

LEGISLATIVE BILL 23

Approved by the Governor May 25, 2001

Introduced by Suttle, 10

AN ACT relating to the Nebraska Juvenile Code; to amend sections 43-247, 43-284, 43-2,119, and 43-2,125, Reissue Revised Statutes of Nebraska; to change provisions relating to the number and powers of judges and the jurisdiction of the juvenile court; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 43-247, Reissue Revised Statutes of Nebraska, is amended to read:

43-247. The juvenile court shall have exclusive original jurisdiction as to any juvenile defined in subdivision (1) of this section who is under the age of sixteen, as to any juvenile defined in subdivision (3) of this section, and as to the parties and proceedings provided in subdivisions (5), (6), and (8) of this section. As used in this section, all references to the juvenile's age shall be the age at the time the act which occasioned the juvenile court action occurred. The juvenile court shall have concurrent original jurisdiction with the district court as to any juvenile defined in subdivision (2) of this section. The juvenile court shall have concurrent original jurisdiction with the district court and county court as to any juvenile defined in subdivision (1) of this section who is age sixteen or seventeen, any juvenile defined in subdivision (4) of this section, and any proceeding under subdivision (7) or ~~(10)~~ (11) of this section. The juvenile court shall have concurrent original jurisdiction with the county court as to any proceeding under subdivision (9) or (10) of this section. Notwithstanding any disposition entered by the juvenile court under the Nebraska Juvenile Code, the juvenile court's jurisdiction over any individual adjudged to be within the provisions of this section shall continue until the individual reaches the age of majority or the court otherwise discharges the individual from its jurisdiction.

The juvenile court in each county as herein provided shall have jurisdiction of:

(1) Any juvenile who has committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under the laws of this state, or violation of a city or village ordinance;

(2) Any juvenile who has committed an act which would constitute a felony under the laws of this state;

(3) Any juvenile (a) who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; or who is in a situation or engages in an occupation dangerous to life or limb or injurious to the health or morals of such juvenile, (b) who, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school, or (c) who is mentally ill and dangerous as defined in section 83-1009;

(4) Any juvenile who has committed an act which would constitute a traffic offense as defined in section 43-245;

(5) The parent, guardian, or custodian who has custody of any juvenile described in this section;

(6) The proceedings for termination of parental rights as provided in the Nebraska Juvenile Code;

(7) The proceedings for termination of parental rights as provided in section 42-364;

(8) Any juvenile who has been voluntarily relinquished, pursuant to section 43-106.01, to the Department of Health and Human Services or any child placement agency licensed by the Department of Health and Human Services;

(9) Any juvenile who was a ward of the juvenile court at the

inception of his or her guardianship and whose guardianship has been disrupted or terminated;

(10) The adoption or guardianship proceedings for a child over which the juvenile court already has jurisdiction under another provision of the Nebraska Juvenile Code; and

~~(10)~~ (11) The paternity determination for a child over which the juvenile court already has jurisdiction.

Notwithstanding the provisions of the Nebraska Juvenile Code, the determination of jurisdiction over any Indian child as defined in section 43-1503 shall be subject to the Nebraska Indian Child Welfare Act.

Sec. 2. Section 43-284, Reissue Revised Statutes of Nebraska, is amended to read:

43-284. When any juvenile is adjudged to be under subdivision (3), ~~or (4), or (9)~~ of section 43-247, the court may permit such juvenile to remain in his or her own home subject to supervision or may make an order committing the juvenile to (1) the care of some suitable institution, (2) inpatient or outpatient treatment at a mental health facility or mental health program, (3) the care of some reputable citizen of good moral character, (4) the care of some association willing to receive the juvenile embracing in its objects the purpose of caring for or obtaining homes for such juveniles, which association shall have been accredited as provided in section 43-296, (5) the care of a suitable family, or (6) the care and custody of the Department of Health and Human Services.

Under subdivision (1), (2), (3), (4), or (5) of this section, upon a determination by the court that there are no parental, private, or other public funds available for the care, custody, education, and maintenance of a juvenile, the court may order a reasonable sum for the care, custody, education, and maintenance of the juvenile to be paid out of a fund which shall be appropriated annually by the county where the petition is filed until suitable provisions may be made for the juvenile without such payment.

The amount to be paid by a county for education pursuant to this section shall not exceed the average cost for education of a public school student in the county in which the juvenile is placed and shall be paid only for education in kindergarten through grade twelve.

The court may enter a dispositional order removing a juvenile from his or her home upon a written determination that continuation in the home would be contrary to the health, safety, or welfare of such juvenile and that reasonable efforts to preserve and reunify the family have been made if required under section 43-283.01.

Sec. 3. Section 43-2,119, Reissue Revised Statutes of Nebraska, is amended to read:

43-2,119. (1) The number of judges of the separate juvenile court in counties which have established a separate juvenile court shall be:

(a) Two judges in counties having seventy-five thousand inhabitants but less than two hundred thousand inhabitants;

(b) ~~Before July 1, 1999, two~~ Three judges in counties having at least two hundred thousand inhabitants but less than four hundred thousand inhabitants; ~~and 7 and on and after July 1, 1999, three judges in such counties; and~~

(c) ~~Four~~ Five judges in counties having four hundred thousand inhabitants or more.

(2) ~~In counties having two or more judges of the separate juvenile court, upon the swearing in of the second judge, the~~ The senior judge in point of service as a juvenile court judge shall be the presiding judge. The judges shall rotate the office of presiding judge every three years unless the judges agree to another system.

Sec. 4. Section 43-2,125, Reissue Revised Statutes of Nebraska, is amended to read:

43-2,125. Whenever any judge of a separate juvenile court is disabled or disqualified to act in any cause before him or her or is temporarily absent from the county or whenever it would be beneficial to the administration of justice, a judge of the district court may agree to serve as judge of the separate juvenile court during such period or the Chief Justice of the Supreme Court may designate and appoint a judge of the district court, a judge of another separate juvenile court, or a judge of the county court to serve as judge of the separate juvenile court during such period. The Chief Justice may also appoint a judge of a separate juvenile court to hear juvenile matters in a county court.

Sec. 5. Original sections 43-247, 43-284, 43-2,119, and 43-2,125, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.