

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 595

FINAL READING

Introduced by Albrecht, 17.

Read first time January 23, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to alternative dispute resolution; to amend
2 sections 25-2901, 25-2902, 25-2903, 25-2904, 25-2905, 25-2906,
3 25-2908, 25-2909, 25-2911, 25-2912, 25-2913, 25-2914, 25-2915,
4 25-2916, 25-2917, 25-2918, 25-2919, 25-2920, 25-2921, 43-245,
5 43-246, 43-247.03, 43-247.04, 43-260.06, 43-275, 43-276,
6 43-2,108.01, 43-2,108.04, 43-2922, 43-2937, 43-2938, 79-209, and
7 79-258, Reissue Revised Statutes of Nebraska, sections 43-274 and
8 43-286, Revised Statutes Cumulative Supplement, 2018, and sections
9 43-2,108.02 and 43-2,108.03, Reissue Revised Statutes of Nebraska,
10 as amended by sections 3 and 4, respectively, Legislative Bill 354,
11 One Hundred Sixth Legislature, First Session, 2019; to restate
12 legislative findings; to define and redefine terms; to change
13 provisions relating to the qualifications of the Director of the
14 Office of Dispute Resolution, the membership of the Advisory Council
15 on Dispute Resolution, and the office's and director's duties; to
16 change provisions relating to approved centers, cases accepted for
17 restorative justice and dispute resolution, and qualifications of
18 mediators and restorative justice facilitators; to provide a
19 privilege for communications made in restorative justice as
20 prescribed; to provide for immunity and reparation plan agreements;
21 to change provisions relating to tolling of statutes of limitations,
22 an annual report, and legislative intent regarding a fund; to

1 provide for restorative justice in juvenile cases as prescribed; to
2 authorize referrals to restorative justice practices or services for
3 compulsory attendance collaborative plans and under the Student
4 Discipline Act; to provide for licensed attorneys to serve as
5 parenting plan mediators; to eliminate obsolete provisions; to
6 harmonize provisions; and to repeal the original sections.

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

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

3 25-2901 Sections 25-2901 to 25-2921 and sections 11, 12, and 15 of
4 this act shall be known and may be cited as the Dispute Resolution Act.

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

7 25-2902 The Legislature finds that:

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

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

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

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

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

25 (6) ~~(3)~~ Unresolved disputes of those who do not have the resources
26 for formal resolution may be of small social or economic magnitude
27 individually but are collectively of enormous social and economic
28 consequences;

29 (7) ~~(4)~~ Many seemingly minor conflicts between individuals may
30 escalate into major social problems unless resolved early in an
31 atmosphere in which the persons involved ~~disputants~~ can discuss the

1 ~~dispute or offense their differences~~ through a private and informal yet
2 structured process;

3 (8) ~~(5)~~ There is a need in our society to reduce acrimony and
4 improve relationships between people in conflict which has a long-term
5 benefit of a more peaceful community of people;

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

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

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

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

20 25-2903 For purposes of the Dispute Resolution Act:

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

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

26 (3) Council means ~~shall mean~~ the Advisory Council on Dispute
27 Resolution;

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

30 (5) Dispute resolution process means ~~shall mean~~ a process by which
31 the parties involved in a dispute voluntarily agree to enter into

1 informal discussion and negotiation with the assistance of a mediator;

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

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

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

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

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

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

18 25-2904 The Office of Dispute Resolution is hereby established in
19 the office of the State Court Administrator. The director of the office
20 shall be hired by the Supreme Court. The director may but need not be an
21 attorney and shall be hired on the basis of his or her training and
22 experience in mediation, restorative justice, and dispute resolution. The
23 director shall administer the Dispute Resolution Act and shall serve as
24 staff to the council.

25 Sec. 5. Section 25-2905, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 25-2905 The Advisory Council on Dispute Resolution is hereby
28 created. The council shall be comprised of individuals from a variety of
29 disciplines who are trained and knowledgeable in mediation, restorative
30 justice, and dispute resolution and selected to be representative of the
31 geographical and cultural diversity of the state and to reflect gender

1 fairness. The council shall consist of fifteen ~~eleven~~ voting members. The
2 membership shall include a district court judge, county court judge, and
3 juvenile court judge and a representative from the Office of Probation
4 Administration, the Nebraska State Bar Association, and the Nebraska
5 County Attorneys Association ~~a representative from the Nebraska District~~
6 ~~Court Judges Association, the Nebraska County Court Judges Association,~~
7 ~~and the Nebraska State Bar Association. The council shall be appointed by~~
8 ~~the Supreme Court or a designee. Nominations for the remaining members~~
9 ~~may shall~~ be solicited from such entities and from the Nebraska District
10 Court Judges Association, the Nebraska County Court Judges Association,
11 ~~the Nebraska State Bar Association,~~ the Nebraska Mediation Association
12 Coalition, the Public Counsel, social workers, mental health
13 professionals, diversion program administrators, educators, law
14 enforcement entities, crime victim advocates, and former participants in
15 restorative justice programs and related fields. The council shall be
16 appointed by the Supreme Court or its designee ~~and other interested~~
17 ~~groups or individuals. The Supreme Court or its designee shall not be~~
18 restricted to the solicited list of nominees in making its appointments.
19 Two nonvoting, ex officio members shall be appointed by the council from
20 among the approved centers.

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

23 25-2906 The initial members of the council and the new members
24 required by the changes to section 25-2905 made by this legislative bill
25 shall be appointed for terms of one, two, or three years. All subsequent
26 appointments shall be made for terms of three years. Any vacancy on the
27 council shall be filled ~~in the same manner in which the original~~
28 ~~appointment was made~~ and shall last for the duration of the term vacated.
29 Appointments to the council required by changes to section 25-2905 made
30 by this legislative bill shall be made within ninety days after the
31 effective date of this act ~~September 6, 1991~~. The council shall select a

1 chairperson, a vice-chairperson, and such other officers as it deems
2 necessary.

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

5 25-2908 Consistent with the purposes and objectives of the Dispute
6 Resolution Act and in consultation with the council, the director shall:

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

9 (1) ~~(2)~~ Approve centers which meet requirements for approval;

10 (2) ~~(3)~~ Develop and supervise a uniform system of reporting and
11 collecting statistical data from approved centers;

12 (3) ~~(4)~~ Develop and supervise a uniform system of evaluating
13 approved centers;

14 (4) ~~(5)~~ Prepare a yearly budget for the implementation of the act
15 and distribute funds to approved centers;

16 (5) ~~(6)~~ Develop and administer guidelines for a sliding scale of
17 fees to be charged by approved centers;

18 (6) ~~(7)~~ Develop, initiate, or approve curricula and ~~initiate~~
19 training sessions for mediators and staff of approved centers and of
20 courts;

21 (7) ~~(8)~~ Establish volunteer training programs;

22 (8) ~~(9)~~ Promote public awareness of the restorative justice and
23 dispute resolution process;

24 (9) ~~(10)~~ Apply for and receive funds from public and private sources
25 for carrying out the purposes and obligations of the act; ~~and~~

26 (10) ~~(11)~~ Develop and supervise a uniform system to create and
27 maintain a roster of approved centers and victim youth conferencing and
28 other restorative justice facilitators who are affiliated with approved
29 centers mediators for juvenile offender and victim mediation, as provided
30 in section 43-245, and centers approved under section 25-2909. The roster
31 shall be made available to courts and county attorneys; ~~-~~

1 (11) Enhance the sustainability of approved centers;

2 (12) Support approved centers in the implementation of restorative
3 justice programs;

4 (13) Coordinate the development and implementation of new
5 restorative justice programs;

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

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

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

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

15 (18) Coordinate restorative justice training sessions for
16 restorative justice facilitators and staff of approved centers and the
17 courts;

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

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

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

25 Sec. 8. Section 25-2909, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 25-2909 (1) The office shall annually award grants to approved
28 centers. It is the intent of the Legislature that centers be established
29 and grants distributed statewide.

