

LEGISLATIVE BILL 635

Approved by the Governor May 29, 1987

Introduced by Scofield, 49; Moore, 24; Higgins, 9;
Marsh, 29; Morehead, 30; Warner, 25;
Barrett, 39; Smith, 33; Hall, 7

AN ACT relating to juveniles; to amend sections 43-255, 43-284, and 43-1315, Reissue Revised Statutes of Nebraska, 1943, and section 43-254, Revised Statutes Supplement, 1986; to require written determinations by the court in certain circumstances; to change provisions relating to the release of a juvenile in custody; and to repeal the original sections.

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

Section 1. That section 43-254, Revised Statutes Supplement, 1986, be amended to read as follows:

43-254. Pending the adjudication of any case, if it appears that the need for placement or further detention exists, the juvenile may be (1) placed or detained a reasonable period of time on order of the court in the temporary custody of either the person having charge of the juvenile or some other suitable person, (2) kept in some suitable place provided by the city or county authorities, (3) placed in any proper and accredited charitable institution, (4) placed in a state institution, except any adult penal institution, when proper facilities are available and the only local facility is a city or county jail, at the expense of the committing county on a per diem basis as determined from time to time by the head of the particular institution, or (5) placed in the temporary care and custody of the Department of Social Services when it does not appear that there is any need for detention in a locked facility.

If a juvenile has been removed from his or her parent, guardian, or custodian pursuant to subdivision (3) of section 43-248, the court may enter an order continuing detention or placement only upon a written determination that continuation of the juvenile in his or her home would be contrary to the welfare of such juvenile and that reasonable efforts were made, prior to placement, to prevent or eliminate the need for removal and to make it possible for the juvenile to return to

his or her home.

Sec. 2. That section 43-255, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-255. Whenever a juvenile is detained or placed under the provisions of section 43-253 or 43-254, such juvenile shall not be released within forty-eight detained in a locked facility for longer than twenty-four hours after having been placed or detained or taken into custody, excluding nonjudicial days, unless, within such period of time (1) a petition has been filed alleging such juvenile has violated an order of the juvenile court; (2) a petition has been filed pursuant to section 43-274 43-253, or (3) a criminal complaint has been filed in a court of competent jurisdiction and; whenever a petition is filed pursuant to subdivision (1) or (2) of this section; the juvenile court enters an order continuing detention or placement until the adjudication hearing; after a reasonable showing that the need for detention or placement still exists. The court may authorize the release of such juvenile on such conditions and security as the court in its sole discretion shall determine. The juvenile shall be released unconditionally within forty-eight hours after the detention or placement order or the setting of bond, excluding nonjudicial days, unless within such period of time (1) a petition has been filed alleging that such juvenile has violated an order of the juvenile court, (2) a petition has been filed pursuant to section 43-274, or (3) a criminal complaint has been filed in a court of competent jurisdiction.

Sec. 3. That section 43-284, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-284. When any juvenile is adjudged to be under subdivision (3) of section 43-247, the court may permit such juvenile to remain in his or her own home subject to supervision or may make an order committing the juvenile to the (1) care of some suitable institution, (2) care of some reputable citizen of good moral character, (3) care of some association willing to receive the juvenile embracing in its objects the purpose of caring for or obtaining homes for such juveniles, which association shall have been accredited as provided in section 43-296, (4) care of a suitable family, except that under subdivision (1), (2), (3), or (4) of this section, upon a determination by the court that there are no private or other public funds available for the care, custody, education, and

maintenance of a juvenile, the court may order a reasonable sum for the care, custody, education, and maintenance of the juvenile to be paid out of a fund which shall be appropriated annually by the county where the petition is filed until suitable provisions may be made for the juvenile without such payment, or (5) care and custody of the Department of Social Services. The Department of Social Services shall file with the court a written report within thirty days of the commitment of any child juvenile to the department. The report shall contain the Department of Social Services' initial plan of care, placement, and services which are to be provided to such child juvenile. The Department of Social Services shall file with the court a progress report on each child juvenile at regular six-month intervals or shorter intervals if ordered by the court or deemed appropriate by the department. The Department of Social Services shall have the authority to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each child juvenile committed to it. The amount to be paid by a county for education pursuant to this section shall not exceed the average cost for education of a public school student in the county in which the juvenile is placed, and shall be paid only for education in kindergarten through grade twelve.

The court may enter a dispositional order removing a juvenile from his or her home only upon a written determination that continuation in the home would be contrary to the welfare of such juvenile and that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from his or her home and to make it possible for the juvenile to return.

Sec. 4. That section 43-1315, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1315. In reviewing the foster care status of a child and in determining its order for disposition, the court shall continue disposition outside the home only upon a written determination that return of the child to his or her home would be contrary to the welfare of such child and that reasonable efforts have been made to make it possible for the child to return to his or her home. In making this determination, the court shall consider the following criteria, including, but not limited to:

(1) The goals of the foster care placement and the appropriateness of the foster care plan established

pursuant to section 43-1312;

(2) The services which have been offered to reunite the family; and

(3) When the return of the child to his or her home is not likely, the reasonable efforts which have been made or should be made to provide for other methods of care.

Sec. 5. That original sections 43-255, 43-284, and 43-1315, Reissue Revised Statutes of Nebraska, 1943, and section 43-254, Revised Statutes Supplement, 1986, are repealed.