

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 271**

Introduced by McKinney, 11.

Read first time January 10, 2023

Committee:

- 1 A BILL FOR AN ACT relating to child abuse and neglect; to amend sections
- 2 28-711, 28-714, 28-715, and 28-729, Reissue Revised Statutes of
- 3 Nebraska, and sections 28-710, 28-716, and 28-728, Revised Statutes
- 4 Cumulative Supplement, 2022; to define terms; to change reporting
- 5 requirements; to provide for training requirements for certain
- 6 reporters; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-710, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3 28-710 (1) Sections 28-710 to 28-727 shall be known and may be cited  
4 as the Child Protection and Family Safety Act.

5 (2) For purposes of the Child Protection and Family Safety Act:

6 (a) Alternative response means a comprehensive assessment of (i)  
7 child safety, (ii) the risk of future child abuse or neglect, (iii)  
8 family strengths and needs, and (iv) the provision of or referral for  
9 necessary services and support. Alternative response is an alternative to  
10 traditional response and does not include an investigation or a formal  
11 determination as to whether child abuse or neglect has occurred, and the  
12 subject of the report shall not be entered into the central registry of  
13 child protection cases maintained pursuant to section 28-718;

14 (b) Child abuse or neglect means knowingly, intentionally, or  
15 negligently causing or permitting a minor child to be:

16 (i) Placed in a situation that endangers his or her life or physical  
17 or mental health;

18 (ii) Cruelly confined or cruelly punished;

19 (iii) Deprived of necessary food, clothing, shelter, or care;

20 (iv) Left unattended in a motor vehicle if such minor child is six  
21 years of age or younger;

22 (v) Placed in a situation to be sexually abused;

23 (vi) Placed in a situation to be sexually exploited through sex  
24 trafficking of a minor as defined in section 28-830 or by allowing,  
25 encouraging, or forcing such person to engage in debauchery, public  
26 indecency, or obscene or pornographic photography, films, or depictions;  
27 or

28 (vii) Placed in a situation to be a trafficking victim as defined in  
29 section 28-830;

30 (c) Child advocacy center means a community-based organization that

31 (i) provides an appropriate site for conducting forensic interviews as

1 defined in section 28-728 and referring victims of child abuse or neglect  
2 and appropriate caregivers for such victims to needed evaluation,  
3 services, and supports, (ii) assists county attorneys in facilitating  
4 case reviews, developing and updating protocols, and arranging training  
5 opportunities for the teams established pursuant to sections 28-728 and  
6 28-729, and (iii) is a member, in good standing, of a state chapter as  
7 defined in 34 U.S.C. 20302;

8 (d) Comprehensive assessment means an analysis of child safety, risk  
9 of future child abuse or neglect, and family strengths and needs on a  
10 report of child abuse or neglect using an evidence-informed and validated  
11 tool. Comprehensive assessment does not include a finding as to whether  
12 the child abuse or neglect occurred but does determine the need for  
13 services and support, if any, to address the safety of children and the  
14 risk of future abuse or neglect;

15 (e) Department means the Department of Health and Human Services;

16 (f) Investigation means fact gathering by the department, using an  
17 evidence-informed and validated tool, or by law enforcement related to  
18 the current safety of a child and the risk of future child abuse or  
19 neglect that determines whether child abuse or neglect has occurred and  
20 whether child protective services are needed;

21 (g) Kin caregiver means a person with whom a child in foster care  
22 has been placed or with whom a child is residing pursuant to a temporary  
23 living arrangement in a non-court-involved case, who has previously lived  
24 with or is a trusted adult that has a preexisting, significant  
25 relationship with the child or with a sibling of such child placed  
26 pursuant to section 43-1311.02;

27 (h) Law enforcement agency means the police department or town  
28 marshal in incorporated municipalities, the office of the sheriff in  
29 unincorporated areas, and the Nebraska State Patrol;

