a party notified under subsection (1) of this section does  
24 not file a response with the court or files a response that indicates  
25 there is no objection to the sealing of the record, the court may: (a)  
26 Order the record of the juvenile under consideration be sealed without  
27 conducting a hearing on the motion; or (b) decide in its discretion to  
28 conduct a hearing on the motion. If the court decides in its discretion  
29 to conduct a hearing on the motion, the court shall conduct the hearing  
30 within sixty days after making that decision and shall give notice, by  
31 regular mail, of the date, time, and location of the hearing to the

1 parties receiving notice under subsection (1) of this section and to the  
2 juvenile who is the subject of the record under consideration.

3 (4) If a party receiving notice under subsection (1) of this section  
4 files a response with the court objecting to the sealing of the record,  
5 the court shall conduct a hearing on the motion within sixty days after  
6 the court receives the response. The court shall give notice, by regular  
7 mail, of the date, time, and location of the hearing to the parties  
8 receiving notice under subsection (1) of this section and to the juvenile  
9 who is the subject of the record under consideration.

10 (5) After conducting a hearing in accordance with this section, the  
11 court may order the record of the juvenile that is the subject of the  
12 motion be sealed if it finds that the juvenile has been rehabilitated to  
13 a satisfactory degree. In determining whether the juvenile has been  
14 rehabilitated to a satisfactory degree, the court may consider all of the  
15 following:

16 (a) The age of the juvenile;

17 (b) The nature of the offense and the role of the juvenile in the  
18 offense;

19 (c) The behavior of the juvenile after the disposition,  
20 adjudication, diversion, or sentence and the juvenile's response to  
21 diversion, mediation, restorative justice, probation, supervision, other  
22 treatment or rehabilitation program, or sentence;

23 (d) The education and employment history of the juvenile; and

24 (e) Any other circumstances that may relate to the rehabilitation of  
25 the juvenile.

26 (6) If, after conducting the hearing in accordance with this  
27 section, the juvenile is not found to be satisfactorily rehabilitated  
28 such that the record is not ordered to be sealed, a juvenile who is a  
29 person described in section 43-2,108.01 or such juvenile's parent or  
30 guardian may not move the court to seal the record for one year after the  
31 court's decision not to seal the record is made, unless such time



1 restriction is waived by the court.

2 Sec. 36. Section 43-2922, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 43-2922 For purposes of the Parenting Act:

5 (1) Appropriate means reflective of the developmental abilities of  
6 the child taking into account any cultural traditions that are within the  
7 boundaries of state and federal law;

8 (2) Approved mediation center means a mediation center approved by  
9 the Office of Dispute Resolution;

10 (3) Best interests of the child means the determination made taking  
11 into account the requirements stated in section 43-2923 or the Uniform  
12 Deployed Parents Custody and Visitation Act if such act applies;

13 (4) Child means a minor under nineteen years of age;

14 (5) Child abuse or neglect has the same meaning as in section  
15 28-710;

16 (6) Court conciliation program means a court-based conciliation  
17 program under the Conciliation Court Law;

18 (7) Custody includes legal custody and physical custody;

19 (8) Domestic intimate partner abuse means an act of abuse as defined  
20 in section 42-903 and a pattern or history of abuse evidenced by one or  
21 more of the following acts: Physical or sexual assault, threats of  
22 physical assault or sexual assault, stalking, harassment, mental cruelty,  
23 emotional abuse, intimidation, isolation, economic abuse, or coercion  
24 against any current or past intimate partner, or an abuser using a child  
25 to establish or maintain power and control over any current or past  
26 intimate partner, and, when they contribute to the coercion or  
27 intimidation of an intimate partner, acts of child abuse or neglect or  
28 threats of such acts, cruel mistreatment or cruel neglect of an animal as  
29 defined in section 28-1008, or threats of such acts, and other acts of  
30 abuse, assault, or harassment, or threats of such acts against other  
31 family or household members. A finding by a child protection agency shall

