

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 562

Introduced by Ashford, 20.

Read first time January 23, 2013

Committee:

A BILL

1 FOR AN ACT relating to the juvenile justice system; to amend sections
2 29-209, 43-252, 83-4,130, and 83-905, Reissue Revised
3 Statutes of Nebraska, and sections 28-726, 43-248.02,
4 43-2,108.03, 43-2,108.04, 43-2,108.05, 43-2,129, 43-405,
5 and 71-1904, Revised Statutes Cumulative Supplement,
6 2012; to change provisions relating to probation
7 officers, fingerprinting, juvenile court jurisdiction, a
8 civil citation program, sealing of juvenile records, and
9 seclusion of juveniles; to harmonize provisions; and to
10 repeal the original sections.

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

1 Section 1. Section 28-726, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 28-726 Except as provided in this section and sections
4 28-722 and 81-3126, no person, official, or agency shall have access
5 to information in the tracking system of child protection cases
6 maintained pursuant to section 28-715 or in records in the central
7 register of child protection cases maintained pursuant to section
8 28-718 unless in furtherance of purposes directly connected with the
9 administration of the Child Protection Act. Such persons, officials,
10 and agencies having access to such information shall include, but not
11 be limited to:

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

14 (2) A county attorney in preparation of a child abuse or
15 neglect petition or termination of parental rights petition;

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

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

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

1 (6) The Foster Care Review Office and the designated
2 local foster care review board when the information relates to a
3 child in a foster care placement as defined in section 43-1301. The
4 information provided to the office and local board shall not include
5 the name or identity of any person making a report of suspected child
6 abuse or neglect;

7 (7) The designated protection and advocacy system
8 authorized pursuant to the Developmental Disabilities Assistance and
9 Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act existed on
10 January 1, 2005, and the Protection and Advocacy for Mentally Ill
11 Individuals Act, 42 U.S.C. 10801, as the act existed on September 1,
12 2001, acting upon a complaint received from or on behalf of a person
13 with developmental disabilities or mental illness;

14 (8) The person or persons having custody of the abused or
15 neglected child in situations of alleged out-of-home child abuse or
16 neglect; ~~and~~

17 (9) For purposes of licensing providers of child care
18 programs, the Department of Health and Human Services; ~~and -~~

19 (10) A probation officer administering juvenile intake
20 services pursuant to section 29-2260.01, conducting court-ordered
21 predispositional investigations prior to adjudication, or supervising
22 a juvenile upon disposition.

23 Sec. 2. Section 29-209, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 29-209 (1) It is hereby made the duty of the sheriffs of

1 the several counties of the State of Nebraska, the chiefs of police
2 of incorporated cities therein, marshals of incorporated cities and
3 towns therein, and agencies of state government having powers of
4 arrest to furnish the Nebraska State Patrol two copies of
5 fingerprints on forms provided by the Nebraska State Patrol and the
6 Federal Bureau of Investigation, and descriptions of all persons who
7 are arrested by them ~~(1)-(a)~~ for any felony or ~~(2)-(b)~~ as felony
8 fugitives from the criminal justice system of another jurisdiction.
9 This section is not intended to include violators of city ordinances
10 or of persons arrested for other trifling offenses. The Nebraska
11 State Patrol shall in all appropriate cases forward one copy of such
12 fingerprints and other necessary identifying data and information to
13 the system maintained by the Federal Bureau of Investigation.

14 (2) Fingerprinting of minors shall be in accordance with
15 section 43-252.

16 Sec. 3. If a juvenile is adjudicated to be a juvenile
17 described in subdivision (1), (2), or (3) of section 43-247 and, when
18 the individual reaches nineteen years of age, he or she is receiving
19 services or is in a placement pursuant to the disposition of the
20 juvenile court, the juvenile court's jurisdiction over such
21 individual shall continue until the individual reaches twenty-one
22 years of age or the court otherwise discharges the individual from
23 its jurisdiction.

