

## LEGISLATIVE BILL 643

Approved by the Governor February 18, 1992

Introduced by Firsch, 10

AN ACT relating to crimes and offenses; to amend section 28-377, Reissue Revised Statutes of Nebraska, 1943, and section 28-726, Revised Statutes Supplement, 1990; to change provisions relating to access to the records of certain abused or neglected persons as prescribed; and to repeal the original sections.

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

Section 1. That section 28-377, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-377. Except as otherwise provided in sections 28-376 to 28-380, no person, official, or agency shall have access to the records relating to abuse unless in furtherance of purposes directly connected with the administration of the Adult Protective Services Act and section 28-726. Persons, officials, and agencies having access to such records shall include, but not be limited to:

(1) A law enforcement agency investigating a report of known or suspected abuse;

(2) A county attorney in preparation of an abuse petition;

(3) A physician who has before him or her a person whom he or she reasonably suspects may be abused;

(4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused vulnerable adult; ~~or to investigate allegations of abuse;~~

(5) Defense counsel in preparation of the defense of a person charged with abuse; and

(6) Any person engaged in bona fide research or auditing, except that no information identifying the subjects of the report shall be made available to the researcher or auditor. The researcher shall be charged for any costs of such research incurred by the department at a rate established by rules and regulations adopted and promulgated by the department; and

(7) The designated protection and advocacy system authorized pursuant to the Developmental

Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000, as amended, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as amended, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness.

Sec. 2. That section 28-726, Revised Statutes Supplement, 1990, be amended to read as follows:

28-726. Except as provided in this section and section 28-722, no person, official, or agency shall have access to such records unless in furtherance of purposes directly connected with the administration of sections 28-710 to 28-727. Such persons, officials, and agencies having access to such records shall include, but not be limited to:

(1) A law enforcement agency investigating a report of known or suspected abuse or neglect;

(2) A county attorney in preparation of an abuse, neglect, or termination petition;

(3) A physician who has before him or her a child whom he or she reasonably suspects may be abused or neglected;

(4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused or neglected child or a parent, a guardian, or other person responsible for the abused or neglected child's welfare who is the subject of a report;

(5) Any person engaged in bona fide research or auditing. No information identifying the subjects of the report shall be made available to the researcher or auditor; and

(6) The State Foster Care Review Board when the records relate to a child in a foster care placement as defined in section 43-1301. The records provided to the state board shall not include the name or identity of any person making a report of suspected child abuse or neglect; and

(7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000, as amended, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as amended, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness.

Sec. 3. That original section 28-377, Reissue Revised Statutes of Nebraska, 1943, and section 28-726, Revised Statutes Supplement, 1990, are repealed.