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# juvenile justice reform

NEBRASKA EMBARKS  
ON NEW APPROACHES  
IN DEALING WITH  
TROUBLED YOUTH

COVER STORY BY  
KANDRA HAHN



It was 1881 when Nebraska first placed ungovernable boys and girls in a new red brick State Industrial School in Kearney with the intent of reforming them. It was not until 1892, that 57 girls were moved from Kearney to a new Girls Industrial School at Geneva.

Though programs and institution names have changed over the years, the basic plan for addressing juvenile delinquency hasn't. In recent years, Nebraska state senators have been influenced by concepts of treatment that focus on retaining kids who have brushes with the courts in their own homes and communities when that can be done safely. Senators who support change say they are impressed by the promise of better rehabilitative outcomes and lower costs.

And so with little fanfare, Nebraska law shifted its approach in 2013 to juveniles who come into the courts' jurisdiction. It's a bureaucratic shift with major implications for juvenile justice reform and it starts with who controls funding.

**Omaha Senators Lead**

Passed in the recent legislature, Legislative Bill 561 removes responsibility and funds for first attention to juveniles in the justice system from the Department of Health and Human Services (DHHS) and places it with the Nebraska Supreme Court through its probation office. Senator Brad Ashford of Omaha introduced LB 561 with co-signers Senator Bob Krist, also Omaha, and Senators Kathy Campbell, Chair of the Legislature's Health and Human Services Committee, and Amanda McGill, both of Lincoln. Senator Ernie Chambers,

Omaha, signed on later.

In an interview Krist identified others who lent critical support to the bill, including Omaha Senator Steve Lathrop; North Platte Senator Tom Hansen and Scottsbluff Senator John Harms, both members of the important Appropriations Committee.

Krist pointed to community members Jerry Davis, Boys Town vice president for national advocacy and public policy, and Dan Daly, executive vice president for youth care at Boys Town, who were helpful with technical assistance on community alternatives to institutional programs for young people.

Chief Justice of the Nebraska Supreme Court Michael Heavican supported the change for Nebraska's courts and worked out acceptance of major responsibilities.

**History and Trends**

Starting in the 1970s, the Nebraska Legislature had recognized a need for change in "corrections" policies. Back then senators invited citizens to join them in a Corrections Improvement Program. Together, they swarmed the state, touring facilities and offering suggestions for change in adult and youth corrections programs. But spending was the familiar barrier to acting on programmatic recommendations and little occurred except more buildings.

Data on the number of children in Nebraska in juvenile detention and correction facilities were troubling to some lawmakers. According to data of the US Department of Justice published by the Annie E. Casey Foundation, in 1997 Nebraska had been slightly below

the national rate of detention, holding 351 juveniles in detention and correctional facilities for every 100,000 in population, compared to a national rate of 356. But by 2010, while the national rate dropped to 224, Nebraska had increased to a rate of 378 juveniles in detention for every 100,000 in population.

**Headline Events**

And then there were a series of relatively recent headline-making events. In 2008, families dropped off teenagers at hospitals after passage of the state's "Safe Haven" law. Well-meaning legislators meant the law to apply only to newborns, giving parents a way to take them to any hospital if they realized they could not cope with a child.

But without an age limit in the law, exasperated parents began leaving teens they could not handle at hospitals, revealing wide gaps in Nebraska's services to families with problems. Not only was Nebraska forced to see its own problem, but late night talk show comics made the state a subject of jokes. The Legislature went into special session to amend an age limit into the law.

In taking a stand for LB 561, Senator McGill said she was keeping promises made to parents to make services available for adolescents during the Safe Haven crisis.

Almost at the same time, school truancy surfaced as an issue, forcing Nebraskans to see that unexcused school absence was more frequent than many had imagined and schools were responding differently to it than many knew. When citizens wanted someone to do

something, legislators scratched the surface and found problems ran deeper than a law. Senator Ashford proposed multi-part legislation that passed but he saw that issues remained.

Finally, in June 2009 the Heineman administration embarked on wholesale privatization of child welfare in a manner described by one legislative advisor as “a flawed design implemented in a flawed manner.” That decision and its outcomes were so bad for families and children that the Unicameral itself reversed course in 2012, an unprecedented legislative response.