30 (2) A center or an entity proposing a center may apply to the office
31 for approval to provide services under ~~participate in the dispute~~

1 ~~resolution process pursuant to~~ the Dispute Resolution Act by submitting
2 an application which includes:

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

4 (b) The center's objectives;

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

6 (d) The administrative organization;

7 (e) Record-keeping procedures;

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

10 (g) Qualifications for mediators and restorative justice
11 facilitators for the center;

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

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

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

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

19 (4) (3) Annual reports shall be required of each approved center.
20 The reports shall include the number and types of cases handled in the
21 year and a showing of continued compliance with the act. ~~Any programs~~
22 existing on September 6, 1991, shall not be included in the act unless
23 they apply and are approved under this section.

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

26 25-2911 (1) The following types of cases may be accepted for
27 restorative justice programs and dispute resolution at an approved
28 center:

29 (a) Civil claims and disputes, including, but not limited to,
30 consumer and commercial complaints, disputes between neighbors, disputes
31 between business associates, disputes between landlords and tenants, and

1 disputes within communities;

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

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

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

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

13 (f) ~~(d)~~ Contested guardianship and contested conservatorship
14 proceedings.

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

19 (3) ~~(2)~~ An approved center may accept cases referred by a court, an
20 attorney, a law enforcement officer, a social service agency, a school,
21 or any other interested person or agency or upon the request of the
22 parties involved. A case may be referred prior to the commencement of
23 formal judicial proceedings or may be referred as a pending court case.
24 In order for a referral to be effective, all parties involved must
25 consent to such referral. If a court refers a case to an approved center,
26 the center shall provide information to the court as to whether an
27 agreement was reached. If the court requests a copy of the agreement, the
28 center shall provide it.

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

31 25-2912 Before the restorative justice or dispute resolution process

1 begins, an approved center shall provide the parties with a written
2 statement setting forth the procedures to be followed.

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

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

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

23 (3) Providing the opportunity to enter into a reparation plan
24 agreement; and

25 (4) Enabling the victim and the individual who caused harm the
26 opportunity to agree on consequences to repair the harm, to the extent
27 possible. This includes, but is not limited to, apologies, community
28 service, reparation, restitution, restoration, and counseling.

29 Sec. 12. The office and the approved centers shall strive to
30 conduct restorative justice programs in accordance with best practices,
31 including evidence-based programs, and shall adopt policies and

1 procedures to accomplish this goal.

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

4 25-2913 (1) Mediators and restorative justice facilitators of
5 approved centers shall have completed at least thirty hours of basic
6 mediation training, including in conflict resolution techniques,
7 neutrality, agreement writing, and ethics. ~~For disputes involving marital~~
8 ~~dissolution, mediators of approved centers shall have an additional~~
9 ~~thirty hours in family mediation.~~ An initial apprenticeship with an
10 experienced mediator shall be required for at least three sessions for
11 all mediators without prior mediation experience.

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

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

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

23 (3) ~~(2)~~ An approved center may provide for the compensation of
24 mediators and restorative justice facilitators, or utilize the services
25 of volunteer mediators and restorative justice facilitators, or utilize
26 the services of both paid and volunteer mediators and restorative justice
27 facilitators.

28 (4) ~~(3)~~ The mediator or restorative justice facilitator shall
29 provide an opportunity for assist the parties to achieve in reaching a
30 mutually acceptable resolution of their dispute, in joint or separate
31 sessions, as appropriate, including a reparation plan agreement regarding

1 ~~reparations~~ through ~~dialogue discussion~~ and negotiation. A The mediator
2 shall be impartial, neutral, and unbiased and shall make no decisions for
3 the parties.

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

9 (6) ~~(5)~~ The mediator or restorative justice facilitator has no
10 authority to make or impose any adjudicatory sanction or penalty upon the
11 parties.

12 (7) ~~(6)~~ The mediator or restorative justice facilitator shall be
13 aware of and recommend outside resources to the parties whenever
14 appropriate. The mediator or restorative justice facilitator shall advise
15 participants to obtain legal review of agreements as necessary.

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

18 25-2914 (1) Any verbal, written, or electronic communication made
19 in or in connection with matters referred to mediation which relates to
20 the controversy or dispute being mediated and agreements resulting from
21 the mediation, whether made to the mediator, the staff of an approved
22 center, a party, or any other person attending the mediation session,
23 shall be confidential.

24 (2) Mediation proceedings shall be regarded as settlement
25 negotiations, and no admission, representation, or statement made in
26 mediation, not otherwise discoverable or obtainable, shall be admissible
27 as evidence or subject to discovery.

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

31 (4) Confidential communications and materials are subject to

1 disclosure when all parties agree in writing to waive confidentiality
2 regarding specific verbal, written, or electronic communications relating
3 to the mediation session or the agreement.

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

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

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

26 (3) Confidential communications and materials are subject to
27 disclosure when all parties to the restorative justice program agree in
28 writing to waive confidentiality regarding specific verbal, written, or
29 electronic communications relating to the restorative justice program or
30 the agreement.

31 (4) This section shall not apply if:

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

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

4 (c) The communication is required to be reported under section
5 28-711 and is a new allegation of child abuse or neglect which was not
6 previously known or reported; or

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

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

10 25-2915 No mediator, restorative justice facilitator, staff member,
11 or member of a governing board of an approved center may be held liable
12 for civil damages for any statement or decision made in the process of
13 restorative justice or dispute resolution unless such person acted in a
14 manner exhibiting willful or wanton misconduct.

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

17 25-2916 (1) If the parties involved in mediation ~~the dispute~~ reach
18 an agreement, the agreement may be reduced to writing and signed by the
19 parties. The agreement shall set forth the settlement of the issues and
20 the future responsibilities of each party. If a court referred the case,
21 the agreement as signed and approved by the parties may be presented to
22 the court as a stipulation and, if approved by the court, shall be
23 enforceable as an order of the court.

