

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 759

Introduced by Kolterman, 24.

Read first time January 08, 2020

Committee:

1 A BILL FOR AN ACT relating to children; to amend sections 43-284, 43-905,
2 43-1311, 43-1312, and 43-1312.01, Reissue Revised Statutes of
3 Nebraska, and sections 43-285 and 79-215, Revised Statutes
4 Supplement, 2019; to require consultation with school districts
5 regarding placement of children; to state intent; to harmonize
6 provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-284, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 43-284 (1) When any juvenile is adjudged to be under subdivision
4 (3), (4), or (8) of section 43-247, the court may permit such juvenile to
5 remain in his or her own home subject to supervision or may make an order
6 committing the juvenile to (a) ~~(1)~~ the care of some suitable institution,
7 (b) ~~(2)~~ inpatient or outpatient treatment at a mental health facility or
8 mental health program, (c) ~~(3)~~ the care of some reputable citizen of good
9 moral character, (d) ~~(4)~~ the care of some association willing to receive
10 the juvenile embracing in its objects the purpose of caring for or
11 obtaining homes for such juveniles, which association shall have been
12 accredited as provided in section 43-296, (e) ~~(5)~~ the care of a suitable
13 family, or (f) ~~(6)~~ the care and custody of the Department of Health and
14 Human Services, except that a juvenile who is adjudicated to be a
15 juvenile described in subdivision (3)(b) or (4) of section 43-247 shall
16 not be committed to the care and custody or supervision of the department
17 on or after October 1, 2013.

18 (2) Prior to making a final determination regarding placement, the
19 court shall consult with any potential receiving school district that the
20 juvenile would be attending as a result of the placement if the receiving
21 school district is not the juvenile's resident school district. The
22 consultation with the receiving school district to discuss services
23 necessary for the juvenile to attend school in the receiving school
24 district shall include a determination as to whether necessary
25 educational programming services are or could be made available from the
26 receiving school district and the identification of the juvenile's
27 resident school district that is responsible for the costs of the
28 educational programming services at the receiving school district. The
29 court shall provide the receiving school district with a portfolio of
30 educational information regarding the juvenile at least two days prior to
31 the consultation. The input of the receiving school district regarding

1 the best educational placement of the juvenile shall be considered
2 regarding the difficulties in providing or hiring personnel necessary for
3 additional educational programming services, such as specialized
4 personnel or the placement of such juvenile at a specialized facility,
5 which may result in a substantial financial burden for the resident
6 school district and the receiving school district.

7 ~~(3)~~ Under subdivision ~~(1)(a), (b), (c), (d), or (e) (1), (2), (3),~~
8 ~~(4), or (5)~~ of this section, upon a determination by the court that there
9 are no parental, private, or other public funds available for the care,
10 custody, education, and maintenance of a juvenile, the court may order a
11 reasonable sum for the care, custody, education, and maintenance of the
12 juvenile to be paid out of a fund which shall be appropriated annually by
13 the county where the petition is filed until suitable provisions may be
14 made for the juvenile without such payment.

15 ~~(4)~~ The amount to be paid by a county for education pursuant to this
16 section shall not exceed the average cost for education of a public
17 school student in the county in which the juvenile is placed and shall be
18 paid only for education in kindergarten through grade twelve.

19 ~~(5)~~ The court may enter a dispositional order removing a juvenile
20 from his or her home upon a written determination that continuation in
21 the home would be contrary to the health, safety, or welfare of such
22 juvenile and that reasonable efforts to preserve and reunify the family
23 have been made if required under section 43-283.01.

24 Sec. 2. Section 43-285, Revised Statutes Supplement, 2019, is
25 amended to read:

26 43-285 (1) When the court awards a juvenile to the care of the
27 Department of Health and Human Services, an association, or an individual
28 in accordance with the Nebraska Juvenile Code, the juvenile shall, unless
29 otherwise ordered, become a ward and be subject to the legal custody and
30 care of the department, association, or individual to whose care he or
31 she is committed. Any such association and the department shall have

1 authority, by and with the assent of the court, to determine the care,
2 placement, medical services, psychiatric services, training, and
3 expenditures on behalf of each juvenile committed to it. Any such
4 association and the department shall be responsible for applying for any
5 health insurance available to the juvenile, including, but not limited
6 to, medical assistance under the Medical Assistance Act. Such custody and
7 care shall not include the guardianship of any estate of the juvenile.

