

LEGISLATIVE BILL 428

Approved by the Governor May 25, 2021

Introduced by Health and Human Services Committee: Arch, 14, Chairperson; Cavanaugh, M., 6; Day, 49; Hansen, B., 16; Murman, 38; Walz, 15; Williams, 36; McCollister, 20.

A BILL FOR AN ACT relating to the Department of Health and Human Services; to amend section 68-1213, Reissue Revised Statutes of Nebraska, and sections 43-427, 83-102, 83-106, and 83-107.01, Revised Statutes Cumulative Supplement, 2020; to require notification by the department to the Legislature of substantial changes to facilities and programs as prescribed; to change an evaluation period for a certain pilot project; to change educational programming provisions relating to youth rehabilitation and treatment centers; to require completion of a needs assessment and cost analysis for an inpatient adolescent psychiatric unit as prescribed; to state intent regarding substance abuse and behavioral health treatment for juveniles; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 43-427, Revised Statutes Cumulative Supplement, 2020, is amended to read:

43-427 (1) The Department of Health and Human Services shall develop a five-year operations plan for the youth rehabilitation and treatment centers and submit such operations plans electronically to the Health and Human Services Committee of the Legislature on or before March 15, 2021.

(2) The operations plan shall be developed with input from key stakeholders and shall include, but not be limited to:

(a) A description of the population served at each youth rehabilitation and treatment center;

(b) An organizational chart of supervisors and operations staff. The operations plan shall not allow for administrative staff to have oversight over more than one youth rehabilitation and treatment center and shall not allow for clinical staff to have responsibility over more than one youth rehabilitation and treatment center;

(c) Staff who shall be centralized offsite or managed onsite, including facility and maintenance staff;

(d) A facility plan that considers taxpayer investments already made in the facility and the community support and acceptance of the juveniles in the community surrounding the youth rehabilitation and treatment center;

(e) A description of each rehabilitation program offered at the youth rehabilitation and treatment center;

(f) A description of each mental health treatment plan offered at the youth rehabilitation and treatment center;

(g) A description of reentry and discharge planning;

(h) A staffing plan that ensures adequate staffing;

(i) An education plan developed in collaboration with the State Department of Education;

(j) A capital improvements budget;

(k) An operating budget;

(l) A disaster recovery plan;

(m) A plan to segregate the juveniles by gender on separate campuses;

(n) A parenting plan for juveniles placed in a youth rehabilitation and treatment center who are parenting;

(o) A statement of the rights of juveniles placed at the youth rehabilitation and treatment centers, including a right to privacy, and the rights of parents or guardians;

(p) Quality and outcome measurements for tracking outcomes for juveniles when they are discharged from the youth rehabilitation and treatment center, including an exit survey of such juveniles;

(q) Key performance indicators to be included in the annual report required under this section;

(r) A requirement for trauma-informed training provided to staff;

(s) Methods and procedures for investigations at the youth rehabilitation and treatment center; and

(t) A grievance process for juveniles placed at the youth rehabilitation and treatment centers.

(3) The department shall submit a report electronically to the Clerk of the Legislature on or before December 15, 2021, and each December 15 thereafter regarding such operations plan and key performance indicators.

(4) In addition to the report required in subsection (3) of this section, the department shall update the Health and Human Services Committee of the Legislature on or before each March 15, June 15, and September 15, regarding the elements of the operations plan described in subdivisions (a), (d), (e), (f), and (m) of subsection (2) of this section, of any substantial changes planned before the next report, and of any substantial changes that have occurred to such facilities or programs. Nothing in this subsection shall be

construed to limit or prevent the department from acting in accordance with sections 43-428 to 43-430 in the event of an emergency.

~~(4) The department shall not establish a new youth rehabilitation and treatment center or establish or move a youth rehabilitation and treatment center to a new or existing state or private facility until March 30, 2021, after the completion of the planning process required under this section. Youth committed to the Office of Juvenile Services and residing at a youth rehabilitation and treatment center may be moved to an existing state or private facility on a temporary basis in the event of an emergency, pursuant to the emergency plans created under section 43-428, and in compliance with the requirements and restrictions in sections 43-429 and 43-430.~~

Sec. 2. Section 68-1213, Reissue Revised Statutes of Nebraska, is amended to read:

68-1213 If the pilot project described in section 68-1212 is extended by the Department of Health and Human Services, an evaluation of the pilot project shall be completed by the Legislature prior to December 31, 2021 2014. The Legislature shall utilize all necessary resources, including the hiring of a consultant if deemed necessary. The department and any child welfare entity which has contracted with the department shall provide all data and information to the Legislature to assist in the evaluation.

Sec. 3. Section 83-102, Revised Statutes Cumulative Supplement, 2020, is amended to read:

83-102 (1) Youth rehabilitation and treatment centers shall be operated to provide programming and services to rehabilitate and treat juveniles committed under the Nebraska Juvenile Code. Each youth rehabilitation and treatment center shall be considered a separate placement. Each youth rehabilitation and treatment center shall provide:

(a) Safe and sanitary space for sleeping, hygiene, education, programming, treatment, recreation, and visitation for each juvenile;

(b) Health care and medical services;

(c) Appropriate physical separation and segregation of juveniles based on gender;

(d) Sufficient staffing to comply with state and federal law and protect the safety and security of each juvenile;

(e) Training that is specific to the population being served at the youth rehabilitation and treatment center;

(f) A facility administrator for each youth rehabilitation and treatment center who has the sole responsibility for administration of a single youth rehabilitation and treatment center;

(g) An evaluation process for the development of an individualized treatment plan within fourteen days after admission to the youth rehabilitation and treatment center;

