

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 143

Introduced by Kolterman, 24.

Read first time January 08, 2021

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to juveniles; to amend section 43-285, Revised
- 2 Statutes Cumulative Supplement, 2020; to require notice of placement
- 3 change of a juvenile to a school district as prescribed; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-285, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 43-285 (1) When the court awards a juvenile to the care of the
4 Department of Health and Human Services, an association, or an individual
5 in accordance with the Nebraska Juvenile Code, the juvenile shall, unless
6 otherwise ordered, become a ward and be subject to the legal custody and
7 care of the department, association, or individual to whose care he or
8 she is committed. Any such association and the department shall have
9 authority, by and with the assent of the court, to determine the care,
10 placement, medical services, psychiatric services, training, and
11 expenditures on behalf of each juvenile committed to it. Any such
12 association and the department shall be responsible for applying for any
13 health insurance available to the juvenile, including, but not limited
14 to, medical assistance under the Medical Assistance Act. Such custody and
15 care shall not include the guardianship of any estate of the juvenile.

16 (2)(a) Following an adjudication hearing at which a juvenile is
17 adjudged to be under subdivision (3)(a) or (c) of section 43-247, the
18 court may order the department to prepare and file with the court a
19 proposed plan for the care, placement, services, and permanency which are
20 to be provided to such juvenile and his or her family. The health and
21 safety of the juvenile shall be the paramount concern in the proposed
22 plan.

23 (b) The department shall provide opportunities for the child, in an
24 age or developmentally appropriate manner, to be consulted in the
25 development of his or her plan as provided in the Nebraska Strengthening
26 Families Act.

27 (c) The department shall include in the plan for a child who is
28 fourteen years of age or older and subject to the legal care and custody
29 of the department a written independent living transition proposal which
30 meets the requirements of section 43-1311.03 and, for eligible children,
31 the Young Adult Bridge to Independence Act. The juvenile court shall

1 provide a copy of the plan to all interested parties before the hearing.
2 The court may approve the plan, modify the plan, order that an
3 alternative plan be developed, or implement another plan that is in the
4 child's best interests. In its order the court shall include a finding
5 regarding the appropriateness of the programs and services described in
6 the proposal designed to help the child prepare for the transition from
7 foster care to a successful adulthood. The court shall also ask the
8 child, in an age or developmentally appropriate manner, if he or she
9 participated in the development of his or her plan and make a finding
10 regarding the child's participation in the development of his or her plan
11 as provided in the Nebraska Strengthening Families Act. Rules of evidence
12 shall not apply at the dispositional hearing when the court considers the
13 plan that has been presented.

14 (d) The last court hearing before jurisdiction pursuant to
15 subdivision (3)(a) of section 43-247 is terminated for a child who is
16 sixteen years of age or older or pursuant to subdivision (8) of section
17 43-247 for a child whose guardianship or state-funded adoption assistance
18 agreement was disrupted or terminated after he or she had attained the
19 age of sixteen years shall be called the independence hearing. In
20 addition to other matters and requirements to be addressed at this
21 hearing, the independence hearing shall address the child's future goals
22 and plans and access to services and support for the transition from
23 foster care to adulthood consistent with section 43-1311.03 and the Young
24 Adult Bridge to Independence Act. The child shall not be required to
25 attend the independence hearing, but efforts shall be made to encourage
26 and enable the child's attendance if the child wishes to attend,
27 including scheduling the hearing at a time that permits the child's
28 attendance. An independence coordinator as provided in section 43-4506
29 shall attend the hearing if reasonably practicable, but the department is
30 not required to have legal counsel present. At the independence hearing,
31 the court shall advise the child about the bridge to independence

1 program, including, if applicable, the right of young adults in the
2 bridge to independence program to request a court-appointed, client-
3 directed attorney under subsection (1) of section 43-4510 and the
4 benefits and role of such attorney and to request additional permanency
5 review hearings in the bridge to independence program under subsection
6 (5) of section 43-4508 and how to request such a hearing. The court shall
7 also advise the child, if applicable, of the rights he or she is giving
8 up if he or she chooses not to participate in the bridge to independence
9 program and the option to enter such program at any time between nineteen
10 and twenty-one years of age if the child meets the eligibility
11 requirements of section 43-4504. The department shall present information
12 to the court regarding other community resources that may benefit the
13 child, specifically information regarding state programs established
14 pursuant to 42 U.S.C. 677. The court shall also make a finding as to
15 whether the child has received the documents as required by subsection
16 (9) of section 43-1311.03.

