

AMENDMENTS TO LB530

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Section 28-101, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
6 and section 2 of this act shall be known and may be cited as the Nebraska
7 Criminal Code.

8 **Sec. 2.** (1) A person shall not intentionally and without authority
9 remove, destroy, alter, tamper with, damage, or circumvent the operation
10 of an electronic monitoring device required to be worn or used by that
11 person or another person pursuant to a court order or as a condition of
12 parole.

13 (2) A violation of this section is:

14 (a) A Class IV felony if the electronic monitoring device was
15 required to be worn or used as a condition of parole or pursuant to a
16 court order in a felony case; and

17 (b) A Class I misdemeanor in any other case.

18 (3) For purposes of this section, electronic monitoring device means
19 an electronic device used to track the location of a person.

20 **Sec. 11.** Section 43-245, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 43-245 For purposes of the Nebraska Juvenile Code, unless the
23 context otherwise requires:

24 (1) Abandonment means a parent's intentionally withholding from a
25 child, without just cause or excuse, the parent's presence, care, love,
26 protection, and maintenance and the opportunity for the display of
27 parental affection for the child;

1 (2) Age of majority means nineteen years of age;

2 (3) Alternative to detention means a program or directive that
3 increases supervision of a youth in the community in an effort to ensure
4 the youth attends court and refrains from committing a new law violation.
5 Alternative to detention includes, but is not limited to, electronic
6 monitoring, day and evening reporting centers, house arrest, tracking,
7 family crisis response, and temporary shelter placement. Except for the
8 use of manually controlled delayed egress of not more than thirty
9 seconds, placements that utilize physical construction or hardware to
10 restrain a youth's freedom of movement and ingress and egress from
11 placement are not considered alternatives to detention;

12 (4) Approved center means a center that has applied for and received
13 approval from the Director of the Office of Dispute Resolution under
14 section 25-2909;

15 (5) Civil citation means a noncriminal notice which cannot result in
16 a criminal record and is described in section 43-248.02;

17 (6) Cost or costs means (a) the sum or equivalent expended, paid, or
18 charged for goods or services, or expenses incurred, or (b) the
19 contracted or negotiated price;

20 (7) Criminal street gang means a group of three or more people with
21 a common identifying name, sign, or symbol whose group identity or
22 purposes include engaging in illegal activities;

23 (8) Criminal street gang member means a person who willingly or
24 voluntarily becomes and remains a member of a criminal street gang;

25 (9) Custodian means a nonparental caretaker having physical custody
26 of the juvenile and includes an appointee described in section 43-294;

27 (10) Detention means the temporary care of a juvenile in a
28 physically restrictive facility designed with constructions or fixtures
29 to control the movement of the juvenile to secure the juvenile's lawful
30 custody;

31 (11) ~~(10)~~ Guardian means a person, other than a parent, who has

1 qualified by law as the guardian of a juvenile pursuant to testamentary
2 or court appointment, but excludes a person who is merely a guardian ad
3 litem;

4 (12) ~~(11)~~ Juvenile means any person under the age of eighteen;

5 (13) ~~(12)~~ Juvenile court means the separate juvenile court where it
6 has been established pursuant to sections 43-2,111 to 43-2,127 and the
7 county court sitting as a juvenile court in all other counties. Nothing
8 in the Nebraska Juvenile Code shall be construed to deprive the district
9 courts of their habeas corpus, common-law, or chancery jurisdiction or
10 the county courts and district courts of jurisdiction of domestic
11 relations matters as defined in section 25-2740;

12 (14) ~~(13)~~ Juvenile detention facility has the same meaning as in
13 section 83-4,125;

14 (15) ~~(14)~~ Legal custody has the same meaning as in section 43-2922;

15 (16) ~~(15)~~ Mental health facility means a treatment facility as
16 defined in section 71-914 or a government, private, or state hospital
17 which treats mental illness;

18 (17) ~~(16)~~ Nonoffender means a juvenile who is subject to the
19 jurisdiction of the juvenile court for reasons other than legally
20 prohibited conduct, including, but not limited to, juveniles described in
21 subdivision (3)(a) of section 43-247;

22 (18) ~~(17)~~ Parent means one or both parents or stepparents when the
23 stepparent is married to a parent who has physical custody of the
24 juvenile as of the filing of the petition;

25 (19) ~~(18)~~ Parties means the juvenile as described in section 43-247
26 and his or her parent, guardian, or custodian;

27 (20) ~~(19)~~ Physical custody has the same meaning as in section
28 43-2922;

29 (21) ~~(20)~~ Except in proceedings under the Nebraska Indian Child
30 Welfare Act, relative means father, mother, grandfather, grandmother,
31 brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle,

1 aunt, first cousin, nephew, or niece;

2 (22) ~~(21)~~ Restorative justice means practices, programs, or services
3 that emphasize repairing the harm caused to victims and the community by
4 persons who have caused the harm or committed an offense. Restorative
5 justice practices may include, but are not limited to, victim youth
6 conferencing, victim-offender mediation, youth or community dialogue,
7 panels, circles, and truancy mediation;