24 Sec. 4. Section 43-248.02, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

1 43-248.02 ~~A juvenile offender civil citation pilot~~
2 ~~program as provided in this section and section 43-248.03 may be~~
3 ~~undertaken by the peace~~ Peace officers and county and city attorneys
4 ~~of a county containing a city of the metropolitan class. The pilot~~
5 ~~program shall be according to~~ may implement a civil citation program
6 using the following procedures:

7 (1) A peace officer, upon making contact with a juvenile
8 whom the peace officer has reasonable grounds to believe has
9 committed a misdemeanor offense, other than an offense involving a
10 firearm, sexual assault, or domestic violence, may issue the juvenile
11 a civil citation;

12 (2) The civil citation shall include: The juvenile's
13 name, address, school of attendance, and contact information; contact
14 information for the juvenile's parents or guardian; a description of
15 the misdemeanor offense believed to have been committed; the juvenile
16 assessment center or juvenile pretrial diversion program location
17 where the juvenile cited is to appear within seventy-two hours after
18 the issuance of the civil citation; and a warning that failure to
19 appear in accordance with the command of the civil citation or
20 failure to provide the information necessary for the peace officer to
21 complete the civil citation will result in the juvenile being taken
22 into temporary custody as provided in sections 43-248 and 43-250;

23 (3) At the time of issuance of a civil citation by the
24 peace officer, the peace officer shall advise the juvenile that the
25 juvenile has the option to refuse the civil citation and be taken

1 directly into temporary custody as provided in sections 43-248 and
2 43-250. The option to refuse the civil citation may be exercised at
3 any time prior to compliance with any services required pursuant to
4 subdivision (5) of this section;

5 (4) Upon issuing a civil citation, the peace officer
6 shall provide or send a copy of the civil citation to the appropriate
7 county attorney, the juvenile assessment center or juvenile pretrial
8 diversion program, and the parents or guardian of the juvenile;

9 (5) The juvenile shall report to the juvenile assessment
10 center or juvenile pretrial diversion program location as instructed
11 by the citation. The juvenile ~~assessment center may require the~~
12 ~~juvenile may be required~~ to participate in community service or other
13 available services appropriate to the needs of the juvenile
14 identified by the juvenile assessment center or juvenile pretrial
15 diversion program which may include family counseling, urinalysis
16 monitoring, or substance abuse and mental health treatment services;
17 and

18 (6) If the juvenile fails to comply with any services
19 required pursuant to subdivision (5) of this section or if the
20 juvenile is issued a third or subsequent civil citation, a peace
21 officer shall take the juvenile into temporary custody as provided in
22 sections 43-248 and 43-250.

23 Sec. 5. Section 43-252, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-252 (1) The fingerprints of any juvenile less than

1 fourteen years of age, who has been taken into custody in the
2 investigation of a suspected unlawful act, shall not be taken unless
3 the consent of any district, county, ~~associate county, associate~~
4 ~~separate juvenile court, or separate juvenile court judge or clerk~~
5 magistrate has first been obtained.

6 ~~(2) If the judge permits the fingerprinting, the~~
7 ~~fingerprints must be filed by law enforcement officers in files kept~~
8 ~~separate from those of persons of the age of majority.~~

9 ~~(3) The fingerprints of any juvenile shall not be sent to~~
10 ~~a state or federal depository by a law enforcement agency of this~~
11 ~~state unless: (a) The juvenile has been convicted of or adjudged to~~
12 ~~have committed a felony; (b) the juvenile has unlawfully terminated~~
13 ~~his or her commitment to a youth rehabilitation and treatment center;~~
14 ~~or (c) the juvenile is a runaway and a fingerprint check is needed~~
15 ~~for identification purposes to return the juvenile to his or her~~
16 ~~parent.~~

17 (2) A law enforcement agency, if other than the Nebraska
18 State Patrol, shall send to the Nebraska State Patrol, either through
19 the mail or electronically, two copies of fingerprints, on forms
20 provided by the patrol and the Federal Bureau of Investigation, of
21 any juvenile whose fingerprints have been taken and who: (a) Has been
22 charged with, convicted of, or adjudged to have committed a felony;
23 (b) has unlawfully terminated his or her commitment to a youth
24 rehabilitation and treatment center; or (c) is a runaway and a
25 fingerprint check is needed for identification purposes to return the

1 juvenile to his or her parents.