24 (2) If the parties involved in a restorative justice program reach a
25 reparation plan agreement, the agreement may be reduced to writing and
26 signed by the parties. The agreement shall set forth the reparations
27 agreed upon by the parties to repair the specific circumstances of the
28 offense. These may include, but are not limited to, service to the
29 victim, an apology to the victim, financial restitution, services for the
30 individual who caused the harm, community service, or any other
31 reparation agreed upon by the parties. The agreement shall specify the

1 time period during which such individual must comply with the
2 requirements specified therein.

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

5 25-2917 During the period of the restorative justice or dispute
6 resolution process, any applicable civil statute of limitations shall be
7 tolled as to the parties. The tolling shall commence on the date the
8 approved center accepts the case and shall end on the date of the last
9 restorative justice or mediation session. This period shall be no longer
10 than sixty days without consent of all the parties.

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

13 25-2918 (1) The Supreme Court, upon recommendation by the director
14 in consultation with the council, shall adopt and promulgate rules and
15 regulations to carry out the Dispute Resolution Act.

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

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

20 25-2919 The Dispute Resolution Act shall apply only to approved
21 centers and mediators and restorative justice facilitators of such
22 centers.

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

25 25-2920 The director shall provide an annual report regarding report
26 annually to the Chief Justice, the Governor, and the Legislature on the
27 implementation of the Dispute Resolution Act. The report shall be
28 available to the public on the Supreme Court's web site. The report
29 submitted to the Legislature shall be submitted electronically. The
30 report shall include the number and types of disputes received, the
31 disposition of the disputes, any problems encountered, and any

1 recommendations to address problems, ~~and a comparison of the cost of~~
2 ~~mediation and litigation.~~

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

5 25-2921 The Dispute Resolution Cash Fund is created. The State Court
6 Administrator shall administer the fund. The fund shall consist of
7 proceeds received pursuant to subdivision (9) ~~(10)~~ of section 25-2908 and
8 section 33-155. ~~The Except as otherwise directed by the Supreme Court~~
9 ~~during the period from November 21, 2009, until June 30, 2013, the fund~~
10 shall be used to supplement the administration of the office and the
11 support of the approved centers. ~~It is the intent of the Legislature that~~
12 ~~any General Fund money supplanted by the Dispute Resolution Cash Fund may~~
13 ~~be used for the support and maintenance of the State Library.~~ Any money
14 in the fund available for investment shall be invested by the state
15 investment officer pursuant to the Nebraska Capital Expansion Act and the
16 Nebraska State Funds Investment Act.

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

19 43-245 For purposes of the Nebraska Juvenile Code, unless the
20 context otherwise requires:

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

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

26 (3) Alternative to detention means a program or directive that
27 increases supervision of a youth in the community in an effort to ensure
28 the youth attends court and refrains from committing a new law violation.
29 Alternative to detention includes, but is not limited to, electronic
30 monitoring, day and evening reporting centers, house arrest, tracking,
31 family crisis response, and temporary shelter placement. Except for the

1 use of manually controlled delayed egress of not more than thirty
2 seconds, placements that utilize physical construction or hardware to
3 restrain a youth's freedom of movement and ingress and egress from
4 placement are not considered alternatives to detention;

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

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

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

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

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

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

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

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

24 (12) Juvenile court means the separate juvenile court where it has
25 been established pursuant to sections 43-2,111 to 43-2,127 and the county
26 court sitting as a juvenile court in all other counties. Nothing in the
27 Nebraska Juvenile Code shall be construed to deprive the district courts
28 of their habeas corpus, common-law, or chancery jurisdiction or the
29 county courts and district courts of jurisdiction of domestic relations
30 matters as defined in section 25-2740;

31 (13) Juvenile detention facility has the same meaning as in section

1 83-4,125;

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

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

9 (15) ~~(16)~~ Mental health facility means a treatment facility as
10 defined in section 71-914 or a government, private, or state hospital
11 which treats mental illness;

12 (16) ~~(17)~~ Nonoffender means a juvenile who is subject to the
13 jurisdiction of the juvenile court for reasons other than legally
14 prohibited conduct, including, but not limited to, juveniles described in
15 subdivision (3)(a) of section 43-247;

16 (17) ~~(18)~~ Parent means one or both parents or stepparents when the
17 stepparent is married to a parent who has physical custody of the
18 juvenile as of the filing of the petition;

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

21 (19) ~~(20)~~ Physical custody has the same meaning as in section
22 43-2922;

23 (20) ~~(21)~~ Except in proceedings under the Nebraska Indian Child
24 Welfare Act, relative means father, mother, grandfather, grandmother,
25 brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle,
26 aunt, first cousin, nephew, or niece;

27 (21) Restorative justice means practices, programs, or services that
28 emphasize repairing the harm caused to victims and the community by
29 persons who have caused the harm or committed an offense. Restorative
30 justice practices may include, but are not limited to, victim youth
31 conferencing, victim-offender mediation, youth or community dialogue,

1 panels, circles, and truancy mediation;

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

11 (23) {22} Seal a record means that a record shall not be available
12 to the public except upon the order of a court upon good cause shown;

13 (24) {23} Secure detention means detention in a highly structured,
14 residential, hardware-secured facility designed to restrict a juvenile's
15 movement;

16 (25) {24} Staff secure juvenile facility means a juvenile
17 residential facility operated by a political subdivision (a) which does
18 not include construction designed to physically restrict the movements
19 and activities of juveniles who are in custody in the facility, (b) in
20 which physical restriction of movement or activity of juveniles is
21 provided solely through staff, (c) which may establish reasonable rules
22 restricting ingress to and egress from the facility, and (d) in which the
23 movements and activities of individual juvenile residents may, for
24 treatment purposes, be restricted or subject to control through the use
25 of intensive staff supervision. Staff secure juvenile facility does not
26 include any institution operated by the Department of Correctional
27 Services;

28 (26) {25} Status offender means a juvenile who has been charged with
29 or adjudicated for conduct which would not be a crime if committed by an
30 adult, including, but not limited to, juveniles charged under subdivision
31 (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02;

1 ~~(27)~~ ~~(26)~~ Traffic offense means any nonfelonious act in violation of
2 a law or ordinance regulating vehicular or pedestrian travel, whether
3 designated a misdemeanor or a traffic infraction; and

4 ~~(28)~~ ~~(27)~~ Young adult means an individual older than eighteen years
5 of age but under twenty-one years of age.

