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LEGISLATIVE BILL 663

Approved by the Governor April 4, 1990

Introduced by Scofield, 49; Pirsch, 10; Coordsen, 32;
 Wesely, 26; Landis, 46; Moore, 24;
 Barrett, 39; Baack, 47; Smith, 33;
 Bernard-Stevens, 42; Labedz, 5

AN ACT relating to juveniles; to amend sections 29-2252 and 83-4,126, Reissue Revised Statutes of Nebraska, 1943; to adopt the Juvenile Services Act; to provide duties for the Department of Correctional Services, probation administrator, and Jail Standards Board as prescribed; and to repeal the original sections.

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

Section 1. Sections 1 to 14 of this act shall be known and may be cited as the Juvenile Services Act.

Sec. 2. For purposes of the Juvenile Services Act:

(1) Committee shall mean the Juvenile Services Grant Committee established pursuant to section 11 of this act.

(2) Eligible applicant shall mean a community-based agency or organization, community team, political subdivision, school district, or federally recognized or state-recognized Indian tribe.

(3) Juvenile shall mean a person who is under eighteen years of age.

(4) Office shall mean the Office of Probation Administration.

(5) Plan shall mean the comprehensive juvenile services plan required pursuant to section 5 of this act; and

(6) Program shall mean those programs and services described in section 4 of this act.

Sec. 3. The Legislature hereby finds that the incarceration of juveniles in adult jails, lockups, and correctional facilities is contrary to the best interests and well-being of juveniles and frequently inconsistent with state and federal law requiring intervention by the least restrictive method. The Legislature further finds that the lack of available alternatives within local communities is a significant factor in the incarceration of juveniles in such adult

jails, lockups, and correctional facilities.

To address such lack of available alternatives to the incarceration of juveniles, the Legislature declares it to be the policy of the State of Nebraska to aid local communities in the establishment of programs or services for juveniles under the jurisdiction of the juvenile or criminal justice system and to finance such programs or services on a continuing basis with appropriations from the General Fund. The purposes of the Juvenile Services Act shall be to (1) develop statewide criteria for programs or services for juveniles, including a description of factors to be considered in making placement decisions and a description of necessary components of programs or services, (2) assist in the provision of appropriate preventive, diversionary, and dispositional alternatives for juveniles, (3) encourage coordination of the elements of the juvenile services system, and (4) provide an opportunity for local involvement in developing community programs for juveniles so that the following objectives may be obtained:

(a) Preservation of the family unit whenever the best interests of the juvenile require it;

(b) Limitation on intervention to those actions which are necessary and the utilization of the least restrictive yet most effective and appropriate resources;

(c) Encouragement of active family participation in whatever treatment is afforded a juvenile whenever the best interests of the juvenile require it;

(d) Treatment in the community rather than commitment to the youth development centers whenever the best interests of the juvenile require it; and

(e) Encouragement of and assistance to communities in the development of alternatives to secure temporary custody for juveniles who do not require secure detention.

All state agencies providing direct services to juveniles shall coordinate their efforts and work with the office, members of the judiciary, and local political subdivisions in the establishment and provision of such programs. Programs established pursuant to the act shall conform to the family policy tenets prescribed in sections 43-532 to 43-534.

Sec. 4. On and after the effective date of this act and annually thereafter, the office, solely on the recommendation of the committee, shall award grants in accordance with the Juvenile Services Act to assist

communities in the implementation and operation of programs, including, but not limited to, programs for assessment and evaluation, programs for the prevention of delinquent behavior, diversion, detention, shelter care, intensive juvenile probation services, restitution, family support services, and community centers for the care and treatment of juveniles in need of services.

Sec. 5. (1) An eligible applicant may apply to the committee in a manner and form prescribed by the committee for funds made available under the Juvenile Services Act. The committee may require an eligible applicant to appear before the committee to explain its application in greater detail. The application shall include a comprehensive juvenile services plan. Grants shall be awarded to eligible applicants annually within the limits of available funds until programs are available statewide. On request, the office may provide consultation and technical assistance to eligible applicants to aid in the development and implementation of such plans.

