

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1208

Introduced by Bosn, 25; Hughes, 24; McDonnell, 5.

Read first time January 16, 2024

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to amend
- 2 section 43-251.01, Revised Statutes Cumulative Supplement, 2022; to
- 3 provide for detention of a juvenile for protection of such juvenile;
- 4 to eliminate obsolete provisions; and to repeal the original
- 5 section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-251.01, Revised Statutes Cumulative
2 Supplement, 2022, is amended to read:

3 43-251.01 All placements and commitments of juveniles for
4 evaluations or as temporary or final dispositions are subject to the
5 following:

6 (1) No juvenile shall be confined in an adult correctional facility
7 as a disposition of the court;

8 (2) A juvenile who is found to be a juvenile as described in
9 subdivision (3) of section 43-247 shall not be placed in an adult
10 correctional facility, the secure youth confinement facility operated by
11 the Department of Correctional Services, or a youth rehabilitation and
12 treatment center or committed to the Office of Juvenile Services;

13 (3) A juvenile who is found to be a juvenile as described in
14 subdivision (1), (2), or (4) of section 43-247 shall not be assigned or
15 transferred to an adult correctional facility or the secure youth
16 confinement facility operated by the Department of Correctional Services;

17 (4) A juvenile under the age of fourteen years shall not be placed
18 with or committed to a youth rehabilitation and treatment center;

19 ~~(5)(a) Before July 1, 2019, a juvenile shall not be detained in~~
20 ~~secure detention or placed at a youth rehabilitation and treatment center~~
21 ~~unless detention or placement of such juvenile is a matter of immediate~~
22 ~~and urgent necessity for the protection of such juvenile or the person or~~
23 ~~property of another or if it appears that such juvenile is likely to flee~~
24 ~~the jurisdiction of the court; and~~

25 ~~(b) On and after July 1, 2019:~~

26 ~~(5)(a) (i)~~ A juvenile shall not be detained unless:

27 ~~(i)~~ The the physical safety of persons in the community would be
28 seriously threatened;

29 ~~(ii)~~ Detention of such juvenile is a matter of immediate and urgent
30 necessity for the protection of such juvenile; or

31 ~~(iii)~~ It detention is necessary to secure the presence of the

1 juvenile at the next hearing, as evidenced by a demonstrable record of
2 willful failure to appear at a scheduled court hearing within the last
3 twelve months;

4 (b) (ii) A child twelve years of age or younger shall not be placed
5 in detention under any circumstances; and

6 (c) (iii) A juvenile shall not be placed into detention:

7 (i) (A) To allow a parent or guardian to avoid his or her legal
8 responsibility;

9 (ii) (B) To punish, ~~treat, or rehabilitate~~ such juvenile;

10 (iii) To treat or rehabilitate such juvenile, except as necessary
11 under subdivision (5)(a)(ii) of this section;

12 (iv) (C) To permit more convenient administrative access to such
13 juvenile;

14 (v) (D) To facilitate further interrogation or investigation; or

15 (vi) (E) Due to a lack of more appropriate facilities except in case
16 of an emergency as provided in section 43-430;

17 (6) A juvenile alleged to be a juvenile as described in subdivision
18 (3) of section 43-247 shall not be placed in a juvenile detention
19 facility, including a wing labeled as staff secure at such facility,
20 unless the designated staff secure portion of the facility fully complies
21 with subdivision (5) of section 83-4,125 and the ingress and egress to
22 the facility are restricted solely through staff supervision; and

23 (7) A juvenile alleged to be a juvenile as described in subdivision
24 (1), (2), (3)(b), or (4) of section 43-247 shall not be placed out of his
25 or her home as a dispositional order of the court unless:

26 (a) All available community-based resources have been exhausted to
27 assist the juvenile and his or her family; and

28 (b) Maintaining the juvenile in the home presents a significant risk
29 of harm to the juvenile or community.

30 Sec. 2. Original section 43-251.01, Revised Statutes Cumulative
31 Supplement, 2022, is repealed.