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

8 43-246 Acknowledging the responsibility of the juvenile court to act
9 to preserve the public peace and security, the Nebraska Juvenile Code
10 shall be construed to effectuate the following:

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

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

19 (3) To remove juveniles who are within the Nebraska Juvenile Code
20 from the criminal justice system whenever possible and to reduce the
21 possibility of their committing future law violations through the
22 provision of social and rehabilitative services to such juveniles and
23 their families;

24 (4) To offer selected juveniles the opportunity to take direct
25 personal responsibility for their individual actions by reconciling with
26 the victims, or victim surrogates when appropriate, through restorative
27 justice practices ~~juvenile offender and victim mediation~~ and fulfilling
28 the terms of the resulting reparation plan agreement which may require
29 apologies, restitution, and community service, or other agreed-upon means
30 of making amends;

31 (5) To achieve the purposes of subdivisions (1) through (3) of this

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

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

12 (7) To provide a judicial procedure through which these purposes and
13 goals are accomplished and enforced in which the parties are assured a
14 fair hearing and their constitutional and other legal rights are
15 recognized and enforced;

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

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

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

23 43-247.03 (1) In any juvenile case, the court may provide the
24 parties the opportunity to address issues involving the child's care and
25 placement, services to the family, ~~restorative justice,~~ and other
26 concerns through restorative justice practices. Restorative justice
27 practices facilitated conferencing or mediation. Facilitated conferencing
28 may include, but are ~~is~~ not limited to, prehearing conferences, family
29 group conferences, expedited family group conferences, child welfare
30 mediation, permanency prehearing conferences, termination of parental
31 rights prehearing conferences, ~~and~~ juvenile victim-offender dialogue,

1 victim youth conferencing, victim-offender mediation, youth or community
2 dialogue, panels, circles, and truancy mediation. The Office of Dispute
3 Resolution shall be responsible for funding Funding and management for
4 such services provided by approved centers will be part of the office of
5 the State Court Administrator. All discussions taking place during such
6 restorative justice practices facilitated conferences, including plea
7 negotiations, shall be ~~considered~~ confidential and privileged
8 communications as provided in section 15 of this act , ~~except~~
9 ~~communications required by mandatory reporting under section 28-711 for~~
10 ~~new allegations of child abuse or neglect which were not previously known~~
11 ~~or reported.~~

12 (2) For purposes of this section:

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

20 (b) Family group conference means a facilitated meeting involving a
21 child's or juvenile's family, the child or juvenile when appropriate,
22 available extended family members from across the United States, other
23 significant and close persons to the family, service providers, and staff
24 members from either the Department of Health and Human Services or the
25 Office of Probation Administration to develop a family-centered plan for
26 the best interests of the child and to address the essential issues of
27 safety, permanency, and well-being of the child;

28 (c) Juvenile victim-offender dialogue means a court-connected
29 process in which a facilitator meets with the juvenile offender and the
30 victim in an effort to convene a dialogue in which the offender takes
31 responsibility for his or her actions and the victim is able to address

1 the offender and request an apology and restitution, with the goal of
2 creating an agreed-upon written plan;~~and~~

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

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

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

20 43-247.04 (1) It is the intent of the Legislature to transfer four
21 hundred fifty thousand dollars in General Funds from the Department of
22 Health and Human Services' 2014-15 budget to the office of the State
23 Court Administrator's budget for the purpose of making the State Court
24 Administrator directly responsible for contracting and paying for court-
25 connected prehearing conferences, family group conferences, expedited
26 family group conferences, child welfare mediation, permanency prehearing
27 conferences, termination of parental rights prehearing conferences,
28 victim youth conferencing, juvenile victim-offender dialogue, and other
29 restorative justice practices ~~related services~~. Such funds shall be
30 transferred on or before October 15, 2014.

31 (2) The Department of Health and Human Services shall continue to be

1 responsible for contracting with mediation centers approved by the Office
2 of Dispute Resolution to provide family group conferences, mediation, and
3 related services for non-court-involved and voluntary child welfare or
4 juvenile cases through June 30, 2017, unless extended by the Legislature.

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

7 43-260.06 A juvenile diversion agreement shall include, but not be
8 limited to, one or more of the following:

9 (1) A letter of apology;

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

12 (3) Restitution;

13 (4) Attendance at educational or informational sessions at a
14 community agency;

15 (5) Requirements to remain during specified hours at home, school,
16 and work and restrictions on leaving or entering specified geographical
17 areas; and

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

21 Sec. 28. Section 43-274, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 43-274 (1) The county attorney or city attorney, having knowledge of
24 a juvenile within his or her jurisdiction who appears to be a juvenile
25 described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and
26 taking into consideration the criteria in section 43-276, may proceed as
27 provided in this section.

28 (2) The county attorney or city attorney may offer pretrial
29 diversion to the juvenile in accordance with a juvenile pretrial
30 diversion program established pursuant to sections 43-260.02 to
31 43-260.07.

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

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

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

25 (d) Prior to participating in any restorative justice practice or
26 service under this section, the juvenile, the juvenile's parent or
27 guardian, and the victim, if he or she is participating, shall sign a
28 consent to participate form.

29 (e) If a reparation plan agreement is reached, the restorative
30 justice facilitator shall forward a copy of the agreement to the
31 referring county attorney or city attorney. The terms of the reparation

1 plan agreement shall specify provisions for reparation, monitoring,
2 completion, and reporting. An agreement may include, but is not limited
3 to, one or more of the following:

4 (i) Participation by the juvenile in certain community service
5 programs;

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

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

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

9 and

10 (v) Any other areas of agreement.

11 (f) The restorative justice facilitator shall give notice to the
12 county attorney or city attorney regarding the juvenile's compliance with
13 the terms of the reparation plan agreement. If the juvenile does not
14 satisfactorily complete the terms of the agreement, the county attorney
15 or city attorney may:

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

18 (ii) Proceed with filing a juvenile court petition or criminal
19 charge.

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

22 (i) Not file a juvenile court petition or criminal charge against
23 the juvenile for the acts for which the juvenile was referred for
24 restorative justice practice or services when referred as a diversion or
25 an alternative to diversion; or

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

28 ~~(3)(a) If a juvenile appears to be a juvenile described in~~
29 ~~subdivision (1), (2), (3)(b), or (4) of section 43-247 because of a~~
30 ~~nonviolent act or acts, the county attorney or city attorney may offer~~
31 ~~mediation to the juvenile and the victim of the juvenile's act. If both~~

1 ~~the juvenile and the victim agree to mediation, the juvenile, his or her~~
2 ~~parent, guardian, or custodian, and the victim shall sign a mediation~~
3 ~~consent form and select a mediator or approved center from the roster~~
4 ~~made available pursuant to section 25-2908. The county attorney or city~~
5 ~~attorney shall refer the juvenile and the victim to such mediator or~~
6 ~~approved center. The mediation sessions shall occur within thirty days~~
7 ~~after the date the mediation referral is made unless an extension is~~
8 ~~approved by the county attorney or city attorney. The juvenile or his or~~
9 ~~her parent, guardian, or custodian shall pay the mediation fees. The fee~~
10 ~~shall be determined by the mediator in private practice or by the~~
11 ~~approved center. A juvenile shall not be denied services at an approved~~
12 ~~center because of an inability to pay.~~

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

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

19 ~~(i) Participation by the juvenile in certain community service~~
20 ~~programs;~~

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

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

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

24 ~~(d) If no mediation agreement is reached, the mediator or approved~~
25 ~~center will report that fact to the county attorney or city attorney~~
26 ~~within forty-eight hours of the final mediation session excluding~~
27 ~~nonjudicial days.~~

