

Office of Juvenile Services Act

43-401. Act, how cited.

Sections 43-401 to 43-424 shall be known and may be cited as the Health and Human Services, Office of Juvenile Services Act.

Source:Laws 1998, LB 1073, § 33; Laws 2012, LB972, § 4.
Effective Date: July 19, 2012

43-402. Legislative intent; juvenile justice system; goal.

It is the intent of the Legislature that the juvenile justice system provide individualized accountability and individualized treatment for juveniles in a manner consistent with public safety to those juveniles who violate the law. The juvenile justice system shall also promote prevention efforts which are community-based and involve all sectors of the community. Prevention efforts shall be provided through the support of programs and services designed to meet the needs of those juveniles who are identified as being at risk of violating the law and those whose behavior is such that they endanger themselves or others. The goal of the juvenile justice system shall be to provide a range of programs and services which:

- (1) Retain and support juveniles within their homes whenever possible and appropriate;
- (2) Provide the least restrictive and most appropriate setting for juveniles while adequately protecting them and the community;
- (3) Are community-based and are provided in as close proximity to the juvenile's community as possible and appropriate;
- (4) Provide humane, secure, and therapeutic confinement to those juveniles who present a danger to the community;
- (5) Provide followup and aftercare services to juveniles when returned to their families or communities to ensure that progress made and behaviors learned are integrated and continued;
- (6) Hold juveniles accountable for their unlawful behavior in a manner consistent with their long-term needs, stressing the offender's responsibility to victims and the community;
- (7) Base treatment planning and service provision upon an individual evaluation of the juvenile's needs recognizing the importance of meeting the educational needs of the juvenile in the juvenile justice system;
- (8) Are family focused and include the juvenile's family in assessment, case planning, treatment, and service provision as appropriate and emphasize parental involvement and accountability in the rehabilitation of their children;
- (9) Provide supervision and service coordination, as appropriate, to implement and monitor treatment plans and to prevent reoffending;
- (10) Provide integrated service delivery through appropriate linkages to other human service agencies; and
- (11) Promote the development and implementation of community-based programs designed to prevent unlawful behavior and to effectively minimize the depth and duration of the juvenile's involvement in the juvenile justice system.

Office of Juvenile Services Act

Source:Laws 1994, LB 988, § 9; R.S.1943, (1994), § 83-925.01; Laws 1998, LB 1073, § 34; Laws 1999, LB 594, § 20.

43-403. Terms, defined.

For purposes of the Health and Human Services, Office of Juvenile Services Act:

- (1) Aftercare means the control, supervision, and care exercised over juveniles who have been paroled;
- (2) Committed means an order by a court committing a juvenile to the care and custody of the Office of Juvenile Services for treatment;
- (3) Community supervision means the control, supervision, and care exercised over juveniles committed to the Office of Juvenile Services when a commitment to the level of treatment of a youth rehabilitation and treatment center has not been ordered by the court;
- (4) Evaluation means assessment of the juvenile's social, physical, psychological, and educational development and needs, including a recommendation as to an appropriate treatment plan;
- (5) Parole means a conditional release of a juvenile from a youth rehabilitation and treatment center to aftercare or transferred to Nebraska for parole supervision by way of interstate compact;
- (6) Placed for evaluation means a placement with the Office of Juvenile Services or the Department of Health and Human Services for purposes of an evaluation of the juvenile; and
- (7) Treatment means type of supervision, care, confinement, and rehabilitative services for the juvenile.

Source:Laws 1998, LB 1073, § 35.

43-404. Office of Juvenile Services; created; powers and duties.

There is created within the Department of Health and Human Services the Office of Juvenile Services. The office shall have oversight and control of state juvenile correctional facilities and programs other than the secure youth confinement facility which is under the control of the Department of Correctional Services. The Administrator of the Office of Juvenile Services shall be appointed by the chief executive officer of the department or his or her designee and shall be responsible for the administration of the facilities and programs of the office. The department may contract with a state agency or private provider to operate any facilities and programs of the Office of Juvenile Services.

Source:Laws 1994, LB 988, § 10; Laws 1996, LB 1044, § 960; R.S.Supp.,1996, § 83-925.02; Laws 1998, LB 1073, § 36; Laws 2007, LB296, § 109.

43-405. Office of Juvenile Services; administrative duties.

The administrative duties of the Office of Juvenile Services are to:

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

Office of Juvenile Services Act

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

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

(4) Adopt and promulgate rules and regulations for the levels of treatment and for management, control, screening, evaluation, treatment, rehabilitation, parole, transfer, and discharge of juveniles placed with or committed to the Office of Juvenile Services;

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

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

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

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

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

(10) Supervise and coordinate juvenile parole and aftercare services; and

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

Source:Laws 1998, LB 1073, § 37; Laws 2012, LB782, § 44; Laws 2012, LB972, § 5; Laws 2012, LB1160, § 12.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB782, section 44, with LB972, section 5, and LB1160, section 12, to reflect all amendments.

Note: Changes made by LB972 became effective July 19, 2012. Changes made by LB782 and LB1160 became operative July 19, 2012.

43-406. Office of Juvenile Services; treatment programs, services, and systems; requirements.

The Office of Juvenile Services shall utilize:

(1) Risk and needs assessment instruments for use in determining the level of treatment for the juvenile;

(2) A case classification process to include levels of treatment defined by rules and regulations and case management standards for each level of treatment. The process shall provide for a balance of accountability, public safety, and treatment;

(3) Case management for all juveniles committed to the office;

Office of Juvenile Services Act

(4) A purchase-of-care system which will facilitate the development of a statewide community-based array of care with the involvement of the private sector and the local public sector. Care services may be purchased from private providers to provide a wider diversity of services. This system shall include accessing existing Title IV-E funds of the federal Social Security Act, as amended, medicaid funds, and other funding sources to support eligible community-based services. Such services developed and purchased shall include, but not be limited to, evaluation services. Services shall be offered and delivered on a regional basis;

(5) Community-based evaluation programs, supplemented by one or more residential evaluation programs. A residential evaluation program shall be provided in a county containing a city of the metropolitan class. Community-based evaluation services shall replace the residential evaluation services available at the Youth Diagnostic and Rehabilitation Center by December 31, 1999; and

(6) A management information system. The system shall be a unified, interdepartmental client information system which supports the management function as well as the service function.

