

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 972**

Introduced by Ashford, 20; Hadley, 37; at the request of the  
Governor.

Read first time January 12, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the juvenile rehabilitation and treatment  
2 facilities; to amend sections 43-251.01, 43-403, 43-404,  
3 43-405, 43-407, 43-408, 43-411, 43-417, 83-107.01,  
4 83-171, 83-173, 83-905, and 83-922, Reissue Revised  
5 Statutes of Nebraska, section 43-245, Revised Statutes  
6 Cumulative Supplement, 2010, and sections 28-934, 43-286,  
7 43-416, and 81-1316, Revised Statutes Supplement, 2011;  
8 to transfer the youth rehabilitation and treatment  
9 centers to the Department of Correctional Services; to  
10 create the Division of Juvenile Rehabilitation and  
11 Treatment within the department; to eliminate obsolete  
12 provisions; to harmonize provisions; to provide a duty  
13 for the Revisor of Statutes; to provide an operative  
14 date; to repeal the original sections; and to outright  
15 repeal section 43-299, Reissue Revised Statutes of  
16 Nebraska.

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

1                   Section 1. Section 28-934, Revised Statutes Supplement,  
2 2011, is amended to read:

3                   28-934 (1) Any person who knowingly and intentionally  
4 strikes any public safety officer with any bodily fluid is guilty of  
5 assault with a bodily fluid against a public safety officer.

6                   (2) Except as provided in subsection (3) of this section,  
7 assault with a bodily fluid against a public safety officer is a  
8 Class I misdemeanor.

9                   (3) Assault with a bodily fluid against a public safety  
10 officer is a Class IIIA felony if the person committing the offense  
11 strikes with a bodily fluid the eyes, mouth, or skin of a public  
12 safety officer and knew the source of the bodily fluid was infected  
13 with the human immunodeficiency virus, hepatitis B, or hepatitis C at  
14 the time the offense was committed.

15                   (4) Upon a showing of probable cause by affidavit to a  
16 judge of this state that an offense as defined in subsection (1) of  
17 this section has been committed and that identifies the probable  
18 source of the bodily fluid or bodily fluids used to commit the  
19 offense, the judge shall grant an order or issue a search warrant  
20 authorizing the collection of any evidence, including any bodily  
21 fluid or medical records or the performance of any medical or  
22 scientific testing or analysis, that may assist with the  
23 determination of whether or not the person committing the offense or  
24 the person from whom the person committing the offense obtained the  
25 bodily fluid or bodily fluids is infected with the human

1 immunodeficiency virus, hepatitis B, or hepatitis C.

2 (5) As used in this section:

3 (a) Bodily fluid means any naturally produced secretion  
4 or waste product generated by the human body and shall include, but  
5 not be limited to, any quantity of human blood, urine, saliva, mucus,  
6 vomitus, seminal fluid, or feces; and

7 (b) Public safety officer includes any of the following  
8 persons who are engaged in the performance of their official duties  
9 at the time of the offense: A peace officer; a probation officer; an  
10 employee of a county, city, or village jail; an employee of the  
11 Department of Correctional Services; an employee of a youth  
12 rehabilitation and treatment center or the secure youth confinement  
13 facility operated by the Department of Correctional Services, if the  
14 person committing the offense is committed to such facility; ~~an~~  
15 ~~employee of the Youth Rehabilitation and Treatment Center Geneva or~~  
16 ~~the Youth Rehabilitation and Treatment Center Kearney;~~ or an employee  
17 of the Department of Health and Human Services if the person  
18 committing the offense is committed as a dangerous sex offender under  
19 the Sex Offender Commitment Act.

20 Sec. 2. Section 43-245, Revised Statutes Cumulative  
21 Supplement, 2010, is amended to read:

22 43-245 For purposes of the Nebraska Juvenile Code, unless  
23 the context otherwise requires:

24 (1) Age of majority means nineteen years of age;

25 (2) Approved center means a center that has applied for

1 and received approval from the Director of the Office of Dispute  
2 Resolution under section 25-2909;

3 (3) Civil citation means a noncriminal notice which  
4 cannot result in a criminal record and is described in section  
5 43-248.02;

6 (4) Cost or costs means (a) the sum or equivalent  
7 expended, paid, or charged for goods or services, or expenses  
8 incurred, or (b) the contracted or negotiated price;

9 (5) Criminal street gang means a group of three or more  
10 people with a common identifying name, sign, or symbol whose group  
11 identity or purposes include engaging in illegal activities;

12 (6) Criminal street gang member means a person who  
13 willingly or voluntarily becomes and remains a member of a criminal  
14 street gang;

15 (7) Juvenile means any person under the age of eighteen;

16 (8) Juvenile court means the separate juvenile court  
17 where it has been established pursuant to sections 43-2,111 to  
18 43-2,127 and the county court sitting as a juvenile court in all  
19 other counties. Nothing in the Nebraska Juvenile Code shall be  
20 construed to deprive the district courts of their habeas corpus,  
21 common-law, or chancery jurisdiction or the county courts and  
22 district courts of jurisdiction of domestic relations matters as  
23 defined in section 25-2740;

24 (9) Juvenile detention facility has the same meaning as  
25 in section 83-4,125;

1           (10) Mediator for juvenile offender and victim mediation  
2 means a person who (a) has completed at least thirty hours of  
3 training in conflict resolution techniques, neutrality, agreement  
4 writing, and ethics set forth in section 25-2913, (b) has an  
5 additional eight hours of juvenile offender and victim mediation  
6 training, and (c) meets the apprenticeship requirements set forth in  
7 section 25-2913;