8 (23) ~~(22)~~ Restorative justice facilitator means a qualified
9 individual who has been trained to facilitate restorative justice
10 practices. A qualified individual shall be approved by the referring
11 county attorney, city attorney, or juvenile or county court judge.
12 Factors for approval may include, but are not limited to, an individual's
13 education and training in restorative justice principles and practices;
14 experience in facilitating restorative justice sessions; understanding of
15 the necessity to do no harm to either the victim or the person who harmed
16 the victim; and proven commitment to ethical practices;

17 (24) ~~(23)~~ Seal a record means that a record shall not be available
18 to the public except upon the order of a court upon good cause shown;

19 (25) ~~(24)~~ Secure detention means detention in a highly structured,
20 residential, hardware-secured facility designed to restrict a juvenile's
21 movement;

22 (26) ~~(25)~~ Staff secure juvenile facility means a juvenile
23 residential facility operated by a political subdivision (a) which does
24 not include construction designed to physically restrict the movements
25 and activities of juveniles who are in custody in the facility, (b) in
26 which physical restriction of movement or activity of juveniles is
27 provided solely through staff, (c) which may establish reasonable rules
28 restricting ingress to and egress from the facility, and (d) in which the
29 movements and activities of individual juvenile residents may, for
30 treatment purposes, be restricted or subject to control through the use
31 of intensive staff supervision. Staff secure juvenile facility does not

1 include any institution operated by the Department of Correctional
2 Services;

3 (27) ~~(26)~~ Status offender means a juvenile who has been charged with
4 or adjudicated for conduct which would not be a crime if committed by an
5 adult, including, but not limited to, juveniles charged under subdivision
6 (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02;

7 (28) ~~(27)~~ Traffic offense means any nonfelonious act in violation of
8 a law or ordinance regulating vehicular or pedestrian travel, whether
9 designated a misdemeanor or a traffic infraction; and

10 (29) ~~(28)~~ Young adult means an individual older than eighteen years
11 of age but under twenty-one years of age.

12 **Sec. 12.** If a peace officer takes a juvenile probationer into
13 custody for a criminal violation as defined in section 43-286.01, the
14 peace officer shall immediately take reasonable measures to notify a
15 juvenile intake probation officer.

16 **Sec. 13.** Section 43-250, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 43-250 (1) A peace officer who takes a juvenile into temporary
19 custody under section 29-401 or subdivision (1), (2), (3), or (7) of
20 section 43-248 shall immediately take reasonable measures to notify the
21 juvenile's parent, guardian, custodian, or relative and shall proceed as
22 follows:

23 (a) The peace officer may release a juvenile taken into temporary
24 custody under section 29-401 or subdivision (1), (2), or (7) of section
25 43-248;

26 (b) The peace officer may require a juvenile taken into temporary
27 custody under section 29-401 or subdivision (1) or (2) of section 43-248
28 to appear before the court of the county in which such juvenile was taken
29 into custody at a time and place specified in the written notice prepared
30 in triplicate by the peace officer or at the call of the court. The
31 notice shall also contain a concise statement of the reasons such

1 juvenile was taken into custody. The peace officer shall deliver one copy
2 of the notice to such juvenile and require such juvenile or his or her
3 parent, guardian, other custodian, or relative, or both, to sign a
4 written promise that such signer will appear at the time and place
5 designated in the notice. Upon the execution of the promise to appear,
6 the peace officer shall immediately release such juvenile. The peace
7 officer shall, as soon as practicable, file one copy of the notice with
8 the county attorney or city attorney and, when required by the court,
9 also file a copy of the notice with the court or the officer appointed by
10 the court for such purpose; or

11 (c) The peace officer may retain temporary custody of a juvenile
12 taken into temporary custody under section 29-401 or subdivision (1),
13 (2), or (3) of section 43-248 and deliver the juvenile, if necessary, to
14 the probation officer and communicate all relevant available information
15 regarding such juvenile to the probation officer. The probation officer
16 shall determine the need for detention of the juvenile as provided in
17 section 43-260.01. Upon determining that the juvenile should be placed in
18 detention or an alternative to detention and securing placement in such
19 setting by the probation officer, the peace officer shall implement the
20 probation officer's decision to release or to detain and place the
21 juvenile. When secure detention of a juvenile is necessary, such
22 detention shall occur within a juvenile detention facility except:

23 (i) When a juvenile described in subdivision (1) or (2) of section
24 43-247, except for a status offender, is taken into temporary custody
25 within a metropolitan statistical area and where no juvenile detention
26 facility is reasonably available, the juvenile may be delivered, for
27 temporary custody not to exceed six hours, to a secure area of a jail or
28 other facility intended or used for the detention of adults solely for
29 the purposes of identifying the juvenile and ascertaining his or her
30 health and well-being and for safekeeping while awaiting transport to an
31 appropriate juvenile placement or release to a responsible party;