(2) All plans shall comply with rules and regulations adopted and promulgated by the committee pursuant to the act and shall include, but not be limited to:

(a) An identification of the geographic area to be served by the proposed program and the target population to be served;

(b) A description of the programs of public and private agencies within the geographic area to be served which offer services to juveniles at various age levels, including those programs which have a significant prevention aspect or objective;

(c) The manner in which each proposed program in the plan will be provided and a demonstration of the need for each program and its purpose, administrative structure, staffing, proposed budget, degree of community involvement, client participation, and duration;

(d) A demonstration of the commitment of the eligible applicant and other participants in the plan, including, but not limited to, a commitment of matching funds, either in cash or in kind, by public or private resources within the community, county, or region;

(e) A description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems and the juvenile needs of the geographic area to be served;

(f) The manner in which the policies and requirements of the act will be met;

(g) The manner in which an eligible applicant will operate a coordinated program with other agencies or organizations;

(h) A detailed task plan for the first year of the plan. The task plan shall include an identification of the major goals to be accomplished, the tasks related to each goal, the agency responsible for completion of the task, and the time frame for completion of the task;

(i) An identification of those individuals and organizations involved in the plan;

(j) A description of the manner in which the programs interrelate with other similar state or local programs;

(k) Provisions for administering money awarded under the act; and

(1) Criteria to be used by the eligible applicant in evaluating programs in the plan funded pursuant to the act.

(3) Any portion of the plan dealing with the administration, procedures, and programs of the juvenile court shall not be submitted to the office without the concurrence of the presiding judge of the court having jurisdiction in juvenile cases for the geographic area to be served.

(4) Eligible applicants may give consideration to contracting with private nonprofit agencies for the provision of programs.

(5) An eligible applicant receiving money under the act shall not make any amendment or modification which involves more than two thousand dollars of approved funding to an approved plan without first seeking approval from the office. An eligible applicant making an amendment or modification which involves two thousand dollars or less of approved funding shall notify the office within thirty days after making such amendment or modification. Failure to notify the office shall result in the withdrawal of the funding involved in the amendment or modification.

Sec. 6. (1) From amounts appropriated to the office for programs by the Legislature, the office shall award grants on a competitive basis to eligible applicants based upon criteria to be determined by the committee. Such criteria shall include, but not be limited to, the following:

(a) Availability of programs or services in the geographic area to be served;

(b) A description of the juvenile crime

problems and the needs of juveniles within the geographic area to be served, including an analysis of the leading causes of juvenile crime in the geographic area to be served, trends in juvenile crime in the geographic area to be served, and proposals for addressing juvenile crime and juvenile needs in the geographic area to be served;

(c) An analysis of how well the plan will address the needs of the geographic area to be served; and

(d) An analysis of the overall commitment of the eligible applicant and other participants to the plan, including the commitment of matching funds.

(2) In awarding competitive grants, the committee shall give priority to those plans that fulfill the following minimum criteria:

(a) In rural areas, plans that are multicounty, multicounty, or regional in scope or that utilize interlocal agreements or contracts for the provision of services;

(b) Plans that demonstrate collaboration and cooperation between interested agencies or parties in the geographic area to be served;

(c) Plans that comprehensively address the needs of juveniles in the geographic area to be served as defined in the plan; and

(d) Plans that aid in reducing the number of commitments to the youth development centers or placements in other long-term, out-of-home care for juvenile offenders.

The committee may specify additional criteria as it deems necessary. It is the intent of the Legislature that competitive grants shall be distributed statewide from available funds.

(3) An eligible applicant who has received a grant may apply for continued funding by submitting a proposed budget along with an annual performance report which describes the progress of the eligible applicant in implementing programs contained in the original plan to the office by August 1 of each year. The office shall review the budget in consultation with the committee and determine whether the grant shall be continued.

Sec. 7. An eligible applicant which accepts funds under the Juvenile Services Act shall:

(1) Within a reasonable time comply or show substantial progress toward compliance with the criteria and reporting procedures established by the committee pursuant to section 12 of this act; and

(2) Demonstrate that the following programs are provided or will be provided within the community, county, or region by public or private agencies:

(a) Twenty-four-hour intake screening services or accessibility to such services;

(b) Family crisis intervention services;

(c) A program to divert juveniles from the juvenile justice system;

(d) A program of options to juvenile detention; and

(e) A program to provide nonrestrictive services to juveniles who are alleged to have committed acts which would not be offenses if committed by adults.

Sec. 8. (1) Funds provided under the Juvenile Services Act may be used for developing programs and for acquiring, developing, or improving local facilities for juveniles if the development and use of the facilities are prescribed in the approved plan.

(2) No funds awarded under the act shall be used to acquire, develop, build, or improve local correctional facilities which are not specifically utilized for juveniles.