1 not be considered res judicata or collateral estoppel regarding an act of  
2 child abuse or neglect or a threat of such act, and shall not be  
3 considered by the court unless each parent is afforded the opportunity to  
4 challenge any such determination;

5 (9) Economic abuse means causing or attempting to cause an  
6 individual to be financially dependent by maintaining total control over  
7 the individual's financial resources, including, but not limited to,  
8 withholding access to money or credit cards, forbidding attendance at  
9 school or employment, stealing from or defrauding of money or assets,  
10 exploiting the victim's resources for personal gain of the abuser, or  
11 withholding physical resources such as food, clothing, necessary  
12 medications, or shelter;

13 (10) Emotional abuse means a pattern of acts, threats of acts, or  
14 coercive tactics, including, but not limited to, threatening or  
15 intimidating to gain compliance, destruction of the victim's personal  
16 property or threats to do so, violence to an animal or object in the  
17 presence of the victim as a way to instill fear, yelling, screaming,  
18 name-calling, shaming, mocking, or criticizing the victim,  
19 possessiveness, or isolation from friends and family. Emotional abuse can  
20 be verbal or nonverbal;

21 (11) Joint legal custody means mutual authority and responsibility  
22 of the parents for making mutual fundamental decisions regarding the  
23 child's welfare, including choices regarding education and health;

24 (12) Joint physical custody means mutual authority and  
25 responsibility of the parents regarding the child's place of residence  
26 and the exertion of continuous blocks of parenting time by both parents  
27 over the child for significant periods of time;

28 (13) Legal custody means the authority and responsibility for making  
29 fundamental decisions regarding the child's welfare, including choices  
30 regarding education and health;

31 (14) Mediation means a method of nonjudicial intervention in which a

1 trained, neutral third-party mediator, who has no decisionmaking  
2 authority, provides a structured process in which individuals and  
3 families in conflict work through parenting and other related family  
4 issues with the goal of achieving a voluntary, mutually agreeable  
5 parenting plan or related resolution;

6 (15) Mediator means a mediator authorized to provide mediation under  
7 ~~meeting the qualifications of~~ section 43-2938 and acting in accordance  
8 with the Parenting Act;

9 (16) Office of Dispute Resolution means the office established under  
10 section 25-2904;

11 (17) Parenting functions means those aspects of the relationship in  
12 which a parent or person in the parenting role makes fundamental  
13 decisions and performs fundamental functions necessary for the care and  
14 development of a child. Parenting functions include, but are not limited  
15 to:

16 (a) Maintaining a safe, stable, consistent, and nurturing  
17 relationship with the child;

18 (b) Attending to the ongoing developmental needs of the child,  
19 including feeding, clothing, physical care and grooming, health and  
20 medical needs, emotional stability, supervision, and appropriate conflict  
21 resolution skills and engaging in other activities appropriate to the  
22 healthy development of the child within the social and economic  
23 circumstances of the family;

24 (c) Attending to adequate education for the child, including  
25 remedial or other special education essential to the best interests of  
26 the child;

27 (d) Assisting the child in maintaining a safe, positive, and  
28 appropriate relationship with each parent and other family members,  
29 including establishing and maintaining the authority and responsibilities  
30 of each party with respect to the child and honoring the parenting plan  
31 duties and responsibilities;

1 (e) Minimizing the child's exposure to harmful parental conflict;

2 (f) Assisting the child in developing skills to maintain safe,  
3 positive, and appropriate interpersonal relationships; and

4 (g) Exercising appropriate support for social, academic, athletic,  
5 or other special interests and abilities of the child within the social  
6 and economic circumstances of the family;

7 (18) Parenting plan means a plan for parenting the child that takes  
8 into account parenting functions;

9 (19) Parenting time, visitation, or other access means communication  
10 or time spent between the child and parent or stepparent, the child and a  
11 court-appointed guardian, or the child and another family member or  
12 members including stepbrothers or stepsisters;

13 (20) Physical custody means authority and responsibility regarding  
14 the child's place of residence and the exertion of continuous parenting  
15 time for significant periods of time;

