

LEGISLATIVE BILL 288

Approved by the Governor May 22, 1975

Introduced by Judiciary Committee, Luedtke, 28, Chmn.; Barnett, 26; Anderson, 37; Nichol, 48; DeCamp, 40

AN ACT to amend section 43-1002, Reissue Revised Statutes of Nebraska, 1943, and sections 28-477, 29-1816, 43-201, 43-202, 43-202.01, 43-202.02, 43-202.03, 43-205, and 43-218, Revised Statutes Supplement, 1974, and section 43-206.03, Revised Statutes Supplement, 1974, as amended by section 1, Legislative Bill 293, Eighty-fourth Legislature, First Session, 1975, relating to courts; to change arraignment procedures; to define terms; to provide for juvenile court jurisdictions and procedures as prescribed; to amend the Interstate Compact on Juveniles; and to repeal the original sections.

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

Section 1. That section 28-477, Revised Statutes Supplement, 1974, be amended to read as follows:

28-477. Any person who by any act, encourages, causes, or contributes to the delinquency, neglect, or need for special supervision, of a child under eighteen years of age, so that such child becomes, or will tend to become, a delinquent as defined by subdivision (3) of section 43-202, or a neglected child, as defined by subdivision (2) of section 43-202, or a child in need of special supervision as defined by subdivision (4) of section 43-204 43-202, shall be deemed guilty of a misdemeanor. Such person shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or shall be imprisoned in the county jail for a period of not exceeding six months, or both, in the discretion of the court. The court may impose conditions upon any person found guilty under this section, and so long as such person shall comply therewith to the satisfaction of the court, the sentence may be suspended; Provided, no such sentence or execution thereof shall be stayed to exceed a period of two years, and if at the expiration of the stay of such sentence, or at such time prior thereto as the court may deem proper, it shall appear to the satisfaction of the court that such person has complied faithfully with the conditions of his probation, or such suspended sentence, the court may suspend such sentence absolutely, in which case such person shall be released

therefrom. If, at any time during the stay of execution of any such sentence, it shall be made to appear to the satisfaction of the court that the sentence ought to be enforced, the court shall have the power to revoke the stay of such sentence and execution, and enforce the same, and the term of such sentence shall commence from the date upon which the same is ordered to be enforced.

Sec. 2. That section 29-1816, Revised Statutes Supplement, 1974, be amended to read as follows:

29-1816. The accused shall be arraigned by reading to him the indictment or information, unless the reading shall be waived by the accused where the nature of the charge is made known to him, and he shall then be asked whether he is guilty or not guilty of the offense charged. If the accused appears in person and by counsel and goes to trial before a jury regularly impaneled and sworn, he shall be deemed to have waived arraignment and a plea of not guilty shall be deemed to have been made.

At the time of the arraignment ~~or at any time not later than fifteen days before trial~~, the court shall advise the defendant, if he were less than eighteen years of age at the time of the commitment of the alleged crime, ~~that he~~ may move the district court at any time not later than fifteen days before trial to waive jurisdiction in such case to the county court ~~or the separate juvenile court, as the case may be~~, for further proceedings under Chapter 43, article 2. The court shall schedule a hearing on such motion within fifteen days. The customary rules of evidence shall not be followed at such hearing, and the county attorney shall present the evidence and reasons why such case should be retained, and the defendant shall present the evidence and reasons why the case should be transferred, and both sides shall consider the criteria set forth in section 43-202.01. After considering all the evidence and reasons presented by both parties, pursuant to section 43-202.01, the case shall be transferred unless a sound basis exists for retaining the case.

In deciding such motion the court shall consider, among other matters, the matters set forth in section 43-202.01 for consideration by the county attorney when determining the type of case to file.

The court shall set forth findings for the reason for its decision, which shall not be a final order for the purpose of enabling an appeal. If the court determines that the child should be transferred to the juvenile court, the complete file in the district court shall be transferred to the juvenile court and the

indictment or information may be used in place of a petition therein. The court making a transfer shall order the minor to be taken forthwith to the juvenile court and designate where the minor shall be kept pending determination by the juvenile court. The juvenile court shall then proceed as provided in Chapter 43, article 2.