30 (i) Medical professional means any individual engaged in the  
31 examination, care, or treatment of persons and is lawfully practicing in

1 Nebraska as a physician, doctor of osteopathy, resident, intern, medical  
2 administrator or personnel, psychiatrist, psychologist, surgeon, dentist,  
3 dental hygienist, physician assistant, emergency medical technician,  
4 physical therapist, physical therapy assistant, occupational therapist,  
5 occupational therapy assistant, acupuncturist, registered nurse, licensed  
6 practical nurse, genetic counselor, respiratory care practitioner, home  
7 health aide, or certified nursing assistant;

8       (j) ~~(i)~~ Non-court-involved case means an ongoing case opened by the  
9 department following a report of child abuse or neglect in which the  
10 department has determined that ongoing services are required to maintain  
11 the safety of a child or alleviate the risk of future abuse or neglect  
12 and in which the family voluntarily engages in child protective services  
13 without a filing in a juvenile court;

14       (k) ~~(j)~~ Out-of-home child abuse or neglect means child abuse or  
15 neglect occurring outside of a child's family home, including in day care  
16 homes, foster homes, day care centers, residential child-caring agencies  
17 as defined in section 71-1926, other child care facilities or  
18 institutions, and the community. Out-of-home child abuse or neglect also  
19 includes cases in which the subject of the report of child abuse or  
20 neglect is not a member of the child's household, no longer has access to  
21 the child, is unknown, or cannot be identified;

22       (l) Position of trust includes, but is not limited to:

23       (i) Any person who is a parent or acting in the place of a parent  
24 and charged with parental rights, duties, or responsibilities for a  
25 child, including a guardian or a person responsible for the general  
26 supervision of a child's welfare; or

27       (ii) Any person charged with any duty or responsibility for the  
28 health, education, welfare, or supervision of a child, including a  
29 provider of foster care, child care, family care, or institutional care,  
30 either independently or through another person, regardless of the amount  
31 of time the person holds such duty or responsibility for the child;

1           (m) ~~(k)~~ Relative caregiver means a person with whom a child is  
2 placed by the department and who is related to the child, or to a sibling  
3 of such child pursuant to section 43-1311.02, by blood, marriage, or  
4 adoption or, in the case of an Indian child, is an extended family member  
5 as defined in section 43-1503;

6           (n) ~~(l)~~ Report means any communication received by the department or  
7 a law enforcement agency pursuant to the Child Protection and Family  
8 Safety Act that describes child abuse or neglect and contains sufficient  
9 content to identify the child who is the alleged victim of child abuse or  
10 neglect;

11           (o) ~~(m)~~ Review, Evaluate, and Decide Team means an internal team of  
12 staff within the department and shall include no fewer than two  
13 supervisors or administrators and two staff members knowledgeable on the  
14 policies and practices of the department, including, but not limited to,  
15 the structured review process. County attorneys, child advocacy centers,  
16 or law enforcement agency personnel may attend team reviews upon request  
17 of a party;

18           (p) ~~(n)~~ School employee means a person nineteen years of age or  
19 older who is employed by a public, private, denominational, or parochial  
20 school approved or accredited by the State Department of Education;

21           (q) ~~(o)~~ Student means a person less than nineteen years of age  
22 enrolled in or attending a public, private, denominational, or parochial  
23 school approved or accredited by the State Department of Education, or  
24 who was such a person enrolled in or who attended such a school within  
25 ninety days of any violation of section 28-316.01;

26           (r) ~~(p)~~ Traditional response means an investigation by a law  
27 enforcement agency or the department pursuant to section 28-713 which  
28 requires a formal determination of whether child abuse or neglect has  
29 occurred; and

30           (s) ~~(q)~~ Subject of the report of child abuse or neglect or subject  
31 of the report means the person or persons identified in the report as

1 responsible for the child abuse or neglect.