16 (21) Provisions for safety means a plan developed to reduce risks of  
17 harm to children and adults who are victims of child abuse or neglect,  
18 domestic intimate partner abuse, or unresolved parental conflict;

19 (22) Remediation process means the method established in the  
20 parenting plan which maintains the best interests of the child and  
21 provides a means to identify, discuss, and attempt to resolve future  
22 circumstantial changes or conflicts regarding the parenting functions and  
23 which minimizes repeated litigation and utilizes judicial intervention as  
24 a last resort;

25 (23) Specialized alternative dispute resolution means a method of  
26 nonjudicial intervention in high conflict or domestic intimate partner  
27 abuse cases in which an approved specialized mediator facilitates  
28 voluntary mutual development of and agreement to a structured parenting  
29 plan, provisions for safety, a transition plan, or other related  
30 resolution between the parties;

31 (24) Transition plan means a plan developed to reduce exposure of

1 the child and the adult to ongoing unresolved parental conflict during  
2 parenting time, visitation, or other access for the exercise of parental  
3 functions; and

4 (25) Unresolved parental conflict means persistent conflict in which  
5 parents are unable to resolve disputes about parenting functions which  
6 has a potentially harmful impact on a child.

7 Sec. 37. Section 43-2937, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 43-2937 (1) In addition to those cases that are mandatorily referred  
10 to mediation or specialized alternative dispute resolution under  
11 subsection (3) of this section, a court may, at any time in the  
12 proceedings upon its own motion or upon the motion of either party, refer  
13 a case to mediation or specialized alternative dispute resolution in  
14 order to attempt resolution of any relevant matter. The court may state a  
15 date for the case to return to court, and the court shall not grant an  
16 extension of such date except for cause. If the court refers a case to  
17 mediation or specialized alternative dispute resolution, the court may,  
18 if appropriate, order temporary relief, including necessary support and  
19 provision for payment of mediation costs. Court referral shall be to a  
20 mediator agreed to by the parties and approved by the court, an approved  
21 mediation center, or a court conciliation program. The State Court  
22 Administrator's office shall develop a process to approve mediators who  
23 are qualified under subsection (2) or (3) of section 43-2938 under the  
24 Parenting Act.

25 (2) Prior to July 1, 2010, if there are allegations of domestic  
26 intimate partner abuse or unresolved parental conflict between the  
27 parties in any proceeding, mediation shall not be required pursuant to  
28 the Parenting Act or by local court rule, unless the court has  
29 established a specialized alternative dispute resolution rule approved by  
30 the State Court Administrator. The specialized alternative dispute  
31 resolution process shall include a method for court consideration of

1 precluding or disqualifying parties from participating; provide an  
2 opportunity to educate both parties about the process; require informed  
3 consent from both parties in order to proceed; provide safety protocols,  
4 including separate individual sessions for each participant, informing  
5 each party about the process, and obtaining informed consent from each  
6 party to continue the process; allow support persons to attend sessions;  
7 and establish opt-out-for-cause provisions. On and after July 1, 2010,  
8 all trial courts shall have a mediation and specialized alternative  
9 dispute resolution rule in accordance with the act.

10 (3) Except as provided in subsection (4) of this section, for cases  
11 filed on or after July 1, 2010, all parties who have not submitted a  
12 parenting plan to the court within the time specified by the court shall  
13 be ordered to participate in mediation or specialized alternative dispute  
14 resolution with a mediator, a court conciliation program, or an approved  
15 mediation center as provided in section 43-2938 ~~43-2939~~.

16 (4) For good cause shown and (a) when both parents agree and such  
17 parental agreement is bona fide and not asserted to avoid the purposes of  
18 the Parenting Act, or (b) when mediation or specialized alternative  
19 dispute resolution is not possible without undue delay or hardship to  
20 either parent, the mediation or specialized alternative dispute  
21 resolution requirement may be waived by the court. In such a case where  
22 waiver of the mediation or specialized alternative dispute resolution is  
23 sought, the court shall hold an evidentiary hearing and the burden of  
24 proof for the party or parties seeking waiver is by clear and convincing  
25 evidence.

