Introduce by DeBoer, 10.
Read first time January 10, 2020
Committee: Judiciary
A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-728 and 28-730, Reissue Revised Statutes of Nebraska; to provide for maintenance of and restrictions on the release and use of video recordings of forensic interviews; to harmonize provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,
Section 1. Section 28-728, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(a) Mandatory reporting of child abuse and neglect as outlined in
section 28-711 to include training to professionals on identification and
reporting of abuse;

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

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

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

(i) Defining cases that require a priority response;

(ii) Contacting the reporting party;

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

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

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

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

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

(viii) Interviewing the alleged perpetrator;

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

(f) Ensuring that the child is in safe surroundings, including
removing the perpetrator when necessary or arranging for temporary
custody of the child when the child is seriously endangered in his or her
surroundings and immediate removal appears to be necessary for the
child's protection as provided in section 43-248;

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

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

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

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

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

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

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

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

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

(d) Assisting those child abuse and neglect victims who are abused
and neglected by perpetrators who do not reside in their homes; and
(e) Working with multiproblem status offenders and delinquent youth.

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

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

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

(2) All information acquired by a team member or other individuals pursuant to protocols developed by the team shall be confidential and shall not be disclosed except to the extent necessary to perform case consultations, to carry out a treatment plan or recommendations, or for use in a legal proceeding instituted by a county attorney or the Child Protection Division of the office of the Attorney General. Information,
documents, or records otherwise available from the original sources shall not be immune from discovery or use in any civil or criminal action merely because the information, documents, or records were presented during a case consultation if the testimony sought is otherwise permissible and discoverable. Any person who presented information before the team or who is a team member shall not be prevented from testifying as to matters within the person's knowledge.

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

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

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

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

(7) A custodian of a video recording of a forensic interview shall
not release or use the video recording or copies of such recording or
consent, by commission or omission, to the release or use of the video
recording or copies to or by any other party without a court order,
notwithstanding any consent or release by the child victim or child
witness, except that:

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

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

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

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

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