2 Sec. 2. Section 28-711, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 28-711 (1) Except as otherwise provided in this section, when ~~when~~  
5 any medical professional, mental health professional, physician, ~~any~~  
6 ~~medical institution, any nurse, any school employee, any social worker,~~  
7 child care provider, member of a law enforcement agency, clergy member,  
8 or the Inspector General appointed under section 43-4317, in such  
9 person's professional capacity or within the scope of such person's  
10 employment, or any other person has knowledge of reasonable cause to  
11 ~~believe that a child has been subjected to child abuse or neglect or~~  
12 ~~observes a such~~ child being subjected to conditions or circumstances  
13 which reasonably would result from or in child abuse or neglect, he or  
14 she shall report such knowledge or observation ~~incident~~ or cause a report  
15 of child abuse or neglect to be made to the proper law enforcement agency  
16 or to the department on the toll-free number established by subsection  
17 (5) ~~(2)~~ of this section. Such report may be made orally by telephone with  
18 the caller giving his or her name and address, shall be followed by a  
19 written report, and to the extent available shall contain the address and  
20 age of the abused or neglected child, the address of the person or  
21 persons having custody of the abused or neglected child, the nature and  
22 extent of the child abuse or neglect or the conditions and circumstances  
23 which would reasonably result in such child abuse or neglect, any  
24 evidence of previous child abuse or neglect including the nature and  
25 extent, and any other information which in the opinion of the person may  
26 be helpful in establishing the cause of such child abuse or neglect and  
27 the identity of the perpetrator or perpetrators. Law enforcement agencies  
28 receiving any reports of child abuse or neglect under this subsection  
29 shall notify the department pursuant to section 28-718 on the next  
30 working day by telephone or mail.

31 (2) Any other person who has knowledge of, or observes, a child

1 being subjected to conditions or circumstances which reasonably would  
2 result in child abuse or neglect, may report such knowledge or  
3 observation pursuant to the procedure described in subsection (1) of this  
4 section. This includes, but is not limited to, mandatory reporters not  
5 acting in their professional capacity or within the scope of their  
6 employment and volunteers of public or private organizations that employ  
7 mandatory reporters.

8 (3) The reporting requirements described in subsection (1) of this  
9 section shall not apply if:

10 (a) The person who is otherwise required to report, in using such  
11 person's professional judgment, does not have reasonable cause to know or  
12 suspect that the perpetrator of the suspected abuse or neglect:

13 (i) Has subjected, or is reasonably likely to subject, any other  
14 child currently under nineteen years of age to abuse or neglect or to  
15 circumstances or conditions that would likely result in abuse or neglect;  
16 and

17 (ii) Is currently in a position of trust with regard to a child  
18 under nineteen years of age;

19 (b) The victim of suspected child abuse or neglect is:

20 (i) Twelve years of age or older; and

21 (ii) Has requested that such knowledge or observation not be  
22 reported; and

23 (c) The person who is otherwise required to report, in the person's  
24 reasonable professional judgment, believes:

25 (i) Such request has not been coerced or made out of threats from  
26 the suspected perpetrator or any other individual; and

27 (ii) The suspected harm would not be repeated with the suspected  
28 victim or any other child under nineteen years of age.

29 (4) Whenever a person is required to report suspected child abuse or  
30 neglect under subsection (1) of this section, while working in such  
31 person's official capacity as an employee of an institution, including,

1 but not limited to, a medical institution, school, or religious  
2 organization, institution, facility, or agency, public or private, such  
3 person may notify the individual in charge of such institution, or the  
4 individual's designated agent, of such suspected child abuse or neglect.  
5 Such person, or the designated agent, shall then make the report pursuant  
6 to the procedure described in subsection (1) of this section. Nothing in  
7 this section is intended to require more than one report from any such  
8 organization, institution, facility, or agency.

9       (5) ~~(2)~~ The department shall establish a statewide toll-free number  
10 to be used by any person any hour of the day or night, any day of the  
11 week, to make reports of child abuse or neglect. Reports of child abuse  
12 or neglect not previously made to or by a law enforcement agency shall be  
13 made immediately to such agency by the department.