Sec. 3. That section 43-201, Revised Statutes Supplement, 1974, be amended to read as follows:

43-201. As used in sections 43-201 to 43-220, unless the context otherwise requires:

(1) This act shall be construed as referring exclusively to sections 43-201 to 43-220;

(2) Parent shall mean one or both parents; and

(3) Parties shall mean the child as described in section 43-202, his parents, guardian or custodian;

(4) Juvenile court shall mean the separate juvenile court in those counties established pursuant to Chapter 43, article 2, and the county court sitting as a juvenile court in all other counties. Nothing in this act shall be construed to deprive the district courts of their habeas corpus, common law, or chancery jurisdiction; and

(5) Traffic offense shall mean any nonfelonious act in violation of a law or ordinance regulating vehicular or pedestrian travel, whether designated a misdemeanor or a traffic infraction.

Sec. 4. That section 43-202, Revised Statutes Supplement, 1974, be amended to read as follows:

43-202. The county juvenile court in each county, except when it has concurrent original jurisdiction as provided in subdivisions (3)(b) and (3)(c) of this section, shall have exclusive original jurisdiction except in counties which have established a separate juvenile court as to the following follows:

(1) Any Exclusive original jurisdiction as to any child under the age of eighteen years, who is homeless or destitute, or without proper support through no fault of his parent, guardian, or custodian;

(2) Any Exclusive original jurisdiction as to any child under the age of eighteen years (a) who is abandoned by his parent, guardian, or custodian; (b) who lacks proper parental care by reason of the fault or

habits of his parent, guardian, or custodian; (c) whose parent, guardian, or custodian neglects, ~~is unable,~~ or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such child; (d) whose parent, guardian, or custodian neglects or refuses to provide special care made necessary by the mental condition of the child; or (e) who is in a situation or engages in an occupation dangerous to life or limb or injurious to the health or morals of such child;

(3) (a) Any Exclusive original jurisdiction as to any child under the age of sixteen years at the time he has violated any law of the state ~~which would constitute a misdemeanor or traffic infraction if committed by a person eighteen years of age or over~~ or any city or village ordinance amounting to ~~a misdemeanor, or providing us a penalty any fine or jail sentence if committed by a person eighteen years of age or more,~~ except parking violations an offense other than a felony, traffic offense, or parking violation; (b) concurrent original jurisdiction with the district court as to any child under the age of eighteen years at the time he has violated any law of the state constituting a felony; and (c) concurrent original jurisdiction with the district court, county court, or and the municipal court as to any child sixteen or seventeen years of age at the time he has (i) violated a state law ~~constituting a misdemeanor or any city or village ordinance amounting to an offense other than a felony or parking violation,~~ and (ii) as to any child under sixteen years of age at the time he has committed a traffic offense; infraction; or (iii) violated any city or village ordinance providing as a penalty a fine or jail sentence; except parking violations;

(4) Any Exclusive original jurisdiction as to any child under the age of eighteen years (a) who, by reason of being wayward or habitually disobedient, is uncontrolled by his parent, guardian, or custodian; (b) who is habitually truant from school or home; or (c) who departs himself so as to injure or endanger seriously the morals or health of himself or others;

(5) The Exclusive original jurisdiction as to the parent, guardian, or custodian who has custody of any such child described in this section; and

(6) Proceedings Exclusive original jurisdiction as to proceedings for termination of parental rights as provided in this act.

Sec. 5. That section 43-202.01, Revised Statutes Supplement, 1974, be amended to read as follows:

43-202.01. In cases coming within subdivision (3) (b) or (3) (c) of section 43-202, the county attorney shall, in making the determination whether to file a criminal charge or a juvenile court petition, consider: ~~among-other-matters:~~ (1) The type of treatment such minor would most likely be amenable to; (2) whether there is evidence that the alleged offense included violence or was committed in an aggressive and premeditated manner; (3) the motivation for the commission of the offense; (4) the age of the minor and the ages and circumstances of any others involved in the offense; (5) the previous history of the minor, including whether he had been convicted of any previous offenses or adjudicated in juvenile court and, if so, whether such offenses were crimes against the person or relating to property, and any other previous history of antisocial behavior, if any, including any patterns of physical violence; (6) the sophistication and maturity of the child as determined by consideration of his home, school activities, emotional attitude and desire to be treated as an adult, pattern of living, and whether he has had previous contact with law enforcement agencies and courts and the nature thereof; (7) whether there are facilities particularly available to the juvenile court for the treatment and rehabilitation of the minor; and (8) whether the best interest of the minor and the security of the public may require that the minor continue in custody or under supervision for a period extending beyond his minority and, if so, the available alternatives best suited to this purpose; and (9) such other matters as he deems relevant to his decision.