2 (3) The fingerprints of any juvenile shall be coded and
3 identified separately from those of persons of the age of majority
4 and shall not be accessible for inquiries that are not related to law
5 enforcement. Juvenile fingerprints may be used by law enforcement
6 officers, city prosecutors, county attorneys, federal prosecutors,
7 and sentencing judges in the investigation of crimes and the
8 prosecution and sentencing of criminal defendants.

9 Sec. 6. Section 43-2,108.03, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 43-2,108.03 (1) If a juvenile described in section
12 43-2,108.01 was taken into custody, arrested, cited in lieu of
13 arrest, or referred for prosecution without citation but no juvenile
14 petition or criminal complaint was filed against the juvenile with
15 respect to the arrest or custody, the county attorney or city
16 attorney shall notify the government agency responsible for the
17 arrest, custody, citation in lieu of arrest, or referral for
18 prosecution without citation that no criminal charge or juvenile
19 court petition was filed.

20 (2) If the county attorney or city attorney offered and a
21 juvenile described in section 43-2,108.01 has agreed to pretrial
22 diversion or mediation, the county attorney or city attorney shall
23 notify the government agency responsible for the arrest or custody
24 when the juvenile has satisfactorily completed the resulting
25 diversion or mediation.

1 (3) If the juvenile was taken into custody, arrested,
2 cited in lieu of arrest, or referred for prosecution without citation
3 and charges were filed but later dismissed and any required pretrial
4 diversion or mediation for any related charges have been completed
5 and no related charges remain under the jurisdiction of the court,
6 the county attorney or city attorney shall notify the government
7 agency responsible for the arrest, custody, citation in lieu of
8 arrest, or referral for prosecution without citation and the court
9 where the charge or petition was filed that the charge or juvenile
10 court petition was dismissed.

11 (4) Upon receiving notice under subsection (1), (2), or
12 (3) of this section, the government agency or court shall immediately
13 seal all records housed at that government agency or court pertaining
14 to the citation, arrest, record of custody, complaint, disposition,
15 diversion, or mediation.

16 (5) If a juvenile described in section 43-2,108.01 has
17 satisfactorily completed such juvenile's probation, supervision, or
18 other treatment or rehabilitation program provided under the Nebraska
19 Juvenile Code or has satisfactorily completed such juvenile's
20 diversion or sentence in county court; any time period relating to a
21 court-ordered impoundment or revocation of or prohibition to obtain
22 an operator's license or permit has passed; and any other associated
23 penalty or restitution has been completed:

24 (a) The court may initiate proceedings pursuant to
25 section 43-2,108.04 to seal the record pertaining to such disposition

1 or adjudication under the juvenile code or sentence of the county
2 court; and

3 (b) If the juvenile has attained the age of seventeen
4 years, the court shall initiate proceedings pursuant to section
5 43-2,108.04 to seal the record pertaining to such disposition or
6 adjudication under the juvenile code or diversion or sentence of the
7 county court, except that the court is not required to initiate
8 proceedings to seal a record pertaining to a misdemeanor or
9 infraction not described in subdivision (4) of section 43-2,108.01
10 under a city or village ordinance that has no possible jail sentence.
11 Such a record may be sealed under subsection (6) of this section.

