

Chapter 6
Children & Minors
(Last Updated: April 2013)

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Chapter 6.A

Children & Minors Definitions of a Minor (Last Updated: April 2013)

43-245 Terms, defined.

43-2101 Persons under nineteen years of age declared minors; marriage, effect; person eighteen years of age or older; rights and responsibility.

53-103.23 Minor, defined.

28-807 Terms, defined.

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43-245 Terms, defined.

For purposes of the Nebraska Juvenile Code, unless the context otherwise requires:

(1) Age of majority means nineteen years of age;

...

(7) Juvenile means any person under the age of eighteen;

43-2101 Persons under nineteen years of age declared minors; marriage, effect; person eighteen years of age or older; rights and responsibility.

All persons under nineteen years of age are declared to be minors, but in case any person marries under the age of nineteen years, his or her minority ends. Upon becoming the age of majority, a person is considered an adult and acquires all rights and responsibilities granted or imposed by statute or common law, except that a person eighteen years of age or older and who is not a ward of the state may enter into a binding contract or lease of whatever kind or nature and shall be legally responsible therefor.

53-103.23 Minor, defined.

Minor means any person, male or female, under twenty-one years of age, regardless of marital status.

28-807 Terms, defined.

As used in sections 28-807 to 28-829, unless the context otherwise requires:

(1) Adult shall mean any married person or any unmarried person of the age of eighteen years or older;

...

(8) Minor shall mean any unmarried person under the age of eighteen years;

25-21,194 Shoplifting; civil action authorized; conditions; limitations.

(8) For purposes of this section, minor shall mean any individual under seventeen years of age.

Chapter 6.B

Child Abuse General Provisions (Last Updated: April 2013)

28-703 Incest; penalty.

28-704 Repealed. Laws 1995, LB 22, s. 1.

28-705 Abandonment of spouse, child, or dependent stepchild; prohibited acts; penalty.

28-706 Criminal nonsupport; penalty; exceptions.

28-707 Child abuse; privileges not available; penalties.

28-708 Repealed. Laws 1988, LB 463, s. 50.

28-709 Contributing to the delinquency of a child; penalty; definitions.

28-703. Incest; penalty

(1) Any person who shall knowingly intermarry or engage in sexual penetration with any person who falls within the degrees of consanguinity set forth in section 28-702 or any person who engages in sexual penetration with his or her minor stepchild commits incest.

(2) Incest is a Class III felony.

(3) (a) For purposes of this section, the definitions found in section 28-318 shall be used.

(b) The testimony of a victim shall be entitled to the same weight as the testimony of victims of other crimes under this code.

28-704. Repealed.

28-705. Abandonment of spouse, child, or dependent stepchild; prohibited acts; penalty

(1) Any person who abandons and neglects or refuses to maintain or provide for his or her spouse or his or her child or dependent stepchild, whether such child is born in or out of wedlock, commits abandonment of spouse, child, or dependent stepchild.

(2) For the purposes of this section, child shall mean an individual under the age of sixteen years.

(3) When any person abandons and neglects to provide for his or her spouse or his or her child or dependent stepchild for three consecutive months or more, it shall be prima facie evidence of intent to violate the provisions of subsection (1) of this section.

(4) A designation of assets for or use of income by an individual in accordance with section 68-922 shall be considered just cause for failure to use such assets or income to provide medical support of such individual's spouse.

(5) Abandonment of spouse, child, or dependent stepchild is a Class I misdemeanor.

28-706. Criminal nonsupport; penalty; exceptions

(1) Any person who intentionally fails, refuses, or neglects to provide proper support which he or she knows or reasonably should know he or she is legally obliged to provide to a spouse, minor child, minor stepchild, or other dependent commits criminal nonsupport.

(2) A parent or guardian who refuses to pay hospital costs, medical costs, or any other costs arising out of or in connection with an abortion procedure performed on a minor child or minor stepchild does not commit criminal nonsupport if:

(a) Such parent or guardian was not consulted prior to the abortion procedure; or

(b) After consultation, such parent or guardian refused to grant consent for such procedure, and the abortion procedure was not necessary to preserve the minor child or stepchild from an imminent peril that substantially endangered her life or health.

(3) Support includes, but is not limited to, food, clothing, medical care, and shelter.

(4) A designation of assets for or use of income by an individual in accordance with section 68-922 shall be considered just cause for failure to use such assets or income to provide medical support of such individual's spouse.

(5) This section does not exclude any applicable civil remedy.

(6) Except as provided in subsection (7) of this section, criminal nonsupport is a Class II misdemeanor.

(7) Criminal nonsupport is a Class IV felony if it is in violation of any order of any court.

28-707. Child abuse; privileges not available; penalties

(1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

(a) Placed in a situation that endangers his or her life or physical or mental health;

(b) Cruelly confined or cruelly punished;

(c) Deprived of necessary food, clothing, shelter, or care;

(d) Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions; or

(e) Placed in a situation to be sexually abused as defined in section 28-319, 28-319.01, or 28-320.01.

(2) The statutory privilege between patient and physician, between client and professional counselor, and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury as defined in section 28-109 or death.

(4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109 or death.

(5) Child abuse is a Class IIIA felony if the offense is committed negligently and results in serious bodily injury as defined in section 28-109.

(6) Child abuse is a Class III felony if the offense is committed negligently and results in the death of such child.

(7) Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in such section.

(8) Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child.

(9) For purposes of this section, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly, as defined in section 28-109, with respect to the safety or health of the minor child.

28-708. Repealed.

28-709. Contributing to the delinquency of a child; penalty; definitions

(1) Any person who, by any act, encourages, causes, or contributes to the delinquency or need for special supervision of a child under eighteen years of age, so that such child becomes, or will tend to become, a delinquent child, or a child in need of special supervision, commits contributing to the delinquency of a child.