14       (6)(a) Beginning January 1, 2024, each person required to report  
15 suspected child abuse or neglect under subsection (1) of this section  
16 shall complete training within the first ninety days of beginning  
17 employment or service in the person's official capacity as a mandatory  
18 reporter of suspected child abuse or neglect and at least every two years  
19 thereafter. The training shall include:

20       (i) Identification of child abuse and neglect;

21       (ii) Reporting of child abuse and neglect;

22       (iii) Trauma-informed responses to suspected child abuse and  
23 neglect;

24       (iv) Implicit bias, cultural competency, and race-conscious  
25 reporting; and

26       (v) Alternatives to child abuse and neglect reporting, including  
27 available community resources and preventative services.

28       (b) No later than January 1, 2024, the department shall make  
29 publicly available a free, online training for all persons required to  
30 report suspected child abuse and neglect consistent with the requirements  
31 of subdivision (6)(a) of this section. Such training shall include, but



1 not be limited to, the subjects listed in subdivisions (6)(a)(i) to (6)  
2 (a)(v) of this section and shall be created in consultation with  
3 organizations with expertise and experience in the areas of implicit bias  
4 and culturally diverse family systems and shall be updated every five  
5 years.

6 (7) The department shall adopt and promulgate rules and regulations  
7 to implement this section by October 1, 2024.

8 Sec. 3. Section 28-714, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 28-714 The privileged communication between patient and physician,  
11 between client and professional counselor, and between husband and wife  
12 shall not be a ground for excluding evidence in any judicial proceeding  
13 resulting from a report of child abuse or neglect made pursuant to  
14 ~~required by~~ section 28-711.

15 Sec. 4. Section 28-715, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 28-715 The department shall retain all information from all reports  
18 of suspected child abuse or neglect made pursuant to ~~required by~~ section  
19 28-711 and all records generated as a result of such reports in a  
20 tracking system of child protection cases. The tracking system shall be  
21 used for statistical purposes as well as a reference for future  
22 investigations if subsequent reports of child abuse or neglect are made  
23 involving the same victim or subject of a report of child abuse or  
24 neglect.

25 Sec. 5. Section 28-716, Revised Statutes Cumulative Supplement,  
26 2022, is amended to read:

27 28-716 Any person participating in an investigation or the making of  
28 a report of child abuse or neglect made pursuant to ~~required by~~ section  
29 28-711 pursuant to or participating in a judicial proceeding resulting  
30 therefrom or providing information or assistance, including a medical  
31 evaluation or consultation in connection with an investigation, a report,

1 or a judicial proceeding pursuant to a report of child abuse or neglect,  
2 shall be immune from any liability, civil or criminal, that might  
3 otherwise be incurred or imposed, except for maliciously false  
4 statements.

5 Sec. 6. Section 28-728, Revised Statutes Cumulative Supplement,  
6 2022, is amended to read:

7 28-728 (1) The Legislature finds that child abuse and neglect are  
8 community problems requiring a coordinated response by law enforcement,  
9 child advocacy centers, prosecutors, the Department of Health and Human  
10 Services, and other agencies or entities designed to protect children. It  
11 is the intent of the Legislature to create a child abuse and neglect  
12 investigation team in each county or contiguous group of counties and to  
13 create a child abuse and neglect treatment team in each county or  
14 contiguous group of counties.

15 (2) Each county or contiguous group of counties will be assigned by  
16 the Department of Health and Human Services to a child advocacy center.  
17 The purpose of a child advocacy center is to provide a child-focused  
18 location for conducting forensic interviews and medical evaluations for  
19 alleged child victims of abuse and neglect and for coordinating a  
20 multidisciplinary team response that supports the physical, emotional,  
21 and psychological needs of children who are alleged victims of abuse or  
22 neglect. Each child advocacy center shall meet accreditation criteria set  
23 forth by the National Children's Alliance. Nothing in this section shall  
24 prevent a child from receiving treatment or other services at a child  
25 advocacy center which has received or is in the process of receiving  
26 accreditation.