28 ~~(e) If a mediation agreement is reached and the agreement does not~~
29 ~~violate public policy, the agreement shall be approved by the county~~
30 ~~attorney or city attorney. If the agreement is not approved and the~~
31 ~~victim agrees to return to mediation (i) the juvenile may be referred~~

1 ~~back to mediation with suggestions for changes needed in the agreement to~~
2 ~~meet approval or (ii) the county attorney or city attorney may proceed~~
3 ~~with the filing of a criminal charge or juvenile court petition. If the~~
4 ~~juvenile agrees to return to mediation but the victim does not agree to~~
5 ~~return to mediation, the county attorney or city attorney may consider~~
6 ~~the juvenile's willingness to return to mediation when determining~~
7 ~~whether or not to file a criminal charge or a juvenile court petition.~~

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

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

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

30 An order granting or denying transfer of the case from juvenile
31 court to county or district court shall be considered a final order for

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

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

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

18 43-275 Whenever a juvenile is detained or placed in custody under
19 the provisions of section 43-253, a petition, complaint, or restorative
20 justice program ~~mediation~~ consent form must be filed within forty-eight
21 hours excluding nonjudicial days.

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

24 43-276 (1) The county attorney or city attorney, in making the
25 determination whether to file a criminal charge, file a juvenile court
26 petition, offer juvenile pretrial diversion or restorative justice
27 ~~mediation~~, or transfer a case to or from juvenile court, and the juvenile
28 court, county court, or district court in making the determination
29 whether to transfer a case, shall consider: (a) The type of treatment
30 such juvenile would most likely be amenable to; (b) whether there is
31 evidence that the alleged offense included violence; (c) the motivation

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

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

27 Sec. 31. Section 43-286, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 43-286 (1) When any juvenile is adjudicated to be a juvenile
30 described in subdivision (1), (2), or (4) of section 43-247:

31 (a)(i) This subdivision applies until October 1, 2013. The court may

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

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

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

12 (C) Cause the juvenile to be placed in a suitable family home or
13 institution, subject to the supervision of the probation officer. If the
14 court has committed the juvenile to the care and custody of the
15 Department of Health and Human Services, the department shall pay the
16 costs of the suitable family home or institution which are not otherwise
17 paid by the juvenile's parents.

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

25 (ii) This subdivision applies beginning October 1, 2013. The court
26 may continue the dispositional portion of the hearing, from time to time
27 upon such terms and conditions as the court may prescribe, including an
28 order of restitution of any property stolen or damaged or an order
29 requiring the juvenile to participate in restorative justice programs or
30 community service programs, if such order is in the interest of the
31 juvenile's reformation or rehabilitation, and, subject to the further

1 order of the court, may:

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

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

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

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

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

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

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

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

1 (II) All options for community-based services have been exhausted;
2 and

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

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

19 The Office of Juvenile Services shall notify those required to be
20 served by sections 43-262 to 43-267, all interested parties, and the
21 committing court of the pending discharge of a juvenile from the youth
22 rehabilitation and treatment center sixty days prior to discharge and
23 again in every case not less than thirty days prior to discharge. Upon
24 notice of pending discharge by the Office of Juvenile Services, the court
25 shall set a continued disposition hearing in anticipation of reentry. The
26 Office of Juvenile Services shall work in collaboration with the Office
27 of Probation Administration in developing an individualized reentry plan
28 for the juvenile as provided in section 43-425. The Office of Juvenile
29 Services shall provide a copy of the individualized reentry plan to the
30 juvenile, the juvenile's attorney, and the county attorney or city
31 attorney prior to the continued disposition hearing. At the continued

1 disposition hearing, the court shall review and approve or modify the
2 individualized reentry plan, place the juvenile under probation
3 supervision, and enter any other order allowed by law. No hearing is
4 required if all interested parties stipulate to the individualized
5 reentry plan by signed motion. In such a case, the court shall approve
6 the conditions of probation, approve the individualized reentry plan, and
7 place the juvenile under probation supervision.

8 The Office of Juvenile Services is responsible for transportation of
9 the juvenile to and from the youth rehabilitation and treatment center.
10 The Office of Juvenile Services may contract for such services. A plan
11 for a juvenile's transport to return to the community shall be a part of
12 the individualized reentry plan. The Office of Juvenile Services may
13 approve family to provide such transport when specified in the
14 individualized reentry plan; or

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

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

24 (3) When any juvenile is adjudicated to be a juvenile described in
25 subdivision (1), (2), (3)(b), or (4) of section 43-247 ~~because of a~~
26 ~~nonviolent act or acts and the juvenile has not previously been~~
27 ~~adjudicated to be such a juvenile because of a violent act or acts,~~ the
28 court may order the juvenile to be assessed for referral to participate
29 in a restorative justice program. Factors that the judge may consider for
30 such referral include, but are not limited to: The juvenile's age,
31 intellectual capacity, and living environment; the ages of others who

1 ~~were part of the offense; the age and capacity of the victim; and the~~
2 ~~nature of the case , with the agreement of the victim, order the juvenile~~
3 ~~to attend juvenile offender and victim mediation with a mediator or at an~~
4 ~~approved center selected from the roster made available pursuant to~~
5 ~~section 25-2908.~~

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

10 (5)(a) When a juvenile is placed on probation or under the
11 supervision of the court and it is alleged that the juvenile is again a
12 juvenile described in subdivision (1), (2), (3)(b), or (4) of section
13 43-247, a petition may be filed and the same procedure followed and
14 rights given at a hearing on the original petition. If an adjudication is
15 made that the allegations of the petition are true, the court may make
16 any disposition authorized by this section for such adjudications and the
17 county attorney may file a motion to revoke the juvenile's probation.

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

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

27 (ii) The juvenile shall be entitled to a hearing before the court to
28 determine the validity of the allegations. At such hearing the juvenile
29 shall be entitled to those rights relating to counsel provided by section
30 43-272 and those rights relating to detention provided by sections 43-254
31 to 43-256. The juvenile shall also be entitled to speak and present

1 documents, witnesses, or other evidence on his or her own behalf. He or
2 she may confront persons who have given adverse information concerning
3 the alleged violations, may cross-examine such persons, and may show that
4 he or she did not violate the conditions of his or her probation or
5 supervision or an order of the court or, if he or she did, that
6 mitigating circumstances suggest that the violation does not warrant
7 revocation of probation or supervision or a change of disposition. The
8 hearing shall be held within a reasonable time after the juvenile is
9 taken into custody;

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

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

26 (v) If the juvenile is found by the court to have violated the terms
27 of his or her probation or supervision or an order of the court, the
28 court may modify the terms and conditions of the probation, supervision,
29 or other court order, extend the period of probation, supervision, or
30 other court order, or enter any order of disposition that could have been
31 made at the time the original order was entered; and

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

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

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

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

12 43-2,108.01 Sections 43-2,108.01 to 43-2,108.05 apply only to
13 persons who were under the age of eighteen years when the offense took
14 place and, after being taken into custody, arrested, cited in lieu of
15 arrest, or referred for prosecution without citation, the county attorney
16 or city attorney (1) released the juvenile without filing a juvenile
17 petition or criminal complaint, (2) offered juvenile pretrial diversion,
18 ~~or~~ mediation, or restorative justice to the juvenile under the Nebraska
19 Juvenile Code, (3) filed a juvenile court petition describing the
20 juvenile as a juvenile described in subdivision (1), (2), (3)(b), or (4)
21 of section 43-247, (4) filed a criminal complaint in county court against
22 the juvenile under state statute or city or village ordinance for
23 misdemeanor or infraction possession of marijuana or misdemeanor or
24 infraction possession of drug paraphernalia, or (5) filed a criminal
25 complaint in county court against the juvenile for any other misdemeanor
26 or infraction under state statute or city or village ordinance, other
27 than for a traffic offense that may be waived.