Sec. 9. (1) The office shall review periodically the performance of eligible applicants participating under the Juvenile Services Act. If the office determines that there are reasonable grounds to believe that an eligible applicant is not in substantial compliance with its plan, the office, after giving the eligible applicant not less than one hundred twenty days' notice, shall conduct a public hearing to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. In its notice, the office shall identify the reasons for believing that the eligible applicant is out of compliance. After the hearing, the office may suspend any portion of those funds made available to the eligible applicant under the act until the required compliance occurs. The office, in adopting and promulgating rules and regulations pursuant to the act, shall establish criteria for defining substantial compliance.

(2) Funds received by an eligible applicant under the act shall not be used to replace or supplant any funds, other than federal or state funds, currently being used to support existing programs for juveniles.

(3) Funds received under the act shall not be used for capital construction or the lease or acquisition of facilities unless such uses have been approved.

Sec. 10. Each eligible applicant submitting a plan shall demonstrate that the plan has community-wide, interdisciplinary support. At a minimum, the plan shall have the support of a representative of social services, a representative of the community mental health agency, a representative of the schools, the sheriff, the county attorney, and the district probation office. When the plan utilizes a multicity, multicounty, or regional approach, support shall be representative of the geographic area to be served. Support may be demonstrated through letters of support, the adoption of a resolution, or any other manner deemed acceptable by the committee. The committee may exercise discretion in determining whether the plan has community-wide, interdisciplinary support and may request additional documentation from the eligible applicant to demonstrate such support.

Sec. 11. (1) The Juvenile Services Grant Committee is hereby created. The committee shall be comprised of:

(a) The probation administrator or his or her designee;

(b) The State Court Administrator or his or her designee;

(c) The Director of Correctional Services or his or her designee;

(d) The Director of Social Services or his or her designee;

(e) The Executive Director of the Nebraska Commission on Law Enforcement and Criminal Justice or his or her designee;

(f) The Commissioner of Education or his or her designee;

(g) The Executive Director of the Nebraska Association of County Officials or his or her designee;

(h) The Executive Director of the Office of Child and Family Policy;

(i) Three county judges, one to be selected from each congressional district by the Nebraska County Judges Association;

(j) A member of the Juvenile Justice Advisory Committee to the Nebraska Commission on Law Enforcement and Criminal Justice to be selected by the Juvenile Justice Advisory Committee;

(k) A separate juvenile court judge to be selected by the separate juvenile court judges of the State of Nebraska;

(l) Three representatives of community mental health, one from each congressional district to be

selected by the Nebraska Association of Community Mental Health Providers; and

(m) Three county officials, one to be selected from each congressional district by the Nebraska Association of County Officials.

(2) The terms of members appointed pursuant to subdivisions (1)(i) through (1)(m) of this section shall be three years. Any vacancy on the committee shall be filled in the same manner in which the original appointment was made. Appointments to the committee shall be made within sixty days after the effective date of this act. The committee shall select a chairperson, a vice-chairperson, and such other officers as it deems necessary.

(3) Members of the committee shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

(4) The committee shall meet at least four times a year and at other times deemed necessary to perform its functions.

(5) The committee may appoint task forces to carry out its work. Task force members shall have knowledge of, responsibility for, or interest in an area related to the duties of the committee.

(6) The coordinator of the Juvenile Services Act established pursuant to section 13 of this act shall serve as staff to the committee.

Sec. 12. (1) Consistent with the purposes and objectives of the Juvenile Services Act, the committee shall:

(a) Make recommendations to the office on the awarding of grants to eligible applicants for plans;

(b) Establish minimum statewide criteria for programs, including a description of factors to be considered in making placement decisions and a description of the necessary components of such programs;

(c) Develop a uniform system of reporting and collecting statistical data from eligible applicants and other participants in the plan;

(d) Develop or contract for the development of a statewide system to monitor and evaluate the effectiveness of plans provided under the act in preventing persons from entering the juvenile justice system and in rehabilitating juvenile offenders;

(e) Recommend guidelines to be used for the diversion of juveniles from the juvenile justice system;

(f) Prepare an annual report to the Governor and the Legislature on the criteria, recommendations,

guidelines, and rules and regulations developed under this section, including recommendations on administrative and legislative actions which would improve the juvenile justice system;

(g) Ensure widespread citizen involvement in all phases of its work;

(h) Meet at least once every three months; and

(i) Adopt and promulgate rules and regulations necessary to carry out its duties.