Source: Laws 1994, LB 988, § 15; Laws 1995, LB 371, § 27; Laws 1996, LB 1141, § 1; Laws 1997, LB 307, § 229; Laws 1997, LB 882, § 12; R.S.Supp., 1997, § 83-925.07; Laws 1998, LB 1073, § 38.

43-407. Office of Juvenile Services; programs and treatment services; treatment plan; case management and coordination process; funding utilization; intent.

The Office of Juvenile Services shall design and make available programs and treatment services through the Youth Rehabilitation and Treatment Center-Kearney and Youth Rehabilitation and Treatment Center-Geneva. The programs and treatment services shall be based upon the individual or family evaluation process and treatment plan. The treatment plan shall be developed within fourteen days after admission. If a juvenile placed at the Youth Rehabilitation and Treatment Center-Kearney or Youth Rehabilitation and Treatment Center-Geneva is assessed as needing inpatient or subacute substance abuse or behavioral health residential treatment, the juvenile may be transferred to a program or facility if the treatment and security needs of the juvenile can be met. The assessment process shall include involvement of both private and public sector behavioral health providers. The selection of the treatment venue for each juvenile shall include individualized case planning and incorporate the goals of the juvenile justice system pursuant to section 43-402. Juveniles committed to the Youth Rehabilitation and Treatment Center-Kearney or Youth Rehabilitation and Treatment Center-Geneva who are transferred to alternative settings for treatment remain committed to the Department of Health and Human Services and the Office of Juvenile Services until discharged from such custody. Programs and treatment services shall address:

(1) Behavioral impairments, severe emotional disturbances, sex offender behaviors, and other mental health or psychiatric disorders;

(2) Drug and alcohol addiction;

(3) Health and medical needs;

(4) Education, special education, and related services;

(5) Individual, group, and family counseling services as appropriate with any treatment plan related to subdivisions (1) through (4) of this section. Services shall also be made available for juveniles who have been physically or sexually abused;

(6) A case management and coordination process, designed to assure appropriate reintegration of the juvenile to his or her family, school, and community. This process shall follow individualized planning which shall begin at intake and evaluation. Structured programming shall be scheduled for all juveniles. This programming shall include a strong academic program as well as classes in health education, living skills, vocational training, behavior management and modification, money management, family and parent responsibilities, substance abuse awareness,

Office of Juvenile Services Act

physical education, job skills training, and job placement assistance. Participation shall be required of all juveniles if such programming is determined to be age and developmentally appropriate. The goal of such structured programming shall be to provide the academic and life skills necessary for a juvenile to successfully return to his or her home and community upon release; and

(7) The design and delivery of treatment programs through the youth rehabilitation and treatment centers as well as any licensing or certification requirements, and the office shall follow the requirements as stated within Title XIX and Title IV-E of the federal Social Security Act, as such act existed on May 25, 2007, the Special Education Act, or other funding guidelines as appropriate. It is the intent of the Legislature that these funding sources shall be utilized to support service needs of eligible juveniles.

Source:Laws 1994, LB 988, § 14; Laws 1997, LB 882, § 11; R.S.Supp.,1997, § 83-925.06; Laws 1998, LB 1073, § 39; Laws 2007, LB542, § 4.

43-408. Office of Juvenile Services; committing court; determination of placement and treatment services; review status; when.

(1) Whenever any juvenile is committed under any provision of law to the Office of Juvenile Services, to any facility operated by the Office of Juvenile Services, or to the custody of the Administrator of the Office of Juvenile Services, a superintendent of a facility, or an administrator of a program, the juvenile is deemed committed to the Office of Juvenile Services. Juveniles committed to the Office of Juvenile Services shall also be considered committed to the care and custody of the Department of Health and Human Services for the purpose of obtaining health care and treatment services.

(2) The committing court shall order the initial level of treatment for a juvenile committed to the Office of Juvenile Services. Prior to determining the initial level of treatment for a juvenile, the court may solicit a recommendation regarding the initial level of treatment from the Office of Juvenile Services. Under this section, the committing court shall not order a specific placement for a juvenile. The court shall continue to maintain jurisdiction over any juvenile committed to the Office of Juvenile Services until such time that the juvenile is discharged from the Office of Juvenile Services. The court shall conduct review hearings every six months, or at the request of the juvenile, for any juvenile committed to the Office of Juvenile Services who is placed outside his or her home, except for a juvenile residing at a youth rehabilitation and treatment center. The court shall determine whether an out-of-home placement made by the Office of Juvenile Services is in the best interests of the juvenile, with due consideration being given by the court to public safety. If the court determines that the out-of-home placement is not in the best interests of the juvenile, the court may order other treatment services for the juvenile.

(3) After the initial level of treatment is ordered by the committing court, the Office of Juvenile Services shall provide treatment services which conform to the court's level of treatment determination. Within thirty days after making an actual placement, the Office of Juvenile Services shall provide the committing court with written notification of where the juvenile has been placed. At least once every six months thereafter, until the juvenile is discharged from the care and custody of the Office of Juvenile Services, the office shall provide the committing court with written notification of the juvenile's actual placement and the level of treatment that the juvenile is receiving.

(4) For transfer hearings, the burden of proof to justify the transfer is on the Office of Juvenile Services, the standard of proof is clear and convincing evidence, and the strict rules of evidence do not apply. Transfers of juveniles from one place of treatment to another are subject to section 43-251.01 and to the following:

(a) Except as provided in subdivision (b) of this subsection, if the Office of Juvenile Services proposes to transfer the juvenile from a less restrictive to a more restrictive place of treatment, a plan outlining the proposed change and the reasons for the proposed change shall be presented to the court which committed the juvenile. Such change shall occur only after a hearing and a finding by the committing court that the change is in the best interests

Office of Juvenile Services Act

of the juvenile, with due consideration being given by the court to public safety. At the hearing, the juvenile has the right to be represented by counsel;

(b) The Office of Juvenile Services may make an immediate temporary change without prior approval by the committing court only if the juvenile is in a harmful or dangerous situation, is suffering a medical emergency, is exhibiting behavior which warrants temporary removal, or has been placed in a non-state-owned facility and such facility has requested that the juvenile be removed. Approval of the committing court shall be sought within fifteen days of making an immediate temporary change, at which time a hearing shall occur before the court. The court shall determine whether it is in the best interests of the juvenile to remain in the new place of treatment, with due consideration being given by the court to public safety. At the hearing, the juvenile has the right to be represented by counsel; and