1 (ii) When a juvenile described in subdivision (1) or (2) of section
2 43-247, except for a status offender, is taken into temporary custody
3 outside of a metropolitan statistical area and where no juvenile
4 detention facility is reasonably available, the juvenile may be
5 delivered, for temporary custody not to exceed twenty-four hours
6 excluding nonjudicial days and while awaiting an initial court
7 appearance, to a secure area of a jail or other facility intended or used
8 for the detention of adults solely for the purposes of identifying the
9 juvenile and ascertaining his or her health and well-being and for
10 safekeeping while awaiting transport to an appropriate juvenile placement
11 or release to a responsible party;

12 (iii) Whenever a juvenile is held in a secure area of any jail or
13 other facility intended or used for the detention of adults, there shall
14 be no verbal, visual, or physical contact between the juvenile and any
15 incarcerated adult and there shall be adequate staff to supervise and
16 monitor the juvenile's activities at all times. This subdivision shall
17 not apply to a juvenile charged with a felony as an adult in county or
18 district court if he or she is sixteen years of age or older;

19 (iv) If a juvenile is under sixteen years of age or is a juvenile as
20 described in subdivision (3) of section 43-247, he or she shall not be
21 placed within a secure area of a jail or other facility intended or used
22 for the detention of adults;

23 (v) If, within the time limits specified in subdivision (1)(c)(i) or
24 (1)(c)(ii) of this section, a felony charge is filed against the juvenile
25 as an adult in county or district court, he or she may be securely held
26 in a jail or other facility intended or used for the detention of adults
27 beyond the specified time limits;

28 (vi) A status offender or nonoffender taken into temporary custody
29 shall not be held in a secure area of a jail or other facility intended
30 or used for the detention of adults; and

31 (vii) A juvenile described in subdivision (1) or (2) of section

1 43-247, except for a status offender, may be held in a secure area of a
2 jail or other facility intended or used for the detention of adults for
3 up to six hours before and six hours after any court appearance.

4 (2)(a) (2) A juvenile taken into custody pursuant to a legal warrant
5 of arrest shall be delivered to a probation officer.

6 (b)(i) This subdivision (2)(b) applies when a juvenile is arrested
7 for a felony or for a misdemeanor involving firearms or deadly weapons.

8 (ii) The probation officer shall determine the need for detention as
9 provided in section 43-260.01, except that if the results of the
10 standardized juvenile detention screening instrument indicate that
11 detention is not required, the probation officer shall make a
12 recommendation to the judge for release without restriction or release to
13 an alternative to detention and forward all intake information to the
14 judge, who shall determine the need for detention. In making such
15 determination, the judge may consider the results of the standardized
16 juvenile detention screening instrument described in section 43-260.01
17 but shall not be bound by the results of such screening instrument.

18 (c) For an arrest of a juvenile not described in subdivision (2)(b)
19 of this section, the probation officer who shall determine the need for
20 detention of the juvenile as provided in section 43-260.01.

21 (d) If detention is not required, the juvenile may be released
22 without bond unless: if

23 (i) Such such release is not in the best interests of the
24 juvenile; r

25 (ii) The physical the safety of persons in the community will be
26 seriously threatened;

27 (iii) Detention is necessary to secure the presence of the juvenile
28 at the next hearing, as evidenced by a demonstrable record of willful
29 failure to appear at a scheduled court hearing within the last twelve
30 months; or

31 (iv) Detention of such juvenile is a matter of immediate and urgent

1 necessity for the protection of such juvenile, as evidenced by a
2 demonstrable record of fleeing from law enforcement, absconding from a
3 court-ordered placement, absconding from home, committing a violent
4 offense, committing multiple property crimes, or threatening to cause
5 harm to self or others.

6 (e) If a juvenile is released under subdivision (2)(d) of this
7 section, is not at risk, and the court that issued the warrant shall be
8 is notified that the juvenile had been taken into custody and was
9 released.

10 (3) In determining the appropriate temporary placement or
11 alternative to detention of a juvenile under this section, the peace
12 officer shall select the placement or alternative which is least
13 restrictive of the juvenile's freedom so long as such placement or
14 alternative is compatible with the best interests of the juvenile and the
15 safety of the community. Any alternative to detention shall cause the
16 least restriction of the juvenile's freedom of movement consistent with
17 the best interests of the juvenile and the safety of the community.

18 (4) When a juvenile is taken into temporary custody pursuant to
19 subdivision (4) of section 43-248, the peace officer shall deliver the
20 juvenile to the enrolled school of such juvenile.