27 (3) Each county attorney or the county attorney representing a  
28 contiguous group of counties is responsible for convening the child abuse  
29 and neglect investigation team and ensuring that protocols are  
30 established and implemented. A representative of the child advocacy  
31 center assigned to the team shall assist the county attorney in

1 facilitating case review, developing and updating protocols, and  
2 arranging training opportunities for the team. Each team must have  
3 protocols which, at a minimum, shall include procedures for:

4 (a) Mandatory reporting of child abuse and neglect, as outlined in  
5 section 28-711, to include training to professionals on identification  
6 and reporting of abuse and the subjects listed in subdivisions (6)(a)(i)  
7 to (6)(a)(v) of section 28-711;

8 (b) Assigning roles and responsibilities between law enforcement and  
9 the Department of Health and Human Services for the initial response;

10 (c) Outlining how reports will be shared between law enforcement and  
11 the Department of Health and Human Services under sections 28-712.01 and  
12 28-713;

13 (d) Coordinating the investigative response including, but not  
14 limited to:

15 (i) Defining cases that require a priority response;

16 (ii) Contacting the reporting party;

17 (iii) Arranging for a video-recorded forensic interview at a child  
18 advocacy center for children who are three to eighteen years of age and  
19 are alleged to be victims of sexual abuse or serious physical abuse or  
20 neglect, have witnessed a violent crime, are found in a drug-endangered  
21 environment, or have been recovered from a kidnapping;

22 (iv) Assessing the need for and arranging, when indicated, a medical  
23 evaluation of the alleged child victim;

24 (v) Assessing the need for and arranging, when indicated,  
25 appropriate mental health services for the alleged child victim or  
26 nonoffender caregiver;

27 (vi) Conducting collateral interviews with other persons with  
28 information pertinent to the investigation including other potential  
29 victims;

30 (vii) Collecting, processing, and preserving physical evidence  
31 including photographing the crime scene as well as any physical injuries

1 as a result of the alleged child abuse and neglect; and

2 (viii) Interviewing the alleged perpetrator;

3 (e) Reducing the risk of harm to alleged child abuse and neglect  
4 victims;

5 (f) Ensuring that the child is in safe surroundings, including  
6 removing the perpetrator when necessary or arranging for temporary  
7 custody of the child when the child is seriously endangered in his or her  
8 surroundings and immediate removal appears to be necessary for the  
9 child's protection as provided in section 43-248;

10 (g) Sharing of case information between team members; and

11 (h) Outlining what cases will be reviewed by the investigation team  
12 including, but not limited to:

13 (i) Cases of sexual abuse, serious physical abuse and neglect, drug-  
14 endangered children, and serious or ongoing domestic violence;

15 (ii) Cases determined by the Department of Health and Human Services  
16 to be high or very high risk for further maltreatment; and

17 (iii) Any other case referred by a member of the team when a system-  
18 response issue has been identified.

19 (4) Each county attorney or the county attorney representing a  
20 contiguous group of counties is responsible for convening the child abuse  
21 and neglect treatment team and ensuring that protocols are established  
22 and implemented. A representative of the child advocacy center appointed  
23 to the team shall assist the county attorney in facilitating case review,  
24 developing and updating protocols, and arranging training opportunities  
25 for the team. Each team must have protocols which, at a minimum, shall  
26 include procedures for:

27 (a) Case coordination and assistance, including the location of  
28 services available within the area;

29 (b) Case staffings and the coordination, development,  
30 implementation, and monitoring of treatment or safety plans particularly  
31 in those cases in which ongoing services are provided by the Department

1 of Health and Human Services or a contracted agency but the juvenile  
2 court is not involved;

3 (c) Reducing the risk of harm to child abuse and neglect victims;

4 (d) Assisting those child abuse and neglect victims who are abused  
5 and neglected by perpetrators who do not reside in their homes; and

6 (e) Working with multiproblem status offenders and delinquent youth.

