

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 906

Introduced by DeBoer, 10.

Read first time January 10, 2020

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-728 and 28-730, Reissue Revised Statutes of Nebraska; to provide
- 3 for maintenance of and restrictions on the release and use of video
- 4 recordings of forensic interviews; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-728, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-728 (1) The Legislature finds that child abuse and neglect are
4 community problems requiring a coordinated response by law enforcement,
5 child advocacy centers, prosecutors, the Department of Health and Human
6 Services, and other agencies or entities designed to protect children. It
7 is the intent of the Legislature to create a child abuse and neglect
8 investigation team in each county or contiguous group of counties and to
9 create a child abuse and neglect treatment team in each county or
10 contiguous group of counties.

11 (2) Each county or contiguous group of counties will be assigned by
12 the Department of Health and Human Services to a child advocacy center.
13 The purpose of a child advocacy center is to provide a child-focused
14 location for conducting forensic interviews and medical evaluations for
15 alleged child victims of abuse and neglect and for coordinating a
16 multidisciplinary team response that supports the physical, emotional,
17 and psychological needs of children who are alleged victims of abuse or
18 neglect. Each child advocacy center shall meet accreditation criteria set
19 forth by the National Children's Alliance. Nothing in this section shall
20 prevent a child from receiving treatment or other services at a child
21 advocacy center which has received or is in the process of receiving
22 accreditation.

23 (3) Each county attorney or the county attorney representing a
24 contiguous group of counties is responsible for convening the child abuse
25 and neglect investigation team and ensuring that protocols are
26 established and implemented. A representative of the child advocacy
27 center assigned to the team shall assist the county attorney in
28 facilitating case review, developing and updating protocols, and
29 arranging training opportunities for the team. Each team must have
30 protocols which, at a minimum, shall include procedures for:

31 (a) Mandatory reporting of child abuse and neglect as outlined in

1 section 28-711 to include training to professionals on identification and
2 reporting of abuse;

3 (b) Assigning roles and responsibilities between law enforcement and
4 the Department of Health and Human Services for the initial response;

5 (c) Outlining how reports will be shared between law enforcement and
6 the Department of Health and Human Services under sections 28-712.01 and
7 28-713;

8 (d) Coordinating the investigative response including, but not
9 limited to:

10 (i) Defining cases that require a priority response;

11 (ii) Contacting the reporting party;

12 (iii) Arranging for a video-recorded forensic interview at a child
13 advocacy center for children who are three to eighteen years of age and
14 are alleged to be victims of sexual abuse or serious physical abuse or
15 neglect, have witnessed a violent crime, are found in a drug-endangered
16 environment, or have been recovered from a kidnapping;

17 (iv) Assessing the need for and arranging, when indicated, a medical
18 evaluation of the alleged child victim;

19 (v) Assessing the need for and arranging, when indicated,
20 appropriate mental health services for the alleged child victim or
21 nonoffender caregiver;

22 (vi) Conducting collateral interviews with other persons with
23 information pertinent to the investigation including other potential
24 victims;

25 (vii) Collecting, processing, and preserving physical evidence
26 including photographing the crime scene as well as any physical injuries
27 as a result of the alleged child abuse and neglect; and

28 (viii) Interviewing the alleged perpetrator;

29 (e) Reducing the risk of harm to alleged child abuse and neglect
30 victims;

31 (f) Ensuring that the child is in safe surroundings, including

1 removing the perpetrator when necessary or arranging for temporary
2 custody of the child when the child is seriously endangered in his or her
3 surroundings and immediate removal appears to be necessary for the
4 child's protection as provided in section 43-248;

5 (g) Sharing of case information between team members; and

6 (h) Outlining what cases will be reviewed by the investigation team
7 including, but not limited to:

8 (i) Cases of sexual abuse, serious physical abuse and neglect, drug-
9 endangered children, and serious or ongoing domestic violence;

10 (ii) Cases determined by the Department of Health and Human Services
11 to be high or very high risk for further maltreatment; and

12 (iii) Any other case referred by a member of the team when a system-
13 response issue has been identified.

14 (4) Each county attorney or the county attorney representing a
15 contiguous group of counties is responsible for convening the child abuse
16 and neglect treatment team and ensuring that protocols are established
17 and implemented. A representative of the child advocacy center appointed
18 to the team shall assist the county attorney in facilitating case review,
19 developing and updating protocols, and arranging training opportunities
20 for the team. Each team must have protocols which, at a minimum, shall
21 include procedures for:

22 (a) Case coordination and assistance, including the location of
23 services available within the area;

24 (b) Case staffings and the coordination, development,
25 implementation, and monitoring of treatment or safety plans particularly
26 in those cases in which ongoing services are provided by the Department
27 of Health and Human Services or a contracted agency but the juvenile
28 court is not involved;

29 (c) Reducing the risk of harm to child abuse and neglect victims;

30 (d) Assisting those child abuse and neglect victims who are abused
31 and neglected by perpetrators who do not reside in their homes; and

1 (e) Working with multiproblem status offenders and delinquent youth.