17 (3)(a) Within thirty days after an order awarding a juvenile to the
18 care of the department, an association, or an individual and until the
19 juvenile reaches the age of majority, the department, association, or
20 individual shall file with the court a report stating the location of the
21 juvenile's placement and the needs of the juvenile in order to effectuate
22 the purposes of subdivision (1) of section 43-246. The department,
23 association, or individual shall file a report with the court once every
24 six months or at shorter intervals if ordered by the court or deemed
25 appropriate by the department, association, or individual. Every six
26 months, the report shall provide an updated statement regarding the
27 eligibility of the juvenile for health insurance, including, but not
28 limited to, medical assistance under the Medical Assistance Act. The
29 department shall also concurrently file a written sibling placement
30 report as described in subsection (3) of section 43-1311.02 at these
31 times.

1 (b) The department, association, or individual shall file a report
2 and notice of placement change with the court and shall send copies of
3 the notice to all interested parties, including all of the child's
4 siblings that are known to the department and, if the child is of school
5 age, the school where the child is enrolled, at least seven days before
6 the placement of the juvenile is changed from what the court originally
7 considered to be a suitable family home or institution to some other
8 custodial situation in order to effectuate the purposes of subdivision
9 (1) of section 43-246. If a determination is made that it is not in the
10 child's best interest to remain in the same school after a placement
11 change, notice of placement change shall also be sent to the new school
12 where the child will be enrolled. The department, association, or
13 individual shall afford a parent or an adult sibling the option of
14 refusing to receive such notifications. The court, on its own motion or
15 upon the filing of an objection to the change by an interested party, may
16 order a hearing to review such a change in placement and may order that
17 the change be stayed until the completion of the hearing. Nothing in this
18 section shall prevent the court on an ex parte basis from approving an
19 immediate change in placement upon good cause shown. The department may
20 make an immediate change in placement without court approval only if the
21 juvenile is in a harmful or dangerous situation or when the foster
22 parents request that the juvenile be removed from their home. Approval of
23 the court shall be sought within twenty-four hours after making the
24 change in placement or as soon thereafter as possible. Within twenty-four
25 hours after court approval of the emergency placement change, the
26 department, association, or individual, shall file a report and notice of
27 placement change to all interested parties, including all of the child's
28 siblings that are known to the department and, if the child is of school
29 age, the school where the child is enrolled or the new school where the
30 child will be enrolled.

31 (c) The department shall provide the juvenile's guardian ad litem

1 with a copy of any report filed with the court by the department pursuant
2 to this subsection.

3 (4) The court shall also hold a permanency hearing if required under
4 section 43-1312.

5 (5) When the court awards a juvenile to the care of the department,
6 an association, or an individual, then the department, association, or
7 individual shall have standing as a party to file any pleading or motion,
8 to be heard by the court with regard to such filings, and to be granted
9 any review or relief requested in such filings consistent with the
10 Nebraska Juvenile Code.

11 (6) Whenever a juvenile is in a foster care placement as defined in
12 section 43-1301, the Foster Care Review Office or the designated local
13 foster care review board may participate in proceedings concerning the
14 juvenile as provided in section 43-1313 and notice shall be given as
15 provided in section 43-1314.

16 (7) Any written findings or recommendations of the Foster Care
17 Review Office or the designated local foster care review board with
18 regard to a juvenile in a foster care placement submitted to a court
19 having jurisdiction over such juvenile shall be admissible in any
20 proceeding concerning such juvenile if such findings or recommendations
21 have been provided to all other parties of record.

22 (8) The executive director and any agent or employee of the Foster
23 Care Review Office or any member of any local foster care review board
24 participating in an investigation or making any report pursuant to the
25 Foster Care Review Act or participating in a judicial proceeding pursuant
26 to this section shall be immune from any civil liability that would
27 otherwise be incurred except for false statements negligently made.

28 Sec. 2. Original section 43-285, Revised Statutes Cumulative
29 Supplement, 2020, is repealed.