12 (6) If a juvenile described in section 43-2,108.01 has
13 satisfactorily completed diversion, mediation, probation,
14 supervision, or other treatment or rehabilitation program provided
15 under the Nebraska Juvenile Code or has satisfactorily completed the
16 diversion or sentence ordered by a county court; any time period
17 relating to a court-ordered impoundment or revocation of or
18 prohibition to obtain an operator's license or permit has passed; and
19 any other associated penalty or restitution has been completed, the
20 juvenile or the juvenile's parent or guardian may file a motion in
21 the court of record asking the court to seal the record pertaining to
22 the offense which resulted in such disposition, adjudication, or
23 diversion of the juvenile court or diversion or sentence of the
24 county court.

25 Sec. 7. Section 43-2,108.04, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 43-2,108.04 (1) When a proceeding to seal the record is
3 initiated, the court shall promptly notify the county attorney or
4 city attorney involved in the case that is the subject of the
5 proceeding to seal the record of the proceedings, and shall promptly
6 notify the Department of Health and Human Services of the proceedings
7 if the juvenile whose record is the subject of the proceeding is a
8 ward of the state at the time the proceeding is initiated or if the
9 department was a party in the proceeding. ~~(2)~~ A party notified under
10 this subsection (1) of this section may file a response with the
11 court within thirty days after receiving such notice.

12 ~~(3)-(2)~~ If a party notified under subsection (1) of this
13 section does not file a response with the court or files a response
14 that indicates there is no objection to the sealing of the record,
15 the court may: ~~(a) Order~~ order the record of the juvenile under
16 consideration be sealed if the court finds that the record is
17 eligible to be sealed under section 43-2,108.01 and subsection (5) or
18 (6) of section 43-2,108.03. The court may make the order without
19 conducting a hearing on the motion or ~~(b) may~~ decide in its
20 discretion to conduct a hearing on the motion. The findings required
21 for the order may be based upon the court record, an affidavit
22 submitted by a party, or, if there is a hearing, evidence introduced
23 at the hearing. If the court decides in its discretion to conduct a
24 hearing on the motion, the court shall conduct the hearing within
25 sixty days after making that decision and shall give notice, by

1 regular mail, of the date, time, and location of the hearing to the
2 parties receiving notice under subsection (1) of this section and to
3 the juvenile who is the subject of the record under consideration.

4 ~~(4)~~ (3)(a) If a party receiving notice under subsection
5 (1) of this section files a response with the court objecting to the
6 sealing of the record, the court shall conduct a hearing on the
7 motion within sixty days after the court receives the response. The
8 court shall give notice, by regular mail, of the date, time, and
9 location of the hearing to the parties receiving notice under
10 subsection (1) of this section and to the juvenile who is the subject
11 of the record under consideration.

12 ~~(5)~~ (b) After conducting a hearing in accordance with
13 this ~~section,~~ subsection, the court may order the record of the
14 juvenile that is the subject of the motion be sealed if it finds that
15 the record is eligible to be sealed under section 43-2,108.01 and
16 subsection (5) or (6) of section 43-2,108.03 and that the juvenile
17 has been rehabilitated to a satisfactory degree. In determining
18 whether the juvenile has been rehabilitated to a satisfactory degree,
19 the court may consider all of the following:

20 ~~(a)~~ (i) The age of the juvenile;

21 ~~(b)~~ (ii) The nature of the offense and the role of the
22 juvenile in the offense;

23 ~~(c)~~ (iii) The behavior of the juvenile after the
24 disposition, adjudication, diversion, or sentence and the juvenile's
25 response to diversion, mediation, probation, supervision, other

1 treatment or rehabilitation program, or sentence;

2 ~~(d)~~ (iv) The education and employment history of the
3 juvenile; and

4 ~~(e)~~ (v) Any other circumstances that may relate to the
5 rehabilitation of the juvenile.

6 ~~(6)~~ (c) If, after conducting the hearing in accordance
7 with this ~~section, subsection, the record is not found eligible to be~~
8 sealed or the juvenile is not found to be satisfactorily
9 rehabilitated such that the record is not ordered to be sealed, a
10 such juvenile who is a person described in section 43-2,108.01 or
11 such juvenile's parent or guardian may not move the court to seal the
12 record for one year after the court's decision not to seal the record
13 is made, unless such time restriction is waived by the court.