(c) If the proposed change seeks to transfer the juvenile from a more restrictive to a less restrictive place of treatment or to transfer the juvenile from the juvenile's current place of treatment to another which has the same level of restriction as the current place of treatment, the Office of Juvenile Services shall notify the juvenile, the juvenile's parents, custodian, or legal guardian, the committing court, the county attorney, the counsel for the juvenile, and the guardian ad litem of the proposed change. The juvenile has fifteen days after the date of the notice to request an administrative hearing with the Office of Juvenile Services, at which time the Office of Juvenile Services shall determine whether it is in the best interests of the juvenile for the proposed change to occur, with due consideration being given by the office to public safety. The juvenile may be represented by counsel at the juvenile's own expense. If the juvenile is aggrieved by the administrative decision of the Office of Juvenile Services, the juvenile may appeal that decision to the committing court within fifteen days after the Office of Juvenile Services' decision. At the hearing before the committing court, the juvenile has the right to be represented by counsel.

(5) If a juvenile is placed in detention after the initial level of treatment is determined by the committing court, the committing court shall hold a hearing every fourteen days to review the status of the juvenile. Placement of a juvenile in detention shall not be considered as a treatment service.

(6) The committing court's review of a change of place of treatment pursuant to this section does not apply to parole revocation hearings.

Source:Laws 1996, LB 1044, § 962; R.S.Supp.,1996, § 83-925.12; Laws 1998, LB 1073, § 40; Laws 2001, LB 598, § 1; Laws 2006, LB 1113, § 40.

Annotations

Giving effect to the language of this section, while the Office of Juvenile Services may make an initial determination with regard to the advisability of the discharge of a juvenile committed to that office, the committing court, as a result of its statutorily imposed continuing jurisdiction, must approve the discharge of the juvenile. *In re Interest of Tamantha S.*, 267 Neb. 78, 672 N.W.2d 24 (2003).

A juvenile court does not have the authority to enter an order prohibiting any change without prior court approval in the placement of a juvenile committed to the custody of the Office of Juvenile Services. *In re Interest of Chelsea D.*, 14 Neb. App. 392, 707 N.W.2d 798 (2005).

43-409. Office of Juvenile Services; access to records; immunity.

The Office of Juvenile Services shall have access to and may obtain copies of all records pertaining to a juvenile committed to it or placed with it, including, but not limited to, school records, medical records, juvenile court records, probation records, test results, treatment records, evaluations, and examination reports. Any person who, in good faith, furnishes any records or information to the Office of Juvenile Services shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. The owners, officers, directors, employees,

Office of Juvenile Services Act

or agents of such medical office, school, court, office, corporation, partnership, or other such entity shall not be liable for furnishing such records or information.

Source:Laws 1998, LB 1073, § 41.

43-410. Juvenile absconding; authority to apprehend.

Any peace officer, juvenile parole officer, or direct care staff member of the Office of Juvenile Services has the authority to apprehend and detain a juvenile who has absconded or is attempting to abscond from a placement for evaluation or commitment to the Office of Juvenile Services and shall cause the juvenile to be returned to the facility or program or an appropriate juvenile detention facility. For purposes of this section, direct care staff member means any staff member charged with the day-to-day care and supervision of juveniles housed at a facility or program operated directly by the office or security staff who has received training in apprehension techniques and procedures.

Source:Laws 1998, LB 1073, § 42.

43-411. Detainers for apprehension and detention; authorized; detention; limitations.

The chief executive officer of the Department of Health and Human Services shall have the authority, and may delegate the authority only to the Administrator of the Office of Juvenile Services and the superintendents of the youth rehabilitation and treatment centers, to issue detainers for the apprehension and detention of juveniles who have absconded from a placement with or commitment to the office. Any peace officer who detains a juvenile on such a detainer shall hold the juvenile in an appropriate facility or program for juveniles until the office can take custody of the juvenile.

Source:Laws 1997, LB 882, § 8; R.S.Supp.,1997, § 83-925.13; Laws 1998, LB 1073, § 43; Laws 1999, LB 522, § 1; Laws 2007, LB296, § 110.

43-412. Commitment to Office of Juvenile Services; discharge of juvenile; effect of discharge; notice to committing court.

(1) Every juvenile committed to the Office of Juvenile Services pursuant to the Nebraska Juvenile Code or pursuant to subsection (3) of section 29-2204 shall remain committed until he or she attains the age of nineteen or is legally discharged.

(2) The discharge of any juvenile pursuant to the rules and regulations or upon his or her attainment of the age of nineteen shall be a complete release from all penalties incurred by conviction or adjudication of the offense for which he or she was committed.

(3) The Office of Juvenile Services shall provide the committing court with written notification of the juvenile's discharge within thirty days of a juvenile being discharged from the care and custody of the office.

Source:Laws 1901, c. 51, § 11, p. 407; Laws 1903, c. 69, § 2, p. 369; R.S.1913, § 7379; C.S.1922, § 7038; C.S.1929, § 83-1109; R.S.1943, § 83-472; Laws 1969, c. 817, § 80, p. 3111; Laws 1974, LB 992, § 1; Laws 1993, LB 31, § 44; Laws 1994, LB 988, § 35; Laws 1996, LB 1044, § 956; R.S.Supp.,1996, § 83-472; Laws 1998, LB 1073, § 44; Laws 2011, LB463, § 12.

Cross References

Nebraska Juvenile Code, see section 43-2,129.

Office of Juvenile Services Act

Annotations

Under former law a commitment hereunder is not for a definite period. *State v. Pinkerton*, 186 Neb. 225, 182 N.W.2d 198 (1970).

Juvenile court, in committing boy to industrial school, cannot fix definite term of detention. *Cohen v. Clark*, 107 Neb. 849, 187 N.W. 120 (1922).

A juvenile court's commitment of a juvenile to a youth rehabilitation treatment center does not constitute a discharge within the meaning of section 43-247, and therefore, the juvenile court retains jurisdiction. A juvenile court does not have jurisdiction over the Office of Juvenile Services in placing, managing, or discharging a juvenile committed to a youth rehabilitation treatment center, even though the juvenile court retains jurisdiction of the juvenile. *In re Interest of David C.*, 6 Neb. App. 198, 572 N.W.2d 392 (1997).

43-413. Evaluations authorized; costs.