8 (2)(a) Following an adjudication hearing at which a juvenile is
9 adjudged to be under subdivision (3)(a) or (c) of section 43-247, the
10 court may order the department to prepare and file with the court a
11 proposed plan for the care, placement, services, and permanency which are
12 to be provided to such juvenile and his or her family. The health and
13 safety of the juvenile shall be the paramount concern in the proposed
14 plan.

15 (b) The department shall provide opportunities for the child, in an
16 age or developmentally appropriate manner, to be consulted in the
17 development of his or her plan as provided in the Nebraska Strengthening
18 Families Act.

19 (c) The department shall include in the plan for a child who is
20 fourteen years of age or older and subject to the legal care and custody
21 of the department a written independent living transition proposal which
22 meets the requirements of section 43-1311.03 and, for eligible children,
23 the Young Adult Bridge to Independence Act. The juvenile court shall
24 provide a copy of the plan to all interested parties before the hearing.
25 The court may approve the plan, modify the plan, order that an
26 alternative plan be developed, or implement another plan that is in the
27 child's best interests. In its order the court shall include a finding
28 regarding the appropriateness of the programs and services described in
29 the proposal designed to help the child prepare for the transition from
30 foster care to a successful adulthood. The court shall also ask the
31 child, in an age or developmentally appropriate manner, if he or she

1 participated in the development of his or her plan and make a finding
2 regarding the child's participation in the development of his or her plan
3 as provided in the Nebraska Strengthening Families Act. Rules of evidence
4 shall not apply at the dispositional hearing when the court considers the
5 plan that has been presented.

6 (d) The last court hearing before jurisdiction pursuant to
7 subdivision (3)(a) of section 43-247 is terminated for a child who is
8 sixteen years of age or older or pursuant to subdivision (8) of section
9 43-247 for a child whose guardianship or state-funded adoption assistance
10 agreement was disrupted or terminated after he or she had attained the
11 age of sixteen years shall be called the independence hearing. In
12 addition to other matters and requirements to be addressed at this
13 hearing, the independence hearing shall address the child's future goals
14 and plans and access to services and support for the transition from
15 foster care to adulthood consistent with section 43-1311.03 and the Young
16 Adult Bridge to Independence Act. The child shall not be required to
17 attend the independence hearing, but efforts shall be made to encourage
18 and enable the child's attendance if the child wishes to attend,
19 including scheduling the hearing at a time that permits the child's
20 attendance. An independence coordinator as provided in section 43-4506
21 shall attend the hearing if reasonably practicable, but the department is
22 not required to have legal counsel present. At the independence hearing,
23 the court shall advise the child about the bridge to independence
24 program, including, if applicable, the right of young adults in the
25 bridge to independence program to request a court-appointed, client-
26 directed attorney under subsection (1) of section 43-4510 and the
27 benefits and role of such attorney and to request additional permanency
28 review hearings in the bridge to independence program under subsection
29 (5) of section 43-4508 and how to request such a hearing. The court shall
30 also advise the child, if applicable, of the rights he or she is giving
31 up if he or she chooses not to participate in the bridge to independence

1 program and the option to enter such program at any time between nineteen
2 and twenty-one years of age if the child meets the eligibility
3 requirements of section 43-4504. The department shall present information
4 to the court regarding other community resources that may benefit the
5 child, specifically information regarding state programs established
6 pursuant to 42 U.S.C. 677. The court shall also make a finding as to
7 whether the child has received the documents as required by subsection
8 (9) of section 43-1311.03.

9 (3)(a) Within thirty days after an order awarding a juvenile to the
10 care of the department, an association, or an individual and until the
11 juvenile reaches the age of majority, the department, association, or
12 individual shall file with the court a report stating the location of the
13 juvenile's placement and the needs of the juvenile in order to effectuate
14 the purposes of subdivision (1) of section 43-246. The department,
15 association, or individual shall file a report with the court once every
16 six months or at shorter intervals if ordered by the court or deemed
17 appropriate by the department, association, or individual. Every six
18 months, the report shall provide an updated statement regarding the
19 eligibility of the juvenile for health insurance, including, but not
20 limited to, medical assistance under the Medical Assistance Act. The
21 department shall also concurrently file a written sibling placement
22 report as described in subsection (3) of section 43-1311.02 at these
23 times.