14 Sec. 8. Section 43-2,108.05, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 43-2,108.05 (1) If the court orders the record of a
17 juvenile sealed pursuant to section 43-2,108.04, the court shall:

18 (a) Order that all records, including any information or
19 other data concerning any proceedings relating to the offense,
20 including the arrest, taking into custody, petition, complaint,
21 indictment, information, trial, hearing, adjudication, correctional
22 supervision, dismissal, or other disposition or sentence, be deemed
23 never to have occurred;

24 (b) Send notice of the order to seal the record (i) to
25 the Nebraska Commission on Law Enforcement and Criminal Justice, (ii)

1 if the record includes impoundment or revocation of or prohibition to
2 obtain a an operator's license or permit, ~~pursuant to section 43-287,~~
3 to the Department of Motor Vehicles, (iii) if the juvenile whose
4 record has been ordered sealed was a ward of the state at the time
5 the proceeding was initiated or if the Department of Health and Human
6 Services was a party in the proceeding, to such department, and (iv)
7 to law enforcement agencies, county attorneys, and city attorneys
8 referenced in the court record;

9 (c) Order ~~all those entities~~ notified under subdivision
10 (1)(b) of this section to seal all records pertaining to the offense.
11 The Department of Motor Vehicles shall not seal records under its
12 control until impoundment or revocation of or prohibition to obtain
13 an operator's license or permit contained in the abstract of the
14 court record of the adjudication has been completed;

15 (d) If the case was transferred from district court to
16 juvenile court or was transferred under section 43-282, send notice
17 of the order to seal the record to the transferring court; and

18 (e) Explain verbally to the juvenile what sealing the
19 record means ~~verbally~~ if the juvenile is present in the court at the
20 time the court issues the sealing order or by written notice sent by
21 regular mail to the juvenile's last-known address if the juvenile is
22 not present in the court at the time the court issues the sealing
23 order.

24 (2) The effect of having a record sealed under section
25 43-2,108.04 is that thereafter no person is allowed to release any

1 information concerning such record, except as provided by this
2 section. After a record is sealed, the person whose record was sealed
3 can respond to any public inquiry as if the offense resulting in such
4 record never occurred. A government agency and any other public
5 office or agency shall reply to any public inquiry that no
6 information exists regarding a sealed record. Except as provided in
7 subsection (3) of this section, an order to seal the record applies
8 to every government agency and any other public office or agency that
9 has a record relating to the offense, regardless of whether it
10 receives notice of the hearing on the sealing of the record or a copy
11 of the order. Upon the written request of a person whose record has
12 been sealed and the presentation of a copy of such order, a
13 government agency or any other public office or agency shall seal all
14 records pertaining to the offense.

15 (3) A sealed record is accessible to law enforcement
16 officers, county attorneys, and city attorneys in the investigation,
17 prosecution, and sentencing of crimes, to the sentencing judge in the
18 sentencing of criminal defendants, and to any attorney representing
19 the subject of the sealed record. Inspection of records that have
20 been ordered sealed under section 43-2,108.04 may be made by the
21 following persons or for the following purposes:

22 (a) By the court or by any person allowed to inspect such
23 records by an order of the court for good cause shown;

24 (b) By the court, city attorney, or county attorney for
25 purposes of collection of any remaining parental support or

1 obligation balances under section 43-290;

2 (c) By the Nebraska Probation System for purposes of
3 juvenile intake services, for presentence and other probation
4 investigations, and for the direct supervision of persons placed on
5 probation and by the Department of Correctional Services, the Office
6 of Juvenile Services, a juvenile assessment center, a juvenile
7 pretrial diversion program, a criminal detention facility, or a
8 juvenile detention facility, for an individual committed to it,
9 placed with it, or under its care;