(1) A court may, pursuant to section 43-281, place a juvenile with the Office of Juvenile Services or the Department of Health and Human Services for an evaluation to aid the court in the disposition.

(2) A juvenile convicted as an adult shall be placed with the Office of Juvenile Services for evaluation prior to sentencing as provided by subsection (3) of section 29-2204.

(3) All juveniles shall be evaluated prior to commitment to the Office of Juvenile Services. The court shall not commit such juvenile to the temporary custody of the Office of Juvenile Services prior to disposition. The office may place a juvenile in residential or nonresidential community-based evaluation services for purposes of evaluation to assist the court in determining the initial level of treatment for the juvenile.

(4) During any period of detention or evaluation prior to disposition:

(a) Except as provided in subdivision (4)(b) of this section, the county in which the case is pending is responsible for all detention costs incurred before and after an evaluation period prior to disposition, the cost of delivering the juvenile to the facility or institution for an evaluation, and the cost of returning the juvenile to the court for disposition; and

(b) The state is responsible for (i) the costs incurred during an evaluation unless otherwise ordered by the court pursuant to section 43-290 and (ii) the preevaluation detention costs for any days over the first ten days from the date the evaluation is ordered by the court.

(5) The Office of Juvenile Services and the Department of Health and Human Services are not responsible for predisposition costs except as provided in subdivision (4)(b) of this section.

Source: Laws 1969, c. 814, § 2, p. 3060; Laws 1973, LB 563, § 50; Laws 1993, LB 31, § 49; Laws 1994, LB 988, § 38; R.S.1943, (1994), § 83-4,101; Laws 1998, LB 1073, § 45; Laws 2001, LB 640, § 1.

Annotations

The juvenile court cannot order a specific placement of a juvenile for the purposes of the evaluation authorized by this section. *In re Interest of Taylor W.*, 276 Neb. 679, 757 N.W.2d 1 (2008).

By its language, the purpose of subsection (4) of this section is to make the State responsible for the costs incurred in evaluating a juvenile under subsection (1) of this section. In the absence of an immediate physical delivery of the juvenile upon adjudication into an evaluation program, detention is an unavoidable

Office of Juvenile Services Act

precursor of evaluation and is, therefore, part of the evaluation process under this section. In re Interest of Marie E., 260 Neb. 984, 621 N.W.2d 65 (2000).

43-414. Office of Juvenile Services; evaluation powers.

Each juvenile placed for evaluation with the Office of Juvenile Services shall be subjected to medical examination and evaluation as directed by the office.

Source:Laws 1969, c. 814, § 3, p. 3060; Laws 1973, LB 563, § 51; R.S.1943, (1994), § 83-4,102; Laws 1998, LB 1073, § 46.

43-415. Evaluation; time limitation; extension; hearing.

A juvenile placed for evaluation with the Office of Juvenile Services shall be returned to the court upon the completion of the evaluation or at the end of thirty days, whichever comes first. When the office finds that an extension of the thirty-day period is necessary to complete the evaluation, the court may order an extension not to exceed an additional thirty days. The court shall hold a hearing within ten days after the evaluation is completed and returned to the court by the office.

Source:Laws 1969, c. 814, § 5, p. 3060; Laws 1973, LB 563, § 52; Laws 1993, LB 31, § 50; Laws 1994, LB 988, § 39; R.S.1943, (1994), § 83-4,104; Laws 1998, LB 1073, § 47; Laws 2010, LB800, § 32.

43-416. Office of Juvenile Services; parole powers; notice to committing court.

The Office of Juvenile Services shall have administrative authority over the parole function for juveniles committed to a youth rehabilitation and treatment center and may (1) determine the time of release on parole of committed juveniles eligible for such release, (2) fix the conditions of parole, revoke parole, issue or authorize the issuance of detainers for the apprehension and detention of parole violators, and impose other sanctions short of revocation for violation of conditions of parole, and (3) determine the time of discharge from parole. The office shall provide the committing court with written notification of the juvenile's discharge from parole within thirty days of a juvenile being discharged from the supervision of the office.

Source:Laws 1998, LB 1073, § 48; Laws 2011, LB463, § 13.

43-417. Juvenile parole; considerations.

In administering juvenile parole, the Office of Juvenile Services shall consider whether (1) the juvenile has completed the goals of his or her individual treatment plan or received maximum benefit from institutional treatment, (2) the juvenile would benefit from continued services under community supervision, (3) the juvenile can function in a community setting, (4) there is reason to believe that the juvenile will not commit further violations of law, and (5) there is reason to believe that the juvenile will comply with the conditions of parole.

Source:Laws 1998, LB 1073, § 49.

43-418. Parole violations; apprehension and detention; when.

(1) Any juvenile parole officer or peace officer may apprehend and detain a juvenile who is on parole if the officer has reasonable cause to believe that a juvenile has violated or is about to violate a condition of his or her parole and that the juvenile will attempt to leave the jurisdiction or will place lives or property in danger unless the

Office of Juvenile Services Act

juvenile is detained. A juvenile parole officer may call upon a peace officer to assist him or her in apprehending and detaining a juvenile pursuant to this section. Such juvenile may be held in an appropriate juvenile facility pending hearing on the allegations.

(2) Juvenile parole officers may search for and seize contraband and evidence related to possible parole violations by a juvenile.

(3) Whether or not a juvenile is apprehended and detained by a juvenile parole officer or peace officer, if there is reason to believe that a juvenile has violated a condition of his or her parole, the Office of Juvenile Services may issue the juvenile written notice of the alleged parole violations and notice of a hearing on the alleged parole violations.

Source:Laws 1998, LB 1073, § 50.

43-419. Parole violation; preliminary hearing.

(1) When a juvenile is apprehended and detained for an alleged violation of juvenile parole, he or she shall have a preliminary hearing as soon as practicable and no later than within seventy-two hours of being apprehended and detained. An impartial hearing officer shall conduct the preliminary hearing. The impartial hearing officer shall not be the juvenile parole officer alleging the violation of parole or a witness to the alleged violation. The impartial hearing officer may be an employee of the Office of Juvenile Services, including a supervisor or a juvenile parole officer, other than the parole officer filing the allegations.

(2) The juvenile parolee shall receive notice of the preliminary hearing, its purpose, and the alleged violations prior to the commencement of the hearing. The juvenile parolee may present relevant information, question adverse witnesses, and make a statement regarding the alleged parole violations. The rules of evidence shall not apply at such hearings and the hearing officer may rely upon any available information.

