



**FCRO GUIDEBOOK
FOR REVIEWS
OF
STATUS/DELINQUENCY
CASES**

A. Defining Delinquency and Status Offenses

The FCRO does have statutory authority to review youth that are placed in out-of-home care through either a delinquency action and/or a status offense action in juvenile court. These are two separate types of filings under the Nebraska Juvenile Code based upon the reasons for the filing. In some cases, a youth may have both a delinquency filing and also a status offense filing at the same time.

A **delinquency proceeding** is a juvenile court proceeding involving actions committed by a juvenile that would be considered a crime in adult court. These are commonly referred to as the following:

- a) 43-247(1) regarding misdemeanors and the juvenile court has exclusive jurisdiction on any juvenile who is under the age of 18 years at the time of the offense;
- b) 43-247(2) regarding felonies and the juvenile court has the juvenile court has exclusive jurisdiction on any juvenile under the age of 18 years at the time of the offense for as Class IIIA and Class IV felony and for all other felonies there is concurrent jurisdiction with the adult court; and
- c) 43-247(4) regarding traffic offenses and violations of city ordinances.

A **delinquency proceeding** in the juvenile court is NOT a criminal prosecution. It has been recognized as a “special proceeding” that serves as an “an ameliorative alternative” to a criminal prosecution. Juvenile proceedings are civil rather than criminal with the emphasis placed on the education, treatment, and rehabilitation of the juvenile rather than as a punishment. There are no “sentences” in juvenile court but rather it is based upon the needs of the youth in order to be rehabilitated. The goals are a reduction in the risk to reoffend by the youth and in community safety.

A **status offense proceeding** involve behavior that if committed by an adult would not constitute a crime. These are commonly referred to as (3)(b) cases and under 43-247(3)(b) these include any juvenile who is:

- 1) By reason of being wayward or habitually disobedient is uncontrolled by his parent or guardian;
- 2) Deports themselves so as to injure or seriously endanger the morals of themselves; and
- 3) Is habitually truant from home or school.

A **status offense proceeding** commonly includes many juveniles who are homeless; missing from their home; in mental, physical or moral danger; or a danger to themselves or others. These youth have not committed any type of criminal action under Nebraska law. Before a status petition can be filed, the county attorney must make reasonable efforts to refer the

juvenile and the family to community-based resources available to address the juvenile's behavior; to provide crisis intervention; and to maintain the youth safely in the home.

Under Nebraska law, it is a county attorney decision as to whether the filing of a delinquency or status petition is needed or if they are going to Nolle Pros (chose not to pursue a filing). Many delinquency and status youth, if on their first offense, are referred for diversion services available through their county. If diversion services are successfully completed, the charges are never filed with the court.

B. Court Process for Delinquency and Status Cases

The first step in any case is the filing of a petition. A petition is a form filed with the court that says what the State believes happened that required the court action. The court process for delinquent and status cases is different than the abuse/neglect process. **See Appendix "A" for a Flowchart regarding delinquency and status cases.**

Most juvenile court delinquency and status cases have the following court hearings:

- 1) Detention Hearing.** This hearing occurs after a youth is arrested and placed into a detention facility or if restrictions were placed on the youth. This hearing must occur within 24 business hours and be before a judge. The purpose of the hearing is to determine whether or not out-of-home placement or detention is necessary for the health, safety or welfare of the juvenile. The judge will determine if detention is a matter of immediate necessity to either protect the youth or protect others. The judge can order the youth detained or placed with a family member or youth shelter or electronic monitoring or a day/evening reporting center. These are to be a short-term placement. In some counties, attorneys are appointed prior to the detention hearing. Youth can also request that an attorney be appointed.
- 2) First Appearance/Arraignment Hearing.** In this hearing, the judge goes over what is said in the petition and the juvenile is read his/her legal rights. The judge will also request the youth to enter his/her initial plea. This hearing can occur at the same time as the detention hearing if the youth is placed out-of-home.
- 3) Motion to Transfer to Adult Court.** In certain cases, a county attorney may file a motion to transfer the delinquency case to adult court. It is the evidentiary burden of the county attorney to show evidence why the case should be transferred based upon the specific statutory reasons.
- 4) Adjudication Hearing.** Adjudication is the same as a trial and is where the county attorney must present evidence to prove what is alleged in the petition. The youth can also enter

a plea admitting the allegations of the petition. Under statute, these are to occur within 180 days of the filing of the delinquency petition with no exceptions. These are to occur within 90 days of the filing of a status petition unless the court makes an exception. After the adjudication hearing, a judge may order the completion of a Predisposition Investigation (PDI) by Probation. A PDI is an extensive background of the youth and family to determine what services and/or assessments are needed for the youth. It contains general social history, parental information, legal history and recommendations for the court for the disposition and are available for the FCRO review.

