

LEGISLATIVE BILL 143

Approved by the Governor May 5, 2021

Introduced by Kolterman, 24; Murman, 38; Blood, 3.

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

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

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

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

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

(c) The department shall include in the plan for a child who is fourteen years of age or older and subject to the legal care and custody of the department a written independent living transition proposal which meets the requirements of section 43-1311.03 and, for eligible children, the Young Adult Bridge to Independence Act. The juvenile court shall provide a copy of the plan to all interested parties before the hearing. The court may approve the plan, modify the plan, order that an alternative plan be developed, or implement another plan that is in the child's best interests. In its order the court shall include a finding regarding the appropriateness of the programs and services described in the proposal designed to help the child prepare for the transition from foster care to a successful adulthood. The court shall also ask the child, in an age or developmentally appropriate manner, if he or she participated in the development of his or her plan and make a finding regarding the child's participation in the development of his or her plan as provided in the Nebraska Strengthening Families Act. Rules of evidence shall not apply at the dispositional hearing when the court considers the plan that has been presented.

(d) The last court hearing before jurisdiction pursuant to subdivision (3) (a) of section 43-247 is terminated for a child who is sixteen years of age or older or pursuant to subdivision (8) of section 43-247 for a child whose guardianship or state-funded adoption assistance agreement was disrupted or terminated after he or she had attained the age of sixteen years shall be called the independence hearing. In addition to other matters and requirements to be addressed at this hearing, the independence hearing shall address the child's future goals and plans and access to services and support for the transition from foster care to adulthood consistent with section 43-1311.03 and the Young Adult Bridge to Independence Act. The child shall not be required to attend the independence hearing, but efforts shall be made to encourage and enable the child's attendance if the child wishes to attend, including scheduling the hearing at a time that permits the child's attendance. An independence coordinator as provided in section 43-4506 shall attend the hearing if reasonably practicable, but the department is not required to have legal counsel present. At the independence hearing, the court shall advise the child about the bridge to independence program, including, if applicable, the right of young adults in the bridge to independence program to request a court-appointed, client-directed attorney under subsection (1) of section 43-4510 and the benefits and role of such attorney and to request additional permanency review hearings in the bridge to independence program under subsection (5) of section 43-4508 and how to request such a hearing. The court shall also advise the child, if applicable, of the rights he or she is giving up if he or she chooses not to participate in the bridge to independence program and the option to enter such program at any time between nineteen and twenty-one years of age if the child meets the eligibility requirements of section 43-4504. The department shall present information to the court regarding other community resources that may benefit the child, specifically information regarding state

programs established pursuant to 42 U.S.C. 677. The court shall also make a finding as to whether the child has received the documents as required by subsection (9) of section 43-1311.03.

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

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

(c) The department shall provide the juvenile's guardian ad litem with a copy of any report filed with the court by the department pursuant to this subsection.

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

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

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

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

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

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