24 (b) The department, association, or individual shall file a report
25 and notice of placement change with the court and shall send copies of
26 the notice to all interested parties, including all of the child's
27 siblings that are known to the department, at least seven days before the
28 placement of the juvenile is changed from what the court originally
29 considered to be a suitable family home or institution to some other
30 custodial situation in order to effectuate the purposes of subdivision
31 (1) of section 43-246. The department, association, or individual shall

1 afford a parent or an adult sibling the option of refusing to receive
2 such notifications. The court, on its own motion or upon the filing of an
3 objection to the change by an interested party, may order a hearing to
4 review such a change in placement and may order that the change be stayed
5 until the completion of the hearing. Nothing in this section shall
6 prevent the court on an ex parte basis from approving an immediate change
7 in placement upon good cause shown. The department may make an immediate
8 change in placement without court approval only if the juvenile is in a
9 harmful or dangerous situation or when the foster parents request that
10 the juvenile be removed from their home. Approval of the court shall be
11 sought within twenty-four hours after making the change in placement or
12 as soon thereafter as possible.

13 (c) The department shall provide the juvenile's guardian ad litem
14 with a copy of any report filed with the court by the department pursuant
15 to this subsection.

16 (4) Prior to making a final plan regarding placement, the department
17 shall consult with the receiving school district that the juvenile would
18 be attending as a result of the placement if the receiving school
19 district is not the juvenile's resident school district. The consultation
20 with the receiving school district to discuss services necessary for the
21 juvenile to attend school in the receiving school district shall include
22 a determination as to whether necessary educational programming services
23 are or could be made available from the receiving school district and the
24 identification of the juvenile's resident school district that is
25 responsible for the costs of the educational programming services at the
26 receiving school district. The department shall provide the receiving
27 school district with a portfolio of educational information regarding the
28 juvenile at least two days prior to the consultation. The input of the
29 receiving school district regarding the best educational placement of the
30 juvenile shall be considered regarding the difficulties in providing or
31 hiring personnel necessary for additional educational programming

1 services, such as specialized personnel or the placement of such juvenile
2 at a specialized facility, which may result in a substantial financial
3 burden for the resident school district and the receiving school
4 district.

5 ~~(5) (4)~~ The court shall also hold a permanency hearing if required
6 under section 43-1312.

7 ~~(6) (5)~~ When the court awards a juvenile to the care of the
8 department, an association, or an individual, then the department,
9 association, or individual shall have standing as a party to file any
10 pleading or motion, to be heard by the court with regard to such filings,
11 and to be granted any review or relief requested in such filings
12 consistent with the Nebraska Juvenile Code.

13 ~~(7) (6)~~ Whenever a juvenile is in a foster care placement as defined
14 in section 43-1301, the Foster Care Review Office or the designated local
15 foster care review board may participate in proceedings concerning the
16 juvenile as provided in section 43-1313 and notice shall be given as
17 provided in section 43-1314.

18 ~~(8) (7)~~ Any written findings or recommendations of the Foster Care
19 Review Office or the designated local foster care review board with
20 regard to a juvenile in a foster care placement submitted to a court
21 having jurisdiction over such juvenile shall be admissible in any
22 proceeding concerning such juvenile if such findings or recommendations
23 have been provided to all other parties of record.

24 ~~(9) (8)~~ The executive director and any agent or employee of the
25 Foster Care Review Office or any member of any local foster care review
26 board participating in an investigation or making any report pursuant to
27 the Foster Care Review Act or participating in a judicial proceeding
28 pursuant to this section shall be immune from any civil liability that
29 would otherwise be incurred except for false statements negligently made.

30 Sec. 3. Section 43-905, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 43-905 (1) The Department of Health and Human Services shall have
2 legal custody of all children committed to it. The department shall
3 afford temporary care and shall use special diligence to provide suitable
4 homes for such children. The department shall make reasonable efforts to
5 accomplish joint-sibling placement or sibling visitation or ongoing
6 interaction between siblings as provided in section 43-1311.02. The
7 department is authorized to place such children in suitable families for
8 adoption, foster care, or guardianship or, in the discretion of the
9 department, on a written contract. Prior to entering into a contract
10 regarding placement, the department shall consult with any potential
11 receiving school district that the child would be attending as a result
12 of the placement if the receiving school district is not the child's
13 resident school district. The consultation with the receiving school
14 district to discuss services necessary for the child to attend school in
15 the receiving school district shall include a determination as to whether
16 necessary educational programming services are or could be made available
17 from the receiving school district and the identification of the child's
18 resident school district that is responsible for the costs of the
19 educational programming services at the receiving school district. The
20 department shall provide the receiving school district with a portfolio
21 of educational information regarding the child at least two days prior to
22 the consultation. The input of the receiving school district regarding
23 the best educational placement of the child shall be considered regarding
24 the difficulties in providing or hiring personnel necessary for
25 additional educational programming services, such as specialized
26 personnel or the placement of such child at a specialized facility, which
27 may result in a substantial financial burden for the resident school
28 district and the receiving school district.