(2) The following definitions shall be applicable to this section:

(a) Delinquent child shall mean any child under the age of eighteen years who has violated any law of the state or any city or village ordinance; and

(b) A child in need of special supervision shall mean any child under the age of eighteen years (i) who, by reason of being wayward or habitually disobedient, is uncontrolled by his parent, guardian, or custodian; (ii) who

is habitually truant from school or home; or (iii) who departs himself so as to injure or endanger seriously the morals or health of himself or others.

(3) Contributing to the delinquency of a child is a Class I misdemeanor.

See Also

Chapter 4.A Neb. Rev. Stat. §28-319.01

Chapter 4.A Neb. Rev. Stat. §28-320.01

Chapter 6.C

Child Abuse Child Protection Act & Central Register (Last Updated: April 2013)

28-710 Act, how cited; terms, defined.

28-711 Child subjected to abuse or neglect; report; contents; toll-free number.

28-712 Repealed. Laws 1992, LB 1184, s. 25.

28-713 Reports of child abuse or neglect; law enforcement agency; department; duties.

28-713.01 Cases of child abuse or neglect; completion of investigation; notice; when.

28-714 Privileged communications; not grounds for excluding evidence.

28-715 Tracking system; department; duties; use authorized.

28-716 Person participating in an investigation or making report; immune from liability; civil or criminal.

28-717 Violation; penalty.

28-718 Child protection cases; central register; name-change order; treatment.

28-719 Child abuse and neglect records; access; when.

28-720 Cases; central register; classification.

28-720.01 Unfounded reports; how treated.

28-721 Central register; record; amend, expunge, or remove.

28-722 Central register; subject of report; access to information.

28-723 Subject of report; request to amend, expunge, or remove information; denied; hearing; decision; appeal.

28-724 Record; amendment, expunction, or removal; notice.

28-725 Information, report; confidential; violation; penalty.

28-726 Information; access.

28-727 Report; person making; receive summary of findings and actions; when.

28-710. Act, how cited; terms, defined

(1) Sections 28-710 to 28-727 shall be known and may be cited as the Child Protection Act.

(2) For purposes of the Child Protection Act:

(a) Child abuse or neglect means knowingly, intentionally, or negligently causing or permitting a minor child to be:

(i) Placed in a situation that endangers his or her life or physical or mental health;

(ii) Cruelly confined or cruelly punished;

(iii) Deprived of necessary food, clothing, shelter, or care;

(iv) Left unattended in a motor vehicle if such minor child is six years of age or younger;

(v) Sexually abused; or

(vi) Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

(b) Department means the Department of Health and Human Services;

(c) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol;

(d) Out-of-home child abuse or neglect means child abuse or neglect occurring in day care homes, foster homes, day care centers, group homes, and other child care facilities or institutions; and

(e) Subject of the report of child abuse or neglect means the person or persons identified in the report as responsible for the child abuse or neglect.

28-711. Child subjected to abuse or neglect; report; contents; toll-free number

(1) When any physician, any medical institution, any nurse, any school employee, any social worker, the Inspector General appointed under section 24 of this act, or any other person has reasonable cause to believe that a child has been subjected to

child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the child abuse or neglect or the conditions and circumstances which would reasonably result in such child abuse or neglect, any evidence of previous child abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such child abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of child abuse or neglect under this subsection shall notify the department pursuant to section 28-718 on the next working day by telephone or mail.

(2) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night, any day of the week, to make reports of child abuse or neglect. Reports of child abuse or neglect not previously made to or by a law enforcement agency shall be made immediately to such agency by the department.

28-712. Repealed.

28-713. Reports of child abuse or neglect; law enforcement agency; department; duties

Upon the receipt of a call reporting child abuse and neglect as required by section 28-711:

(1) It is the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings if appropriate. In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the law enforcement agency shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect. The law enforcement agency may request assistance from the department during the investigation and shall, by the next working day, notify either the hotline or the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department;

(2) In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the department shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect and any other information that the department deems necessary. The department shall investigate for the purpose of assessing each report of child abuse or neglect to determine the risk of harm to the child involved. The department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family;

(3) The department may make a request for further assistance from the appropriate law enforcement agency or take such legal action as may be appropriate under the circumstances;

(4) The department shall, by the next working day after receiving a report of child abuse or neglect under subdivision (1) of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the tracking system of child protection cases maintained pursuant to section 28-715 all reports of child abuse or neglect opened for investigation and any action taken; and

(5) The department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected child abuse or neglect.

28-713.01. Cases of child abuse or neglect; completion of investigation; notice; when

(1) Upon completion of the investigation pursuant to section 28-713:

(a) In situations of alleged out-of-home child abuse or neglect, the person or persons having custody of the allegedly abused or neglected child or children shall be given written notice of the results of the investigation and any other information the law enforcement agency or department deems necessary. Such notice and information shall be sent by first-class mail; and

(b) The subject of the report of child abuse or neglect shall be given written notice of the determination of the case and whether the subject of the report of child abuse or neglect will be entered into the central register of child protection cases maintained pursuant to section 28-718 under the criteria provided in section 28-720.

(2) If the subject of the report will be entered into the central register, the notice to the subject shall be sent by certified mail with return receipt requested or first-class mail to the last-known address of the subject of the report of child abuse or neglect and shall include:

- (a) The nature of the report;
- (b) The classification of the report under section 28-720; and
- (c) Notification of the right of the subject of the report of child abuse or neglect to request the department to amend or expunge identifying information from the report or to remove the substantiated report from the central register in accordance with section 28-723.

(3) If the subject of the report will not be entered into the central register, the notice to the subject shall be sent by first-class mail and shall include:

- (a) The nature of the report; and
- (b) The classification of the report under section 28-720.