(3) The hearing officer shall determine whether there is probable cause to believe that the juvenile has violated a term or condition of his or her parole and shall issue that decision in writing. The decision shall either indicate there is not probable cause to believe that the juvenile parolee has violated the terms of his or her parole and dismiss the allegations and return the juvenile to parole supervision, or it shall indicate there is probable cause to believe that the juvenile has violated a condition of parole and state where the juvenile will be held pending the revocation hearing. The preliminary hearing officer shall consider the seriousness of the alleged violation, the public safety, and the best interests of the juvenile in determining where the juvenile shall be held pending the revocation hearing.

Source:Laws 1998, LB 1073, § 51.

43-420. Hearing officer; requirements.

Any hearing required or permitted for juveniles in the custody of the Office of Juvenile Services, except a preliminary parole revocation hearing, shall be conducted by a hearing officer who is an attorney licensed to practice law in the State of Nebraska and may be an employee of the Department of Health and Human Services or an attorney who is an independent contractor. If the hearing officer is an employee of the department, he or she shall not be assigned to any duties requiring him or her to give ongoing legal advice to any person employed by or who is a contractor with the office.

Source:Laws 1998, LB 1073, § 52.

43-421. Parole violations; rights of juvenile.

Office of Juvenile Services Act

When a juvenile is charged with being in violation of a condition of his or her parole, the juvenile is entitled to:

(1) Notice of the alleged violations of parole at least twenty-four hours prior to a hearing on the allegations. Such notice shall contain a concise statement of the purpose of the hearing and the factual allegations upon which evidence will be offered;

(2) A prompt hearing, within fourteen days after the preliminary hearing, if the juvenile is being held pending the hearing;

(3) Reasonable continuances granted by the hearing officer for the juvenile to prepare for the hearing;

(4) Have his or her parents notified of the hearing and allegations and have his or her parents attend the hearing;

(5) Be represented by legal counsel at the expense of the Department of Health and Human Services unless retained legal counsel is available to the juvenile. The department may contract with attorneys to provide such representation to juveniles charged with parole violations;

(6) Compel witnesses to attend, testify on his or her own behalf, present evidence, and cross-examine witnesses against him or her; and

(7) Present a statement on his or her own behalf.

Source:Laws 1998, LB 1073, § 53.

43-422. Parole violation; waiver and admission.

After receiving notice of the allegations of a violation of parole, being notified of the possible consequences, being informed of his or her rights pertaining to the hearing, and having an opportunity to confer with his or her parents or precommitment custodian and legal counsel, if desired, the juvenile may waive his or her right to a hearing and admit to the allegations. Such waiver and admission shall be in writing and submitted, together with a recommended disposition by the hearing officer, to the Administrator of the Office of Juvenile Services or his or her designee.

Source:Laws 1998, LB 1073, § 54.

43-423. Parole violation hearing; requirements; appeal.

At the parole violation hearing, the hearing officer shall again advise the juvenile of his or her rights and ensure that the juvenile has received the notice of allegations and the possible consequences. Strict rules of evidence shall not be applied. The hearing officer shall determine whether the detention of the juvenile or other restrictions are necessary for the safety of the juvenile or for the public safety and shall indicate to what extent the juvenile will continue to be detained or restricted pending a final decision and administrative appeal. The hearing officer shall issue a written recommended disposition to the Administrator of the Office of Juvenile Services or his or her designee who shall promptly affirm, modify, or reverse the recommended disposition. The final decision of the administrator or his or her designee may be appealed pursuant to the Administrative Procedure Act. The Department of Health and Human Services shall be deemed to have acted within its jurisdiction if its action is in the best interests of the juvenile with due consideration being given to public safety. The appeal shall in all other respects be governed by the Administrative Procedure Act.

Source:Laws 1998, LB 1073, § 55.

Office of Juvenile Services Act

Cross References

Administrative Procedure Act, see section 84-920.

DHHS/OJS Structure & Statutory Responsibilities September 26, 2012

Presenters:

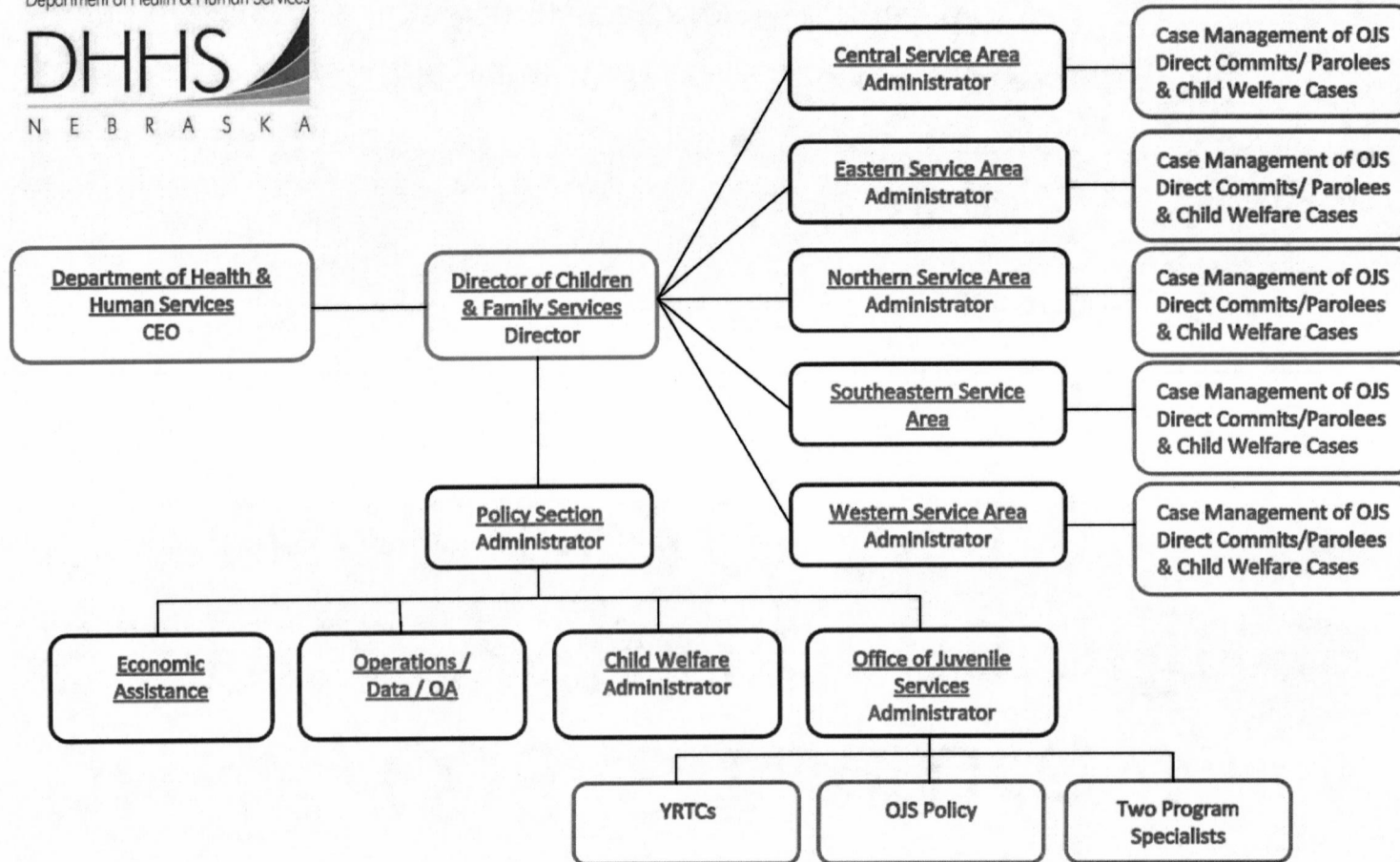
Terri Nutzman, Administrator of the Office of Juvenile Services