Krist said that when he talked to Ashford in 2010 about the way out of the many problems the Unicameral was facing with juvenile services, they realized that they “needed a white board approach.”

“We knew we had to look first at the child, to treat the child,” said Krist. They realized that the customary legislative approach of changing a line in a law, or adding a paragraph or even adding a whole new law, was not going to solve the many problems at their doorstep. In fact, they felt they had tried that.

He said they had to look at what was working and they had to talk to people who had brought in successes.

The path led them to the Nebraska Juvenile Service Delivery Project in Omaha; to Boys Town; and to Dr. Terry Lee, a psychiatrist at the University of Washington School of Medicine on the faculty of the Department of Psychiatry & Behavioral Science specializing in justice policy.

### Nebraska Juvenile Service Delivery

It did not take legislation to get the wheels of change moving. A pilot project sprang up in Omaha that showed results so promising that the rest of the state wanted in on it

The Nebraska Juvenile Service Delivery Project began in January 2009 in Judicial District 4 (Omaha). The Office of Probation Administration, part of the State Supreme Court, and the Department of Health and Human Services (DHHS), agreed to work together to fund rehabilitative services that would allow juveniles who had been to court to stay in their homes and their community on probation—when it was safe to do so.

“The problem was, too many juveniles were being placed in State care,” testified State Probation Administrator Ellen Fabian Brokofsky at a hearing on Legislative Bill 985 on January 26, 2012, “becoming state wards, solely to access treatment services.”

It was a bureaucratic problem that had to be solved by bureaucratic means. The federal money that went to DHHS was arranged so that in order to spend it on a youth, the youth had to be a ward of the state. DHHS had to have a caseworker to oversee the child and other restrictive requirements came into play that might affect what services the child could receive.

The courts, in contrast, were free to order services that an individual child might need, and did not have to make the child a dependent of the state, but did not have access to funds to pay for these services.

To oversimplify, the court could place a child on probation, assigning the case to a probation officer. The probation officer would work with DHHS and, at some point the child would be made a ward of the State,

necessitating another caseworker and likely disruption in whatever supportive family life there was—only to access funds for services. For the taxpayer, this resulted, at the very least, in double the overhead and limited options for treatment.

But the reformers saw it was possible for DHHS to enter into an inter-agency contract for case management and service delivery with the court’s Office of Probation to carry out the court’s orders for individuals. That way, money could be transferred and then spent on an individual basis under the purview of the court, subject to probation oversight. This was the reform concept.

In the interest of better services and better outcomes for juveniles and reducing the cost of administrative overhead, an experimental agreement was worked out to launch the Nebraska Juvenile Service Delivery Project.

“It is interesting to note that at the onset of the planning for this project, DHHS staff estimated costs could be \$10 million or more for the 300 youth the project was initially intended to serve during an 18-month period of time (January 2009 to June 2010),” said Brokofsky. But, streamlining procedures and the fact that they were just starting up meant they had realized “a significant cost savings, as 635 youth were served in the project at a cost of \$3 million-plus for a period of 30 months (January 2009 to June 2011).”

Brokofsky was careful to denote reasons why the \$3 million understated the full costs of serving what would become an estimated “500 youth a year in all levels of care.” She noted the costs did not include “out-of-home group care,” a significant figure.

Still, to those observing, the changes offered sufficient promise of cost savings to move forward and the \$3 million figure lives on in legislative discussions of the reforms.

### Built-in Evaluation

Senator Krist, who tends to view matters with a managerial eye, pushed for and won funding in LB985 in 2012 for serious evaluation of the effectiveness and costs of the pilot reforms. The University of Nebraska Medical Center, College of Public Health is performing such an evaluation. While data collection is ongoing, no evaluation report has been released from the work that formally began July 2012.

The promising cost savings and apparently positive outcomes from the early stages of the Omaha pilot project did not have to be proved to perfection for senators who liked the proposals for other reasons. Senator Krist introduced LB985 in 2012 to expand the still-infant pilot from Douglas County to the 11th Judicial District, seated in North Platte, and to the 12th Judicial District, seated in Scottsbluff, which is represented by Senator John Harms.