8           (11) Mental health facility means a treatment facility as  
9 defined in section 71-914 or a government, private, or state hospital  
10 which treats mental illness;

11           (12) Nonoffender means a juvenile who is subject to the  
12 jurisdiction of the juvenile court for reasons other than legally  
13 prohibited conduct, including, but not limited to, juveniles  
14 described in subdivision (3)(a) of section 43-247;

15           (13) Nonsecure detention means detention characterized by  
16 the absence of restrictive hardware, construction, and procedure.  
17 Nonsecure detention services may include a range of placement and  
18 supervision options, such as home detention, electronic monitoring,  
19 day reporting, drug court, tracking and monitoring supervision, staff  
20 secure and temporary holdover facilities, and group homes;

21           (14) Parent means one or both parents or a stepparent  
22 when such stepparent is married to the custodial parent as of the  
23 filing of the petition;

24           (15) Parties means the juvenile as described in section  
25 43-247 and his or her parent, guardian, or custodian;

1           (16) Except in proceedings under the Nebraska Indian  
2 Child Welfare Act, relative means father, mother, grandfather,  
3 grandmother, brother, sister, stepfather, stepmother, stepbrother,  
4 stepsister, uncle, aunt, first cousin, nephew, or niece;

5           (17) Seal a record means that a record shall not be  
6 available to the public except upon the order of a court upon good  
7 cause shown;

8           (18) Secure detention means detention in a highly  
9 structured, residential, hardware-secured facility designed to  
10 restrict a juvenile's movement;

11           (19) Secure youth confinement facility means a secure  
12 detention facility for juveniles under the supervision and control of  
13 the Division of Juvenile Rehabilitation and Treatment of the  
14 Department of Correctional Services;

15           ~~(19)~~(20) Status offender means a juvenile who has been  
16 charged with or adjudicated for conduct which would not be a crime if  
17 committed by an adult, including, but not limited to, juveniles  
18 charged under subdivision (3)(b) of section 43-247 and sections  
19 53-180.01 and 53-180.02; ~~and~~

20           ~~(20)~~(21) Traffic offense means any nonfelonious act in  
21 violation of a law or ordinance regulating vehicular or pedestrian  
22 travel, whether designated a misdemeanor or a traffic infraction;  
23 and -

24           (22) Youth rehabilitation and treatment center means a  
25 youth rehabilitation and treatment center under the supervision and

1 control of the Division of Juvenile Rehabilitation and Treatment of  
2 the Department of Correctional Services.

3           Sec. 3. Section 43-251.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           43-251.01 All placements and commitments of juveniles for  
6 evaluations or as temporary or final dispositions are subject to the  
7 following:

8           (1) No juvenile shall be confined in an adult  
9 correctional facility as a disposition of the court;

10           (2) A juvenile who is found to be a juvenile as described  
11 in subdivision (3) of section 43-247 shall not be (a) placed in an  
12 adult correctional facility, a youth rehabilitation and treatment  
13 center, or a ~~the~~ secure youth confinement facility ~~operated by the~~  
14 ~~Department of Correctional Services, or a youth rehabilitation and~~  
15 ~~treatment center~~ or (b) committed to the Office of Juvenile Services;

16           (3) A juvenile who is found to be a juvenile as described  
17 in subdivision (1), (2), or (4) of section 43-247 shall not be  
18 assigned or transferred to an adult correctional facility or ~~the~~ a  
19 secure youth confinement facility; ~~operated by the Department of~~  
20 ~~Correctional Services; and~~

21           (4) A juvenile under the age of twelve years shall not be  
22 placed ~~with or committed to~~ in a youth rehabilitation and treatment  
23 center except as provided in section 43-286.

24           Sec. 4. Section 43-286, Revised Statutes Supplement,  
25 2011, is amended to read:



1                   43-286 (1) When any juvenile is adjudicated to be a  
2 juvenile described in subdivision (1), (2), or (4) of section 43-247:

3                   (a) The court may continue the dispositional portion of  
4 the hearing, from time to time upon such terms and conditions as the  
5 court may prescribe, including an order of restitution of any  
6 property stolen or damaged or an order requiring the juvenile to  
7 participate in community service programs, if such order is in the  
8 interest of the juvenile's reformation or rehabilitation, and,  
9 subject to the further order of the court, may:

10                   (i) Place the juvenile on probation subject to the  
11 supervision of a probation officer;

12                   (ii) Permit the juvenile to remain in his or her own home  
13 or be placed in a suitable family home, subject to the supervision of  
14 the probation officer; or

15                   (iii) Cause the juvenile to be placed in a suitable  
16 family home or institution, subject to the supervision of the  
17 probation officer. If the court has committed the juvenile to the  
18 care and custody of the Department of Health and Human Services, the  
19 department shall pay the costs of the suitable family home or  
20 institution which are not otherwise paid by the juvenile's parents.

21                   Under subdivision (1)(a) of this section, upon a  
22 determination by the court that there are no parental, private, or  
23 other public funds available for the care, custody, and maintenance  
24 of a juvenile, the court may order a reasonable sum for the care,  
25 custody, and maintenance of the juvenile to be paid out of a fund

1 which shall be appropriated annually by the county where the petition  
2 is filed until a suitable provision may be made for the juvenile  
3 without such payment; or

4 (b) The court may commit such juvenile (i) to the Office  
5 of Juvenile Services or (ii) to the Division of Juvenile  
6 Rehabilitation and Treatment of the Department of Correctional  
7 Services for placement in a youth rehabilitation and treatment  
8 center, but a juvenile under the age of twelve years shall not be  
9 placed at ~~the Youth Rehabilitation and Treatment Center Geneva or the~~  
10 ~~Youth Rehabilitation and Treatment Center Kearney~~ a youth  
11 rehabilitation and treatment center unless he or she has violated the  
12 terms of probation or has committed an additional offense and the  
13 court finds that the interests of the juvenile and the welfare of the  
14 community demand ~~his or her~~ such commitment. This minimum age  
15 provision shall not apply if the act in question is murder or  
16 manslaughter.