21 (5) When a juvenile is taken into temporary custody pursuant to
22 subdivision (5), (6), or (7) of section 43-248, and not released under
23 subdivision (1)(a) of this section, the peace officer shall deliver the
24 custody of such juvenile to the Department of Health and Human Services
25 which shall make a temporary placement of the juvenile in the least
26 restrictive environment consistent with the best interests of the
27 juvenile as determined by the department. The department shall supervise
28 such placement and, if necessary, consent to any necessary emergency
29 medical, psychological, or psychiatric treatment for such juvenile. The
30 department shall have no other authority with regard to such temporary
31 custody until or unless there is an order by the court placing the

1 juvenile in the custody of the department. If the peace officer delivers
2 temporary custody of the juvenile pursuant to this subsection, the peace
3 officer shall make a full written report to the county attorney within
4 twenty-four hours of taking such juvenile into temporary custody. If a
5 court order of temporary custody is not issued within forty-eight hours
6 of taking the juvenile into custody, the temporary custody by the
7 department shall terminate and the juvenile shall be returned to the
8 custody of his or her parent, guardian, custodian, or relative.

9 (6) If the peace officer takes the juvenile into temporary custody
10 pursuant to subdivision (8) of section 43-248, the peace officer may
11 place the juvenile at a mental health facility for evaluation and
12 emergency treatment or may deliver the juvenile to the Department of
13 Health and Human Services as provided in subsection (5) of this section.
14 At the time of the admission or turning the juvenile over to the
15 department, the peace officer responsible for taking the juvenile into
16 custody pursuant to subdivision (8) of section 43-248 shall execute a
17 written certificate as prescribed by the department which will indicate
18 that the peace officer believes the juvenile to be mentally ill and
19 dangerous, a summary of the subject's behavior supporting such
20 allegations, and that the harm described in section 71-908 is likely to
21 occur before proceedings before a juvenile court may be invoked to obtain
22 custody of the juvenile. A copy of the certificate shall be forwarded to
23 the county attorney. The peace officer shall notify the juvenile's
24 parents, guardian, custodian, or relative of the juvenile's placement.

25 **Sec. 14.** Section 43-251.01, Revised Statutes Cumulative Supplement,
26 2024, is amended to read:

27 43-251.01 All placements and commitments of juveniles for
28 evaluations or as temporary or final dispositions are subject to the
29 following:

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

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

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

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

12 (5)(a) A juvenile shall not be detained unless:

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

15 (ii) Detention ~~or detention~~ is necessary to secure the presence of
16 the juvenile at the next hearing, as evidenced by a demonstrable record
17 of willful failure to appear at a scheduled court hearing within the last
18 twelve months; or

19 (iii) Detention is a matter of immediate and urgent necessity for
20 the protection of such juvenile, as evidenced by a demonstrable record of
21 fleeing from law enforcement, absconding from a court-ordered placement,
22 absconding from home, committing a violent offense, committing multiple
23 property crimes, or threatening to cause harm to self or others;

24 (b) A child ~~ten~~ twelve years of age or younger shall not be placed
25 in detention under any circumstances; and

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

27 (i) To allow a parent or guardian to avoid his or her legal
28 responsibility;

29 (ii) To punish, treat, or rehabilitate such juvenile;

30 (iii) To permit more convenient administrative access to such
31 juvenile;

1 (iv) To facilitate further interrogation or investigation; or
2 (v) Due to a lack of more appropriate facilities except in case of
3 an emergency as provided in section 43-430;

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

10 (7) A juvenile alleged to be a juvenile as described in subdivision
11 (1), (2), (3)(b), or (4) of section 43-247 shall not be placed out of his
12 or her home as a dispositional order of the court unless:

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

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

17 **Sec. 15.** Section 43-253, Revised Statutes Cumulative Supplement,
18 2024, is amended to read:

19 43-253 (1) Upon delivery to the probation officer of a juvenile who
20 has been taken into temporary custody under section 29-401, 43-248, or
21 43-250, the probation officer shall immediately investigate the situation
22 of the juvenile and the nature and circumstances of the events
23 surrounding his or her being taken into custody. Such investigation may
24 be by informal means when appropriate.

25 (2) The probation officer's decision to release the juvenile from
26 custody or place the juvenile in detention or an alternative to detention
27 shall be based upon the results of the standardized juvenile detention
28 screening instrument described in section 43-260.01.

29 (3) No juvenile who has been taken into temporary custody under
30 subdivision (1)(c) of section 43-250 or subsection (6) of section
31 43-286.01 or pursuant to an alleged violation of an order for conditional

1 release shall be detained in any detention facility or be subject to an
2 alternative to detention infringing upon the juvenile's liberty interest
3 for longer than twenty-four hours, excluding nonjudicial days, after
4 having been taken into custody unless such juvenile has appeared
5 personally before a court of competent jurisdiction for a hearing to
6 determine if continued detention, services, or supervision is necessary.
7 The juvenile shall be represented by counsel at the hearing. Whether such
8 counsel shall be provided at the cost of the county shall be determined
9 as provided in subsection (1) of section 43-272. If continued secure
10 detention is ordered, such detention shall be in a juvenile detention
11 facility, except that a juvenile charged with a felony as an adult in
12 county or district court may be held in an adult jail as set forth in
13 subdivision (1)(c)(v) of section 43-250. A juvenile ~~placed in an~~
14 ~~alternative to detention, but not in detention,~~ may only waive this
15 hearing with the agreement of the juvenile's through counsel and the
16 county attorney or city attorney.