- 5) Disposition Hearing. For delinquency cases** - this hearing is where the court determines the terms and conditions that the youth must complete in order to successfully complete probation and close the case. There can be initial disposition hearings and also continued disposition hearings before the court. Many times the judge will continue this hearing in order to have further evaluations and/or assessments completed. In majority of cases, the youth is placed on probation which is administered by the Office of State Probation – Juvenile Division. Probation is the period of time where the youth is under the supervision of the probation officers and must follow their rules as set by the judge and probation officer. The judge will enter a probation order also known as a probation contract.
For status cases – the judge can place the juvenile on probation and/or permit the juvenile to remain in his/her home and/or place the juvenile in some type of congregate care facility and/or place the juvenile with another suitable family home.
- 6) Probation Review hearing.** The judge may set probation review hearings to check on the progress the youth is making towards the completion of his/her probation.
- 7) Motion to Revoke Probation.** This hearing is pursuant to a motion filed by a county attorney requesting that a youth’s probation be revoked and a new dispositional order be entered.
- 8) Disposition on Motion to Revoke Probation.** A hearing to determine the terms and conditions based upon the reasons that the motion to revoke probation was granted that a youth must complete in order for the case to close.
- 9) Motion for Commitment to the Youth Rehabilitation and Treatment Centers (YRTC).** A hearing based on a motion filed by a county attorney to have a delinquent youth committed to the YRTC. The county attorney must provide evidence that all levels of probation supervision have been exhausted and placement at the YRTC is a matter of urgent and immediate necessity. A youth is committed to the YRTC and not sentenced. There are no set time periods a youth will be at a YRTC since it is based upon the rehabilitation status of the youth. **A status offense youth CANNOT be committed to the**

YRTC. There are two YRTCs- Kearney is for males and Geneva is for girls. The YRTCs are operated by DHHS.

10) Re-entry Hearing. A re-entry hearing is only needed if a youth has been placed at one of the YRTCs. This hearing is a continued disposition hearing where the judge places a youth back on probation with certain conditions after completion of the YRTC programs. Before a youth is released from the YRTC, this hearing must have occurred.

11) Sealing of Records Hearing. If a youth's case is dismissed or the youth has successfully completed probation, their record can be sealed. There are certain situations where this is done automatically and other times when a hearing is needed. If the youth has been success, we should always be advocating for their record being sealed.

C. Legal Parties/Stakeholders in Delinquency and Status Cases

There are many people who could be involved in a delinquency and status case. The main stakeholders are as follows:

- 1) **County Attorney.** The county attorney represents the interest of the State and county and is responsible for the prosecution of the case.
- 2) **Defense Attorney.** An attorney, either appointed by the court or hired by the youth, to represent the desires and wants of the youth. This role is different than a guardian ad litem who is appointed to represent the best interest of the youth.
- 3) **PROBATION OFFICERS (PO):** There are three main types of probation officers depending upon the stages of the court proceedings (**See Appendix "B" entitled "Shareholder Training Manual for a complete description of probation roles and responsibilities and Appendix B entitled "FCRO Training – Probation Overview"**):
 - a) **Intake Probation Officer:** Responsibilities include the initial determination as to whether or not the youth can remain placed at home. These POs use the RAI assessment tool to determine if detention is needed or an alternative is more appropriate.
 - b) **Investigation Probation Officer:** Responsibilities include the completion of the PDI prior to the Disposition Hearing and appearance at the Disposition Hearing informing the Court of their recommendations for probation requirements.
 - a) **Ongoing Probation Officer:** Responsibilities include providing services and accountability once a youth is adjudication and placed on a probation order/contract

by the court. There are two levels of ongoing probation officers (**See Appendix “B” for a description of their respective duties**):

- **Juvenile Community Based Resources (JCBR)** – These POs supervise youth that are at a medium-high or medium-low or low level. For medium-high youth (those youth displaying no more than one or two areas in need of intervention), the PO will meet a minimum of one time per month with the youth and home visits will occur on an as needed basis. Other services can also be provided at the community level. For medium-low and low youth (those youth displaying minimal areas in need of intervention), the PO will supervise this youth with the assistance of electronic monitoring. Other services can also be provided at the community level.
- **Juvenile Community Based Interventions (JCBI)** – These POs supervise youth that are at a high or very high level (those youth displaying multiple needs for intervention). For these youth, the PO will have frequent meetings, mandatory home visits, offense-specific treatment, and inclusion in a cognitive program. Other services can also be provided both at the community level and in an out-of-home placement.