Jana Peterson, Facility Administrator of YRTC-Kearney

Dan Scarborough, Facility Administrator of YRTC-Geneva

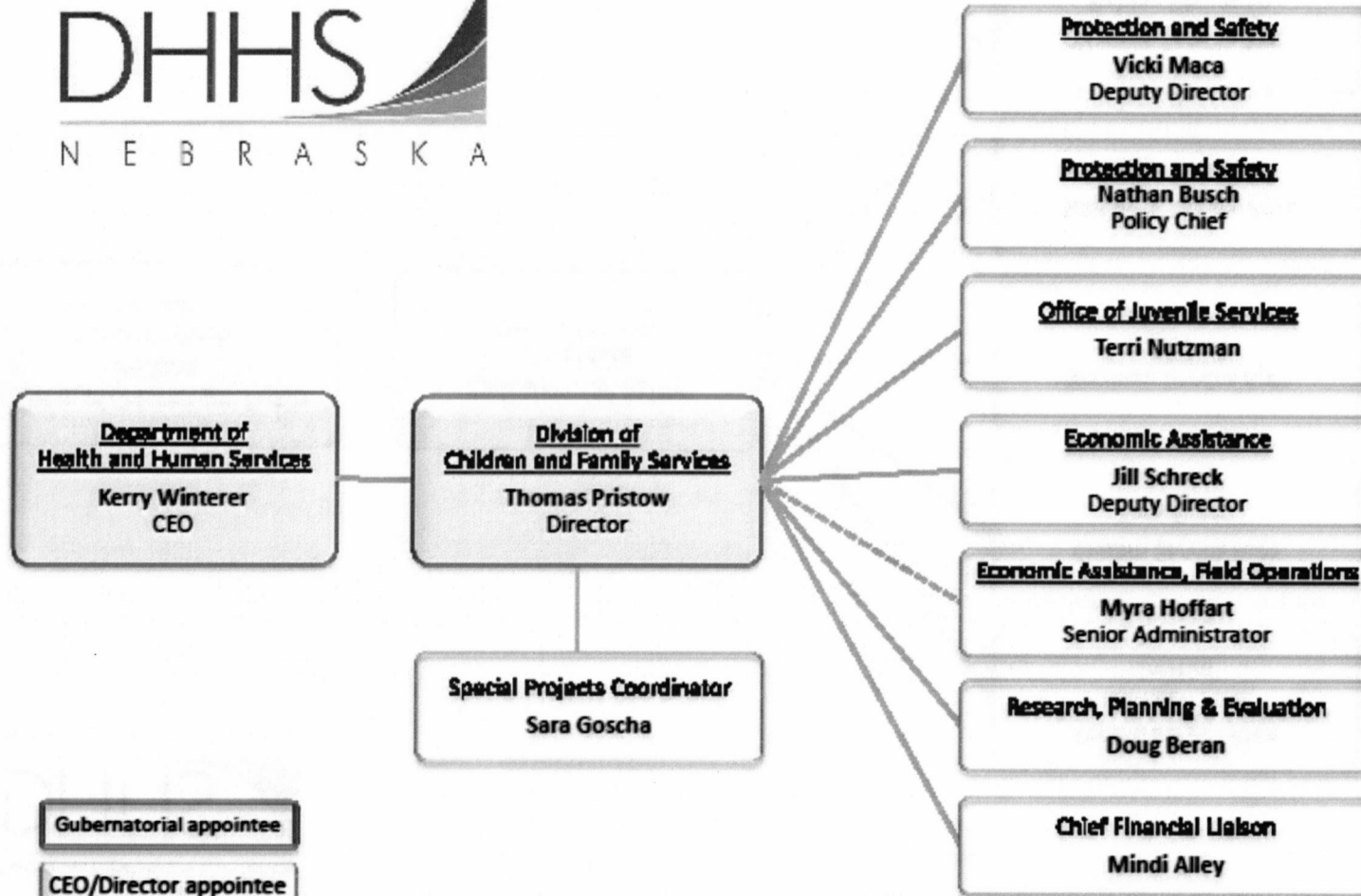
DHHS/OJS Pre LB821 Organizational Structure