17 (4) When the probation officer deems it to be in the best interests
18 of the juvenile, the probation officer shall immediately release such
19 juvenile to the custody of his or her parent. If the juvenile has both a
20 custodial and a noncustodial parent and the probation officer deems that
21 release of the juvenile to the custodial parent is not in the best
22 interests of the juvenile, the probation officer shall, if it is deemed
23 to be in the best interests of the juvenile, attempt to contact the
24 noncustodial parent, if any, of the juvenile and to release the juvenile
25 to such noncustodial parent. If such release is not possible or not
26 deemed to be in the best interests of the juvenile, the probation officer
27 may release the juvenile to the custody of a legal guardian, a
28 responsible relative, or another responsible person.

29 (5) The court may admit such juvenile to bail by bond in such amount
30 and on such conditions and security as the court, in its sole discretion,
31 shall determine, or the court may proceed as provided in section 43-254.

1 In no case shall the court or probation officer release such juvenile if
2 it appears that:

3 (a) The physical safety of persons in the community would be
4 seriously threatened; ~~or~~

5 (b) Detention is necessary to secure the presence of the juvenile at
6 the next hearing, as evidenced by a demonstrable record of willful
7 failure to appear at a scheduled court hearing within the last twelve
8 months; or -

9 (c) Detention is a matter of immediate and urgent necessity for the
10 protection of such juvenile, as evidenced by a demonstrable record of
11 fleeing from law enforcement, absconding from a court-ordered placement,
12 absconding from home, committing a violent offense, committing multiple
13 property crimes, or threatening to cause harm to self or others.

14 **Sec. 16.** Section 43-260.01, Revised Statutes Cumulative Supplement,
15 2024, is amended to read:

16 43-260.01 The need for preadjudication placement, services, or
17 supervision and the need for detention of a juvenile and whether
18 detention or an alternative to detention is indicated shall be subject to
19 subdivision (5) of section 43-251.01 and shall be determined as follows:

20 (1) The standardized juvenile detention screening instrument shall
21 be used to evaluate the juvenile;

22 (2) Except as provided in subdivision (2)(b) of section 43-250, if
23 ~~If~~ the results indicate that detention is not required, the juvenile
24 shall be released without restriction or released to an alternative to
25 detention; and

26 (3) If the results indicate that detention is required, detention
27 shall be pursued.

28 **Sec. 17.** (1) If a juvenile court decides to place a juvenile on
29 probation, the court shall conduct a hearing to determine whether the
30 juvenile is a high-risk juvenile probationer. The hearing may be
31 conducted together with the dispositional hearing or following a motion

1 to revoke probation following the procedures provided in subdivision (5)
2 (b) of section 43-286.

3 (2) The court shall designate a juvenile as a high-risk juvenile
4 probationer if the court determines that the juvenile is unlikely to
5 respond effectively to graduated response sanctions under section
6 43-286.01, taking into account:

7 (a) The nature of the adjudication;

8 (b) The effectiveness of any past interventions or sanctions;

9 (c) The recommendation of the probation officer;

10 (d) The recommendation from law enforcement; and

11 (e) The recommendation from the county attorney or city attorney.

12 **Sec. 18.** Section 43-286.01, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

14 43-286.01 (1) For purposes of this section: ~~τ~~

15 (a) Criminal violation means a violation of a condition of probation
16 involving commission of a misdemeanor or felony. Criminal violation does
17 not include a traffic offense;

18 (b) Graduated ~~graduated~~ response means an accountability-based
19 series of sanctions, incentives, and services designed to facilitate the
20 juvenile's continued progress in changing behavior, ongoing compliance,
21 and successful completion of probation. Graduated response does not
22 include restrictions of liberty that would otherwise require a hearing
23 under subsection (3) of section 43-253; and ~~τ~~

24 (c) High-risk juvenile probationer means a juvenile determined to be
25 such under section 17 of this act.

26 (2)(a) ~~(2)~~ The Office of Probation Administration may establish a
27 statewide standardized graduated response matrix of incentives for
28 compliance and positive behaviors and sanctions for probationers who
29 violate the terms and conditions of a court order. The graduated response
30 system shall use recognized best practices and be developed with the
31 input of stakeholders, including judges, probation officers, county

1 attorneys, defense attorneys, juveniles, and parents. The office shall
2 provide implementation and ongoing training to all probation officers on
3 the graduated response options.

4 (b) ~~(3)~~ Graduated response sanctions should be immediate, certain,
5 consistent, and fair to appropriately address the behavior. Failure to
6 complete a sanction may result in repeating the sanction, increasing the
7 duration, or selecting a different sanction similar in nature. Continued
8 failure to comply could result in a request for a motion to revoke
9 probation. Once a sanction is successfully completed the alleged
10 probation violation is deemed resolved and cannot be alleged as a
11 violation in future proceedings.