D. Screening Tools and Assessment/Evaluations Used in Delinquency and Status Cases

There is a difference between screening tools and assessments/evaluations especially within juvenile justice cases. A **screening** is when several brief tests and/or instruments are used to identify youth who may be at risk for certain mental or behavioral health issues including substance use. Screening is a “triage” process that identifies the need for further evaluations. An **assessment/evaluation** is a more comprehensive process that uses a series of different tests or instruments which usually includes a clinical interview of the youth. Assessments/evaluations are used to determine the best level of care, the right services and the needs of the youth.

Appendix “C” includes a tool used by the judicial system to determine which of these tools are needed for a youth.

Screening Tools

JUVENILE INVENTORY FOR FUNCTIONING (JIFF): This tool is a brief computerized interview that screens for potential mental health problems and assists in determining the youth’s functioning across domains. It is mainly used with status offense youth to determine their needs.

MASSACHUSETTS YOUTH SCREENING INSTRUMENT – VERSION 2 (MAYSI-2): This tool is a scientifically valid brief screening tool for use in juvenile justice contacts with youth to identify signs of mental/emotional disturbances including suicide ideation.

NEBRASKA ADOLESCENT CHEMICAL DEPENDENCE INVENTORY (NACDI): This tool is utilized by probation officers as a quick screening tool to determine if a youth needs a full and complete substance abuse evaluation.

Assessments/Evaluations Tools

ESTIMATE OF RISK OF ADOLSCENT SEXUAL OFFENSE RECIDIVISM (ERASOR): This is an evidence-based tool designed to assist evaluators in estimating the risk of a sexual re-offense ONLY for individuals aged 12-18 who have previously committed a sexual assault. This tool is not to be used to determine whether or not a sexual assault has occurred.

NEBRASKA RISK ASSESSMENT INSTRUMENT (RAI): This is an intake assessment completed when a youth is detained by law enforcement and/or probation to determine whether the youth should remain detained; be released to an alternate/lower level placement; or be released to a parent. It is completed when there are new law violations or when there are probation violations and a youth is detained. It contains a law enforcement view of the situation; parent's view; juvenile's view behavioral health/medical concerns; and the probation officer's view. This can be over-ridden depending on situation/nature of the case. This tool determines if any juvenile detention alternatives are appropriate.

PRE-DISPOSITIONAL INVESTIGATION (PDI): This report is completed by Probation after adjudication and prior to disposition of the youth to determine the special conditions of probation. Any of the screening tests can be completed as part of the PDI. The report contains circumstances regarding the commission of the offense, impact on the victim, youth's current physical description, and the youth's identified behavioral/mental health/substance use problems and potential for rehabilitation. Included with the PDI are recommendations for the court.

YOUTH LEVEL OF SERVICE/CASE MANAGEMENT INVENTORY (YLS/CMI): This is an evidence-based tool that probation uses to drive planning for a youth. It determines the youth's risk to re-offend and needs of the youth. Any and all requirements while the youth is on probation should be determined based upon the results of the YLS/CMI. This assessment should be done every six months (at a minimum) or when there is a major change in circumstances (new law violation, change in placement, etc.). See **Appendix "C"** for a detail description regarding the domains and protective factors of the YLS/CMI and a copy of a YLS/CMI.

E. Probation Management/Documentation

Probation officers do provide case management type of services for youth on probation. The key is to remember that these types of adjudications deal with the actions and needs of the youth and not necessarily the needs of the entire family. Abuse/neglect cases deal with the actions and needs of the parents. Some of the common terminology used by Probation are included below. The Team/Transition Plan should be based upon the risks and needs identified in the YLS/CMI.

SANCTIONS/GRADUATED SANCTIONS: applied by probation officer when a youth violates their probation contract. These can include such requirements as community service, electronic monitoring, curfew changes, etc. It can't include out-of-home care.

TEAM BLOG/QUALITATIVE ENGAGEMENT: Narratives completed by probation officers, generally referring to team meetings, updates on case, contact with kids, etc.

TEAM/TRANSITION PLAN: This is basically a "case plan" for probation kids, prepared by probation officer. Each youth should have a "Team/Treatment Plan" that directs the services and expectations for the youth.