26 Sec. 38. Section 43-2938, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 43-2938 (1) A mediator under the Parenting Act may be a court  
29 conciliation program counselor, a court conciliation program mediator, an  
30 approved mediation center affiliated mediator, ~~or~~ a mediator approved by  
31 the Office of Dispute Resolution, or an attorney as provided in

1 subsection (4) of this section in private practice.

2 (2) To qualify for inclusion in the roster of mediators maintained  
3 by the Office of Dispute Resolution as an approved ~~as a~~ Parenting Act  
4 mediator, a person shall have basic mediation training and family  
5 mediation training, approved by the Office of Dispute Resolution, and  
6 shall have served as an apprentice to a mediator as defined in section  
7 25-2903. The training shall include, but not be limited to:

8 (a) Knowledge of the court system and procedures used in contested  
9 family matters;

10 (b) General knowledge of family law, especially regarding custody,  
11 parenting time, visitation, and other access, and support, including  
12 calculation of child support using the child support guidelines pursuant  
13 to section 42-364.16;

14 (c) Knowledge of other resources in the state to which parties and  
15 children can be referred for assistance;

16 (d) General knowledge of child development, the potential effects of  
17 dissolution or parental separation upon children, parents, and extended  
18 families, and the psychology of families;

19 (e) Knowledge of child abuse or neglect and domestic intimate  
20 partner abuse and their potential impact upon the safety of family  
21 members, including knowledge of provisions for safety, transition plans,  
22 domestic intimate partner abuse screening protocols, and mediation safety  
23 measures; and

24 (f) Knowledge in regard to the potential effects of domestic  
25 violence on a child; the nature and extent of domestic intimate partner  
26 abuse; the social and family dynamics of domestic intimate partner abuse;  
27 techniques for identifying and assisting families affected by domestic  
28 intimate partner abuse; interviewing, documentation of, and appropriate  
29 recommendations for families affected by domestic intimate partner abuse;  
30 and availability of community and legal domestic violence resources.

31 (3) To qualify for inclusion in the roster of mediators maintained

1 by the Office of Dispute Resolution as an approved specialized mediator  
2 for parents involved in high conflict and situations in which abuse is  
3 present, the mediator shall apply to an approved mediation center or  
4 court conciliation program for consideration to be listed as an approved  
5 specialized mediator. The approved mediation center or court conciliation  
6 program shall submit its list of approved specialized mediators for  
7 inclusion in the roster to the Office of Dispute Resolution on an annual  
8 basis. Minimum requirements to be listed as an approved specialized  
9 mediator include:

10 (a) Affiliation with a court conciliation program or an approved  
11 mediation center;

12 (b) Meeting the minimum standards for a Parenting Act mediator under  
13 this section;

14 (c) Meeting additional relevant standards and qualifications as  
15 determined by the State Court Administrator; and

16 (d) Satisfactorily completing an additional minimum twenty-four-hour  
17 specialized alternative dispute resolution domestic mediation training  
18 course developed by entities providing domestic abuse services and  
19 mediation services for children and families and approved by the State  
20 Court Administrator. This course shall include advanced education in  
21 regard to the potential effects of domestic violence on the child; the  
22 nature and extent of domestic intimate partner abuse; the social and  
23 family dynamics of domestic intimate partner abuse; techniques for  
24 identifying and assisting families affected by domestic intimate partner  
25 abuse; and appropriate and safe mediation strategies to assist parties in  
26 developing a parenting plan, provisions for safety, and a transition  
27 plan, as necessary and relevant.

28 (4) In lieu of qualifying as a mediator under subsection (2) or (3)  
29 of this section, an attorney licensed to practice law in the State of  
30 Nebraska may serve as a parenting plan mediator if the parties agree to  
31 use such attorney as a mediator.