28-714. Privileged communications; not grounds for excluding evidence

The privileged communication between patient and physician, between client and professional counselor, and between husband and wife shall not be a ground for excluding evidence in any judicial proceeding resulting from a report of child abuse or neglect required by section 28-711.

28-715. Tracking system; department; duties; use authorized

The department shall retain all information from all reports of suspected child abuse or neglect required by section 28-711 and all records generated as a result of such reports in a tracking system of child protection cases. The tracking system shall be used for statistical purposes as well as a reference for future investigations if subsequent reports of child abuse or neglect are made involving the same victim or subject of a report of child abuse or neglect.

28-716. Person participating in an investigation or making report; immune from liability; civil or criminal

Any person participating in an investigation or the making of a report of child abuse or neglect required by section 28-711 pursuant to or participating in a judicial proceeding resulting therefrom shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.

28-717. Violation; penalty

Any person who willfully fails to make any report of child abuse or neglect required by section 28-711 shall be guilty of a Class III misdemeanor.

28-718. Child protection cases; central register; name-change order; treatment

(1) There shall be a central register of child protection cases maintained in the department containing records of all reports of child abuse or neglect opened for investigation as provided in section 28-713 and classified as either court substantiated or agency substantiated as provided in section 28-720. The department may change records classified as inconclusive prior to August 30, 2009, to agency substantiated. The department shall give public notice of the changes made to this section and subsection (3) of section 28-720 by Laws 2009, LB 122, within thirty days after August 30, 2009, by having such notice published in a newspaper or newspapers of general circulation within the state.

(2) The department shall determine whether a name-change order received from the clerk of a district court pursuant to section 25-21,271 is for a person on the central register of child protection cases and, if so, shall include the changed name with the former name in the register and file or cross-reference the information under both names.

28-719. Child abuse and neglect records; access; when

Upon complying with identification requirements established by regulation of the department, or when ordered by a court of competent jurisdiction, any person legally authorized by section 28-722, 28-726, or 28-727 to have access to records relating to child abuse and neglect may request and shall be immediately provided the information requested in accordance with the requirement of the Child Protection Act. Such information shall not include the name and address of the person making the report of child abuse or neglect. The names and other identifying data and the dates and the circumstances of any persons requesting or receiving information from the central register of child protection cases maintained pursuant to section 28-718 shall be entered in such register record.

28-720. Cases; central register; classification

All cases entered into the central register of child protection cases maintained pursuant to section 28-718 shall be classified as one of the following:

(1) Court substantiated, if a court of competent jurisdiction has entered a judgment of guilty against the subject of the report of child abuse or neglect upon a criminal complaint, indictment, or information or there has been an adjudication of jurisdiction of a juvenile court over the child under subdivision (3)(a) of section 43-247 which relates or pertains to the report of child abuse or neglect;

(2) Court pending, if a criminal complaint, indictment, or information or a juvenile petition under subdivision (3)(a) of section 43-247, which relates or pertains to the subject of the report of abuse or neglect, has been filed and is pending in a court of competent jurisdiction; or

(3) Agency substantiated, if the department's determination of child abuse or neglect against the subject of the report of child abuse or neglect was supported by a preponderance of the evidence and based upon an investigation pursuant to section 28-713.

28-720.01. Unfounded reports; how treated

All reports of child abuse or neglect which are not under subdivision (1), (2), or (3) of section 28-720 shall be considered unfounded and shall be maintained only in the tracking system of child protection cases pursuant to section 28-715 and not in the central register of child protection cases maintained pursuant to section 28-718.

28-721. Central register; record; amend, expunge, or remove

At any time, the department may amend, expunge, or remove from the central register of child protection cases maintained pursuant to section 28-718 any record upon good cause shown and upon notice to the subject of the report of child abuse or neglect.

28-722. Central register; subject of report; access to information

Upon request, a subject of the report of child abuse or neglect or, if such subject is a minor or otherwise legally incompetent, the guardian or guardian ad litem of the subject, shall be entitled to receive a copy of all information contained in the central register of child protection cases maintained pursuant to section 28-718 pertaining to his or her case. The department shall not release data that would be harmful or detrimental or that would identify or locate a person who, in good faith, made a report of child abuse or neglect or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.

28-723. Subject of report; request to amend, expunge, or remove information; denied; hearing; decision; appeal

At any time subsequent to the completion of the department's investigation, the subject of the report of child abuse or neglect may request the department to amend, expunge identifying information from, or remove the record of the report from the central register of child protection cases maintained pursuant to section 28-718. If the department refuses to do so or does not act within thirty days, the subject of the report of child abuse or neglect shall have the right to a fair hearing within the department to determine whether the record of the report of child abuse or neglect should be amended, expunged, or removed on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with the Child Protection Act. Such fair hearing shall be held within a

reasonable time after the subject's request and at a reasonable place and hour. In such hearings, the burden of proving the accuracy and consistency of the record shall be on the department. A juvenile court finding of child abuse or child neglect shall be presumptive evidence that the report was not unfounded. The hearing shall be conducted by the head of the department or his or her designated agent, who is hereby authorized and empowered to order the amendment, expunction, or removal of the record to make it accurate or consistent with the requirements of the act. The decision shall be made in writing, at the close of the hearing, or within thirty days thereof, and shall state the reasons upon which it is based. Decisions of the department may be appealed under the provisions of the Administrative Procedure Act.

28-724. Record; amendment, expunction, or removal; notice

Written notice of any amendment, expunction, or removal of any record in the central register of child protection cases maintained pursuant to section 28-718 shall be served upon the subject of the report of child abuse or neglect. The department shall inform any other individuals or agencies which received such record of any amendment, expunction, or removal of such record.