12 (c) ~~(4)~~ Graduated response incentives should provide positive
13 reinforcement to encourage and support positive behavior change and
14 compliance with court-ordered conditions of probation.

15 (3)(a) Except as provided in subsections (4) and (5) of this
16 section, when ~~(5) Whenever~~ a probation officer has reasonable cause to
17 believe that a juvenile probationer ~~subject to the supervision of a~~
18 ~~probation officer~~ has committed a violation of the terms of the
19 juvenile's probation ~~while on probation~~, but that such juvenile will not
20 attempt to leave the jurisdiction and will not place lives or property in
21 danger, the probation officer shall either:

22 (i) ~~(a)~~ Impose one or more graduated response sanctions with the
23 approval of his or her chief probation officer or such chief's designee.
24 The decision to impose graduated response sanctions in lieu of formal
25 revocation proceedings rests with the probation officer and his or her
26 chief probation officer or such chief's designee and shall be based upon
27 such juvenile's risk level, the severity of the violation, and the
28 juvenile's response to the violation. If graduated response sanctions are
29 to be imposed, such juvenile shall acknowledge in writing the nature of
30 the violation and agree upon the graduated response sanction with
31 approval of such juvenile's parents or guardian. Such juvenile has the

1 right to decline to acknowledge the violation, and if he or she declines
2 to acknowledge the violation, the probation officer shall submit a
3 written report pursuant to subdivision (3)(a)(ii) ~~(5)(b)~~ of this section.
4 If the juvenile fails to satisfy the graduated response sanctions and the
5 office determines that a motion to revoke probation should be pursued,
6 the probation officer shall submit a written report pursuant to
7 subdivision (3)(a)(ii) ~~(5)(b)~~ of this section. A copy of the report shall
8 be submitted to the county attorney of the county where probation was
9 imposed; or

10 (ii) ~~(b)~~ Submit a written report to the county attorney of the
11 county where probation was imposed and to the juvenile's attorney of
12 record. The report shall outline ~~, outlining~~ the nature of the probation
13 violation and request that formal revocation proceedings be instituted
14 against the juvenile ~~subject to the supervision of a probation officer~~.
15 The report shall also include a statement regarding why graduated
16 response sanctions were not utilized or were ineffective. If there is no
17 attorney of record for the juvenile, the office shall notify the court
18 and counsel for the juvenile shall be appointed.

19 (b) Whenever a graduated response sanction is imposed, the probation
20 officer shall provide the county attorney of the county where probation
21 was imposed with notice of the sanction.

22 (4) For a high-risk juvenile probationer, when a probation officer
23 has reasonable cause to believe that the juvenile probationer has
24 committed a violation of the terms of the juvenile's probation, other
25 than a criminal violation, and that such juvenile will not attempt to
26 leave the jurisdiction and will not place lives or property in danger,
27 the probation officer may impose one or more graduated response sanctions
28 under subdivision (3)(a)(i) of this section. However, the probation
29 officer may only do so one time. For any subsequent violation of the
30 terms of the juvenile's probation, the officer shall proceed as provided
31 in subdivision (3)(a)(ii) or subsection (5) or (6) of this section, as

1 appropriate.

2 (5) When a probation officer has reasonable cause to believe that a
3 juvenile probationer has committed a violation of the terms of the
4 juvenile's probation that is a criminal violation, the probation officer
5 shall submit a written report to the county attorney of the county where
6 probation was imposed and to the juvenile's attorney of record. The
7 report shall outline the nature of the probation violation and request
8 that formal revocation proceedings be instituted against the juvenile. If
9 there is no attorney of record for the juvenile, the office shall notify
10 the court, and counsel for the juvenile shall be appointed.

11 (6) Whenever a probation officer has reasonable cause to believe
12 that a juvenile probationer ~~subject to the supervision of a probation~~
13 ~~officer~~ has violated a condition of his or her probation and that such
14 juvenile will attempt to leave the jurisdiction or will place lives or
15 property in danger, the probation officer shall take such juvenile into
16 temporary custody without a warrant and may call on any peace officer for
17 assistance as provided in section 43-248. Continued detention or
18 deprivation of liberty shall be subject to the criteria and requirements
19 of sections 43-251.01, 43-260, and 43-260.01 and subdivision (5)(b)(iv)
20 of section 43-286, and a hearing shall be held before the court within
21 twenty-four hours as provided in subsection (3) of section 43-253.

22 (7) Immediately after detention or deprivation of liberty pursuant
23 to subsection (6) of this section, the probation officer shall notify the
24 county attorney of the county where probation was imposed and the
25 juvenile's attorney of record and submit a written report describing the
26 risk of harm to lives or property or of fleeing the jurisdiction which
27 precipitated the need for such detention or deprivation of liberty and of
28 any violation of probation. If there is no attorney of record for the
29 juvenile, the office shall notify the court and counsel for the juvenile
30 shall be appointed. After prompt consideration of the written report, the
31 county attorney shall:

1 (a) Order the release of the juvenile from confinement or
2 alternative to detention subject to the supervision of a probation
3 officer; or

4 (b) File with the adjudicating court a motion to revoke the
5 probation.

