

**ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021**  
**COMMITTEE STATEMENT**  
**LB273**

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**Hearing Date:** Thursday January 28, 2021  
**Committee On:** Judiciary  
**Introducer:** Lowe  
**One Liner:** Change provisions relating to youth rehabilitation and treatment centers

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 7 Senators Brandt, DeBoer, Geist, Lathrop, Morfeld, Pansing Brooks, Slama  
**Nay:**  
**Absent:**  
**Present Not Voting:** 1 Senator McKinney

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**Oral Testimony:**

**Proponents:**  
Senator John Lowe  
Larry Kahl

**Representing:**  
Introducer  
Department of Health & Human Services

**Opponents:**  
Spike Eickholt

**Representing:**  
Nebraska Criminal Defense Attorneys Association

**Neutral:**

**Representing:**

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**Submitted Written Testimony:**

**Proponents:**  
Michael Chipman

**Representing:**  
FOP 88

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

The most substantive change in LB273 is in Section 2. This section would amend Sec. 43-407 to specifically allow the Office of Juvenile Services ("OJS") to transfer juveniles to a different YRTC without court involvement.

The remaining changes appear to be intended to harmonize language, but may actually result in substantive changes.

Section 28-934 creates the offense of assault with a bodily fluid against a public safety officer. Public safety officer is currently defined to include employees of the YRTC-Kearney and YRTC-Geneva. Section 1 would expand this definition to include employees of any facility operated and utilized as a YRTC in compliance with Nebraska law.

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Section 48-101.01 expands the definition of "personal injury" for workers' compensation purposes for certain state employees. Under this section, mental injuries and mental illness unaccompanied by physical injury can be included as a personal injury for a "frontline state employee". A "frontline state employee" is defined to include an employee of the Department of Health of Human Services whose duties involve regular and direct interaction with "high-risk individuals". Under current law, the term "high-risk individual" includes juveniles committed to YRTC-Kearney and YRTC-Geneva. Section 3 would expand this to include juveniles at any facility operated and utilized as a YRTC in compliance with Nebraska law.

Section 81-1316 contains certain exceptions to state personnel subject to the State Personnel System. Current law excludes the chief executive officers of YRTC-Kearney and YRTC-Geneva. Section 4 would expand this exclusion to include the chief executive officer of any facility operated and utilized as a YRTC in compliance with Nebraska law.

Section 83-104 requires the Office of Public Counsel to conduct an annual physical review of certain state institutions, including YRTC. Section 5 would replace the phrase "any other facility operated and utilized as a youth rehabilitation and treatment center under state law" with "any other facility operated and utilized as a youth rehabilitation and treatment center in compliance with state law."

Section 83-107.01 contains two separate subsections. The first provides for official names for certain state institutions, and specifically names YRTC-Kearney and YRTC-Geneva. Section 6 would add a name for other YRTC operated and utilized in compliance with state law. The second subsection was added in 2020 as part of LB1188 and requires YRTC-Kearney to be used for boys only and YRTC-Geneva for girls only, except in the case of an emergency. Other facilities are required to "ensure safe and appropriate gender separation." Section 6 would add other YRTCs to the emergency exception to the requirements at YRTC-Kearney and YRTC-Geneva. Since these requirements do not apply to the other YRTCs, the exception appears to have no effect.

Section 83-364 provides that a person committed under the Mental Health Commitment Act or Sex Offender Commitment Act is liable for the cost of care. This also includes transferees from the YRTC-Kearney and YRTC-Geneva after their commitment period expires. Section 7 would harmonize language and include other YRTC operated and utilized in compliance with state law.

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**Explanation of amendments:**

AM600 replaces the original bill.

Section 1 would amend Sec. 28-934 to replace references to employees of specific YRTC with a general reference to employees of YRTC.

Section 2 is new and would amend Sec. 43-403 to limit the definition of "emergency" to specific contexts.

Section 3 and 4 would amend Sec. 43-407 and Sec. 43-408 and replace Section 2 of the original bill. Rather than allow OJS to transfer juveniles without court involvement, these sections would create a new process for an emergency hearing. The existing process for transferring a juvenile to an inpatient or subacute residential treatment facility or to another YRTC would stay in place. These sections would authorize OJS to file a motion for emergency change that must be heard by a court within 24 hours and allow the court to grant the temporary change pending the full hearing when it is in the best interests of the juvenile.

Section 5 is similar to Section 3 in the original bill but would replace references to employees of specific YRTC with a general reference to employees of YRTC.

Section 6 is similar to Section 4 in the original bill but would replace references to chief executive officers of specific YRTC with a general reference to chief executive officers of YRTC.

Section 7 is similar to Section 5 in the original bill, but would clarify that the office of Public Counsel is required to conduct an annual review of any facility operated and utilized as a YRTC, without regard to its compliance with state law.

Section 8 is similar to Section 6 in the original bill. This section would amend Sec. 83-107.01 but would not make a change to institution names. This section would continue to require a YRTC to operated and utilized in compliance with state law for it to be used for both genders after on July 1, 2021 on an emergency basis.

Section 9 is similar to Section 7 in the original

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Steve Lathrop, Chairperson