28-725. Information, report; confidential; violation; penalty

All information of the department concerning reports of child abuse or neglect of noninstitutional children, including information in the tracking system of child protection cases maintained pursuant to section 28-715 or records in the central register of child protection cases maintained pursuant to section 28-718, and all information of the department generated as a result of such reports or records, shall be confidential and shall not be disclosed except as specifically authorized by the Child Protection Act and section 81-3126 or other applicable law. The subject of the report of child abuse or neglect may authorize any individual or organization to receive the following information from the central register of child protection cases maintained pursuant to section 28-718 which relates or pertains to him or her: (1) The date of the alleged child abuse or neglect; and (2) the classification of the case pursuant to section 28-720. Permitting, assisting, or encouraging the unauthorized release of any information contained in such reports or records shall be a Class V misdemeanor.

28-726. Information; access

Except as provided in this section and sections 28-722 and 81-3126, no person, official, or agency shall have access to information in the tracking system of child protection cases maintained pursuant to section 28-715 or in records in the central register of child protection cases maintained pursuant to section 28-718 unless in furtherance of purposes directly connected with the administration of the Child Protection Act. Such persons, officials, and agencies having access to such information shall include, but not be limited to:

- (1) A law enforcement agency investigating a report of known or suspected child abuse or neglect;
- (2) A county attorney in preparation of a child abuse or neglect petition or termination of parental rights petition;
- (3) A physician who has before him or her a child whom he or she reasonably suspects may be abused or neglected;
- (4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused or neglected child or a parent, a guardian, or other person responsible for the abused or neglected child's welfare who is the subject of the report of child abuse or neglect;
- (5) Any person engaged in bona fide research or auditing. No information identifying the subjects of the report of child abuse or neglect shall be made available to the researcher or auditor;
- (6) The Foster Care Review Office and the designated local foster care review board when the information relates to a child in a foster care placement as defined in section 43-1301. The information provided to the office and local board shall not include the name or identity of any person making a report of suspected child abuse or neglect;
- (7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act existed on January 1, 2005, and the Protection and Advocacy for Mentally 111 Individuals Act, 42 U.S.C. 10801, as the act existed on September 1, 2001, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness;
- (8) The person or persons having custody of the abused or neglected child in situations of alleged out-of-home child abuse or neglect; and
- (9) For purposes of licensing providers of child care programs, the Department of Health and Human Services.

28-727. Report; person making; receive summary of findings and actions; when

Upon request, a physician or the person in charge of an institution, school, facility, or agency making a legally mandated report of child abuse or neglect pursuant to section 28-711 shall receive a summary of the findings of and actions taken by the department in response to his or her report. The amount of detail such summary contains shall depend on the source of the report of child abuse or neglect and shall be established by regulations of the department.

Chapter 6.D

Child Abuse

1184 Teams

(Last Updated: April 2013)

28-728 Legislative findings and intent; child abuse and neglect investigation team; child advocacy center; child abuse and neglect treatment team; powers and duties.

28-729 Teams; members; training; county attorney; duties; meetings; annual report.

28-730 Records and information; access; disclosure; limitation; review of cases; immunity; violation; penalty.

28-731 Teams; exempt from Open Meetings Act.

28-732 Failure to establish teams; requirements.

28-733 Sections; when operative.

28-728. Legislative findings and intent; child abuse and neglect investigation team; child advocacy center; child abuse and neglect treatment team; powers and duties

(1) The Legislature finds that child abuse and neglect are community problems requiring a coordinated response by law enforcement, child advocacy centers, prosecutors, the Department of Health and Human Services, and other agencies or entities designed to protect children. It is the intent of the Legislature to create a child abuse and neglect investigation team in each county or contiguous group of counties and to create a child abuse and neglect treatment team in each county or contiguous group of counties.

(2) Each county or contiguous group of counties will be assigned by the Department of Health and Human Services to a child advocacy center. The purpose of a child advocacy center is to provide a child-focused location for conducting forensic interviews and medical evaluations for alleged child victims of abuse and neglect and for coordinating a multidisciplinary team response that supports the physical, emotional, and psychological needs of children who are alleged victims of abuse or neglect. Each child advocacy center shall meet accreditation criteria set forth by the National Children's Alliance. Nothing in this section shall prevent a child from receiving treatment or other services at a child advocacy center which has received or is in the process of receiving accreditation.

(3) Each county attorney or the county attorney representing a contiguous group of counties is responsible for convening the child abuse and neglect investigation team and ensuring that protocols are established and implemented. A representative of the child advocacy center assigned to the team shall assist the county attorney in facilitating case review, developing and updating protocols, and arranging training opportunities for the team. Each team must have protocols which, at a minimum, shall include procedures for:

(a) Mandatory reporting of child abuse and neglect as outlined in section 28-711 to include training to professionals on identification and reporting of abuse;

(b) Assigning roles and responsibilities between law enforcement and the Department of Health and Human Services for the initial response;

(c) Outlining how reports will be shared between law enforcement and the Department of Health and Human Services under section 28-713;

(d) Coordinating the investigative response including, but not limited to:

(i) Defining cases that require a priority response;

(ii) Contacting the reporting party;

- (iii) Arranging for a video-recorded forensic interview at a child advocacy center for children who are three to eighteen years of age and are alleged to be victims of sexual abuse or serious physical abuse or neglect, have witnessed a violent crime, are found in a drug-endangered environment, or have been recovered from a kidnapping;
 - (iv) Assessing the need for and arranging, when indicated, a medical evaluation of the alleged child victim;
 - (v) Assessing the need for and arranging, when indicated, appropriate mental health services for the alleged child victim or nonoffender caregiver;
 - (vi) Conducting collateral interviews with other persons with information pertinent to the investigation including other potential victims;
 - (vii) Collecting, processing, and preserving physical evidence including photographing the crime scene as well as any physical injuries as a result of the alleged child abuse and neglect; and
 - (viii) Interviewing the alleged perpetrator;
- (e) Reducing the risk of harm to alleged child abuse and neglect victims;
- (f) Ensuring that the child is in safe surroundings, including removing the perpetrator when necessary or arranging for temporary custody of the child when the child is seriously endangered in his or her surroundings and immediate removal appears to be necessary for the child's protection as provided in section 43-248;
- (g) Sharing of case information between team members; and
- (h) Outlining what cases will be reviewed by the investigation team including, but not limited to:
- (i) Cases of sexual abuse, serious physical abuse and neglect, drug-endangered children, and serious or ongoing domestic violence;
 - (ii) Cases determined by the Department of Health and Human Services to be high or very high risk for further maltreatment; and
 - (iii) Any other case referred by a member of the team when a system-response issue has been identified.