7 (5) For purposes of sections 28-728 to 28-730, forensic interview  
8 means a video-recorded interview of an alleged child victim conducted at  
9 a child advocacy center by a professional with specialized training  
10 designed to elicit details about alleged incidents of abuse or neglect,  
11 and such interview may result in intervention in criminal or juvenile  
12 court.

13 Sec. 7. Section 28-729, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 28-729 (1) A child abuse and neglect investigation team shall  
16 include a representative from the county attorney's office, a  
17 representative from the Division of Children and Family Services of the  
18 Department of Health and Human Services, a representative from each law  
19 enforcement agency which has jurisdiction within the county or contiguous  
20 group of counties, a representative from the child advocacy center, and  
21 representatives from such other agencies as determined by the team.

22 (2) A child abuse and neglect treatment team shall include a  
23 representative from the Division of Children and Family Services of the  
24 Department of Health and Human Services, a juvenile probation officer, a  
25 representative from each of the mental health profession and the medical  
26 profession actively practicing within the county or contiguous group of  
27 counties, a representative from each school district which provides  
28 services within the county or contiguous group of counties, a  
29 representative from the child advocacy center, and representatives from  
30 such other agencies as determined by the team. For purposes of this  
31 subsection, more than one school district may be represented by the same

1 individual.

2 (3) The teams established pursuant to this section and section  
3 28-728 shall be encouraged to expand their membership to include the  
4 various relevant disciplines which exist within the county or contiguous  
5 group of counties. The additional members shall have the requisite  
6 experience necessary as determined by the core members of the teams.  
7 Consistent with requirements set out by the teams, all members of both  
8 teams shall attend child abuse and neglect training on an annual basis.  
9 Such training shall be no less than eight hours annually and consist of  
10 the following components:

11 (a) Child abuse and neglect investigation procedures;

12 (b) Legal requirements and procedures for successful prosecution of  
13 child abuse and neglect cases;

14 (c) Roles and responsibilities of child protective services, law  
15 enforcement agencies, county attorneys, child advocacy centers, the  
16 Attorney General, and judges;

17 (d) Characteristics of child development and family dynamics;

18 (e) Recognition of various types of abuse and neglect;

19 (f) Duties ~~Duty~~ of public and private individuals and agencies,  
20 including schools, governmental agencies, physicians, and child  
21 advocates, to report suspected or known child abuse;

22 (g) Multidisciplinary approaches to providing services to children;

23 ~~and~~

24 (h) Continually identifying and improving weaknesses in the current  
25 child protection system and development of ~~developing~~ ongoing best  
26 practices; and -

27 (i) The subjects listed in subdivisions (6)(a)(i) to (6)(a)(v) of  
28 section 28-711.

29 (4) The representative of the child advocacy center shall report the  
30 name and address of each team member and the number of times the team met  
31 within a calendar year to the Nebraska Commission on Law Enforcement and

1 Criminal Justice.

2 (5) Each team shall meet at a location agreed to by the team. The  
3 number of meetings of the team shall be secondary to the caseload of the  
4 team, but each team shall meet at least quarterly. Each team may  
5 substitute a telephone conference call among team members in lieu of  
6 meeting in person. If a team fails to convene, the commission shall  
7 notify the Child Protection Division of the office of the Attorney  
8 General and the division shall appoint the team members or convene the  
9 team pursuant to sections 28-728 to 28-730. Nothing in this section shall  
10 relieve the county attorney from ensuring that the teams meet as required  
11 by this section.

12 Sec. 8. Original sections 28-711, 28-714, 28-715, and 28-729,  
13 Reissue Revised Statutes of Nebraska, and sections 28-710, 28-716, and  
14 28-728, Revised Statutes Cumulative Supplement, 2022, are repealed.