29 (2) The contract shall provide (a) for the children's education in
30 the public schools or otherwise, (b) for teaching them some useful
31 occupation, and (c) for kind and proper treatment as members of the

1 family in which they are placed.

2 (3) Whenever any child who has been committed to the department
3 becomes self-supporting, the department shall declare that fact and the
4 legal custody and care of the department shall cease. Thereafter the
5 child shall be entitled to his or her own earnings. Legal custody and
6 care of and services by the department shall never extend beyond the age
7 of majority, except that (a) services by the department to a child shall
8 continue until the child reaches the age of twenty-one if the child is in
9 the bridge to independence program as provided in the Young Adult Bridge
10 to Independence Act and (b) coverage for health care and related services
11 under medical assistance in accordance with section 68-911 shall be
12 extended as provided under the federal Patient Protection and Affordable
13 Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section
14 existed on January 1, 2013, for medicaid coverage for individuals under
15 twenty-six years of age as allowed pursuant to such act.

16 (4) Whenever the parents of any ward, whose parental rights have not
17 been terminated, have become able to support and educate their child, the
18 department shall restore the child to his or her parents if the home of
19 such parents would be a suitable home. The legal custody and care of the
20 department shall then cease.

21 (5) Whenever permanent free homes for the children cannot be
22 obtained, the department may provide subsidies to adoptive and
23 guardianship families subject to a hearing and court approval. The
24 department may also provide and pay for the maintenance of the children
25 in foster care, in boarding homes, or in institutions for care of
26 children.

27 Sec. 4. Section 43-1311, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 43-1311 (1) Except as otherwise provided in the Nebraska Indian
30 Child Welfare Act, immediately following removal of a child from his or
31 her home pursuant to section 43-284, the person or court in charge of the

1 child shall:

2 (a) ~~(1)~~ Conduct or cause to be conducted an investigation of the
3 child's circumstances designed to establish a safe and appropriate plan
4 for the rehabilitation of the foster child and family unit or permanent
5 placement of the child;

6 (b) ~~(2)~~ Require that the child receive a medical examination within
7 two weeks of his or her removal from his or her home;

8 (c) ~~(3)~~ Subject the child to such further diagnosis and evaluation
9 as is necessary;

10 (d) ~~(4)~~ Require that the child attend the same school as prior to
11 the foster care placement unless the person or court in charge determines
12 that attending such school would not be in the best interests of the
13 child; and

14 (e) ~~(5)~~ Notify the Department of Health and Human Services to
15 identify, locate, and provide written notification to adult relatives of
16 the child as provided in section 43-1311.01.

17 (2) Prior to making a final determination regarding the school the
18 child should attend, the person or court in charge of the child shall
19 consult with any potential receiving school district that the child would
20 be attending as a result of the placement if the receiving school
21 district is not the child's resident school district. The consultation
22 with the receiving school district to discuss services necessary for the
23 child to attend school in the receiving school district shall include a
24 determination as to whether necessary educational programming services
25 are or could be made available from the receiving school district and the
26 identification of the child's resident school district that is
27 responsible for the costs of the educational programming services at the
28 receiving school district. The person or the court shall provide the
29 receiving school district with a portfolio of educational information
30 regarding the child at least two days prior to the consultation. The
31 input of the receiving school district regarding the best educational

1 placement of the child shall be considered regarding the difficulties in
2 providing or hiring personnel necessary for additional educational
3 programming services, such as specialized personnel or the placement of
4 such child at a specialized facility, which may result in a substantial
5 financial burden for the resident school district and the receiving
6 school district.