(4) Each county attorney or the county attorney representing a contiguous group of counties is responsible for convening the child abuse and neglect treatment team and ensuring that protocols are established and implemented. A representative of the child advocacy center appointed to the team shall assist the county attorney in facilitating case review, developing and updating protocols, and arranging training opportunities for the team. Each team must have protocols which, at a minimum, shall include procedures for:

- (a) Case coordination and assistance, including the location of services available within the area;
- (b) Case staffings and the coordination, development, implementation, and monitoring of treatment or safety plans particularly in those cases in which ongoing services are provided by the Department of Health and Human Services or a contracted agency but the juvenile court is not involved;
- (c) Reducing the risk of harm to child abuse and neglect victims;
- (d) Assisting those child abuse and neglect victims who are abused and neglected by perpetrators who do not reside in their homes; and
- (e) Working with multiproblem status offenders and delinquent youth.

(5) For purposes of this section, forensic interview means a video-recorded interview of an alleged child victim conducted at a child advocacy center by a professional with specialized training designed to elicit details about alleged incidents of abuse or neglect, and such interview may result in intervention in criminal or juvenile court.

28-729. Teams; members; training; county attorney; duties; meetings; annual report

(1) A child abuse and neglect investigation team shall include a representative from the county attorney's office, a representative from the Division of Children and Family Services of the Department of Health and Human Services, a representative from each law enforcement agency which has jurisdiction within the county or contiguous group of counties, a representative from the child advocacy center, and representatives from such other agencies as determined by the team.

(2) A child abuse and neglect treatment team shall include a representative from the Division of Children and Family Services of the Department of Health and Human Services, a juvenile probation officer, a representative from each of the mental health profession and the medical profession actively practicing within the county or contiguous group of counties, a representative from each school district which provides services within the county or contiguous group of counties, a

representative from the child advocacy center, and representatives from such other agencies as determined by the team. For purposes of this subsection, more than one school district may be represented by the same individual.

(3) The teams established pursuant to this section and section 28-728 shall be encouraged to expand their membership to include the various relevant disciplines which exist within the county or contiguous group of counties. The additional members shall have the requisite experience necessary as determined by the core members of the teams. Consistent with requirements set out by the teams, all members of both teams shall attend child abuse and neglect training on an annual basis. Such training shall be no less than eight hours annually and consist of the following components:

- (a) Child abuse and neglect investigation procedures;
- (b) Legal requirements and procedures for successful prosecution of child abuse and neglect cases;
- (c) Roles and responsibilities of child protective services, law enforcement agencies, county attorneys, child advocacy centers, the Attorney General, and judges;
- (d) Characteristics of child development and family dynamics;
- (e) Recognition of various types of abuse and neglect;
- (f) Duty of public and private individuals and agencies, including schools, governmental agencies, physicians, and child advocates, to report suspected or known child abuse;
- (g) Multidisciplinary approaches to providing services to children; and
- (h) Continually identifying and improving weaknesses in the current child protection system and developing ongoing best practices.

(4) The representative of the child advocacy center shall report the name and address of each team member and the number of times the team met within a calendar year to the Nebraska Commission on Law Enforcement and Criminal Justice,

(5) Each team shall meet at a location agreed to by the team. The number of meetings of the team shall be secondary to the caseload of the team, but each team shall meet at least quarterly. Each team may substitute a telephone conference call among team members in lieu of meeting in person. If a team fails to convene, the commission shall notify the Child Protection Division of the office of the Attorney General and the division shall appoint the team members or convene the

team pursuant to sections 28-728 to 28-730. Nothing in this section shall relieve the county attorney from ensuring that the teams meet as required by this section.

28-730. Records and information; access; disclosure; limitation; review of cases; immunity; violation; penalty

(1) Notwithstanding any other provision of law regarding the confidentiality of records and when not prohibited by the federal Privacy Act of 1974, as amended, juvenile court records and any other pertinent information that may be in the possession of school districts, law enforcement agencies, county attorneys, the Attorney General, the Department of Health and Human Services, child advocacy centers, and other team members concerning a child whose case is being investigated or discussed by a child abuse and neglect investigation team or a child abuse and neglect treatment team shall be shared with the respective team members as part of the discussion and coordination of efforts for investigative or treatment purposes. Upon request by a team, any individual or agency with information or records concerning a particular child shall share all relevant information or records with the team as determined by the team pursuant to the appropriate team protocol. Only a team which has accepted the child's case for investigation or treatment shall be entitled to access to such information.

(2) All information acquired by a team member or other individuals pursuant to protocols developed by the team shall be confidential and shall not be disclosed except to the extent necessary to perform case consultations, to carry out a treatment plan or recommendations, or for use in a legal proceeding instituted by a county attorney or the Child Protection Division of the office of the Attorney General. Information, documents, or records otherwise available from the original sources shall not be immune from discovery or use in any civil or criminal action merely because the information, documents, or records were presented during a case consultation if the testimony sought is otherwise permissible and discoverable. Any person who presented information before the team or who is a team member shall not be prevented from testifying as to matters within the person's knowledge.