17 (2) When any juvenile is found by the court to be a  
18 juvenile described in subdivision (3)(b) of section 43-247, the court  
19 may enter such order as it is empowered to enter under subdivision  
20 (1)(a) of this section or enter an order committing or placing the  
21 juvenile to the care and custody of the Department of Health and  
22 Human Services.

23 (3) When any juvenile is adjudicated to be a juvenile  
24 described in subdivision (1), (2), (3)(b), or (4) of section 43-247  
25 because of a nonviolent act or acts and the juvenile has not

1 previously been adjudicated to be such a juvenile because of a  
2 violent act or acts, the court may, with the agreement of the victim,  
3 order the juvenile to attend juvenile offender and victim mediation  
4 with a mediator or at an approved center selected from the roster  
5 made available pursuant to section 25-2908.

6 (4) When a juvenile is placed on probation and a  
7 probation officer has reasonable cause to believe that such juvenile  
8 has committed or is about to commit a substance abuse violation, a  
9 noncriminal violation, or a violation of a condition of his or her  
10 probation, the probation officer shall take appropriate measures as  
11 provided in section 43-286.01.

12 (5)(a) When a juvenile is placed on probation or under  
13 the supervision of the court and it is alleged that the juvenile is  
14 again a juvenile described in subdivision (1), (2), (3)(b), or (4) of  
15 section 43-247, a petition may be filed and the same procedure  
16 followed and rights given at a hearing on the original petition. If  
17 an adjudication is made that the allegations of the petition are  
18 true, the court may make any disposition authorized by this section  
19 for such ~~adjudications~~. adjudication.

20 (b) When a juvenile is placed on probation or under the  
21 supervision of the court for conduct under subdivision (1), (2), (3)  
22 (b), or (4) of section 43-247 and it is alleged that the juvenile has  
23 violated a term of probation or supervision or that the juvenile has  
24 violated an order of the court, a motion to revoke probation or  
25 supervision or to change the disposition may be filed and proceedings

1 held as follows:

2 (i) The motion shall set forth specific factual  
3 allegations of the alleged violations and a copy of such motion shall  
4 be served on all persons required to be served by sections 43-262 to  
5 43-267;

6 (ii) The juvenile shall be entitled to a hearing before  
7 the court to determine the validity of the allegations. At such  
8 hearing the juvenile shall be entitled to those rights relating to  
9 counsel provided by section 43-272 and those rights relating to  
10 detention provided by sections 43-254 to 43-256. The juvenile shall  
11 also be entitled to speak and present documents, witnesses, or other  
12 evidence on his or her own behalf. He or she may confront persons who  
13 have given adverse information concerning the alleged violations, may  
14 cross-examine such persons, and may show that he or she did not  
15 violate the conditions of his or her probation or supervision or an  
16 order of the court or, if he or she did, that mitigating  
17 circumstances suggest that the violation does not warrant revocation  
18 of probation or supervision or a change of disposition. The hearing  
19 shall be held within a reasonable time after the juvenile is taken  
20 into custody;

21 (iii) The hearing shall be conducted in an informal  
22 manner and shall be flexible enough to consider evidence, including  
23 letters, affidavits, and other material, that would not be admissible  
24 in an adversarial criminal trial;

25 (iv) The juvenile shall be given a preliminary hearing in

1 all cases when the juvenile is confined, detained, or otherwise  
2 significantly deprived of his or her liberty as a result of his or  
3 her alleged violation of probation, supervision, or court order. Such  
4 preliminary hearing shall be held before an impartial person other  
5 than his or her probation officer or any person directly involved  
6 with the case. If, as a result of such preliminary hearing, probable  
7 cause is found to exist, the juvenile shall be entitled to a hearing  
8 before the court in accordance with this subsection;

9 (v) If the juvenile is found by the court to have  
10 violated the terms of his or her probation or supervision or an order  
11 of the court, the court may modify the terms and conditions of the  
12 probation, supervision, or other court order, extend the period of  
13 probation, supervision, or other court order, or enter any order of  
14 disposition that could have been made at the time the original order  
15 was entered; and

16 (vi) In cases when the court revokes probation,  
17 supervision, or other court order, it shall enter a written statement  
18 as to the evidence relied on and the reasons for revocation.