7 Sec. 5. Section 43-1312, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 43-1312 (1) Following the investigation conducted pursuant to
10 section 43-1311 and immediately following the initial placement of the
11 child, the person or court in charge of the child shall cause to be
12 established a safe and appropriate plan for the child. The plan shall
13 contain at least the following:

- 14 (a) The purpose for which the child has been placed in foster care;
- 15 (b) The estimated length of time necessary to achieve the purposes
16 of the foster care placement;
- 17 (c) A description of the services which are to be provided in order
18 to accomplish the purposes of the foster care placement;
- 19 (d) The person or persons who are directly responsible for the
20 implementation of such plan;
- 21 (e) A complete record of the previous placements of the foster
22 child;
- 23 (f) The name of the school the child shall attend as provided in
24 section 43-1311; and
- 25 (g) The efforts made to involve and engage the child in the
26 development of such plan as provided in the Nebraska Strengthening
27 Families Act.

28 (2) If the return of the child to his or her parents is not likely
29 based upon facts developed as a result of the investigation, the
30 Department of Health and Human Services shall recommend termination of
31 parental rights and referral for adoption, guardianship, placement with a

1 relative, or, as a last resort, and only in the case of a child who has
2 attained sixteen years of age, another planned permanent living
3 arrangement. If the child is removed from his or her home, the department
4 shall make reasonable efforts to accomplish joint-sibling placement or
5 sibling visitation or ongoing interaction between the siblings as
6 provided in section 43-1311.02.

7 (3) Each child in foster care under the supervision of the state
8 shall have a permanency hearing by a court, no later than twelve months
9 after the date the child enters foster care and annually thereafter
10 during the continuation of foster care. The court's order shall include
11 the determinations required by section 43-4711 and a finding regarding
12 the appropriateness of the permanency plan determined for the child and
13 shall include whether, and if applicable when, the child will be:

14 (a) Returned to the parent;

15 (b) Referred to the state for filing of a petition for termination
16 of parental rights;

17 (c) Placed for adoption;

18 (d) Referred for guardianship; or

19 (e) In cases where the state agency has documented to the court a
20 compelling reason for determining that it would not be in the best
21 interests of the child to return home, (i) referred for termination of
22 parental rights, (ii) placed for adoption with a fit and willing
23 relative, or (iii) placed with a guardian.

24 (4) Prior to a permanency hearing which may affect the school
25 district in which the child is attending school, the court shall consult
26 with any potential receiving school district that the child would be
27 attending as a result of the placement if the receiving school district
28 is not the child's resident school district. The consultation with the
29 receiving school district to discuss services necessary for the child to
30 attend school in the receiving school district shall include a
31 determination as to whether necessary educational programming services

1 are or could be made available from the receiving school district and the
2 identification of the child's resident school district that is
3 responsible for the costs of the educational programming services at the
4 receiving school district. The court shall provide the receiving school
5 district with a portfolio of educational information regarding the child
6 at least two days prior to the consultation. The input of the receiving
7 school district regarding the best educational placement of the child
8 shall be considered regarding the difficulties in providing or hiring
9 personnel necessary for additional educational programming services, such
10 as specialized personnel or the placement of such child at a specialized
11 facility, which may result in a substantial financial burden for the
12 resident school district and the receiving school district.

13 (5) ~~(4)~~ As provided in the Nebraska Strengthening Families Act, in
14 the case of any child age sixteen years of age or older for whom another
15 planned permanent living arrangement is the recommended or court-approved
16 permanency plan:

17 (a) The permanency plan shall include the identification of
18 significant, supportive connections with identified adults willing to be
19 consistently involved in the child's life as the child transitions to
20 adulthood;

21 (b) The department shall document the intensive, ongoing, and, as of
22 the date of the hearing, unsuccessful efforts made by the department to
23 return the child home or secure a placement for the child with a fit and
24 willing relative, a legal guardian, or an adoptive parent; and

25 (c) The court shall:

26 (i) Ask the child about the desired permanency outcome for the
27 child;

28 (ii) Make a determination explaining why, as of the date of the
29 hearing, another planned permanent living arrangement is the best
30 permanency plan for the child and the compelling reasons why it continued
31 to not be in the best interests of the child to return home, be placed

1 for adoption, be placed with a legal guardian, or be placed with a fit
2 and willing relative; and

3 (iii) Make a determination that the department has met the
4 requirements in subdivisions (a) and (b) of this subsection before
5 approving a permanency plan of another planned permanent living
6 arrangement for a child sixteen years of age or older.