28 Sec. 33. Section 43-2,108.02, Reissue Revised Statutes of Nebraska,
29 as amended by section 3, Legislative Bill 354, One Hundred Sixth
30 Legislature, First Session, 2019, is amended to read:

31 43-2,108.02 (1) By January 1, 2020, the Supreme Court shall

1 promulgate a written notice that:

2 (a) States in developmentally appropriate language that, for a
3 juvenile described in section 43-2,108.01, the juvenile's record will be
4 automatically sealed if (i) no charges are filed as a result of the
5 determination of the prosecuting attorney, (ii) the charges are
6 dismissed, (iii) the juvenile has satisfactorily completed the diversion,
7 mediation, restorative justice, probation, supervision, or other
8 treatment or rehabilitation program provided under the Nebraska Juvenile
9 Code, or (iv) the juvenile has satisfactorily completed the county court
10 diversion program, probation ordered by the court, or sentence ordered by
11 the court;

12 (b) States in developmentally appropriate language that, if the
13 record is not sealed as provided in subdivision (1)(a) of this section,
14 the juvenile or the juvenile's parent or guardian may file a motion to
15 seal the record with the court when the juvenile reaches the age of
16 majority or six months have passed since the case was closed, whichever
17 occurs sooner; and

18 (c) Explains in developmentally appropriate language what sealing
19 the record means.

20 (2) For a juvenile described in section 43-2,108.01, the county
21 attorney or city attorney shall attach a copy of the notice to any
22 juvenile petition or criminal complaint.

23 Sec. 34. Section 43-2,108.03, Reissue Revised Statutes of Nebraska,
24 as amended by section 4, Legislative Bill 354, One Hundred Sixth
25 Legislature, First Session, 2019, is amended to read:

26 43-2,108.03 (1)(a) If a juvenile described in section 43-2,108.01
27 was taken into custody, arrested, cited in lieu of arrest, or referred
28 for prosecution without citation but no juvenile petition or criminal
29 complaint was filed against the juvenile with respect to the arrest or
30 custody, the county attorney or city attorney shall notify the government
31 agency responsible for the arrest, custody, citation in lieu of arrest,

1 or referral for prosecution without citation that no criminal charge or
2 juvenile court petition was filed. The county attorney or city attorney
3 shall provide written notification to the juvenile that no juvenile
4 petition or criminal complaint was filed and provide the juvenile with
5 the notice described in section 43-2,108.02.

6 (b) If a juvenile described in subdivision (1)(a) of this section
7 discovers that his or her record was not automatically sealed, such
8 juvenile may notify the county attorney, who shall cause the record to be
9 sealed by providing the notice required by subdivision (1)(a) of this
10 section.

11 (2)(a) If the county attorney or city attorney offered and a
12 juvenile described in section 43-2,108.01 has agreed to pretrial
13 diversion, ~~or~~ mediation, or restorative justice, the county attorney or
14 city attorney shall notify the government agency responsible for the
15 arrest or custody when the juvenile has satisfactorily completed the
16 resulting diversion, ~~or~~ mediation, or restorative justice. At the time
17 the juvenile is offered diversion, mediation, or restorative justice ~~or~~
18 ~~mediation~~, the county attorney or city attorney shall provide the notice
19 described in section 43-2,108.02 to the juvenile. The county attorney or
20 city attorney shall also provide written notification to the juvenile of
21 his or her satisfactory or unsatisfactory completion of diversion, ~~or~~
22 mediation, or restorative justice.

23 (b) If a juvenile who was satisfactorily discharged from diversion,
24 ~~or~~ mediation, or restorative justice discovers that his or her record was
25 not automatically sealed, the juvenile may notify the county attorney,
26 who shall cause the record to be sealed by providing the notice required
27 by subdivision (2)(a) of this section.

28 (3)(a) If the juvenile was taken into custody, arrested, cited in
29 lieu of arrest, or referred for prosecution without citation and charges
30 were filed but the case was dismissed by the court, the court shall seal
31 the record as set forth in section 43-2,108.05.

1 (b) If a juvenile described in subdivision (3)(a) discovers that his
2 or her record was not automatically sealed, the juvenile may notify the
3 court, which shall seal the record as set forth in section 43-2,108.05.

4 (4)(a) If a juvenile described in section 43-2,108.01 has
5 satisfactorily completed the probation, supervision, or other treatment
6 or rehabilitation program provided under the Nebraska Juvenile Code or if
7 the juvenile has satisfactorily completed the probation or sentence
8 ordered by a county court, the court shall seal the records as set forth
9 in section 43-2,108.05.

10 (b) If a juvenile described in subdivision (4)(a) discovers that his
11 or her record was not automatically sealed, the juvenile may notify the
12 court, which shall seal the record as set forth in section 43-2,108.05.

13 (5) A government agency or court that receives notice under
14 subdivision (1)(a) or (2)(a) of this section shall, upon such receipt,
15 immediately seal all records housed at that government agency or court
16 pertaining to the citation, arrest, record of custody, complaint,
17 disposition, diversion, ~~or~~ mediation, or restorative justice.

18 (6) When a juvenile described in section 43-2,108.01 whose records
19 have not been automatically sealed as provided in subsection (1), (2),
20 (3), or (4) of this section reaches the age of majority or six months
21 have passed since the case was closed, whichever occurs sooner, such
22 juvenile or his or her parent or guardian may file a motion in the court
23 of record asking the court to seal the record pertaining to the offense
24 which resulted in disposition, adjudication, or diversion in juvenile
25 court or diversion or sentence of the county court. The motion shall set
26 forth the facts supporting the argument that the individual who is the
27 subject of the juvenile petition or criminal complaint has been
28 satisfactorily rehabilitated.

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

31 43-2,108.04 (1) When a proceeding to seal the record is initiated,

1 the court shall promptly notify the county attorney or city attorney
2 involved in the case that is the subject of the proceeding to seal the
3 record of the proceedings, and shall promptly notify the Department of
4 Health and Human Services of the proceedings if the juvenile whose record
5 is the subject of the proceeding is a ward of the state at the time the
6 proceeding is initiated or if the department was a party in the
7 proceeding.