19 Sec. 5. Section 43-403, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 43-403 For purposes of the Health and Human Services,  
22 Office of Juvenile Services Act:

23 (1) Aftercare means the control, supervision, and care  
24 exercised over juveniles who have been paroled;

25 (2) Committed means an order by a court committing a

1 juvenile to the care and custody of the Office of Juvenile Services  
2 or the Division of Juvenile Rehabilitation and Treatment of the  
3 Department of Correctional Services for treatment;

4 (3) Community supervision means the control, supervision,  
5 and care exercised over juveniles committed to the Office of Juvenile  
6 Services; ~~when a commitment to the level of treatment of a youth~~  
7 ~~rehabilitation and treatment center has not been ordered by the~~  
8 ~~court;~~

9 (4) Evaluation means assessment of the juvenile's social,  
10 physical, psychological, and educational development and needs,  
11 including a recommendation as to an appropriate treatment plan;

12 (5) Parole means a conditional release of a juvenile by  
13 the Division of Juvenile Rehabilitation and Treatment of the  
14 Department of Correctional Services from a youth rehabilitation and  
15 treatment center to aftercare or transferred to Nebraska for parole  
16 supervision by way of interstate compact. Juveniles on parole shall  
17 be deemed committed to the Office of Juvenile Services;

18 (6) Placed for evaluation means a placement with the  
19 Office of Juvenile Services or the Department of Health and Human  
20 Services for purposes of an evaluation of the juvenile; ~~and~~

21 (7) Secure youth confinement facility has the same  
22 meaning as in section 43-245;

23 ~~(7) (8)~~ Treatment means type of supervision, care,  
24 confinement, and rehabilitative services for the juvenile; ~~and -~~

25 (9) Youth rehabilitation and treatment center has the

1 same meaning as in section 43-245.

2           Sec. 6. Section 43-404, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-404 There is created within the Department of Health  
5 and Human Services the Office of Juvenile Services. The office shall  
6 have oversight and control of state juvenile ~~correctional facilities~~  
7 ~~and justice programs other than the~~ except those provided in a secure  
8 youth confinement facility or a youth rehabilitation and treatment  
9 center. which is under the control of the Department of Correctional  
10 ~~Services.~~ The Administrator of the Office of Juvenile Services shall  
11 be appointed by the chief executive officer of the department or his  
12 or her designee and shall be responsible for the administration of  
13 the ~~facilities and~~ programs of the office. The department may  
14 contract with a state agency or private provider to operate any  
15 ~~facilities and~~ programs of the Office of Juvenile Services.

16           Sec. 7. Section 43-405, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-405 The administrative duties of the Office of  
19 Juvenile Services are to:

20           (1) Manage, establish policies for, and administer the  
21 office, including all ~~facilities and~~ programs operated by the office  
22 or provided through the office by contract with a provider;

23           (2) Supervise employees of the office, including  
24 employees of the ~~facilities and~~ programs operated by the office;

25           (3) Have separate budgeting procedures and develop and

1 report budget information separately from the Department of Health  
2 and Human Services;

3 (4) Adopt and promulgate rules and regulations for the  
4 levels of treatment and for management, control, screening,  
5 evaluation, treatment, rehabilitation, parole, transfer, and  
6 discharge of juveniles placed with, paroled to, or committed to the  
7 Office of Juvenile Services;

8 (5) Ensure that statistical information concerning  
9 juveniles placed with, paroled to, or committed to ~~facilities or~~  
10 programs of the office is collected, developed, and maintained for  
11 purposes of research and the development of treatment programs;

12 (6) Monitor commitments, placements, and evaluations at  
13 ~~facilities and programs~~ operated by the office or through contracts  
14 with providers and report its findings annually to the Legislature.  
15 The report shall include an assessment of the administrative ~~costs of~~  
16 ~~operating the facilities, the cost of programming,~~ and the savings  
17 realized through reductions in commitments, placements, and  
18 evaluations;

19 (7) Coordinate the programs and services of the juvenile  
20 justice system with other governmental agencies and political  
21 subdivisions;

22 (8) Coordinate educational, vocational, and social  
23 counseling;

24 (9) Coordinate community-based services for juveniles and  
25 their families;



1           (10) Supervise and coordinate juvenile parole and  
2 aftercare services for juveniles released on parole by the Division  
3 of Juvenile Rehabilitation and Treatment of the Department of  
4 Correctional Services; and

5           (11) Exercise all powers and perform all duties necessary  
6 to carry out its responsibilities under the Health and Human  
7 Services, Office of Juvenile Services Act.

8           Sec. 8. Section 43-408, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-408 (1) Whenever any juvenile is committed under any  
11 provision of law to the Office of Juvenile Services, to any ~~facility~~  
12 program operated by the Office of Juvenile Services, or to the  
13 custody of the Administrator of the Office of Juvenile Services, a  
14 ~~superintendent of a facility, or an administrator of a program, or~~  
15 paroled from a youth rehabilitation and treatment center, the  
16 juvenile is deemed committed to the Office of Juvenile Services.  
17 Juveniles committed to the Office of Juvenile Services shall also be  
18 considered committed to the care and custody of the Department of  
19 Health and Human Services for the purpose of obtaining health care  
20 and treatment services.

21           (2) The committing court shall order the initial level of  
22 treatment for a juvenile committed to the Office of Juvenile  
23 Services. Prior to determining the initial level of treatment for a  
24 juvenile, the court may solicit a recommendation regarding the  
25 initial level of treatment from the Office of Juvenile Services.

1 Under this section, the committing court shall not order a specific  
2 placement for a juvenile. The court shall continue to maintain  
3 jurisdiction over any juvenile committed to the Office of Juvenile  
4 Services until such time that the juvenile is discharged from the  
5 Office of Juvenile Services. The court shall conduct review hearings  
6 every six months, or at the request of the juvenile, for any juvenile  
7 committed to the Office of Juvenile Services who is placed outside  
8 his or her home, ~~except for a juvenile residing at a youth~~  
9 ~~rehabilitation and treatment center.~~ The court shall determine  
10 whether an out-of-home placement made by the Office of Juvenile  
11 Services is in the best interests of the juvenile, with due  
12 consideration being given by the court to public safety. If the court  
13 determines that the out-of-home placement is not in the best  
14 interests of the juvenile, the court may order other treatment  
15 services for the juvenile.