April 18, 2012



DHHS/OJS Post LB821 Organizational Structure

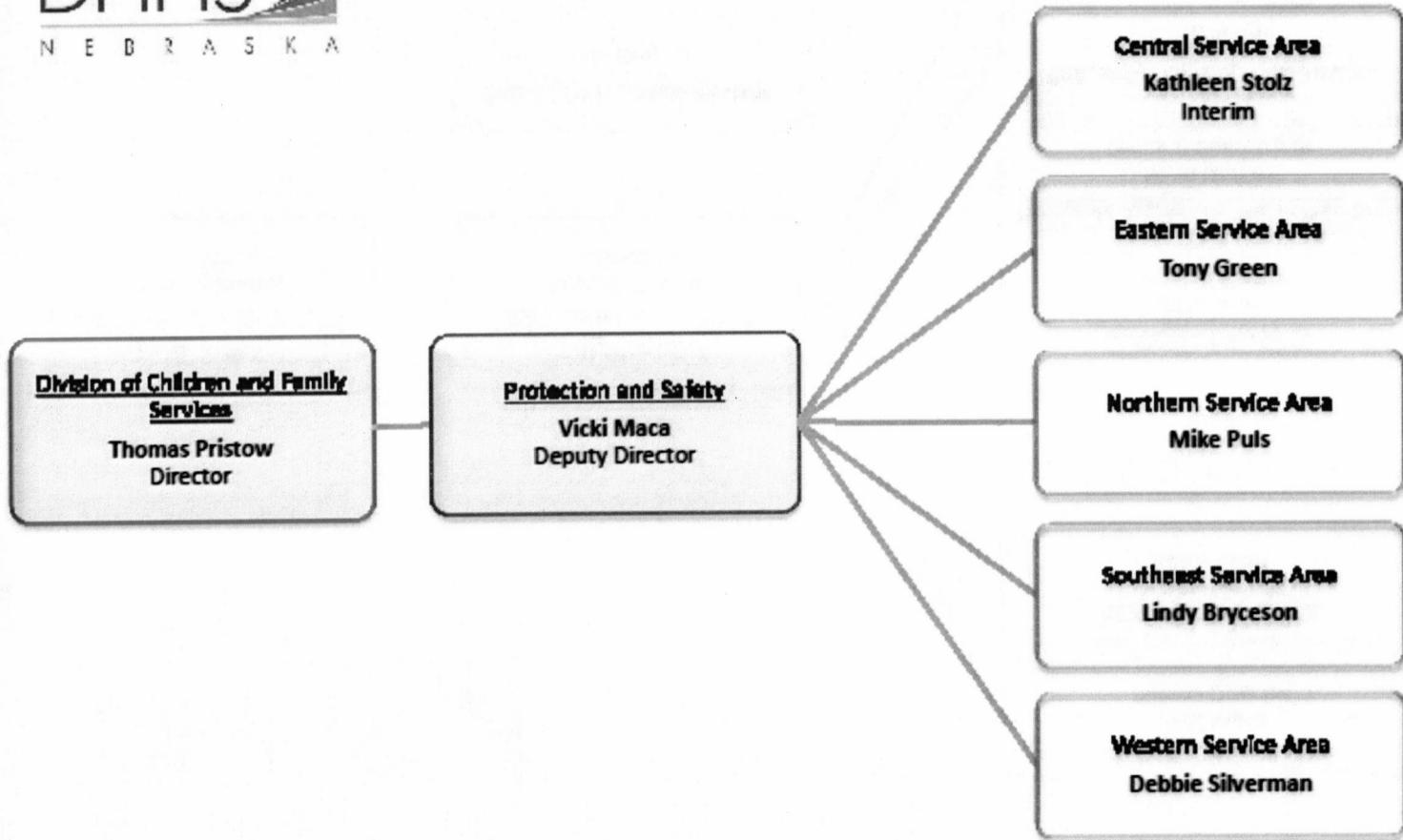
Department of Health & Human Services



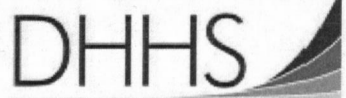
Gubernatorial appointee

CEO/Director appointee

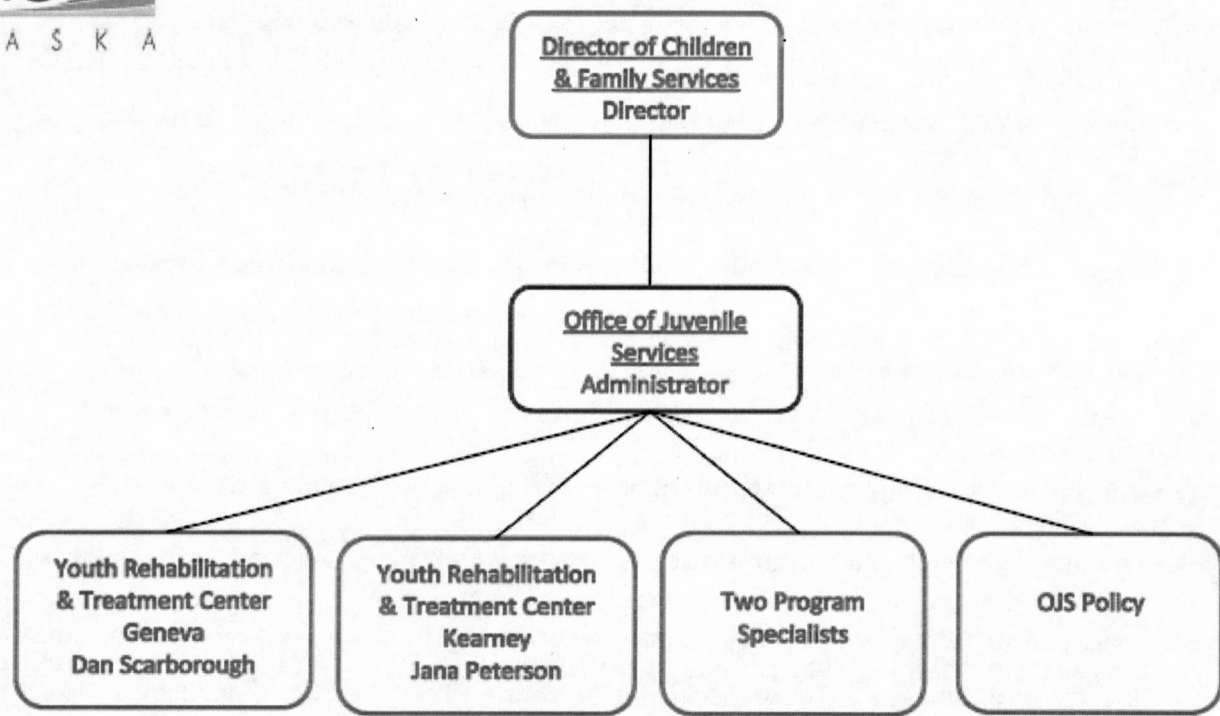
08/20/2012



Department of Health & Human Services



N E B R A S K A



Department of Health & Human Services, Office of Juvenile Services Act

- I. The Administrator of the Office of Juvenile Services shall be responsible for the administration of the facilities and programs of the office. The legal authority and responsibilities of the Office of Juvenile Services pursuant to Nebr. Rev. Stat. Section 43-401 to 43-423 are summarized as follows:
 - • Manage, establish policies for, and administer the office, including all facilities (YRTCs) and programs operated by the office
 - • Supervise employees of the office, including employees of the facilities and programs operated by the office
 - • Develop and report separate budgeting procedures and report same separately from DHHS
 - • Adopt and promulgate rules and regulations for the levels of treatment and management, control, screening, evaluation, treatment, rehabilitation, parole, transfer and discharge of juveniles placed with or committed to OJS
 - • Supervise and coordinate juvenile parole which includes the supervision, control and care of parolees
 - • Ensure data is developed, collected and maintained for purposes of research and development of treatment programs
 - • Coordinate community-based services for juveniles and their families
 - • Issue detainers
 - • Affirms, modifies or reverses the recommendation of the hearing officer on a violation of parole
 - • Exercise all powers and perform all duties necessary to carry out responsibilities
 - • Prepare OJS Annual Report for the Legislature to include YRTC Annual Reports
- II. In addition to specific OJS statutory authority, OJS coordinates and monitors with state probation the Interstate Compact for Juveniles (ICJ)

○ **IN SEPTEMBER OF 2012 THE DIRECTOR OF CHILDREN AND FAMILY SERVICES APPROVED THE INTEGRATION OF THE OF THE OFFICE OF JUVENILE SERVICES ADMINISTRATOR INTO SERVICE AREA FIELD OPERATIONS AS FOLLOWS:**

- Attend monthly Operations/CQI meetings to begin 9/20/12
- Provide consultation and guidance to the field on OJS matters to include interpretation of and change of policy if needed
- Provide guidance and assistance to the field on ICJ and Revocation of Parole Issues (Program Specialists to assist)
- Problem-solve field issues regarding OJS youth
- Provide coordination of community-based services for OJS youth via partnership with Service Area Administrators
- Enhance discharge/transition of paroled youth via partnership with Service Area Administrators

Delinquency & Dual Adjudicated Youth Served During SFY 2012 by Service Area

	Central	Eastern	Northern	Southeast	Western	State
Delinquency	242	620	303	670	171	2006
Delinquency & Status Offender	19	84	12	105	71	291
Delinquency & Abuse/Neglect	11	30	6	28	4	79
Delinquency, Status Offender & Abuse/Neglect	0	4	5	9	0	18
Delinquency & Dependency	1	1	0	2	2	6
Delinquency, Status Offender & Dependency	1	0	0	1	1	3
Delinquency, Abuse/Neglect & Dependency	0	0	0	1	0	1
Total	274	739	326	816	249	2404

