

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 339**

Introduced by Ashford, 20.

Read first time January 12, 2011

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to the Nebraska Juvenile Code; to amend section
- 2 43-258, Revised Statutes Cumulative Supplement, 2010; to
- 3 change predisposition evaluation provisions; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 43-258, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           43-258 (1) Pending the adjudication of any case under the  
4 Nebraska Juvenile Code, the court may order the juvenile examined by  
5 a physician, surgeon, psychiatrist, duly authorized community mental  
6 health service program, or psychologist to aid the court in  
7 determining (a) a material allegation in the petition relating to the  
8 juvenile's physical or mental condition, (b) the juvenile's  
9 competence to participate in the proceedings, (c) the juvenile's  
10 responsibility for his or her acts, or (d) whether or not to provide  
11 emergency medical treatment.

12           (2) Pending the adjudication of any case under the  
13 Nebraska Juvenile Code and after a showing of probable cause that the  
14 juvenile is within the court's jurisdiction, for the purposes of  
15 subsection (1) of this section, the court may order such juvenile to  
16 ~~be placed in one of the facilities or institutions of the State of~~  
17 ~~Nebraska. Such juvenile shall not be placed in an adult correctional~~  
18 ~~facility, the secure youth confinement facility operated by the~~  
19 ~~Department of Correctional Services, or a youth rehabilitation and~~  
20 ~~treatment center. Any placement for evaluation may be made on a~~  
21 ~~residential or nonresidential basis for a period not to exceed thirty~~  
22 ~~days except as provided by section 43-415. The head of any facility~~  
23 ~~or institution shall make a complete evaluation of the juvenile,~~  
24 ~~including any authorized area of inquiry requested by the court. with~~  
25 the Department of Health and Human Services for evaluation. The

1 department shall make arrangements for an appropriate evaluation,  
2 including any authorized area of inquiry requested by the court. The  
3 department shall determine whether the evaluation will be made on a  
4 residential or nonresidential basis. Placement with the department  
5 for the purposes of this section shall be for a period not to exceed  
6 thirty days. If necessary to complete the evaluation, the court may  
7 order an extension not to exceed an additional thirty days. Any  
8 temporary placement of a juvenile made under this section shall be in  
9 the least restrictive environment consistent with the best interests  
10 of the juvenile and the safety of the community.

11 (3) Upon completion of the evaluation, the juvenile shall  
12 be returned to the court together with a written report of the  
13 results of the evaluation. Such report shall include an assessment of  
14 the basic needs of the juvenile and recommendations for continuous  
15 and long-term care and shall be made to effectuate the purposes in  
16 subdivision (1) of section 43-246. The juvenile shall appear before  
17 the court for a hearing on the report of the evaluation results  
18 within ten days after the court receives the evaluation.

19 (4) During any period of detention or evaluation prior to  
20 adjudication:

21 (a) Except as provided in subdivision (4)(b) of this  
22 section, the county in which the case is pending is responsible for  
23 all detention costs incurred before and after an evaluation period  
24 prior to adjudication, the cost of delivering the juvenile to the  
25 location of the evaluation, and the cost of returning the juvenile to

1 the court for further proceedings; and

2 (b) The state is responsible for (i) the costs incurred  
3 during an evaluation when the juvenile has been placed with the  
4 Department of Health and Human Services unless otherwise ordered by  
5 the court pursuant to section 43-290 and (ii) the preevaluation  
6 detention costs for any days over the first ten days from the date  
7 the court places the juvenile with the department for evaluation.

8 (5) The Department of Health and Human Services is not  
9 responsible for preadjudication costs except as provided in  
10 subdivision (4)(b) of this section.

11 ~~(4) In order to encourage the use of the procedure~~  
12 ~~provided in this section, all costs incurred during the period the~~  
13 ~~juvenile is being evaluated at a state facility or program funded by~~  
14 ~~the Office of Juvenile Services shall be the responsibility of the~~  
15 ~~state unless otherwise ordered by the court pursuant to section~~  
16 ~~43-290. The county in which the case is pending shall be liable only~~  
17 ~~for the cost of delivering the juvenile to the facility or~~  
18 ~~institution and the cost of returning him or her to the court for~~  
19 ~~disposition.~~

20 Sec. 2. Original section 43-258, Revised Statutes  
21 Cumulative Supplement, 2010, is repealed.