~~The county attorney shall attach an affidavit with his complaint or petition, as the case may be, setting forth his decision and that he has considered such criteria:~~

Sec. 6. That section 43-202.02, Revised Statutes Supplement, 1974, be amended to read as follows:

43-202.02. ~~At any time before trial or entering a plea, a child sixteen or seventeen Before the plea is entered, the court shall advise any child who was under eighteen~~ years of age at the time of the commission of the alleged act charged in ~~municipal court or in county court not sitting as a~~ any court other than a juvenile court, that such child may move the court in which the charge is pending to waive jurisdiction to the juvenile court for further proceedings under Chapter 43, article 2. If a felony is charged, such motion shall be filed in

the county or district court, and the hearing shall be held before a county judge or district judge. The court shall schedule a hearing on the motion within fifteen days. The customary rules of evidence shall not be followed at such hearing. The county attorney shall present the evidence and reasons why the case should be retained, and the defendant shall present the evidence and reasons why the case should be transferred, and both sides shall consider the criteria set forth in section 43-202.01. In deciding the motion the court shall, consider, among other matters, after considering the evidence and reasons presented by the parties and the matters required to be considered by the county attorney pursuant to section 43-202.01, transfer the case unless a sound basis exists for retaining jurisdiction. when determining the type of case to file.

The court shall set forth findings for the reason for its decision, which shall not be a final order for the purpose of enabling an appeal. If the court determines that the child should be transferred to the juvenile court, the complete file in the court shall be transferred to the juvenile court and the complaint may be used in place of a petition therein. The court making a transfer shall order the minor to be taken forthwith to the juvenile court and designate where the minor shall be kept pending determination by the juvenile court. The juvenile court shall then proceed as provided in Chapter 43, article 2.

Sec. 7. That section 43-202.03, Revised Statutes Supplement, 1974, be amended to read as follows:

43-202.03. When a juvenile court proceeding has been instituted before a county court sitting as a juvenile court, the original jurisdiction of the county court shall continue until the final disposition thereof, and appeal may be had to the district court as in civil cases, but no such appeal shall stay the enforcement of any order entered in the county court. After appeal has been filed, the district court, upon application and hearing, may stay any order, judgment or decree on appeal if suitable arrangement is made for care and custody of the child. The county court shall continue to exercise supervision over the child until a hearing is had in the district court and the district court enters an order making other disposition. If the district court adjudges the child to be a child defined in section 43-204 ~~43-202~~, the district court shall affirm the disposition made by the county court, unless it is shown by clear and convincing evidence that the disposition of the county court is not in the best interest of such child. Upon determination of the appeal, the district court shall

remand the case to the county court for further proceedings consistent with the determination of the district court.

Sec. 8. That section 43-205, Revised Statutes Supplement, 1974, be amended to read as follows:

43-205. The county attorney or any reputable person residing in the county, with the consent of the county attorney, having knowledge of a child in his county who appears to be a child as described in subdivision (1), (2), (3), or (4) of section 43-202 may file with the clerk of the court having jurisdiction in the matter, a petition in writing, setting forth the facts verified by affidavit. It shall be sufficient if the affidavit is upon information and belief. Such petition and all subsequent proceedings shall be entitled In the Interest of, a Child Under Eighteen Years of Age, inserting the child's name in the blank.

~~When any child under eighteen years of age is alleged to have violated a city or village ordinance which if committed by a person over eighteen would amount to a misdemeanor, the city or village attorney may file a petition in the juvenile court having jurisdiction as provided in subdivision (3) of section 43-202.~~

In all cases involving an alleged violation of a city or village ordinance where the juvenile court has concurrent original jurisdiction, the city or village prosecutor may file the petition in juvenile court.

Sec. 9. That section 43-206.03, Revised Statutes Supplement, 1974, as amended by section 1, Legislative Bill 293, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:

43-206.03. (1) The hearing as to a child in custody of the probation officer or the court shall be held as soon as possible after the petition is filed, and as to a child not in such custody as soon as practicable after the petition is filed.

(2) The adjudication portion of hearings shall be conducted by the judge without a jury, applying the customary rules of evidence in use in trials without a jury. When the petition alleges the child to be within the provisions of subdivision (3) or (4) of section 43-202, and the child or his parent, guardian, or custodian appears with or without counsel, the court shall inform the parties:

(a) Of the dispositions pursuant to sections 43-208 to 43-210.03 that may apply to the juvenile's case following an adjudication of jurisdiction;

(b) Of their right to counsel as provided by section 43-205.06;

(c) Of the privilege against self-incrimination by advising the child, parent, guardian or custodian that the child may remain silent concerning the charges against the child and that anything said may be used against the child;

(d) Of the right to confront anyone who testifies against the child and to cross-examine any persons who appear as witnesses against the child;

(e) Of the right of the child to call witnesses in his own behalf;

(f) Of the right of the child to a speedy adjudication; and

(g) Of the right to appeal.