10 (d) By the Department of Health and Human Services for
11 purposes of juvenile intake services, the preparation of case plans
12 and reports, the preparation of evaluations, compliance with federal
13 reporting requirements, or the supervision and protection of persons
14 placed with the department or for licensing or certification purposes
15 under sections 71-1901 to 71-1906.01 or the Child Care Licensing Act;

16 (e) Upon application, by the person who is the subject of
17 the sealed record and by persons authorized by the person who is the
18 subject of the sealed record who are named in that application;

19 (f) At the request of a party in a civil action that is
20 based on a case that has a sealed record, as needed for the civil
21 action. The party also may copy the sealed record as needed for the
22 civil action. The sealed record shall be used solely in the civil
23 action and is otherwise confidential and subject to this section;

24 (g) By persons engaged in bona fide research, with the
25 permission of the court, only if the research results in no

1 disclosure of the person's identity and protects the confidentiality
2 of the sealed record; or

3 (h) By a law enforcement agency if a person whose record
4 has been sealed applies for employment with the law enforcement
5 agency.

6 (4) Nothing in this section prohibits the Department of
7 Health and Human Services from releasing information from sealed
8 records in the performance of its duties with respect to the
9 supervision and protection of persons served by the department.

10 (5) In any application for employment, bonding, license,
11 education, or other right or privilege, any appearance as a witness,
12 or any other public inquiry, a person cannot be questioned with
13 respect to any offense for which the record is sealed. If an inquiry
14 is made in violation of this subsection, the person may respond as if
15 the offense never occurred. Applications for employment shall contain
16 specific language that states that the applicant is not obligated to
17 disclose a sealed record. Employers shall not ask if an applicant has
18 had a record sealed. The Department of Labor shall develop a link on
19 the department's web site to inform employers that employers cannot
20 ask if an applicant had a record sealed and that an application for
21 employment shall contain specific language that states that the
22 applicant is not obligated to disclose a sealed record.

23 (6) Any person who violates this section may be held in
24 contempt of court.

25 Sec. 9. Section 43-2,129, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 43-2,129 Sections 43-245 to 43-2,129 and section 3 of
3 this act shall be known and may be cited as the Nebraska Juvenile
4 Code.

5 Sec. 10. Section 43-405, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 43-405 The administrative duties of the Office of
8 Juvenile Services are to:

9 (1) Manage, establish policies for, and administer the
10 office, including all facilities and programs operated by the office
11 or provided through the office by contract with a provider;

12 (2) Supervise employees of the office, including
13 employees of the facilities and programs operated by the office;

14 (3) Have separate budgeting procedures and develop and
15 report budget information separately from the Department of Health
16 and Human Services;

17 (4) Adopt and promulgate rules and regulations for the
18 levels of treatment and for management, control, screening,
19 evaluation, treatment, rehabilitation, parole, transfer, and
20 discharge of juveniles placed with or committed to the Office of
21 Juvenile Services. Such rules and regulations shall include, but not
22 be limited to, (a) a prohibition on seclusion for disciplinary
23 purposes in any facility or treatment program operated by the office
24 or by any person under contract with the office and (b) standards for
25 the use of seclusion as a short-term emergency procedure to protect

1 the safety of a juvenile in any facility or treatment program
2 operated by the office or by any person under contract with the
3 office;

4 (5) Ensure that statistical information concerning
5 juveniles placed with or committed to facilities or programs of the
6 office is collected, developed, and maintained for purposes of
7 research and the development of treatment programs;

8 (6) Monitor commitments, placements, and evaluations at
9 facilities and programs operated by the office or through contracts
10 with providers and submit electronically an annual report of its
11 findings to the Legislature. For 2012, 2013, and 2014, the office
12 shall also provide the report to the Health and Human Services
13 Committee of the Legislature on or before September 15. The report
14 shall include an assessment of the administrative costs of operating
15 the facilities, the cost of programming, the savings realized through
16 reductions in commitments, placements, and evaluations, and
17 information regarding the collaboration required by section 83-101;

18 (7) Coordinate the programs and services of the juvenile
19 justice system with other governmental agencies and political
20 subdivisions;

21 (8) Coordinate educational, vocational, and social
22 counseling;

23 (9) Coordinate community-based services for juveniles and
24 their families;

25 (10) Supervise and coordinate juvenile parole and

1 aftercare services; and

2 (11) Exercise all powers and perform all duties necessary
3 to carry out its responsibilities under the Health and Human
4 Services, Office of Juvenile Services Act.