16 (3) After the initial level of treatment is ordered by  
17 the committing court, the Office of Juvenile Services shall provide  
18 treatment services which conform to the court's level of treatment  
19 determination. Within thirty days after making an actual placement,  
20 the Office of Juvenile Services shall provide the committing court  
21 with written notification of where the juvenile has been placed. At  
22 least once every six months thereafter, until the juvenile is  
23 discharged from the care and custody of the Office of Juvenile  
24 Services, the office shall provide the committing court with written  
25 notification of the juvenile's actual placement and the level of

1 treatment that the juvenile is receiving.

2 (4) For transfer hearings, the burden of proof to justify  
3 the transfer is on the Office of Juvenile Services, the standard of  
4 proof is clear and convincing evidence, and the strict rules of  
5 evidence do not apply. Transfers of juveniles from one place of  
6 treatment to another are subject to section 43-251.01 and to the  
7 following:

8 (a) Except as provided in subdivision (b) of this  
9 subsection, if the Office of Juvenile Services proposes to transfer  
10 the juvenile from a less restrictive to a more restrictive place of  
11 treatment, a plan outlining the proposed change and the reasons for  
12 the proposed change shall be presented to the court which committed  
13 the juvenile. Such change shall occur only after a hearing and a  
14 finding by the committing court that the change is in the best  
15 interests of the juvenile, with due consideration being given by the  
16 court to public safety. At the hearing, the juvenile has the right to  
17 be represented by counsel;

18 (b) The Office of Juvenile Services may make an immediate  
19 temporary change without prior approval by the committing court only  
20 if the juvenile is in a harmful or dangerous situation, is suffering  
21 a medical emergency, is exhibiting behavior which warrants temporary  
22 removal, or has been placed in a non-state-owned facility and such  
23 facility has requested that the juvenile be removed. Approval of the  
24 committing court shall be sought within fifteen days of making an  
25 immediate temporary change, at which time a hearing shall occur

1 before the court. The court shall determine whether it is in the best  
2 interests of the juvenile to remain in the new place of treatment,  
3 with due consideration being given by the court to public safety. At  
4 the hearing, the juvenile has the right to be represented by counsel;  
5 and

6 (c) If the proposed change seeks to transfer the juvenile  
7 from a more restrictive to a less restrictive place of treatment or  
8 to transfer the juvenile from the juvenile's current place of  
9 treatment to another which has the same level of restriction as the  
10 current place of treatment, the Office of Juvenile Services shall  
11 notify the juvenile, the juvenile's parents, custodian, or legal  
12 guardian, the committing court, the county attorney, the counsel for  
13 the juvenile, and the guardian ad litem of the proposed change. The  
14 juvenile has fifteen days after the date of the notice to request an  
15 administrative hearing with the Office of Juvenile Services, at which  
16 time the Office of Juvenile Services shall determine whether it is in  
17 the best interests of the juvenile for the proposed change to occur,  
18 with due consideration being given by the office to public safety.  
19 The juvenile may be represented by counsel at the juvenile's own  
20 expense. If the juvenile is aggrieved by the administrative decision  
21 of the Office of Juvenile Services, the juvenile may appeal that  
22 decision to the committing court within fifteen days after the Office  
23 of Juvenile Services' decision. At the hearing before the committing  
24 court, the juvenile has the right to be represented by counsel.

25 (5) If a juvenile is placed in detention after the

1 initial level of treatment is determined by the committing court, the  
2 committing court shall hold a hearing every fourteen days to review  
3 the status of the juvenile. Placement of a juvenile in detention  
4 shall not be considered as a treatment service.

5 (6) The committing court's review of a change of place of  
6 treatment pursuant to this section does not apply to parole  
7 revocation hearings.

8 Sec. 9. Section 43-411, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 43-411 The chief executive officer of the Department of  
11 Health and Human Services shall have the authority, and may delegate  
12 the authority only to the Administrator of the Office of Juvenile  
13 Services, ~~and the superintendents of the youth rehabilitation and~~  
14 ~~treatment centers,~~ to issue detainers for the apprehension and  
15 detention of juveniles who have absconded from a placement with or  
16 commitment to the office. Any peace officer who detains a juvenile on  
17 such a detainer shall hold the juvenile in an appropriate facility or  
18 program for juveniles until the office can take custody of the  
19 juvenile.

20 Sec. 10. Section 43-416, Revised Statutes Supplement,  
21 2011, is amended to read:

22 43-416 The Office of Juvenile Services shall have  
23 administrative authority over the parole function for juveniles  
24 ~~committed to released from~~ a youth rehabilitation and treatment  
25 center by the Division of Juvenile Rehabilitation and Treatment of

1 the Department of Correctional Services and may ~~(1) determine the~~  
2 ~~time of release on parole of committed juveniles eligible for such~~  
3 ~~release, (2) fix the conditions of parole, revoke parole, issue or~~  
4 authorize the issuance of detainers for the apprehension and  
5 detention of parole violators, and impose other sanctions short of  
6 revocation for violation of conditions of parole, and ~~(3) determine~~  
7 the time of discharge from parole. The office shall provide the  
8 committing court with written notification of the juvenile's  
9 discharge from parole within thirty days of a juvenile being  
10 discharged from the supervision of the office.