7 Sec. 6. Section 43-1312.01, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 43-1312.01 (1) If the permanency plan for a child established
10 pursuant to section 43-1312 does not recommend return of the child to his
11 or her parent or that the child be placed for adoption, the juvenile
12 court may place the child in a guardianship in a relative home as defined
13 in section 71-1901, in a kinship home as defined in section 71-1901, or
14 with an individual as provided in section 43-285 if:

15 (a) The child is a juvenile who has been adjudged to be under
16 subdivision (3)(a) of section 43-247;

17 (b) The child has been in the placement for at least six months;

18 (c) The child consents to the guardianship, if the child is ten
19 years of age or older; and

20 (d) The guardian:

21 (i) Is suitable and able to provide a safe and permanent home for
22 the child;

23 (ii) Has made a commitment to provide for the financial, medical,
24 physical, and emotional needs of the child until the child reaches the
25 age of majority or until the termination of extended guardianship
26 assistance payments and medical care pursuant to section 43-4511;

27 (iii) Has made a commitment to prepare the child for adulthood and
28 independence; and

29 (iv) Agrees to give notice of any changes in his or her residential
30 address or the residence of the child by filing a written document in the
31 juvenile court file of the child.

1 (2) Prior to establishing a guardianship, the court shall consult
2 with any potential receiving school district that the child would be
3 attending as a result of the placement if the receiving school district
4 is not the child's resident school district. The consultation with the
5 receiving school district to discuss services necessary for the child to
6 attend school in the receiving school district shall include a
7 determination as to whether necessary educational programming services
8 are or could be made available from the receiving school district and the
9 identification of the child's resident school district that is
10 responsible for the costs of the educational programming services at the
11 receiving school district. The court shall provide the receiving school
12 district with a portfolio of educational information regarding the child
13 at least two days prior to the consultation. The input of the receiving
14 school district regarding the best educational placement of the child
15 shall be considered regarding the difficulties in providing or hiring
16 personnel necessary for additional educational programming services, such
17 as specialized personnel or the placement of such child at a specialized
18 facility, which may result in a substantial financial burden for the
19 resident school district and the receiving school district.

20 ~~(3) (2)~~ In the order granting guardianship, the juvenile court:

21 (a) Shall grant to the guardian such powers, rights, and duties with
22 respect to the care, maintenance, and treatment of the child as the
23 biological or adoptive parent of the child would have;

24 (b) May specify the frequency and nature of family time or contact
25 between the child and his or her parents, if appropriate;

26 (c) May specify the frequency and nature of family time or contact
27 between the child and his or her siblings, if appropriate; and

28 (d) Shall require that the guardian not return the child to the
29 physical care and custody of the person from whom the child was removed
30 without prior approval of the court.

31 ~~(4) (3)~~ The juvenile court shall retain jurisdiction over the child

1 for modification or termination of the guardianship order. The court
2 shall discontinue permanency reviews and case reviews and shall relieve
3 the Department of Health and Human Services of the responsibility of
4 supervising the placement of the child. Notwithstanding the retention of
5 juvenile court jurisdiction, the guardianship placement shall be
6 considered permanent for the child.

7 (5) ~~(4)~~ The child shall remain in the custody of the guardian unless
8 the order creating the guardianship is modified by the court.

9 (6) ~~(5)~~ Guardianships established under this section shall terminate
10 on the child's nineteenth birthday unless the child is eligible for
11 continued guardianship assistance payments under section 43-4511 and an
12 agreement is signed by the Department of Health and Human Services, the
13 guardian, and the young adult, as defined in section 43-4503, to continue
14 the guardianship assistance. The guardian shall ensure that any
15 guardianship assistance funds provided by the department and received by
16 the guardian for the purpose of an extended guardianship shall be used
17 for the benefit of the young adult. The department shall adopt and
18 promulgate rules and regulations defining services and supports
19 encompassed by such benefit.

20 (7) ~~(6)~~ Upon the child's nineteenth birthday regardless of the
21 existence of an agreement to extend the guardianship until the child's
22 twenty-first birthday, the guardian shall no longer have the legal
23 authority to make decisions on behalf of the child and shall have no more
24 authority over the person or property of the child than a biological or
25 adoptive parent would have over his or her child, absent consent from the
26 child.

27 (8) ~~(7)~~ A guardianship established under this section does not
28 terminate the parent-child relationship, including:

- 29 (a) The right of the child to inherit from his or her parents;
30 (b) The right of the biological parents to consent to the child's
31 adoption; and

1 (c) The responsibility of the parents to provide financial, medical,
2 or other support as ordered by the court.