Harms, now retired from a career in education, ultimately as president of Western Nebraska Community College, said he favored the reformed approach to adjudicated youth because he saw “kids falling through the cracks” in his district and he did not like to see them “sent out of the community to detention facilities” like Kearney and Geneva if they could stay in the communi-

ty and work with their parents and others in the family.

“I’ve always been that way,” said Harms. He agreed that the crises in truancy, Safe Haven and the general breakdown in DHHS contributed to the need for change. He said, “This was the time” to make change in juvenile justice.

“I feel good about it,” said Harms. “It’s pretty bold. It’s the right thing to do.” He ticked off the list of what he likes about the changes. “The dollars will be less; it addresses the whole family; it allows for cultural differences,” then he added, “The family circle has broken down.” He saw the extra support of the whole therapeutic approach as supportive of entire families.

### Boy Town and Technical Assistance

Almost naturally the people who were looking for answers in Nebraska looked to Boys Town for suggestions. Krist said he turned to Jerry Davis who said he offered technical assistance when asked. He watched the entire process and was as hopeful as anyone that things were on the right track. He was positive about leadership in the Office of Probation Administration in the Supreme Court.

“It’s important as we change not to upset what stability we have,” he advised. He said he feels the change in the law is “causing predictable upset and confusion,” but nothing more.

Ashford noted that Boys Town’s greatest contributions may lie ahead. “They could be an important provider of telemedicine services to juveniles statewide,” he said. Provision of services to juveniles through electronic means is an important part of the reforms.

### Evidence-Based Practice

Throughout the new juvenile justice law the term “evidence-based” is used to modify words like “strategies,” “risk screening,” “reentry process,” and “treatments and programs.” “Evidence-based” is a psychiatric term of art that refers to a particular approach to clinical practice, now encoded in Nebraska law.

It is also included in the document “Nebraska Juvenile Justice System Evaluation,” submitted to the Office of Probation Administration on May 1 by Dr. Terry Lee, of the University of Washington, a national expert in approaches to juvenile justice. His academic department provides a useful definition of evidence-based practice.

“Evidence based practice (EBP) is the use of systematic decision-making processes or provision of services which have been shown, through available scientific evidence, to consistently improve measurable client outcomes. Instead of tradition, gut reaction or single observations as the basis for making decisions, EBP relies on data collected through experimental research and accounts for individual client characteristics and clinician expertise.”

Since EBP is now the foundation of Nebraska’s treatment of juveniles who come to the attention of the courts, this definition is particularly helpful in providing opposing examples of what evidence based practice is not.

Dr. Lee’s report is not a quantitative evaluation of

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an operating system but a qualitative description of the “next steps” that the juvenile justice system should take to improve the system of care. As he says in his opening, “by proactively seeking juvenile justice reform, Nebraska will retain control over change efforts.”

It was Ashford who met with Dr. Lee and was convinced that he could become part of Nebraska’s success in reconfiguring its approach to justice for children. “Dr. Lee oversees treatment of juveniles in the state of Washington in the juvenile justice system,” Ashford said.

Ashford, who may be said to be the father of the current reforms, is facing the end of the second term of his return to the Nebraska Legislature. He took a moment to wax philosophical on the topic.

“I just hope the new approach energizes the justice community and raises awareness that young people can be treated, that they can get better,” he said. “For the most part, these are not hardened criminals. We need to keep faith with these kids.”

**Youth Residing In Juvenile Detention And Correctional Facilities**  
Year(s): All | Data Type: Rate  
Data Provided by: National KIDS COUNT

Year	Rate
1997	350
1999	310
2001	340
2003	320
2006	370
2007	360
2010	380

**Youth Residing In Juvenile Detention And Correctional Facilities**  
Year(s): All | Data Type: Rate  
Data Provided by: National KIDS COUNT

Year	Rate
1997	350
1999	350
2001	330
2003	300
2006	290
2007	270
2010	220

**LEGISLATIVE BILL 561 REMOVES RESPONSIBILITY AND FUNDS FOR FIRST ATTENTION TO JUVENILES IN THE JUSTICE SYSTEM FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND PLACES IT WITH THE NEBRASKA SUPREME COURT THROUGH ITS PROBATION OFFICE. SENATOR BRAD ASHFORD OF OMAHA INTRODUCED LB 561**