(3) Each team may review any case arising under the Nebraska Criminal Code when a child is a victim or any case arising under the Nebraska Juvenile Code. A member of a team who participates in good faith in team discussion or any person who in good faith cooperates with a team by providing information or records about a child whose case has been accepted for investigation or treatment by a team shall be immune from any civil or criminal liability. The provisions of this subsection or any other section granting or allowing the grant of immunity from liability shall not be extended to any person alleged to have committed an act of child abuse or neglect.

(4) A member of a team who publicly discloses information regarding a case consultation in a manner not consistent with sections 28-728 to 28-730 shall be guilty of a Class III misdemeanor.

28-731. Teams; exempt from Open Meetings Act

The teams established by sections 28-728 to 28-730 shall not be considered a public body for purposes of the Open Meetings Act.

§ 28-732. *[Repealed Effective 7/19/2012]*

§ 28-733. *[Repealed Effective 7/19/2012]*

Chapter 6.E

Children & Minors

Child Pornography Prevention Act

(Last Updated: April 2013)

28-1463.01 Act, how cited.

28-1463.02 Terms, defined.

28-1463.03 Visual depiction of sexually explicit conduct; prohibited acts; affirmative defense.

28-1463.04 Violation; penalty.

28-1463.05 Visual depiction of sexually explicit acts related to possession; violation; penalty.

28-1463.01 Act, how cited.

Sections 28-1463.01 to 28-1463.05 shall be known and may be cited as the Child Pornography Prevention Act.

28-1463.02 Terms, defined.

As used in the Child Pornography Prevention Act, unless the context otherwise requires:

(1) Child, in the case of a participant, means any person under the age of eighteen years and, in the case of a portrayed observer, means any person under the age of sixteen years;

(2) Erotic fondling means touching a person's clothed or unclothed genitals or pubic area, breasts if the person is a female, or developing breast area if the person is a female child, for the purpose of real or simulated overt sexual gratification or sexual stimulation of one or more persons involved. Erotic fondling shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or sexual stimulation of one or more of the persons involved;

(3) Erotic nudity means the display of the human male or female genitals or pubic area, the human female breasts, or the developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or sexual stimulation of one or more of the persons involved;

(4) Sadomasochistic abuse means flagellation or torture by or upon a nude person or a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained when performed to predominantly appeal to the morbid interest;

(5) Sexually explicit conduct means: (a) Real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal between persons of the same or opposite sex or between a human and an animal or with an artificial genital; (b) real or simulated masturbation; (c) real or simulated sadomasochistic abuse; (d) erotic fondling; (e) erotic nudity; or (f) real or simulated defecation or urination for the purpose of sexual gratification or sexual stimulation of one or more of the persons involved; and

(6) Visual depiction means live performance or photographic representation and includes any undeveloped film or videotape or data stored on a computer disk or by other electronic means which is capable of conversion into a visual image and also includes any photograph, film, video, picture, digital image, or computer-displayed image, video, or picture, whether made or produced by electronic, mechanical, computer, digital, or other means.

28-1463.03 Visual depiction of sexually explicit conduct; prohibited acts; affirmative defense.

- (1) It shall be unlawful for a person to knowingly make, publish, direct, create, provide, or in any manner generate any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.
- (2) It shall be unlawful for a person knowingly to purchase, rent, sell, deliver, distribute, display for sale, advertise, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.
- (3) It shall be unlawful for a person to knowingly employ, force, authorize, induce, or otherwise cause a child to engage in any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.
- (4) It shall be unlawful for a parent, stepparent, legal guardian, or any person with custody and control of a child, knowing the content thereof, to consent to such child engaging in any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.
- (5) It shall be an affirmative defense to a charge brought pursuant to subsection (1) of this section if the defendant was less than eighteen years of age at the time the visual depiction was created and the visual depiction of sexually explicit conduct includes no person other than the defendant.
- (6) It shall be an affirmative defense to a charge brought pursuant to subsection (2) of this section if (a) the defendant was less than eighteen years of age, (b) the visual depiction of sexually explicit conduct includes no person other than the defendant, (c) the defendant had a reasonable belief at the time the visual depiction was sent to another that it was being sent to a willing recipient, and (d) the recipient was at least fifteen years of age at the time the visual depiction was sent.

28-1463.04 Violation; penalty.

- (1) Any person who is under nineteen years of age at the time he or she violates section 28-1463.03 shall be guilty of a Class III felony for each offense.
- (2) Any person who is nineteen years of age or older at the time he or she violates section 28-1463.03 shall be guilty of a Class ID felony for each offense.
- (3) Any person who violates section 28-1463.03 and has previously been convicted of a violation of section 28-1463.03 or section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01, 28-813, 28-833, or 28-1463.05 or subsection (1) or (2) of section 28-320 shall be guilty of a Class IC felony for each offense.

28-1463.05 Visual depiction of sexually explicit acts related to possession; violation; penalty.

(1) It shall be unlawful for a person to knowingly possess with intent to rent, sell, deliver, distribute, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.

(2)(a) Any person who is under nineteen years of age at the time he or she violates this section shall be guilty of a Class IIIA felony for each offense.

(b) Any person who is nineteen years of age or older at the time he or she violates this section shall be guilty of a Class III felony for each offense.

(c) Any person who violates this section and has previously been convicted of a violation of this section or section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01, 28-813, 28-833, or 28-1463.03 or subsection (1) or (2) of section 28-320 shall be guilty of a Class IC felony for each offense.

Chapter 6.F

Children & Minors Missing Children Identification Act (Last Updated: April 2013)

43-2001 Act, how cited.