11           Sec. 11. Section 81-1316, Revised Statutes Supplement,  
12 2011, is amended to read:

13           81-1316 (1) All agencies and personnel of state  
14 government shall be covered by sections 81-1301 to 81-1319 and shall  
15 be considered subject to the State Personnel System, except the  
16 following:

17           (a) All personnel of the office of the Governor;

18           (b) All personnel of the office of the Lieutenant  
19 Governor;

20           (c) All personnel of the office of the Secretary of  
21 State;

22           (d) All personnel of the office of the State Treasurer;

23           (e) All personnel of the office of the Attorney General;

24           (f) All personnel of the office of the Auditor of Public  
25 Accounts;

- 1 (g) All personnel of the Legislature;
- 2 (h) All personnel of the court systems;
- 3 (i) All personnel of the Board of Educational Lands and  
4 Funds;
- 5 (j) All personnel of the Public Service Commission;
- 6 (k) All personnel of the Nebraska Brand Committee;
- 7 (l) All personnel of the Commission of Industrial  
8 Relations;
- 9 (m) All personnel of the State Department of Education;
- 10 (n) All personnel of the Nebraska state colleges and the  
11 Board of Trustees of the Nebraska State Colleges;
- 12 (o) All personnel of the University of Nebraska;
- 13 (p) All personnel of the Coordinating Commission for  
14 Postsecondary Education;
- 15 (q) All personnel of the Governor's Policy Research  
16 Office, but not to include personnel within the State Energy Office;
- 17 (r) All personnel of the Commission on Public Advocacy;
- 18 (s) All agency heads;
- 19 (t)(i) The Director of Behavioral Health of the Division  
20 of Behavioral Health; (ii) the Director of Children and Family  
21 Services of the Division of Children and Family Services; (iii) the  
22 Director of Developmental Disabilities of the Division of  
23 Developmental Disabilities; (iv) the Director of Medicaid and Long-  
24 Term Care of the Division of Medicaid and Long-Term Care; (v) the  
25 Director of Public Health of the Division of Public Health; and (vi)

1 the Director of Veterans' Homes of the Division of Veterans' Homes;

2 (u) The chief medical officer established under section  
3 81-3115, the Administrator of the Office of Juvenile Services, and  
4 the chief executive officers of the Beatrice State Developmental  
5 Center, Lincoln Regional Center, Norfolk Regional Center, Hastings  
6 Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home,  
7 Eastern Nebraska Veterans' Home, and Western Nebraska Veterans'  
8 Home;  ~~Youth Rehabilitation and Treatment Center Kearney, and Youth  
9 Rehabilitation and Treatment Center Geneva;~~

10 (v) The chief executive officers of all facilities  
11 operated by the Department of Correctional Services and the medical  
12 director for the department appointed pursuant to section 83-4,156;

13 (w) All personnel employed as pharmacists, physicians,  
14 psychiatrists, or psychologists by the Department of Correctional  
15 Services;

16 (x) All personnel employed as pharmacists, physicians,  
17 psychiatrists, psychologists, service area administrators, or  
18 facility operating officers of the Department of Health and Human  
19 Services;

20 (y) Deputies and examiners of the Department of Banking  
21 and Finance and the Department of Insurance as set forth in sections  
22 8-105 and 44-119, except for those deputies and examiners who remain  
23 in the State Personnel System; and

24 (z) All personnel of the Tax Equalization and Review  
25 Commission.



1                   (2) At each agency head's discretion, up to the following  
 2 number of additional positions may be exempted from the State  
 3 Personnel System, based on the following agency size categories:

| 4  | Number of Agency | Number of Noncovered |
|----|------------------|----------------------|
| 5  | Employees        | Positions            |
| 6  | less than 25     | 0                    |
| 7  | 25 to 100        | 1                    |
| 8  | 101 to 250       | 2                    |
| 9  | 251 to 500       | 3                    |
| 10 | 501 to 1000      | 4                    |
| 11 | 1001 to 2000     | 5                    |
| 12 | 2001 to 3000     | 8                    |
| 13 | 3001 to 4000     | 11                   |
| 14 | 4001 to 5000     | 14                   |
| 15 | over 5000        | 50                   |

16                   The purpose of having such noncovered positions shall be  
 17 to allow agency heads the opportunity to recruit, hire, and supervise  
 18 critical, confidential, or policymaking personnel without  
 19 restrictions from selection procedures, compensation rules, career  
 20 protections, and grievance privileges. Persons holding the noncovered  
 21 positions shall serve at the pleasure of the agency head and shall be  
 22 paid salaries set by the agency head. An agency with over five  
 23 thousand employees shall provide notice in writing to the Health and

1 Human Services Committee of the Legislature when forty noncovered  
2 positions have been filled by the agency head pursuant to this  
3 subsection.

4 (3) No changes to this section or to the number of  
5 noncovered positions within an agency shall affect the status of  
6 personnel employed on the date the changes become operative without  
7 their prior written agreement. A state employee's career protections  
8 or coverage by personnel rules and regulations shall not be revoked  
9 by redesignation of the employee's position as a noncovered position  
10 without the prior written agreement of such employee.

11 Sec. 12. Section 83-107.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 83-107.01 The official names of the state institutions  
14 under the supervision of the Department of Health and Human Services  
15 shall be as follows: (1) Beatrice State Developmental Center, (2)  
16 Lincoln Regional Center, (3) Norfolk Regional Center, (4) Hastings  
17 Regional Center, (5) Grand Island Veterans' Home, (6) Norfolk  
18 Veterans' Home, (7) Western Nebraska Veterans' Home, ~~(8) Youth~~  
19 ~~Rehabilitation and Treatment Center Kearney, (9) Youth Rehabilitation~~  
20 ~~and Treatment Center Geneva, and (10) the Thomas Fitzgerald Veterans'~~  
21 ~~Home prior to July 1, 2007, and, on and after July 1, 2007, (8) the~~  
22 Eastern Nebraska Veterans' Home.