(2) Consistent with the purposes and objectives of the act and within the limits of available time and appropriations, the committee may:

(a) Recommend criteria for administrative procedures, including, but not limited to, procedures for intake, detention, petition filing, and probation supervision;

(b) Recommend minimum professional standards, including requirements for continuing professional training, for employees of community-based, youth-serving agencies;

(c) Recommend curricula for and cause to have conducted training sessions for juvenile court judges and employees of other community-based, youth-serving agencies;

(d) Assist and advise state and local agencies in the establishment of volunteer training programs and the utilization of volunteers;

(e) Apply for and receive funds from federal and private sources for carrying out its powers and duties; and

(f) Provide consultation services or technical assistance to eligible applicants.

(3) In formulating, adopting, and promulgating the standards, recommendations, guidelines, and rules and regulations provided for in this section, the committee shall consider the differences among counties in population, in geography, and in the availability of local resources.

Sec. 13. There is hereby established within the office the position of coordinator of the Juvenile Services Act. The coordinator shall assist the office in the administration of such act and shall serve as staff to the committee pursuant to section 11 of this act.

Sec. 14. Consistent with the purposes and objectives of the Juvenile Services Act, the Nebraska Commission on Law Enforcement and Criminal Justice shall coordinate with the office the distribution of any funds available for juvenile programs, including, but not

limited to, federal funds to support the purposes of such act.

Sec. 15. The Department of Correctional Services shall monitor commitments, placements, and evaluations at the youth development centers and report its findings annually to the Legislature. The report shall include an assessment of the administrative costs of operating the facilities, the cost of programming, and the savings realized through reduction in commitments, placements, and evaluations.

Sec. 16. That section 29-2252, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2252. The administrator shall:

- (1) Supervise and administer the office;
- (2) Establish and maintain policies, standards, and procedures for the system, with the concurrence of the Supreme Court;
- (3) Prescribe and furnish such forms for records and reports for the system as shall be deemed necessary for uniformity, efficiency, and statistical accuracy;
- (4) Establish minimum qualifications for employment as a probation officer in this state and establish and maintain such additional qualifications as he or she deems appropriate for appointment to the system. Qualifications for probation officers shall be established in accordance with subsection (4) of section 29-2253. An ex-offender released from a penal complex or a county jail may be appointed to a position of deputy probation or parole officer. Such ex-offender shall maintain a record free of arrests, except for minor traffic violations, for one year immediately preceding his or her appointment;
- (5) Establish and maintain advanced periodic inservice training requirements for the system;
- (6) Cooperate with all agencies, public or private, which are concerned with treatment or welfare of persons on probation;
- (7) Organize and conduct training programs for probation officers;
- (8) Collect, develop, and maintain statistical information concerning probationers, probation practices, and the operation of the system;
- (9) Interpret the probation program to the public with a view toward developing a broad base of public support;
- (10) Conduct research for the purpose of evaluating and improving the effectiveness of the

system;

(11) Adopt and promulgate such rules and regulations as may be necessary or proper for the operation of the office or system;

(12) Transmit a report during each even-numbered year to the Supreme Court on the operation of the office for the preceding two calendar years, which report shall be transmitted by the Supreme Court to the Governor and the Clerk of the Legislature;

(13) Administer the payment by the state of all salaries, travel, and actual and necessary expenses incident to the conduct and maintenance of the office; and

(14) Exercise all powers and perform all duties necessary and proper to carry out his or her responsibilities; and

(15) Administer the Juvenile Services Act.

Each member of the Legislature shall receive a copy of the report required by subdivision (12) of this section by making a request for it to the administrator.

Sec. 17. That section 83-4,126, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-4,126. The Jail Standards Board shall have the authority and responsibility:

(1) To develop minimum standards for the construction, maintenance, and operation of such criminal detention facilities; and

(2) To perform such other duties as may be necessary to carry out the policy of the state regarding such criminal detention facilities as stated in sections 83-4,124 to 83-4,134; and

(3) Consistent with the purposes and objectives of the Juvenile Services Act, to develop standards for juvenile detention facilities, including, but not limited to, standards for physical facilities, care, programs, and disciplinary procedures, and to develop guidelines pertaining to the operation of such facilities.

Sec. 18. That original sections 29-2252 and 83-4,126, Reissue Revised Statutes of Nebraska, 1943, are repealed.