43-2002 Legislative findings.

43-2003 Terms, defined.

43-2004 Missing person; notification.

43-2005 Flagging birth certificate.

43-2006 Flagged birth certificate; inquiry and request; how handled.

43-2007 Schools; home school; duties.

43-2008 Flag; requirements.

43-2009 Removal of flag.

43-2010 Local law enforcement agency; duties.

43-2011 Immunity from liability.

43-2012 Department; patrol; adopt rules and regulations.

43-2001 Act, how cited.

Sections 43-2001 to 43-2012 shall be known and may be cited as the Missing Children Identification Act.

43-2002 Legislative findings.

Each year Nebraska children are reported missing. The Legislature is seeking a procedure whereby it can help locate such missing children through school records and birth certificates filed with the schools and the Department of Health and Human Services.

43-2003 Terms, defined.

As used in the Missing Children Identification Act, unless the context otherwise requires:

- (1) County agency means any agency in a county that records and maintains birth certificates;
- (2) Department means the Department of Health and Human Services;
- (3) Missing person means a person sixteen years of age or younger reported to any law enforcement agency as abducted or lost; and
- (4) Patrol means the Nebraska State Patrol.

43-2004 Missing person; notification.

Upon notification to a local law enforcement agency of the disappearance of a missing person, such agency shall immediately notify the patrol which shall notify the school in which such missing person is enrolled and the department. The department shall notify the county agency if such missing person was born in such county. Any information known to the patrol shall be supplied to the department.

43-2005 Flagging birth certificate.

If a missing person was born in Nebraska, the department shall flag such person's birth certificate, and if such person was born in a county where a county agency records and maintains birth certificates, such agency shall also flag the birth certificate in its custody.

43-2006 Flagged birth certificate; inquiry and request; how handled.

- (1) If an inquiry is made regarding the flagged birth certificate, the department or county agency shall not furnish any information to such requesting person and shall request the name of the inquirer, address, and any other pertinent information. The department and such county agency shall immediately notify the patrol of such inquiry.

(2) If a request is made in person from the department or such county agency for a flagged birth certificate, the department or such county agency shall:

- (a) Immediately notify the patrol or local law enforcement agency;
- (b) Have the person requesting the flagged birth certificate fill in a form requesting such person's name, address, telephone number, social security number, and relationship to the person whose birth certificate is being requested and the name, address, and birthdate of the person whose birth certificate is being requested;
- (c) Try to obtain a photocopy of the driver's license of the person making the request;
- (d) Inform the person making the request that the birth certificate will be mailed to him or her;
- (e) Report the description of such person making the request and any other relevant information to the patrol or other law enforcement agency; and
- (f) Provide the patrol with copies of such documents but retain the original in the office of the department or county agency.

(3) If a request is made for such birth certificate in writing, the department or county agency shall notify the patrol and provide the patrol with a copy of the request but retain the original request in the office of the department or county agency.

43-2007 Schools; exempt school; duties.

(1) Upon notification by the patrol of a missing person, any school in which the missing person is currently or was previously enrolled shall flag the school records of such person in such school's possession. The school shall report immediately any request concerning a flagged record or any knowledge of the whereabouts of the missing person.

(2) Upon enrollment of a student for the first time in a public school district or private school system, the school of enrollment shall notify in writing the person enrolling the student that within thirty days he or she must provide either (a) a certified copy of the student's birth certificate or (b) other reliable proof of the student's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

(3) Upon enrollment of a student who is receiving his or her education in an exempt school subject to sections 79-1601 to 79-1607, the parent or guardian of such student shall provide to the Commissioner of Education either (a) a certified copy of the student's birth certificate or (b) other reliable proof of the student's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

(4) Upon failure of the person, parent, or guardian to comply with subsection (2) or (3) of this section, the school or Commissioner of Education shall notify such person, parent, or guardian in writing that unless he or she complies within ten days the matter shall be referred to the local law enforcement agency for investigation. If compliance is not obtained within such ten-day period, the school or commissioner shall immediately report such matter. Any affidavit received pursuant to subsection (2) or (3) of this section that appears inaccurate or suspicious in form or content shall be reported immediately to the local law enforcement agency by the school or commissioner.

(5) Any school requested to forward a copy of a transferred student's record shall not forward a copy of such record to the requesting school if the record has been flagged pursuant to subsection (1) of this section. If such record has been flagged, the school to whom such request is made shall notify the local law enforcement agency of the request and that such student is a reported missing person.

43-2008 Flag; requirements.

The flag on such birth certificate or school record shall be large enough so that any personnel looking at such birth certificate or record shall be alerted to the fact that such birth certificate or record is of a missing person.

43-2009 Removal of flag.

Upon notification of recovery of such missing person, the department, the county agency, and any school pursuant to section 43-2007 shall remove the flag from such person's record.

43-2010 Local law enforcement agency; duties.

Any local law enforcement agency notified pursuant to the Missing Children Identification Act of the request for the birth certificate, school record, or other information concerning a missing person shall immediately notify the patrol of such request and shall investigate such matter.

43-2011 Immunity from liability.

Any school or any person acting on behalf of a school shall be immune from civil and criminal liability for any acts or omissions which occur as a result of the requirements of the Missing Children Identification Act.

43-2012 Department; patrol; adopt rules and regulations.

The department and the patrol shall adopt and promulgate rules and regulations necessary to carry out their responsibilities under the Missing Children Identification Act.

Chapter 6.G

Children & Minors Children & Health Care Services (Last Updated: April 2013)

30-2604 Delegation of powers by parent or guardian.

71-504 Sexually transmitted diseases; minors; treatment without consent of parent; expenses.

30-2604 Delegation of powers by parent or guardian.