23 Sec. 13. Section 83-171, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 83-171 There is hereby created a Department of

1 Correctional Services which shall:

2 (1) Maintain and administer facilities required for the  
3 custody, control, correctional treatment, and rehabilitation of  
4 ~~persons—adults and juveniles~~ committed to the department and for the  
5 safekeeping of such other ~~persons—adults and juveniles~~ as may be  
6 remanded to the department in accordance with law;

7 (2) Supervise ~~persons—adults~~ committed to the department  
8 on parole and administer such parole services in the facilities and  
9 in the community; ~~and~~

10 (3) Develop policies and programs for the correctional  
11 treatment and rehabilitation of ~~persons—adults and juveniles~~  
12 committed to the department; and -

13 (4) Supervise juveniles committed to the department and  
14 placed at a secure youth confinement facility or a youth  
15 rehabilitation and treatment center.

16 Sec. 14. Section 83-173, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 83-173 The Director of Correctional Services shall:

19 (1) Supervise and be responsible for the administration  
20 of the Department of Correctional Services;

21 (2) Establish, consolidate, or abolish any administrative  
22 subdivision within the department and appoint and remove for cause  
23 the heads thereof and delegate appropriate powers and duties to them;

24 (3) Establish and administer policies and programs for  
25 the operation of the facilities in the department and for the

1 custody, control, safety, correction, and rehabilitation of ~~persons~~  
2 adults and juveniles committed to the department;

3 (4) Appoint and remove the chief executive officer of  
4 each facility and delegate appropriate powers and duties to him or  
5 her;

6 (5) Appoint and remove employees of the department and  
7 delegate appropriate powers and duties to them;

8 (6) Adopt and promulgate rules and regulations for the  
9 management, correctional treatment, and rehabilitation of ~~persons~~  
10 adults and juveniles committed to the department, the administration  
11 of facilities, and the conduct of officers and employees under his or  
12 her jurisdiction;

13 (7) Designate the place of confinement of persons  
14 committed to the department subject to section 83-176;

15 (8) Collect, develop, and maintain statistical  
16 information concerning persons committed to the department,  
17 sentencing practices, and correctional treatment as may be useful in  
18 penological research or in the development of treatment programs;

19 (9) Provide training programs designed to equip employees  
20 for duty in the facilities and related services of the department and  
21 to raise and maintain the educational standards and the level of  
22 performance of such employees;

23 (10) Notify law enforcement agencies of upcoming  
24 furloughs as required by section 83-173.01;

25 (11) Issue or authorize the issuance of a warrant for the

1 arrest of any person committed to the department who has escaped from  
2 the custody of the department; and

3 (12) Issue detainers for the apprehension and detention  
4 of juveniles who have absconded from a secure youth confinement  
5 facility or a youth rehabilitation and treatment center. The director  
6 may delegate the authority only to the assistant director of the  
7 Division of Juvenile Rehabilitation and Treatment and to the chief  
8 executive officers of the secure youth confinement facilities and  
9 youth rehabilitation and treatment centers; and

10 ~~(12)~~ (13) Exercise all powers and perform all duties  
11 necessary and proper in carrying out his or her responsibilities.

12 Sec. 15. Section 83-905, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 83-905 The Department of Correctional Services shall have  
15 oversight and general control of all state adult correctional  
16 institutions and the secure youth facility. ~~The Secure Youth~~  
17 ~~Confinement Facility~~ confinement facilities and youth rehabilitation  
18 and treatment centers. A secure youth confinement facility is a  
19 physically secure, coeducational facility designed to provide secure  
20 confinement, education, and treatment only for serious and chronic  
21 juvenile offenders who have been committed to the Department of  
22 Correctional Services for secure care.

23 Sec. 16. Section 83-922, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 83-922 The Department of Correctional Services shall

1 fulfill those functions of state government relating to the custody,  
2 study, care, discipline, training, and treatment of persons in  
3 correctional and detention institutions. There shall be separate  
4 divisions within the department to assist in fulfilling these  
5 functions. The divisions shall be the Division of Community-Centered  
6 Services, the Division of Administrative Services, the Division of  
7 Juvenile Rehabilitation and Treatment, and the Division of Adult  
8 Services. The Director of Correctional Services shall appoint an  
9 assistant director as head of each division and may remove or change  
10 the powers and responsibilities of the assistant director of any of  
11 the divisions at his or her discretion.

12           Sec. 17. The Division of Juvenile Rehabilitation and  
13 Treatment shall have full supervision and control of the secure youth  
14 confinement facilities and the youth rehabilitation and treatment  
15 centers.

16           Sec. 18. Whenever a juvenile is committed to a youth  
17 rehabilitation and treatment center operated by the Division of  
18 Juvenile Rehabilitation and Treatment of the Department of  
19 Correctional Services, the juvenile is deemed committed to the  
20 division. The juvenile court shall not conduct review hearings while  
21 the juvenile is committed to the division. The division shall  
22 determine the time of release on parole of committed juveniles  
23 eligible for such release. At least five business days prior to the  
24 parole of the juvenile, the division shall notify the juvenile court  
25 and the Office of Juvenile Services. Once released on parole, the

1 juvenile is deemed committed to the Office of Juvenile Services.