(h) An age-appropriate and developmentally appropriate education program for each juvenile that can award relevant and necessary credits toward high school graduation that will be accepted by any public school district in the State of Nebraska. Juveniles committed to the youth rehabilitation and treatment centers are entitled to receive an appropriate education equivalent to educational opportunities offered within the regular settings of public school districts across the State of Nebraska ~~the juvenile's home school district;~~

(i) A case management and coordination process, designed to assure appropriate reintegration of the juvenile with his or her family, school, and community;

(j) Compliance with the requirements stated in Title XIX and Title IV-E of the federal Social Security Act, as such act existed on January 1, 2020, the Special Education Act, or other funding guidelines as appropriate;

(k) Research-based or evidence-based programming for all juveniles that includes a strong academic program and classes in health education, living skills, vocational training, behavior management and modification, money management, family and parent responsibilities, substance use awareness, physical education, job skills training, and job placement assistance; and

(1) Research-based or evidence-based treatment service for behavioral impairment, severe emotional disturbance, sex offender behavior, other mental health or psychiatric disorder, drug and alcohol addiction, physical or sexual abuse, and any other treatment indicated by a juvenile's individualized treatment plan.

(2) Each youth rehabilitation and treatment center shall be accredited by a nationally recognized entity that provides accreditation for juvenile facilities and shall maintain accreditation as provided in section 79-703 to provide an age-appropriate and developmentally appropriate education program.

(3) Each youth rehabilitation and treatment center shall electronically submit a report of its activities for the preceding fiscal year to the Clerk of the Legislature on or before July 15 of each year beginning on July 15, 2021. The annual report shall include, but not be limited to, the following information:

(a) Data on the population served, including, but not limited to, admissions, average daily census, average length of stay, race, and ethnicity;

(b) An overview of programming and services; and

(c) An overview of any facility issues or facility improvements.

Sec. 4. Section 83-106, Revised Statutes Cumulative Supplement, 2020, is amended to read:

83-106 (1) The Department of Health and Human Services shall contract for the completion of ~~may conduct~~ a needs assessment and cost analysis for the

establishment of an inpatient adolescent psychiatric unit housed within the Lincoln Regional Center. ~~The If the department chooses to conduct such needs assessment and cost analysis,~~ the department shall contract with an outside consultant with expertise in needs assessment and cost analysis of health care facilities within sixty days after the operative date of this section for the purpose of conducting such assessment and analysis.

(2) ~~The If a needs assessment and cost analysis is conducted by the department,~~ the department shall submit a report electronically to the Health and Human Services Committee of the Legislature and the Clerk of the Legislature on or before December 1, 2021 ~~ninety days after the completion of such needs assessment and cost analysis.~~ Such report shall contain the following information:

(a) A needs assessment, including the number of adolescents expected to use such inpatient adolescent psychiatric unit;

(b) The cost of opening an existing facility at the Lincoln Regional Center for use as an inpatient adolescent psychiatric unit;

(c) The cost of reopening the facility at the Lincoln Regional Center, including the costs for necessary construction, upgrades, or repairs;

(d) Annual operating costs of such unit, including, but not limited to, any federal funds available to operate the unit in addition to General Fund appropriations; and

(e) Cost savings realized by moving adolescents from out-of-state institutions back to Nebraska for treatment at such unit.

(3) For purposes of this section, adolescent means a person under the jurisdiction of the juvenile court.

Sec. 5. Section 83-107.01, Revised Statutes Cumulative Supplement, 2020, is amended to read:

83-107.01 (1) The official names of the state institutions under the supervision of the Department of Health and Human Services shall be as follows:

(a) Beatrice State Developmental Center, (b) Lincoln Regional Center, (c) Norfolk Regional Center, (d) Hastings Regional Center, (e) Youth Rehabilitation and Treatment Center-Kearney, and (f) Youth Rehabilitation and Treatment Center-Geneva.

(2)(a) This subsection applies beginning July 1, 2021.

(b) Except as provided in subdivision (2)(e) of this section, so long as the department operates the Youth Rehabilitation and Treatment Center-Kearney, such institution shall be used for the treatment of boys only.

(c) Except as provided in subdivision (2)(e) of this section, so long as the department operates the Youth Rehabilitation and Treatment Center-Geneva, such institution shall be used for the treatment of girls only.

(d) For any other facility operated and utilized as a youth rehabilitation and treatment center in compliance with state law, the department shall ensure safe and appropriate gender separation.

(e) In the event of an emergency, the department may use either the Youth Rehabilitation and Treatment Center-Kearney or the Youth Rehabilitation and Treatment Center-Geneva for the treatment of juveniles of both genders for up to seven days. During any such use the department shall ensure safe and appropriate gender separation.

(f) For purposes of this section, emergency means a public health emergency or a situation including fire, flood, tornado, natural disaster, or damage to the institution that renders an institution uninhabitable. Emergency does not include inadequate staffing.

(3) It is the intent of the Legislature that no institution under the supervision of the Department of Health and Human Services at which the department provides inpatient or subacute substance abuse or behavioral health residential treatment for juveniles under the jurisdiction of a juvenile court shall delay such treatment to a juvenile when such treatment has been determined necessary under subsection (2) of section 43-407 or has been ordered by a juvenile court.

Sec. 6. Sections 1, 3, 5, and 7 of this act become operative three calendar months after adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 7. Original sections 43-427, 83-102, and 83-107.01, Revised Statutes Cumulative Supplement, 2020, are repealed.

Sec. 8. Original section 68-1213, Reissue Revised Statutes of Nebraska, and section 83-106, Revised Statutes Cumulative Supplement, 2020, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.