3 (9) ~~(8)~~ The Department of Health and Human Services shall adopt and
4 promulgate rules and regulations for the administration of this section.

5 Sec. 7. Section 79-215, Revised Statutes Supplement, 2019, is
6 amended to read:

7 79-215 (1) Except as otherwise provided in this section, a student
8 is a resident of the school district where he or she resides and shall be
9 admitted to any such school district upon request without charge.

10 (2) A school board shall admit a student upon request without charge
11 if at least one of the student's parents resides in the school district.

12 (3) A school board shall admit any homeless student upon request
13 without charge if the district is the district in which the student (a)
14 is currently located, (b) attended when permanently housed, or (c) was
15 last enrolled.

16 (4) A school board may allow a student whose residency in the
17 district ceases during a school year to continue attending school in such
18 district for the remainder of that school year.

19 (5) A school board may admit nonresident students to the school
20 district pursuant to a contract with the district where the student is a
21 resident and shall collect tuition pursuant to the contract.

22 (6) A school board may admit nonresident students to the school
23 district pursuant to the enrollment option program as authorized by
24 sections 79-232 to 79-246, and such admission shall be without charge.

25 (7) In order to carry out the provisions of section 79-2201, a
26 school board shall permit children of military families to enroll
27 preliminarily in a school district if a parent presents evidence of
28 military orders that the military family will be stationed in this state
29 during the current or following school year. A student of a military
30 family shall be admitted to the school district without charge upon
31 arrival in Nebraska if the requirements of this section are met.

1 (8) A school board may admit a student who is a resident of another
2 state to the school district and collect tuition in advance at a rate
3 determined by the school board.

4 (9) When a student as a ward of the state or as a ward of any court
5 (a) has been placed in a school district other than the district in which
6 he or she resided at the time he or she became a ward and such ward does
7 not reside in a foster family home licensed or approved by the Department
8 of Health and Human Services or a foster home maintained or used pursuant
9 to section 83-108.04 or (b) has been placed in any institution which
10 maintains a special education program which has been approved by the
11 State Department of Education and such institution is not owned or
12 operated by the district in which he or she resided at the time he or she
13 became a ward, the cost of his or her education and the required
14 transportation costs associated with the student's education shall be
15 paid by the state, but not in advance, to the receiving school district
16 or approved institution under rules and regulations prescribed by the
17 Department of Health and Human Services and the student shall remain a
18 resident of the district in which he or she resided at the time he or she
19 became a ward. Any student who is a ward of the state or a ward of any
20 court who resides in a foster family home licensed or approved by the
21 Department of Health and Human Services or a foster home maintained or
22 used pursuant to section 83-108.04 shall be deemed a resident of the
23 district in which he or she resided at the time he or she became a foster
24 child, unless it is determined under section 43-1311 or 43-1312 that he
25 or she will not attend such district in which case he or she shall be
26 deemed a resident of the district in which the foster family home or
27 foster home is located.

28 (10)(a) When a student is not a ward of the state or a ward of any
29 court and is residing in a residential setting located in Nebraska for
30 reasons other than to receive an education and the residential setting is
31 operated by a service provider which is certified or licensed by the

1 Department of Health and Human Services or is enrolled in the medical
2 assistance program established pursuant to the Medical Assistance Act and
3 Title XIX or XXI of the federal Social Security Act, as amended, the
4 student shall remain a resident of the district in which he or she
5 resided immediately prior to residing in such residential setting. The
6 resident district for a student who is not a ward of the state or a ward
7 of any court does not change when the student moves from one residential
8 setting to another.

9 (b) If a student is residing in a residential setting as described
10 in subdivision (10)(a) of this section and such residential setting does
11 not maintain an interim-program school as defined in section 79-1119.01
12 or an approved or accredited school, the resident school district shall
13 contract with the district in which such residential setting is located
14 for the provision of all educational services, including all special
15 education services and support services as defined in section 79-1125.01,
16 unless a parent or guardian and the resident school district agree that
17 an appropriate education will be provided by the resident school district
18 while the student is residing in such residential setting. If the
19 resident school district is required to contract, the district in which
20 such residential setting is located shall contract with the resident
21 district and provide all educational services, including all special
22 education services, to the student. If the two districts cannot agree on
23 the amount of the contract, the State Department of Education shall
24 determine the amount to be paid by the resident district to the district
25 in which such residential setting is located based on the needs of the
26 student, approved special education rates, the department's general
27 experience with special education budgets, and the cost per student in
28 the district in which such residential setting is located. Once the
29 contract has been entered into, all legal responsibility for special
30 education and related services shall be transferred to the school
31 district in which the residential setting is located.