6 (8) Whenever a county attorney receives a report from a probation
7 officer that a juvenile probationer ~~subject to the supervision of a~~
8 ~~probation officer~~ has violated a condition of probation and the probation
9 officer is seeking revocation of probation, the county attorney may file
10 a motion to revoke probation.

11 (9) Whenever a juvenile probationer ~~subject to supervision of a~~
12 ~~probation officer~~ is engaging in positive behavior, completion of goals,
13 and compliance with the terms of probation, the probation officer shall
14 use graduated incentives to provide positive reinforcement and
15 encouragement of such behavior. The office shall keep records of all
16 incentives and provide such records to the county attorney or the
17 juvenile's attorney upon request.

18 (10) During the term of probation, the court, on application of a
19 probation officer or of the juvenile or on its own motion, may reduce or
20 eliminate any of the conditions imposed on the juvenile. Upon completion
21 of the term of probation or the earlier discharge of the juvenile, the
22 juvenile shall be relieved of any obligations imposed by the order of the
23 court and his or her record shall be sealed pursuant to section
24 43-2,108.04.

25 (11) The probation administrator shall adopt and promulgate rules
26 and regulations to carry out this section.

27 **Sec. 19.** (1) At least fourteen calendar days before the expiration
28 of any juvenile's term of probation, the probation officer shall send a
29 progress report to the county attorney and to the juvenile's attorney of
30 record. The progress report shall include all court orders relating to
31 such term of probation, information on all conditions of probation, and

1 information regarding the juvenile's compliance with, or violations of,
2 such conditions.

3 (2) If the county attorney determines that revocation is
4 appropriate, the county attorney may file a motion to revoke probation.
5 If there is no attorney of record for the juvenile, counsel for the
6 juvenile shall be appointed. If such motion is filed no later than seven
7 calendar days before the expiration of the term of probation, the court
8 shall schedule a revocation hearing prior to the date of expiration.

9 **Sec. 20.** Section 43-2,108, Revised Statutes Cumulative Supplement,
10 2024, is amended to read:

11 43-2,108 (1) The juvenile court judge shall keep a record of all
12 proceedings of the court in each case, including appearances, findings,
13 orders, decrees, and judgments, and any evidence which he or she feels it
14 is necessary and proper to record. The case file shall contain the
15 complaint or petition and subsequent pleadings. The case file may be
16 maintained as an electronic document through the court's electronic case
17 management system, on microfilm, or in a paper volume and disposed of
18 when determined by the State Records Administrator pursuant to the
19 Records Management Act.

20 (2) Except as provided in subsections (3) and (4) of this section,
21 the medical, psychological, psychiatric, and social welfare reports and
22 the records of juvenile probation officers, as they relate to individual
23 proceedings in the juvenile court, shall not be open to inspection,
24 without order of the court. Such records shall be made available to a
25 district court of this state or the District Court of the United States
26 on the order of a judge thereof for the confidential use of such judge or
27 his or her probation officer as to matters pending before such court but
28 shall not be made available to parties or their counsel; and such
29 district court records shall be made available to a county court or
30 separate juvenile court upon request of the county judge or separate
31 juvenile judge for the confidential use of such judge and his or her

1 probation officer as to matters pending before such court, but shall not
2 be made available by such judge to the parties or their counsel.

3 (3) As used in this section, confidential record information means
4 all docket records, other than the pleadings, orders, decrees, and
5 judgments; case files and records; reports and records of probation
6 officers; and information supplied to the court of jurisdiction in such
7 cases by any individual or any public or private institution, agency,
8 facility, or clinic, which is compiled by, produced by, and in the
9 possession of any court. In all cases under subdivision (3)(a) of section
10 43-247, access to all confidential record information in such cases shall
11 be granted only as follows: (a) The court of jurisdiction may, subject to
12 applicable federal and state regulations, disseminate such confidential
13 record information to any individual, or public or private agency,
14 institution, facility, or clinic which is providing services directly to
15 the juvenile and such juvenile's parents or guardian and his or her
16 immediate family who are the subject of such record information; (b) the
17 court of jurisdiction may disseminate such confidential record
18 information, with the consent of persons who are subjects of such
19 information, or by order of such court after showing of good cause, to
20 any law enforcement agency upon such agency's specific request for such
21 agency's exclusive use in the investigation of any protective service
22 case or investigation of allegations under subdivision (3)(a) of section
23 43-247, regarding the juvenile or such juvenile's immediate family, who
24 are the subject of such investigation; and (c) the court of jurisdiction
25 may disseminate such confidential record information to any court, which
26 has jurisdiction of the juvenile who is the subject of such information
27 upon such court's request.