After giving such warnings and admonitions, the court may accept an in-court admission by the child of all or any part of the allegations in the petition if the court has determined from examination of the child and those present that such admission is voluntarily and understandingly made. The court may base its adjudication provided in subsection (3) of this section on such admission.

(3) At the hearing the court shall first consider only the question of whether the minor is a person described by section 43-202. This shall be known as the adjudication. After hearing the evidence on such question, the court shall make a finding and adjudication entered in the minutes based on proof beyond a reasonable doubt, whether or not the minor is a person described by subdivision (3) or (4) of section 43-202 or by a preponderance of the evidence whether or not the child is a person described by subdivision (1) or (2) of section 43-202.

(4) If the court shall find that the child named in the petition is not within the provisions of section 43-202 it shall dismiss the case. If the court finds that the child named in the petition is such a child, it shall make and enter its finding and adjudication accordingly, designating which subdivision or subdivisions of section 43-202 such child is within; the

court shall then proceed to an inquiry into the proper disposition to be made of such child. Strict rules of evidence shall not be applied at any dispositional hearing.

(5) No adjudication by the juvenile court upon the status of a child shall be deemed a conviction nor shall the adjudication operate to impose any of the civil disabilities ordinarily resulting from conviction. The adjudication and the evidence given in the court shall not operate to disqualify such child in any future civil or military service application or appointment. Any admission, confession, or statement made by the child, in court and admitted by the court, in a proceeding under this section, shall be inadmissible against such child in any criminal or civil proceeding but may be considered by a court as part of a presentence investigation involving a subsequent transaction.

Sec. 10. That section 43-218, Revised Statutes Supplement, 1974, be amended to read as follows:

43-218. This act shall be liberally construed to the end that its purpose may be carried out as provided in section 43-201; ~~namely, that the care, custody and discipline of a child described in subdivision (1) or (2) of section 43-202, shall approximate, as nearly as may be, that which should be given by its parents, and in all cases where it can be properly done, the child shall be placed in an approved family home and become a member of the family by legal adoption or otherwise.~~

Sec. 11. That section 43-1002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1002. The Governor is hereby authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

The contracting states solemnly agree:

ARTICLE I - FINDINGS AND PURPOSES

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from

one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, performative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II - EXISTING RIGHTS AND REMEDIES

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III - DEFINITIONS

That, for the purposes of this compact, delinquent juvenile means any juvenile who has been adjudged ~~delinquent to be within the provisions of subdivision (3) of section 43-202~~ and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; probation or parole means any kind of conditional release of juveniles authorized under the laws of the states party hereto; court means any court having jurisdiction over delinquent, neglected or dependent children; state means any state, territory or possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico; and residence or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV - RETURN OF RUNAWAYS

(a) That, the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody. The circumstances of his running away, his location if known at the time application is made and

such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact, the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken

forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

(c) That juvenile as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V - RETURN OF ESCAPEES AND ABSCONDERS

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has

escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken

forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for the payment of the transportation costs of such return.

ARTICLE VI - VOLUNTARY RETURN PROCEDURE

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV (a) or of Article V (a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or

delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which the juvenile or delinquent juvenile is ordered to return.

ARTICLE VII - COOPERATIVE SUPERVISION OF
PROBATIONERS AND PAROLEES

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called sending state) may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called receiving state) while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there

apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII - RESPONSIBILITY FOR COSTS

(a) That the provisions of Article IV (b), V (b) and VII (d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this compact.

ARTICLE IX - DETENTION PRACTICES

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X - SUPPLEMENTARY AGREEMENTS

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they

shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI - ACCEPTANCE OF FEDERAL AND
OTHER AID

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII - COMPACT ADMINISTRATORS

That the Governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII - EXECUTION OF COMPACT

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV - RENUNCIATION

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it by sending six-months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six-months' renunciation notice of the present article.

ARTICLE XV - SEVERABILITY

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Sec. 12. That original section 43-1002, Reissue Revised Statutes of Nebraska, 1943, and sections 28-477, 29-1816, 43-201, 43-202, 43-202.01, 43-202.02, 43-202.03, 43-205, and 43-218, Revised Statutes Supplement, 1974, and section 43-206.03, Revised Statutes Supplement, 1974, as amended by section 1, Legislative Bill 293, Eighty-fourth Legislature, First Session, 1975, are repealed.