1 (c) If a student is residing in a residential setting as described
2 in subdivision (10)(a) of this section and such residential setting
3 maintains an interim-program school as defined in section 79-1119.01 or
4 an approved or accredited school, the department shall reimburse such
5 residential setting for the provision of all educational services,
6 including all special education services and support services, with the
7 amount of payment for all educational services determined pursuant to the
8 average per pupil cost of the service agency as defined in section
9 79-1116. The resident school district shall retain responsibility for
10 such student's individualized education plan, if any. The educational
11 services may be provided through (i) such interim-program school or
12 approved or accredited school, (ii) a contract between the residential
13 setting and the school district in which such residential setting is
14 located, (iii) a contract between the residential setting and another
15 service agency as defined in section 79-1124, or (iv) a combination of
16 such educational service providers.

17 (d) If a school district pays a school district in which a
18 residential setting is located for educational services provided pursuant
19 to subdivision (10)(b) of this section and it is later determined that a
20 different school district was the resident school district for such
21 student at the time such educational services were provided, the school
22 district that was later determined to be the resident school district
23 shall reimburse the school district that initially paid for the
24 educational services one hundred ten percent of the amount paid.

25 (e) A student residing in a residential setting described in this
26 subsection shall be defined as a student with a handicap pursuant to
27 Article VII, section 11, of the Constitution of Nebraska, and as such the
28 state and any political subdivision may contract with institutions not
29 wholly owned or controlled by the state or any political subdivision to
30 provide the educational services to the student if such educational
31 services are nonsectarian in nature.

1 (11) In the case of any individual eighteen years of age or younger
2 who is a ward of the state or any court and who is placed in a county
3 detention home established under section 43-2,110, the cost of his or her
4 education shall be paid by the state, regardless of the district in which
5 he or she resided at the time he or she became a ward, to the agency or
6 institution which: (a) Is selected by the county board with jurisdiction
7 over such detention home; (b) has agreed or contracted with such county
8 board to provide educational services; and (c) has been approved by the
9 State Department of Education pursuant to rules and regulations
10 prescribed by the State Board of Education.

11 (12) No tuition shall be charged for students who may be by law
12 allowed to attend the school without charge.

13 (13) The State Department of Education shall establish procedures
14 and criteria for collecting enrollment, admission, and related
15 information needed for any student to attend a school district in this
16 state which shall include, but not be limited to, having an adult with
17 legal or actual charge or control of a student provide through electronic
18 means or other means specified by the department the name of the student,
19 the name of the adult with legal or actual charge or control of the
20 student, the address where the student is or will be residing, and
21 information on how and where the adult may generally be reached during
22 the school day.

23 (14) It is the intent of the Legislature that prior to making a
24 final determination regarding placement of a child, the court, the
25 Department of Health and Human Services, or any other person in charge of
26 the child shall consult with the receiving school district that the child
27 would be attending as a result of the placement if the receiving school
28 district is not the child's resident school district. The consultation
29 with the receiving school district to discuss services necessary for the
30 child to attend school in the receiving school district shall include a
31 determination as to whether necessary educational programming services

1 are or could be made available from the receiving school district and the
2 identification of the child's resident school district that is
3 responsible for the costs of the educational programming services at the
4 receiving school district. The court, the department, or the person in
5 charge of the child shall provide the receiving school district with a
6 portfolio of educational information regarding the child at least two
7 days prior to the consultation. The input of the receiving school
8 district regarding the best educational placement of the child shall be
9 considered regarding the difficulties in providing or hiring personnel
10 necessary for additional educational programming services, such as
11 specialized personnel or the placement of such child at a specialized
12 facility, which may result in a substantial financial burden for the
13 resident school district and the receiving school district.

14 (15) (14) The department may adopt and promulgate rules and
15 regulations to carry out the provisions of this section.

16 Sec. 8. Original sections 43-284, 43-905, 43-1311, 43-1312, and
17 43-1312.01, Reissue Revised Statutes of Nebraska, and sections 43-285 and
18 79-215, Revised Statutes Supplement, 2019, are repealed.