

# §43.251.01 Impact on Juvenile Justice Reform

## Legislative Progress with LB670

In January 2018, Senator Tony Vargas introduced LB1112, a bill that realigns the use of secure detention for juveniles to match best practices by making it impermissible to detain youth in detention centers when there is no imminent risk of danger to the community or risk of flight to avoid court. This bill was later combined with other juvenile justice legislation and passed under LB670. This piece of legislation aligns with the State Juvenile Detention Alternatives Initiative (JDAl) Collaborative vision.

Research tells us the effects of juvenile detention can have long lasting negative impacts for young people, their families, local communities, and our local budgets. A 2014 report from the Justice Policy Institute shows that juvenile detention worsens behavioral health problems and that it is one of the most significant factors in increasing recidivism, even more so than owning a gun or membership in a gang. In addition, juvenile detention also has a negative, long-term effect on future educational outcomes and success in the labor market. Lastly, detention costs the state of Nebraska, in tax payer dollars, an average of \$347.55 per youth for every day they are detained, for an annual cost of more than \$8.5 million.

This portion of LB670 becomes effective July 2019. This delay was intentional to allow communities time to build detention alternatives. Since the bill's passage, a state wide work group has been working to ensure appropriate detention alternatives are available come July. Some of the strategies that are being developed or discussed include:

- Emergency Professional Foster Care, a short-term detention alternative available at the point of juvenile intake available 24/7;
- Exploring policy changes that can address placement disruptions impacted by statute change;
- Mental Health service development, Crisis Response available statewide;
- Continued expansion and access of Home Based Initiative services, working with Education Service Unit 13 (ESU 13) in Scottsbluff, NE to expand in home services;
- Reception center development in Douglas & Lancaster Counties;
- New emergency shelter beds available beginning January 28, 2019, in North Platte, NE.;
- Optimal Family Preservation in Gering, NE has opened Group Home/Crisis Response beds;
- Western Nebraska alternative to detention development including; Rapid Response Home Assessments and Relative Kinship Home Stipends.

Stakeholders from across the state, including judges, advocacy groups, county attorney's, probation staff, behavioral health, service providers and others have made this a priority. This working group meets on a monthly basis to review data related to the populations that will be impacted with the legislative change. Providers working with youth and their families have also been engaged to be part of the solution.

## §43.251.01 Statute Change Comparison

### Current:

A juvenile shall not be detained in secure detention or placed at a youth rehabilitation and treatment center unless detention or placement of such juvenile is a matter of immediate and urgent necessity for:

- the protection of such juvenile;
- or the person or property of another;
- or if it appears that such juvenile is likely to flee the jurisdiction of the court.

### Effective July 1, 2019

(i) A juvenile shall not be detained unless the physical safety of persons in the community would be seriously threatened or detention is necessary to secure the presence of the juvenile at the next hearing, as evidenced by a demonstrable record of willful failure to appear at a scheduled court hearing within the last twelve months;

(ii) A child twelve years of age or younger shall not be placed in detention under any circumstances; and

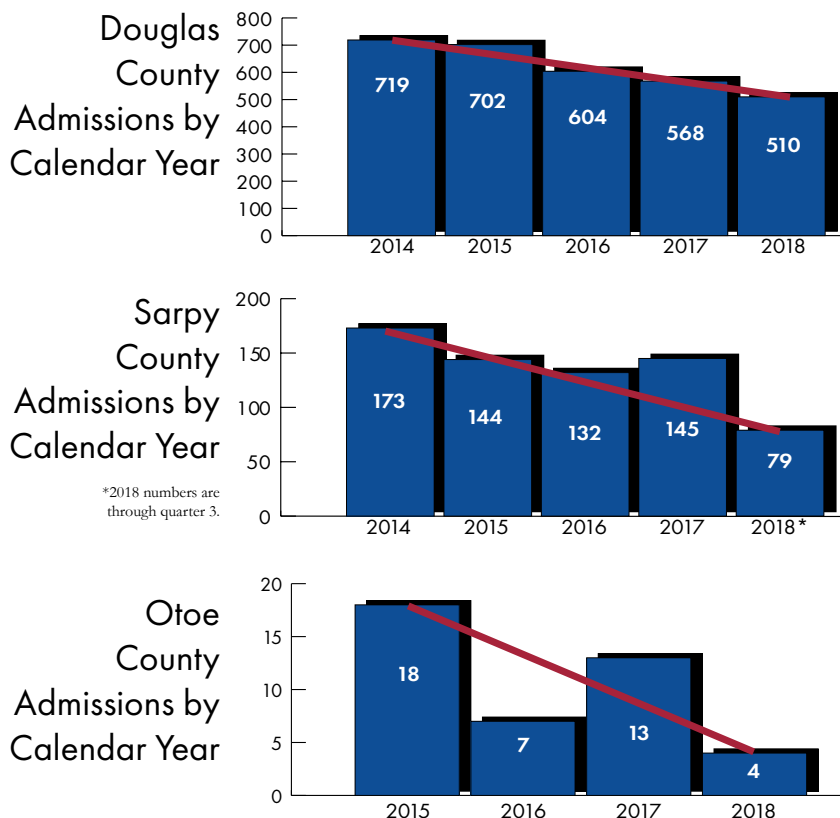
(iii) A juvenile shall not be placed into detention:

- (A) To allow a parent or guardian to avoid his or her legal responsibility;
- (B) To punish, treat, or rehabilitate such juvenile;
- (C) To permit more convenient administrative access to such juvenile;
- (D) To facilitate further interrogation or investigation; or
- (E) Due to a lack of more appropriate facilities.

# Nebraska Juvenile Detention Alternatives Initiative

Since 1992, the Juvenile Detention Alternatives Initiative (JDAI), a project of the Annie E. Casey Foundation, works to ensure the right youth are detained and has demonstrated jurisdictions can safely reduce the use of secure detention of youth without compromising public safety.

Nebraska has four local JDAI sites: Douglas, Sarpy, Otoe and Lancaster Counties. Douglas County began their JDAI work in 2011, Sarpy County began in 2012. Otoe County was Nebraska's first rural expansion site in 2016. In 2017, Lancaster County joined as the fourth JDAI Site in Nebraska. Detention alternatives historically have been limited throughout Nebraska, especially in rural areas. Through the philosophy of the JDAI and implementation of LB561, local probation districts in collaboration with communities and providers, are working towards developing a purposeful continuum of alternatives to detention statewide.



JDAI Sites across the country have been able to demonstrate they can safely reduce the use of secure detention without compromising community safety.

## Detention Screening Instrument

The Administrative Office of Probation is required by statute §43-260 to utilize a detention screening instrument when making a detention decision.

JDAI sites use detention screening instruments to ensure that youth are treated consistently. Detention screening instruments are triage tools and use a point scale to assign points for each factor to produce a total "risk" score that would fall into a high, medium or low risk levels. The total score is then compared to a decision scale indicating a detention result: youth scoring "high" are held in secure detention; youth scoring "low" are released without restrictions; and youth who score in the medium range are eligible for release to detention alternatives.

## Nebraska's Detention Screening Instrument Override Data

Overrides occur when there are special circumstances that a probation officer considers when approving a higher or lower intervention than recommended by the detention screening instrument. Overrides are to ensure community safety while utilizing the least restrictive options available and must be approved by a supervisor.

## Strategies used to reduce overrides in Nebraska

- Collaborative work done with local communities to enhance/develop detention alternatives with Community Based Aid dollars.
- Statewide training for probation staff around detention screening instrument.
- Quality assurance on utilization of detention screening instrument.

