

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 230

Introduced by Pansing Brooks, 28.

Read first time January 14, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to juvenile facilities; to amend section
- 2 83-4,134.01, Revised Statutes Cumulative Supplement, 2018; to change
- 3 provisions and provide requirements for room confinement for
- 4 juveniles as prescribed; to define a term; to harmonize provisions;
- 5 and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-4,134.01, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 83-4,134.01 (1) It is the intent of the Legislature to establish a
4 system of investigation and performance review in order to provide
5 increased accountability and oversight regarding the use of room
6 confinement for juveniles in a juvenile facility.

7 (2) The following shall apply regarding placement in room
8 confinement of a juvenile in a juvenile facility:

9 (a) Room confinement of a juvenile for longer than one hour during a
10 twenty-four-hour period shall be documented and approved in writing by a
11 supervisor in the juvenile facility. Documentation of the room
12 confinement shall include the date of the occurrence; the race,
13 ethnicity, age, and gender of the juvenile; the reason for placement of
14 the juvenile in room confinement; an explanation of why less restrictive
15 means were unsuccessful; the ultimate duration of the placement in room
16 confinement; facility staffing levels at the time of confinement; and any
17 incidents of self-harm or suicide committed by the juvenile while he or
18 she was isolated;

19 (b) If any physical or mental health clinical evaluation was
20 performed during the time the juvenile was in room confinement for longer
21 than one hour, the results of such evaluation shall be considered in any
22 decision to place a juvenile in room confinement or to continue room
23 confinement;

24 (c) The juvenile facility shall submit a report quarterly to the
25 Legislature on the juveniles placed in room confinement; the length of
26 time each juvenile was in room confinement; the race, ethnicity, age, and
27 gender of each juvenile placed in room confinement; facility staffing
28 levels at the time of confinement; and the reason each juvenile was
29 placed in room confinement. The report shall specifically address each
30 instance of room confinement of a juvenile for more than four hours,
31 including all reasons why attempts to return the juvenile to the general

1 population of the juvenile facility were unsuccessful. The report shall
2 also detail all corrective measures taken in response to noncompliance
3 with this section. The report shall redact all personal identifying
4 information but shall provide individual, not aggregate, data. The report
5 shall be delivered electronically to the Legislature. The initial
6 quarterly report shall be submitted within two weeks after the quarter
7 ending on September 30, 2016. Subsequent reports shall be submitted for
8 the ensuing quarters within two weeks after the end of each quarter; and

9 (d) The Inspector General of Nebraska Child Welfare shall review all
10 data collected pursuant to this section in order to assess the use of
11 room confinement for juveniles in each juvenile facility and prepare an
12 annual report of his or her findings, including, but not limited to,
13 identifying changes in policy and practice which may lead to decreased
14 use of such confinement as well as model evidence-based criteria to be
15 used to determine when a juvenile should be placed in room confinement.
16 The report shall be delivered electronically to the Legislature on an
17 annual basis. ~~;~~ ~~and~~

18 (3) The use of consecutive periods of room confinement to avoid the
19 intent or purpose of this section is prohibited.

20 (4) (e) Any juvenile facility which is not a residential child-
21 caring agency which fails to comply with the requirements of this section
22 is subject to disciplinary action as provided in section 83-4,134. Any
23 juvenile facility which is a residential child-caring agency which fails
24 to comply with the requirements of this section is subject to
25 disciplinary action as provided in section 71-1940.

26 Sec. 2. (1) For purposes of this section:

27 (a) Juvenile facility means any:

28 (i) Juvenile detention facility as defined in section 83-4,125;

29 (ii) Staff secure juvenile facility as defined in section 83-4,125;

30 (iii) Facility operated by the Department of Correctional Services

31 or by any county that houses youth under the age of majority; or

1 (iv) Youth rehabilitation and treatment center operated by the
2 Department of Health and Human Services; and

3 (b) Room confinement has the definition found in section 83-4,125.

4 (2) The following shall apply regarding placement in room
5 confinement of a juvenile in a juvenile facility:

6 (a) A juvenile shall not be placed in room confinement for any of
7 the following reasons:

8 (i) As a punishment or a disciplinary sanction;

9 (ii) As a response to a staffing shortage; or

10 (iii) As retaliation against the juvenile by staff;

11 (b) A juvenile shall not be placed in room confinement unless all
12 other less-restrictive alternatives have been exhausted and the juvenile
13 poses an immediate and substantial risk of harm to self or others;

14 (c) A juvenile may only be held in room confinement according to the
15 following conditions:

16 (i) A juvenile shall not be held in room confinement longer than the
17 minimum time required to eliminate the substantial and immediate risk of
18 harm to self or others and shall be released from room confinement as
19 soon as the substantial and immediate risk of harm to self or others is
20 resolved; and

21 (ii) A juvenile shall only be held in room confinement for a period
22 that does not compromise or harm the mental or physical health of the
23 juvenile;

24 (d) Any juvenile placed in room confinement shall be released
25 immediately upon regaining sufficient control so as to no longer engage
26 in behavior that threatens substantial and immediate risk of harm to self
27 or others;

28 (e) Not later than one business day after the date on which a
29 juvenile facility places a juvenile in room confinement, the juvenile
30 facility shall provide notice of the placement in room confinement to the
31 juvenile's parent or guardian and the attorney of record for the

1 juvenile;

2 (f) All rooms used for room confinement shall have adequate and
3 operating lighting, heating and cooling, and ventilation for the comfort
4 of the juvenile. Rooms shall be clean and resistant to suicide and self-
5 harm. Juveniles in room confinement shall have access to drinking water,
6 toilet facilities, hygiene supplies, and reading materials approved by a
7 licensed mental health professional;

8 (g) Juveniles in room confinement shall have the same access as
9 provided to juveniles in the general population of the facility to meals,
10 contact with parents or legal guardians, legal assistance, and access to
11 educational programming;

12 (h) Juveniles in room confinement shall have access to appropriate
13 medical and mental health services. Mental health staff shall promptly
14 provide mental health services as needed; and

15 (i) Juveniles in room confinement shall be continuously monitored by
16 staff of the facility.

17 (3) The use of consecutive periods of room confinement to avoid the
18 intent and purpose of this section is prohibited.

19 (4) Nothing in this section shall be construed to authorize or
20 require the construction or erection of fencing or similar structures at
21 any juvenile facility, nor the imposition of non-rehabilitative
22 approaches to behavior management within any juvenile facility.

23 Sec. 3. Original section 83-4,134.01, Revised Statutes Cumulative
24 Supplement, 2018, is repealed.