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

10 (3) If a party notified under subsection (1) of this section does
11 not file a response with the court or files a response that indicates
12 there is no objection to the sealing of the record, the court may: (a)
13 Order the record of the juvenile under consideration be sealed without
14 conducting a hearing on the motion; or (b) decide in its discretion to
15 conduct a hearing on the motion. If the court decides in its discretion
16 to conduct a hearing on the motion, the court shall conduct the hearing
17 within sixty days after making that decision and shall give notice, by
18 regular mail, of the date, time, and location of the hearing to the
19 parties receiving notice under subsection (1) of this section and to the
20 juvenile who is the subject of the record under consideration.

21 (4) If a party receiving notice under subsection (1) of this section
22 files a response with the court objecting to the sealing of the record,
23 the court shall conduct a hearing on the motion within sixty days after
24 the court receives the response. The court shall give notice, by regular
25 mail, of the date, time, and location of the hearing to the parties
26 receiving notice under subsection (1) of this section and to the juvenile
27 who is the subject of the record under consideration.

28 (5) After conducting a hearing in accordance with this section, the
29 court may order the record of the juvenile that is the subject of the
30 motion be sealed if it finds that the juvenile has been rehabilitated to
31 a satisfactory degree. In determining whether the juvenile has been

1 rehabilitated to a satisfactory degree, the court may consider all of the
2 following:

3 (a) The age of the juvenile;

4 (b) The nature of the offense and the role of the juvenile in the
5 offense;

6 (c) The behavior of the juvenile after the disposition,
7 adjudication, diversion, or sentence and the juvenile's response to
8 diversion, mediation, restorative justice, probation, supervision, other
9 treatment or rehabilitation program, or sentence;

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

11 (e) Any other circumstances that may relate to the rehabilitation of
12 the juvenile.

13 (6) If, after conducting the hearing in accordance with this
14 section, the juvenile is not found to be satisfactorily rehabilitated
15 such that the record is not ordered to be sealed, a juvenile who is a
16 person described in section 43-2,108.01 or such juvenile's parent or
17 guardian may not move the court to seal the record for one year after the
18 court's decision not to seal the record is made, unless such time
19 restriction is waived by the court.

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

22 43-2922 For purposes of the Parenting Act:

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

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

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

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

1 (5) Child abuse or neglect has the same meaning as in section
2 28-710;

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

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

6 (8) Domestic intimate partner abuse means an act of abuse as defined
7 in section 42-903 and a pattern or history of abuse evidenced by one or
8 more of the following acts: Physical or sexual assault, threats of
9 physical assault or sexual assault, stalking, harassment, mental cruelty,
10 emotional abuse, intimidation, isolation, economic abuse, or coercion
11 against any current or past intimate partner, or an abuser using a child
12 to establish or maintain power and control over any current or past
13 intimate partner, and, when they contribute to the coercion or
14 intimidation of an intimate partner, acts of child abuse or neglect or
15 threats of such acts, cruel mistreatment or cruel neglect of an animal as
16 defined in section 28-1008, or threats of such acts, and other acts of
17 abuse, assault, or harassment, or threats of such acts against other
18 family or household members. A finding by a child protection agency shall
19 not be considered res judicata or collateral estoppel regarding an act of
20 child abuse or neglect or a threat of such act, and shall not be
21 considered by the court unless each parent is afforded the opportunity to
22 challenge any such determination;

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

31 (10) Emotional abuse means a pattern of acts, threats of acts, or

1 coercive tactics, including, but not limited to, threatening or
2 intimidating to gain compliance, destruction of the victim's personal
3 property or threats to do so, violence to an animal or object in the
4 presence of the victim as a way to instill fear, yelling, screaming,
5 name-calling, shaming, mocking, or criticizing the victim,
6 possessiveness, or isolation from friends and family. Emotional abuse can
7 be verbal or nonverbal;

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

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

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

18 (14) Mediation means a method of nonjudicial intervention in which a
19 trained, neutral third-party mediator, who has no decisionmaking
20 authority, provides a structured process in which individuals and
21 families in conflict work through parenting and other related family
22 issues with the goal of achieving a voluntary, mutually agreeable
23 parenting plan or related resolution;

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

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

29 (17) Parenting functions means those aspects of the relationship in
30 which a parent or person in the parenting role makes fundamental
31 decisions and performs fundamental functions necessary for the care and

1 development of a child. Parenting functions include, but are not limited
2 to:

3 (a) Maintaining a safe, stable, consistent, and nurturing
4 relationship with the child;

5 (b) Attending to the ongoing developmental needs of the child,
6 including feeding, clothing, physical care and grooming, health and
7 medical needs, emotional stability, supervision, and appropriate conflict
8 resolution skills and engaging in other activities appropriate to the
9 healthy development of the child within the social and economic
10 circumstances of the family;

11 (c) Attending to adequate education for the child, including
12 remedial or other special education essential to the best interests of
13 the child;

14 (d) Assisting the child in maintaining a safe, positive, and
15 appropriate relationship with each parent and other family members,
16 including establishing and maintaining the authority and responsibilities
17 of each party with respect to the child and honoring the parenting plan
18 duties and responsibilities;

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

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

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

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

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

31 (20) Physical custody means authority and responsibility regarding

1 the child's place of residence and the exertion of continuous parenting
2 time for significant periods of time;

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

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

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

18 (24) Transition plan means a plan developed to reduce exposure of
19 the child and the adult to ongoing unresolved parental conflict during
20 parenting time, visitation, or other access for the exercise of parental
21 functions; and

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

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

27 43-2937 (1) In addition to those cases that are mandatorily referred
28 to mediation or specialized alternative dispute resolution under
29 subsection (3) of this section, a court may, at any time in the
30 proceedings upon its own motion or upon the motion of either party, refer
31 a case to mediation or specialized alternative dispute resolution in

1 order to attempt resolution of any relevant matter. The court may state a
2 date for the case to return to court, and the court shall not grant an
3 extension of such date except for cause. If the court refers a case to
4 mediation or specialized alternative dispute resolution, the court may,
5 if appropriate, order temporary relief, including necessary support and
6 provision for payment of mediation costs. Court referral shall be to a
7 mediator agreed to by the parties and approved by the court, an approved
8 mediation center, or a court conciliation program. The State Court
9 Administrator's office shall develop a process to approve mediators who
10 are qualified under subsection (2) or (3) of section 43-2938 under the
11 Parenting Act.

12 (2) Prior to July 1, 2010, if there are allegations of domestic
13 intimate partner abuse or unresolved parental conflict between the
14 parties in any proceeding, mediation shall not be required pursuant to
15 the Parenting Act or by local court rule, unless the court has
16 established a specialized alternative dispute resolution rule approved by
17 the State Court Administrator. The specialized alternative dispute
18 resolution process shall include a method for court consideration of
19 precluding or disqualifying parties from participating; provide an
20 opportunity to educate both parties about the process; require informed
21 consent from both parties in order to proceed; provide safety protocols,
22 including separate individual sessions for each participant, informing
23 each party about the process, and obtaining informed consent from each
24 party to continue the process; allow support persons to attend sessions;
25 and establish opt-out-for-cause provisions. On and after July 1, 2010,
26 all trial courts shall have a mediation and specialized alternative
27 dispute resolution rule in accordance with the act.