A parent or a guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding six months, any of his or her powers regarding care, custody, or property of the minor child or ward, except his or her power to consent to marriage or adoption of a minor ward. A parent or guardian of a minor who is at least eighteen years of age and who is not a ward of the state, by a properly executed power of attorney, may delegate to such minor, for a period not exceeding one year, the parent's or guardian's power to consent to such minor's own health care and medical treatment.

71-504 Sexually transmitted diseases; minors; treatment without consent of parent; expenses.

The chief medical officer as designated in section 81-3115, or local director of health, if a physician, or his or her agent, or any physician, upon consultation by any person as a patient, shall, with the consent of such person who is hereby granted the right of giving such consent, make or cause to be made a diagnostic examination for sexually transmitted diseases and prescribe for and treat such person for sexually transmitted diseases including prophylactic treatment for exposure to sexually transmitted diseases whenever such person is suspected of having a sexually transmitted disease or contact with anyone having a sexually transmitted disease. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of such person. In any such case, the chief medical officer, or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The chief medical officer or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered if reasonable care is taken to elicit from any such person who is under twenty years of age any history of sensitivity or previous adverse reaction to medication. Parents shall be liable for expenses of such treatment to minors under their custody. In the event such person is affected with a sexually transmitted disease, the chief medical officer or local director of health may cause an interview of the person by a sexually transmitted disease investigator to secure the names of sexual contacts so that appropriate investigation can be made in an effort to locate and eliminate sources of infection.

Chapter 6.H

Children & Minors

Safe Haven Law

(Last Updated: April 2013)

29-121 Leaving child at a hospital; no prosecution for crime; hospital; duty

29-121 Leaving child at a hospital; no prosecution for crime; hospital; duty

No person shall be prosecuted for any crime based solely upon the act of leaving a child thirty days old or younger in the custody of an employee on duty at a hospital licensed by the State of Nebraska. The hospital shall promptly contact appropriate authorities to take custody of the child.

Chapter 6.I

Children & Minors

Bullying Prevention

(Last Updated: April 2013)

79-267 Student Conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students

79-2,137. School district; development and adoption of bullying prevention and education policy; review

79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

- (1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;
- (2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;
- (3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;
- (4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;
- (5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;
- (6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor;
- (7) Public indecency as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;
- (8) Engaging in bullying as defined in section 79-2,137;
- (9) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined in section 28-320.01, or sexual assault of a child in the first degree as defined

in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;

(10) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or

(11) A repeated violation of any rules and standards validly established pursuant to section 79-262 if such violations constitute a substantial interference with school purposes.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

79-2,137. School district; development and adoption of bullying prevention and education policy; review

(1) The Legislature finds and declares that:

(a) Bullying disrupts a school's ability to educate students; and

(b) Bullying threatens public safety by creating an atmosphere in which such behavior can escalate into violence.

(2) For purposes of this section, bullying means any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events.

(3) On or before July 1, 2009, each school district as defined in section 79-101 shall develop and adopt a policy concerning bullying prevention and education for all students.

(4) The school district shall review the policy annually.

Chapter 6.J

Children & Minors Lindsay Ann Burke Act (Last Updated: April 2013)

79-2,138 Act, how cited

79-2,139 Legislative findings and intent

79-2,140 Terms, defined

79-2,141. Model dating violence policy; department; school district; duties; publication; staff training; redress under other law

79-2,142. School district; incorporate dating violence education

79-2,138. Act, how cited

Sections 79-2,138 to 79-2,142 shall be known and may be cited as the Lindsay Ann Burke Act.

79-2,139. Legislative findings and intent

The Legislature finds and declares that all students have a right to work and study in a safe, supportive environment that is free from harassment, intimidation, and violence. The Legislature further finds that when a student is a victim of dating violence, his or her academic life suffers and his or her safety at school is jeopardized. The Legislature therefor finds and declares that a policy to create a better understanding and awareness of dating violence shall be adopted by each school district. It is the intent of the Legislature to require each school district to establish a policy for educating staff and students about dating violence.

79-2,140. Terms, defined

For purposes of the Lindsay Ann Burke Act, unless the context otherwise requires:

- (1) Dating partner means any person, regardless of gender, involved in an intimate relationship with another person primarily characterized by the expectation of affectionate involvement whether casual, serious, or long-term;
- (2) Dating violence means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse, to control his or her dating partner;
- (3) Department means the State Department of Education; and
- (4) School district has the same meaning as in section 79-101.

79-2,141. Model dating violence policy; department; school district; duties; publication; staff training; redress under other law

- (1) On or before March 1, 2010, the department shall develop and adopt a model dating violence policy to assist school districts in developing policies for dating violence.
- (2) On or before July 1, 2010, each school district shall develop and adopt a specific policy to address incidents of dating violence involving students at school, which shall be made a part of the requirements for accreditation in accordance with section 79-703. Such policy shall include a statement that dating violence will not be tolerated.

(3) To ensure notice of a school district's dating violence policy, the policy shall be published in any school district handbook, manual, or similar publication that sets forth the comprehensive rules, procedures, and standards of conduct for students at school.

(4) Each school district shall provide dating violence training to staff deemed appropriate by a school district's administration. The dating violence training shall include, but not be limited to, basic awareness of dating violence, warning signs of dating violence, and the school district's dating violence policy. The dating violence training may be provided by any school district or combination of school districts, an educational service unit, or any combination of educational service units.

(5) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians a copy of the school district's dating violence policy and relevant information.

(6) This section does not prevent a victim of dating violence from seeking redress under any other available law, either civil or criminal, and does not create or alter any existing tort liability.

79-2,142. School district; incorporate dating violence education

Each school district shall incorporate dating violence education that is age-appropriate into the school program. Dating violence education shall include, but not be limited to, defining dating violence, recognizing dating violence warning signs, and identifying characteristics of healthy dating relationships.