LB961 Required Case Load Size for State Wards In-Home and Out of Home – Number of OJS State Wards (does not include dual adjudicated) by Service Area on September 24, 2012.

Service Area	Number of In-Home OJS Wards in Families	Number of Out-of-Home OJS Wards	Number of Required In-Home Case Managers	Number of Required Out-of-Home Case Managers	Total
Central	67	83	3.9	5.2	9.1
Eastern	103	229	6.1	14.3	20.4
Northern	101	97	5.9	6.1	12.0
Southeastern	140	199	8.2	12.4	20.7
Western	40	70	2.4	4.4	6.7
Grand Total	451	678	26.5	42.4	67.9

- Youth In-home case load size not to exceed 1 case manager per 17 families
- Youth Out-of-Home case load size not to exceed 1 case manager per 16 youth

YRTC's Fact Sheet for FY 2011/2012

	Geneva	Kearney
Rated Capacity	82	172
Average Length of Stay	198 days 6.61 months	154 days 5.1 months
Average Daily Population	81	160
Total Admissions	140	425
Total Parole Violators	17	64
Total Recommitments	5	56
Admissions By Offense:		
Assault	34%	21%
Theft	14%	17%
Other	52%	62%
Average Age at Admission	16.17 years	16.7 years
Recidivism Rate	9.03%	27%
Juvenile on Juvenile Assaults	17	301
Juvenile on Staff Assaults	46	86
Escapes	6	20
Attempted Escapes	0	11

Probation Pilot Program

- An interagency agreement was developed between DHHS and the Office of Probation Administration in 2009 in an effort to reduce the number of delinquent and 3b youth becoming state wards for the sole purpose of accessing resources and services and to reduce the number of youth who were dually supervised by probation and DHHS. The agreement was implemented in Douglas County as a pilot. The contract ended at the end of FY2011/2012 with the passage of LB985. LB985 appropriated DHHS funds to the Office of Probation Administration in order to continue with the intent of the original interagency agreement in Judicial District 4J as well as expand the program to Judicial Districts 11 and 12. The effectiveness of the program is being evaluated by the University of Nebraska Medical Center which will be reported to the legislature. DHHS and Probation Administration continue to collaborate by meeting with UNMC to develop and collect the data sets that will be needed to determine cost effectiveness.

LB985 Impact

Signed by Governor 4/5/12 to go into effect immediately.

Transferred \$8,408,817 from DHHS to Nebraska Supreme Court for Probation to provide services for and supervise 3b (status offender) and delinquent youth.

3b (status offender) and Delinquent Youth in Douglas County (Judicial District 4J) Committed to DHHS and OJS Custody in July and August of 2012 by the Court			
Type of Case:	July	August	Total
3b	8	4	12
OJS	10	7	17
Totals:	18	12	29

3b (status offender) and Delinquent Youth in Western Service Area (Judicial Districts 11 and 12) Committed to DHHS and OJS Custody in July and August of 2012 by the Court			
Type of Case:	July	August	Total
3b	3	5	8
OJS	3	3	6
Totals:	6	8	12

○ THANK YOU

○ Questions or comments please contact:

○ Thomas Pristow, Director of Children and Family Services

○ Thomas.Pristow@Nebraska.gov or (402)471-1878

○ Terri Nutzman, Administrator of the Office of Juvenile Services

○ Terri.Nutzman@Nebraska.gov or (402)471-8403

○ Jana Peterson, Facility Administrator at YRTC-Kearney

○ Jana.Peterson@Nebraska.gov or (308)338-2000

○ Dan Scarborough, Facility Administrator at YRTC-Geneva

○ Dan.Scarborough@Nebraska.gov or (402)759-3164 ext. 225