28 (4) The court shall provide copies of predispositional reports and
29 evaluations of the juvenile to the juvenile's attorney and the county
30 attorney or city attorney prior to any hearing in which the report or
31 evaluation will be relied upon.

1 (5) In all cases under sections 43-246.01 and 43-247, the office of
2 Inspector General of Nebraska Child Welfare may submit a written request
3 to the probation administrator for access to the records of juvenile
4 probation officers in a specific case. Upon a juvenile court order, the
5 records shall be provided to the Inspector General within five days for
6 the exclusive use in an investigation pursuant to the Office of Inspector
7 General of Nebraska Child Welfare Act. Nothing in this subsection shall
8 prevent the notification of death or serious injury of a juvenile to the
9 Inspector General of Nebraska Child Welfare pursuant to section 43-4318
10 as soon as reasonably possible after the Office of Probation
11 Administration learns of such death or serious injury.

12 (6) In all cases under sections 43-246.01 and 43-247, the juvenile
13 court shall disseminate confidential record information to the Foster
14 Care Review Office pursuant to the Foster Care Review Act.

15 (7) Nothing in subsections (3), (5), and (6) of this section shall
16 be construed to restrict the dissemination of confidential record
17 information between any individual or public or private agency,
18 institute, facility, or clinic, except any such confidential record
19 information disseminated by the court of jurisdiction pursuant to this
20 section shall be for the exclusive and private use of those to whom it
21 was released and shall not be disseminated further without order of such
22 court.

23 (8)(a) Any records concerning a juvenile court petition filed
24 pursuant to subdivision (3)(c) of section 43-247 shall remain
25 confidential except as may be provided otherwise by law. Such records
26 shall be accessible to (i) the juvenile except as provided in subdivision
27 (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's
28 parent or guardian, and (iv) persons authorized by an order of a judge or
29 court.

30 (b) Upon application by the county attorney or by the director of
31 the facility where the juvenile is placed and upon a showing of good

1 cause therefor, a judge of the juvenile court having jurisdiction over
2 the juvenile or of the county where the facility is located may order
3 that the records shall not be made available to the juvenile if, in the
4 judgment of the court, the availability of such records to the juvenile
5 will adversely affect the juvenile's mental state and the treatment
6 thereof.

7 (9) Nothing in subsection (3), (5), or (6) of this section shall be
8 construed to restrict the immediate dissemination of a current picture
9 and information about a child who is missing from a foster care or out-
10 of-home placement. Such dissemination by the Office of Probation
11 Administration shall be authorized by an order of a judge or court. Such
12 information shall be subject to state and federal confidentiality laws
13 and shall not include that the child is in the care, custody, or control
14 of the Department of Health and Human Services or under the supervision
15 of the Office of Probation Administration.

16 (10) Any juvenile court order that places a juvenile on electronic
17 monitoring shall also state that whether the data from such electronic
18 monitoring device shall be made available to a designated law enforcement
19 officer as provided in this subsection. A law enforcement agency may
20 designate law enforcement officers who may receive such data. Upon a
21 request by such an officer, the Office of Probation Administration shall
22 immediately provide such data to such officer agency immediately upon
23 request by such agency.

24 (11) For any juvenile subject to the supervision of a probation
25 officer, the Office of Probation Administration shall provide the
26 Nebraska Commission on Law Enforcement and Criminal Justice with the
27 following information: The the name of the juvenile, the name of the
28 juvenile's probation officer, and any terms of probation included in a
29 juvenile court order, whether the juvenile is a prohibited juvenile
30 offender under section 28-1204.05, search and seizure status, criminal
31 associations, and school records otherwise open to inspection shall be

1 ~~provided to the Nebraska Commission on Law Enforcement and Criminal~~
2 ~~Justice. The commission which~~ shall provide access to such information to
3 law enforcement agencies through the state's criminal justice information
4 system in a manner that allows such information to be readily accessible
5 through the main interface of the system.

6 **Sec. 22.** On or before the first day of each month, the Office of
7 Probation Administration shall generate a list of all juvenile
8 probationers in each county and provide such list to each law enforcement
9 agency with jurisdiction over such county.

10 **Sec. 23.** Section 43-2,129, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 43-2,129 Sections 43-245 to 43-2,129 and sections 12, 17, 19, and 22
13 of this act shall be known and may be cited as the Nebraska Juvenile
14 Code.

15 **Sec. 33.** Original sections 28-306, 28-394, 29-2262.06, 29-2267,
16 60-682.01, 60-6,186, 60-6,213, and 60-6,378, Reissue Revised Statutes of
17 Nebraska, and sections 28-101, 28-416, 28-1204.05, 29-2263, 29-3001,
18 43-245, 43-250, 43-251.01, 43-253, 43-260.01, 43-286.01, 43-2,108,
19 43-2,108.05, 43-2,129, 60-601, and 60-605, Revised Statutes Cumulative
20 Supplement, 2024, are repealed.