2 (5) For purposes of sections 28-728 to 28-730 ~~this section~~, forensic
3 interview means a video-recorded interview of an alleged child victim
4 conducted at a child advocacy center by a professional with specialized
5 training designed to elicit details about alleged incidents of abuse or
6 neglect, and such interview may result in intervention in criminal or
7 juvenile court.

8 Sec. 2. Section 28-730, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 28-730 (1) Notwithstanding any other provision of law regarding the
11 confidentiality of records and when not prohibited by the federal Privacy
12 Act of 1974, as amended, juvenile court records and any other pertinent
13 information that may be in the possession of school districts, law
14 enforcement agencies, county attorneys, the Attorney General, the
15 Department of Health and Human Services, child advocacy centers, and
16 other team members concerning a child whose case is being investigated or
17 discussed by a child abuse and neglect investigation team or a child
18 abuse and neglect treatment team shall be shared with the respective team
19 members as part of the discussion and coordination of efforts for
20 investigative or treatment purposes. Upon request by a team, any
21 individual or agency with information or records concerning a particular
22 child shall share all relevant information or records with the team as
23 determined by the team pursuant to the appropriate team protocol. Only a
24 team which has accepted the child's case for investigation or treatment
25 shall be entitled to access to such information.

26 (2) All information acquired by a team member or other individuals
27 pursuant to protocols developed by the team shall be confidential and
28 shall not be disclosed except to the extent necessary to perform case
29 consultations, to carry out a treatment plan or recommendations, or for
30 use in a legal proceeding instituted by a county attorney or the Child
31 Protection Division of the office of the Attorney General. Information,

1 documents, or records otherwise available from the original sources shall
2 not be immune from discovery or use in any civil or criminal action
3 merely because the information, documents, or records were presented
4 during a case consultation if the testimony sought is otherwise
5 permissible and discoverable. Any person who presented information before
6 the team or who is a team member shall not be prevented from testifying
7 as to matters within the person's knowledge.

8 (3) Each team may review any case arising under the Nebraska
9 Criminal Code when a child is a victim or any case arising under the
10 Nebraska Juvenile Code. A member of a team who participates in good faith
11 in team discussion or any person who in good faith cooperates with a team
12 by providing information or records about a child whose case has been
13 accepted for investigation or treatment by a team shall be immune from
14 any civil or criminal liability. The provisions of this subsection or any
15 other section granting or allowing the grant of immunity from liability
16 shall not be extended to any person alleged to have committed an act of
17 child abuse or neglect.

18 (4) A member of a team who publicly discloses information regarding
19 a case consultation in a manner not consistent with sections 28-728 to
20 28-730 shall be guilty of a Class III misdemeanor.

21 (5) The child advocacy center where a forensic interview is
22 conducted may maintain a video recording of the forensic interview or
23 designate a law enforcement agency to do so. Such maintenance shall be in
24 accordance with child abuse and neglect investigation team protocols
25 established pursuant to section 28-728. The recording may be maintained
26 digitally if adequate security measures are in place to ensure no
27 unauthorized access.

28 (6) Information obtained through forensic interviews may be shared
29 with members of child abuse and neglect investigation teams and child
30 abuse and neglect treatment teams.

31 (7) A custodian of a video recording of a forensic interview shall

1 not release or use the video recording or copies of such recording or
2 consent, by commission or omission, to the release or use of the video
3 recording or copies to or by any other party without a court order,
4 notwithstanding any consent or release by the child victim or child
5 witness, except that:

6 (a) The child advocacy center where a forensic interview is
7 conducted may use the video recording for purposes of supervision and
8 peer review required to meet national accreditation standards;

9 (b) Any custodian shall release or consent to the release or use of
10 the video recording upon request to law enforcement agencies authorized
11 to investigate, or agencies authorized to prosecute, any juvenile or
12 criminal conduct described in the forensic interview;

13 (c) Any custodian shall release or consent to the release or use of
14 the video recording upon request pursuant to an investigation under the
15 Office of Inspector General of Nebraska Child Welfare Act; and

16 (d) Any custodian shall provide secure access to view a video
17 recording of a forensic interview upon request by a representative of the
18 Department of Health and Human Services for the purposes of classifying
19 cases of child abuse and neglect pursuant to section 28-720 or
20 determining the risk of harm to the child and needed social services of
21 the family pursuant to section 28-713. Such representative shall be
22 subject to the same release and use restrictions as any custodian under
23 this subsection.

24 Sec. 3. Original sections 28-728 and 28-730, Reissue Revised
25 Statutes of Nebraska, are repealed.