1           Sec. 39. Section 79-209, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           79-209 (1) In all school districts in this state, any  
4 superintendent, principal, teacher, or member of the school board who  
5 knows of any violation of subsection (2) of section 79-201 shall within  
6 three days report such violation to the attendance officer of the school,  
7 who shall immediately investigate the case. When of his or her personal  
8 knowledge or by report or complaint from any resident of the district,  
9 the attendance officer believes that there is a violation of subsection  
10 (2) of section 79-201, the attendance officer shall immediately  
11 investigate such alleged violation.

12           (2) All school boards shall have a written policy on attendance  
13 developed and annually reviewed in collaboration with the county attorney  
14 of the county in which the principal office of the school district is  
15 located. The policy shall include a provision indicating how the school  
16 district will handle cases in which excessive absences are due to  
17 illness. The policy shall also state the circumstances and number of  
18 absences or the hourly equivalent upon which the school shall render all  
19 services to address barriers to attendance. Such services shall include,  
20 but not be limited to:

21           (a) Verbal or written communication by school officials with the  
22 person or persons who have legal or actual charge or control of any  
23 child; and

24           (b) One or more meetings between, at a minimum, a school attendance  
25 officer, a school social worker, or a school administrator or his or her  
26 designee, the person who has legal or actual charge or control of the  
27 child, and the child, when appropriate, to attempt to address the  
28 barriers to attendance. The result of the meeting or meetings shall be to  
29 develop a collaborative plan to reduce barriers identified to improve  
30 regular attendance. The plan shall consider, but not be limited to:

31           (i) Illness related to physical or behavioral health of the child;

- 1 (ii) Educational counseling;
- 2 (iii) Educational evaluation;
- 3 (iv) Referral to community agencies for economic services;
- 4 (v) Family or individual counseling;~~and~~
- 5 (vi) Assisting the family in working with other community services;
- 6 and -
- 7 (vii) Referral to restorative justice practices or services.

8 (3) The school may report to the county attorney of the county in  
9 which the person resides when the school has documented the efforts it  
10 has made as required by subsection (2) of this section that the  
11 collaborative plan to reduce barriers identified to improve regular  
12 attendance has not been successful and that the child has been absent  
13 more than twenty days per year. The school shall notify the child's  
14 family in writing prior to referring the child to the county attorney.  
15 Failure by the school to document the efforts required by subsection (2)  
16 of this section is a defense to prosecution under section 79-201 and  
17 adjudication for educational neglect under subdivision (3)(a) of section  
18 43-247 and habitual truancy under subdivision (3)(b) of section 43-247.  
19 Illness that makes attendance impossible or impracticable shall not be  
20 the basis for referral to the county attorney.

21 (4) Nothing in this section shall preclude a county attorney from  
22 being involved at any stage in the process to address excessive  
23 absenteeism.

24 Sec. 40. Section 79-258, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 79-258 Administrative and teaching personnel may take actions  
27 regarding student behavior, other than those specifically provided in the  
28 Student Discipline Act, which are reasonably necessary to aid the  
29 student, further school purposes, or prevent interference with the  
30 educational process. Such actions may include, but need not be limited  
31 to, counseling of students, parent conferences, referral to restorative

1 justice practices or services, rearrangement of schedules, requirements  
2 that a student remain in school after regular hours to do additional  
3 work, restriction of extracurricular activity, or requirements that a  
4 student receive counseling, psychological evaluation, or psychiatric  
5 evaluation upon the written consent of a parent or guardian to such  
6 counseling or evaluation.

7       Sec. 41. Original sections 25-2901, 25-2902, 25-2903, 25-2904,  
8 25-2905, 25-2906, 25-2908, 25-2909, 25-2911, 25-2912, 25-2913, 25-2914,  
9 25-2915, 25-2916, 25-2917, 25-2918, 25-2919, 25-2920, 25-2921, 43-245,  
10 43-246, 43-247.03, 43-247.04, 43-260.06, 43-275, 43-276, 43-2,108.01,  
11 43-2,108.02, 43-2,108.03, 43-2,108.04, 43-2922, 43-2937, 43-2938, 79-209,  
12 and 79-258, Reissue Revised Statutes of Nebraska, and sections 43-274 and  
13 43-286, Revised Statutes Cumulative Supplement, 2018, are repealed.