2           Sec. 19. Section 43-407, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~43-407 The Office of Juvenile Services~~ Division of  
5 Juvenile Rehabilitation and Treatment of the Department of  
6 Correctional Services shall design and make available programs and  
7 treatment services through the ~~Youth Rehabilitation and Treatment~~  
8 ~~Center Kearney and Youth Rehabilitation and Treatment Center Geneva.~~  
9 youth rehabilitation and treatment centers. The programs and  
10 treatment services shall be based upon the individual or family  
11 evaluation process and treatment plan. The treatment plan shall be  
12 developed within fourteen days after admission. If a juvenile placed  
13 at the ~~Youth Rehabilitation and Treatment Center Kearney or Youth~~  
14 ~~Rehabilitation and Treatment Center Geneva~~ a youth rehabilitation and  
15 treatment center is assessed as needing inpatient or subacute  
16 substance abuse or behavioral health residential treatment, the  
17 juvenile may be ~~transferred~~ paroled to a program or facility if the  
18 treatment and security needs of the juvenile can be met. The  
19 assessment process shall include involvement of both private and  
20 public sector behavioral health providers. The selection of the  
21 treatment venue for each juvenile shall include individualized case  
22 planning and incorporate the goals of the juvenile justice system  
23 pursuant to section 43-402. Juveniles committed to the ~~Youth~~  
24 ~~Rehabilitation and Treatment Center Kearney or Youth Rehabilitation~~  
25 ~~and Treatment Center Geneva~~ a youth rehabilitation and treatment

1 center who are ~~transferred~~paroled to alternative settings for  
2 treatment ~~remain~~are deemed committed to the Department of Health and  
3 Human Services and the Office of Juvenile Services until discharged  
4 from such custody. Programs and treatment services shall address:

5 (1) Behavioral impairments, severe emotional  
6 disturbances, sex offender behaviors, and other mental health or  
7 psychiatric disorders;

8 (2) Drug and alcohol addiction;

9 (3) Health and medical needs;

10 (4) Education, special education, and related services;

11 (5) Individual, group, and family counseling services as  
12 appropriate with any treatment plan related to subdivisions (1)  
13 through (4) of this section. Services shall also be made available  
14 for juveniles who have been physically or sexually abused;

15 (6) A case management and coordination process, designed  
16 to assure appropriate reintegration of the juvenile to his or her  
17 family, school, and community. This process shall follow  
18 individualized planning which shall begin at intake and evaluation.  
19 Structured programming shall be scheduled for all juveniles. This  
20 programming shall include a strong academic program as well as  
21 classes in health education, living skills, vocational training,  
22 behavior management and modification, money management, family and  
23 parent responsibilities, substance abuse awareness, physical  
24 education, job skills training, and job placement assistance.  
25 Participation shall be required of all juveniles if such programming



1 is determined to be age and developmentally appropriate. The goal of  
2 such structured programming shall be to provide the academic and life  
3 skills necessary for a juvenile to successfully return to his or her  
4 home and community upon release; and

5 (7) The design and delivery of treatment programs through  
6 the youth rehabilitation and treatment centers as well as any  
7 licensing or certification requirements, and the office shall follow  
8 the requirements as stated within Title XIX and Title IV-E of the  
9 federal Social Security Act, ~~as such act existed on May 25, 2007,~~ the  
10 Special Education Act, or other funding guidelines as appropriate. It  
11 is the intent of the Legislature that these funding sources shall be  
12 utilized to support service needs of eligible juveniles.

13 Sec. 20. The Division of Juvenile Rehabilitation and  
14 Treatment of the Department of Correctional Services shall have  
15 access to and may obtain copies of all records pertaining to a  
16 juvenile committed to it or placed with it, including, but not  
17 limited to, school records, medical records, juvenile court records,  
18 probation records, test results, treatment records, evaluations, and  
19 examination reports. Any person who, in good faith, furnishes any  
20 records or information to the division shall be immune from any  
21 liability, civil or criminal, that might otherwise be incurred or  
22 imposed. The owners, officers, directors, employees, or agents of  
23 such medical office, school, court, office, corporation, partnership,  
24 or other such entity shall not be liable for furnishing such records  
25 or information.

1           Sec. 21. Section 43-417, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~43-417 In administering juvenile parole, the Office of~~  
4 ~~Juvenile Services determining the time of release on parole of~~  
5 ~~juveniles placed at a youth rehabilitation and treatment center, the~~  
6 ~~Division of Juvenile Rehabilitation and Treatment of the Department~~  
7 ~~of Correctional Services shall consider whether (1) the juvenile has~~  
8 completed the goals of his or her individual treatment plan or  
9 received maximum benefit from institutional treatment, (2) the  
10 juvenile would benefit from continued services under community  
11 supervision, (3) the juvenile can function in a community setting,  
12 (4) there is reason to believe that the juvenile will not commit  
13 further violations of law, and (5) there is reason to believe that  
14 the juvenile will comply with the conditions of parole.

15           Sec. 22. The Revisor of Statutes shall assign sections  
16 17, 18, 19, 20, and 21 of this act to Chapter 83, article 9.

17           Sec. 23. This act becomes operative on January 1, 2013.

18           Sec. 24. Original sections 43-251.01, 43-403, 43-404,  
19 43-405, 43-407, 43-408, 43-411, 43-417, 83-107.01, 83-171, 83-173,  
20 83-905, and 83-922, Reissue Revised Statutes of Nebraska, section  
21 43-245, Revised Statutes Cumulative Supplement, 2010, and sections  
22 28-934, 43-286, 43-416, and 81-1316, Revised Statutes Supplement,  
23 2011, are repealed.

24           Sec. 25. The following section is outright repealed:  
25 Section 43-299, Reissue Revised Statutes of Nebraska.