5 Sec. 11. Section 71-1904, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 71-1904 (1) The department shall adopt and promulgate
8 rules and regulations pursuant to sections 71-1901 to 71-1906.01 for
9 (a) the proper care and protection of children by licensees under
10 such sections, (b) the issuance, suspension, and revocation of
11 licenses to provide foster care, (c) the issuance, suspension, and
12 revocation of probationary licenses to provide foster care, (d) the
13 issuance, suspension, and revocation of provisional licenses to
14 provide foster care, (e) the provision of training in foster care,
15 which training shall be directly related to the skills necessary to
16 care for children in need of out-of-home care, including, but not
17 limited to, abused, neglected, dependent, and delinquent children,
18 and shall include, but not be limited to, a prohibition on the use of
19 seclusion for disciplinary purposes and standards for the use of
20 seclusion as a short-term emergency procedure to protect the safety
21 of a juvenile, and (f) the proper administration of sections 71-1901
22 to 71-1906.01.

23 (2) The training required by subdivision (1)(e) of this
24 section may be waived in whole or in part by the department for
25 persons operating foster homes providing care only to relatives of

1 the foster care provider. Such waivers shall be granted on a case-by-
2 case basis upon assessment by the department of the appropriateness
3 of the relative foster care placement. The department shall submit
4 electronically an annual report to the Health and Human Services
5 Committee of the Legislature on the number of waivers granted under
6 this subsection and the total number of children placed in relative
7 foster homes. For 2012, 2013, and 2014, the department shall provide
8 the report to the Health and Human Services Committee of the
9 Legislature on or before September 15.

10 Sec. 12. Section 83-4,130, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-4,130 (1) The standards for the operation of criminal
13 detention facilities shall include but not be limited to standards
14 for:

15 ~~(1)~~ (a) The classification and reclassification of
16 prisoners;

17 ~~(2)~~ (b) The rehabilitative services required for
18 prisoners;

19 ~~(3)~~ (c) The disciplinary procedures for prisoners;

20 ~~(4)~~ (d) The grievance procedure for prisoners; and

21 ~~(5)~~ (e) The search and admission of visitors.

22 (2) The standards for the operation of juvenile detention
23 facilities and staff secure facilities shall include, but not be
24 limited to, (a) a prohibition on the use of seclusion for
25 disciplinary purposes and (b) standards for the use of seclusion as a

1 short-term emergency procedure to protect the safety of a juvenile.

2 Sec. 13. Section 83-905, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 83-905 The Department of Correctional Services shall have
5 oversight and general control of all state adult correctional
6 institutions and the secure youth confinement facility. The Secure
7 Youth Confinement Facility is a physically secure, coeducational
8 facility designed to provide secure confinement, education, and
9 treatment only for serious and chronic juvenile offenders who have
10 been committed to the Department of Correctional Services for secure
11 care.

12 The department may adopt and promulgate rules and
13 regulations for the operation of the secure youth confinement
14 facility. Such rules and regulations shall include, but not be
15 limited to, a prohibition on the use of seclusion for disciplinary
16 purposes and standards for the use of seclusion as a short-term
17 emergency procedure to protect the safety of a juvenile.

18 Sec. 14. Original sections 29-209, 43-252, 83-4,130, and
19 83-905, Reissue Revised Statutes of Nebraska, and sections 28-726,
20 43-248.02, 43-2,108.03, 43-2,108.04, 43-2,108.05, 43-2,129, 43-405,
21 and 71-1904, Revised Statutes Cumulative Supplement, 2012, are
22 repealed.