28 (3) Except as provided in subsection (4) of this section, for cases
29 filed on or after July 1, 2010, all parties who have not submitted a
30 parenting plan to the court within the time specified by the court shall
31 be ordered to participate in mediation or specialized alternative dispute

1 resolution with a mediator, a court conciliation program, or an approved
2 mediation center as provided in section 43-2938 ~~43-2939~~.

3 (4) For good cause shown and (a) when both parents agree and such
4 parental agreement is bona fide and not asserted to avoid the purposes of
5 the Parenting Act, or (b) when mediation or specialized alternative
6 dispute resolution is not possible without undue delay or hardship to
7 either parent, the mediation or specialized alternative dispute
8 resolution requirement may be waived by the court. In such a case where
9 waiver of the mediation or specialized alternative dispute resolution is
10 sought, the court shall hold an evidentiary hearing and the burden of
11 proof for the party or parties seeking waiver is by clear and convincing
12 evidence.

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

15 43-2938 (1) A mediator under the Parenting Act may be a court
16 conciliation program counselor, a court conciliation program mediator, an
17 approved mediation center affiliated mediator, ~~or~~ a mediator approved by
18 the Office of Dispute Resolution, or an attorney as provided in
19 subsection (4) of this section in private practice.

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

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

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

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

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

6 (e) Knowledge of child abuse or neglect and domestic intimate
7 partner abuse and their potential impact upon the safety of family
8 members, including knowledge of provisions for safety, transition plans,
9 domestic intimate partner abuse screening protocols, and mediation safety
10 measures; and

11 (f) Knowledge in regard to the potential effects of domestic
12 violence on a child; the nature and extent of domestic intimate partner
13 abuse; the social and family dynamics of domestic intimate partner abuse;
14 techniques for identifying and assisting families affected by domestic
15 intimate partner abuse; interviewing, documentation of, and appropriate
16 recommendations for families affected by domestic intimate partner abuse;
17 and availability of community and legal domestic violence resources.

18 (3) To qualify for inclusion in the roster of mediators maintained
19 by the Office of Dispute Resolution as an approved specialized mediator
20 for parents involved in high conflict and situations in which abuse is
21 present, the mediator shall apply to an approved mediation center or
22 court conciliation program for consideration to be listed as an approved
23 specialized mediator. The approved mediation center or court conciliation
24 program shall submit its list of approved specialized mediators for
25 inclusion in the roster to the Office of Dispute Resolution on an annual
26 basis. Minimum requirements to be listed as an approved specialized
27 mediator include:

28 (a) Affiliation with a court conciliation program or an approved
29 mediation center;

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

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

3 (d) Satisfactorily completing an additional minimum twenty-four-hour
4 specialized alternative dispute resolution domestic mediation training
5 course developed by entities providing domestic abuse services and
6 mediation services for children and families and approved by the State
7 Court Administrator. This course shall include advanced education in
8 regard to the potential effects of domestic violence on the child; the
9 nature and extent of domestic intimate partner abuse; the social and
10 family dynamics of domestic intimate partner abuse; techniques for
11 identifying and assisting families affected by domestic intimate partner
12 abuse; and appropriate and safe mediation strategies to assist parties in
13 developing a parenting plan, provisions for safety, and a transition
14 plan, as necessary and relevant.

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

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

21 79-209 (1) In all school districts in this state, any
22 superintendent, principal, teacher, or member of the school board who
23 knows of any violation of subsection (2) of section 79-201 shall within
24 three days report such violation to the attendance officer of the school,
25 who shall immediately investigate the case. When of his or her personal
26 knowledge or by report or complaint from any resident of the district,
27 the attendance officer believes that there is a violation of subsection
28 (2) of section 79-201, the attendance officer shall immediately
29 investigate such alleged violation.

30 (2) All school boards shall have a written policy on attendance
31 developed and annually reviewed in collaboration with the county attorney

1 of the county in which the principal office of the school district is
2 located. The policy shall include a provision indicating how the school
3 district will handle cases in which excessive absences are due to
4 illness. The policy shall also state the circumstances and number of
5 absences or the hourly equivalent upon which the school shall render all
6 services to address barriers to attendance. Such services shall include,
7 but not be limited to:

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

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

- 18 (i) Illness related to physical or behavioral health of the child;
19 (ii) Educational counseling;
20 (iii) Educational evaluation;
21 (iv) Referral to community agencies for economic services;
22 (v) Family or individual counseling;~~and~~
23 (vi) Assisting the family in working with other community services;
24 and -
25 (vii) Referral to restorative justice practices or services.

26 (3) The school may report to the county attorney of the county in
27 which the person resides when the school has documented the efforts it
28 has made as required by subsection (2) of this section that the
29 collaborative plan to reduce barriers identified to improve regular
30 attendance has not been successful and that the child has been absent
31 more than twenty days per year. The school shall notify the child's

1 family in writing prior to referring the child to the county attorney.
2 Failure by the school to document the efforts required by subsection (2)
3 of this section is a defense to prosecution under section 79-201 and
4 adjudication for educational neglect under subdivision (3)(a) of section
5 43-247 and habitual truancy under subdivision (3)(b) of section 43-247.
6 Illness that makes attendance impossible or impracticable shall not be
7 the basis for referral to the county attorney.

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

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

13 79-258 Administrative and teaching personnel may take actions
14 regarding student behavior, other than those specifically provided in the
15 Student Discipline Act, which are reasonably necessary to aid the
16 student, further school purposes, or prevent interference with the
17 educational process. Such actions may include, but need not be limited
18 to, counseling of students, parent conferences, referral to restorative
19 justice practices or services, rearrangement of schedules, requirements
20 that a student remain in school after regular hours to do additional
21 work, restriction of extracurricular activity, or requirements that a
22 student receive counseling, psychological evaluation, or psychiatric
23 evaluation upon the written consent of a parent or guardian to such
24 counseling or evaluation.

25 Sec. 41. Original sections 25-2901, 25-2902, 25-2903, 25-2904,
26 25-2905, 25-2906, 25-2908, 25-2909, 25-2911, 25-2912, 25-2913, 25-2914,
27 25-2915, 25-2916, 25-2917, 25-2918, 25-2919, 25-2920, 25-2921, 43-245,
28 43-246, 43-247.03, 43-247.04, 43-260.06, 43-275, 43-276, 43-2,108.01,
29 43-2,108.04, 43-2922, 43-2937, 43-2938, 79-209, and 79-258, Reissue
30 Revised Statutes of Nebraska, sections 43-274 and 43-286, Revised
31 Statutes Cumulative Supplement, 2018, and sections 43-2,108.02 and

1 43-2,108.03, Reissue Revised Statutes of Nebraska, as amended by sections
2 3 and 4, respectively, Legislative Bill 354, One Hundred Sixth
3 Legislature, First Session, 2019, are repealed.