TREATMENT REPORTS: These can also be called "Behavioral Health Treatment Reports" and/or "Juvenile Reports". These are completed by the placement on the probation computer system (NPACS) specifically for the probation office. These are not the same as actual placement reports, but they suffice as they are completed by the provider. They are supposed to contain much of the same information as a placement report, but discrepancies have been found.

F. Services

Probation utilizes services based upon the needs of the individual youth considering the risks and needs found in the YLS/CMI. National studies regarding the implementation of the YLS/CMI have shown that there are five dynamic risk factors that have the greatest impact upon potentially reducing recidivism if addressed by the appropriate intervention or treatment. These five include: Attitudes/Orientation (Thinking/Beliefs); Personality/Behavior; Peer Relations; Family Circumstances; and Prior and Current Offenses.

Some of the key interventions and services utilized by Probation are listed below. Other services can and are utilized such as therapy, drug testing and educational supports so this is not an exhaustive list. Not all of these services are currently available on a state-wide basis. Probation does have a Juvenile Services Catalog that can be found at <https://supremecourt.nebraska.gov/probation/juvenile>.

CONTINUOUS ALCOHOL MONITORING (CAM): This service involves the use of a specialized ankle bracelet that monitors alcohol consumption around the clock.

ECOLOGICAL IN-HOME FAMILY THERAPY (EIHFT): This is an intensive in-home service created and used by BoysTown staff which addresses family needs and behavioral changes.

ELECTRONIC MONITORING (EM): EM services are contracted by probation with various service providers. There are various different types of EM services provided across the State. For example, in Douglas County this is known as the “**H.O.M.E. program** “. These services are ordered by Court as an alternative to detention and/or out of home placement. Youth has to qualify for this program, which is screened by probation. This service can be used both pre and post adjudication.

FACILITATED SUPERVISION GROUPS (FSG): All youth supervised at JCBI are required to participate in an approved cognitive restructuring program. All high risk juveniles are expected to participate in FSG. A JCBI probation officer has developed the skills to facilitate supervision groups which includes the use of Motivational Interviewing (MI) and Real Colors. Youth in out-of-home placement may not be receiving this service but it is available when a youth is transitioning back to his/her home.

FUNCTIONAL FAMILY THERAPY (FFT): This is an evidence-based intervention program for acting-out youth. Goal of FFT is to improve family communication and supportiveness while decreasing the intense negativity so often characteristic of these families. This is an in-home therapy-based model created for this population.

MULTI-SYSTEMIC THERAPY (MST): This is an evidence-based intensive family and community based treatment program that focuses on addressing all environmental systems that impact chronic and violent juvenile offenders. MST works with ages 12-17 who have a very long history of arrests. This is an in-home therapy-based model.

REENTRY SERVICES: These services increase the opportunity for juveniles to transition back to the community successfully from an out-of-home placement. Probation Officers will have monthly Family Transition Meetings to ensure the family remains engaged in the process of preparing for the juvenile’s return home. Juveniles will receive high intensity supervision including graduated sanctions upon returning home. This includes family engagement in the decision making process, school engagement by connecting the juvenile back into a school system, needed services once home and on-going reassessments in the community.

RURAL IMPROVEMENT FOR SCHOOLING AND EMPLOYMENT (RISE): The RISE program was developed for the larger areas of rural Nebraska with the goal of reducing recidivism through improving education and employment opportunities. It is funded through an AmeriCorps grant and involves a RISE Program Specialist working with the youth in these areas.

TRACKER SERVICES: With these services a youth is assigned an individual that will check on youth and parent, check curfew, maintain contact with the youth, check school attendance and other probation contract provisions. These services can be used both pre and post adjudication.

G. Placements

The focus of out-of-home placement with Probation is on community safety and mitigating the risk to reoffend by the youth. This is different than child welfare which focuses on protection and the child's safety. Probation does utilize both non-treatment and treatment placements. Probation does have a Juvenile Services Catalog that can be found at <https://supremecourt.nebraska.gov/probation/juvenile>.

Non-Treatment Placements

DETENTION: There are two types of detention facilities in the State of Nebraska: secure and staff secure. The current secure facilities in Nebraska include the Douglas County Youth Center; Lancaster County Youth Services Center; and Northeast Nebraska Juvenile Services Center (Madison County). The current staff secure facilities in Nebraska include the Lancaster County Youth Services Center; Patrick J. Thomas Juvenile Justice Center (Sarpy County) and Northeast Nebraska Juvenile Services Center. Detention can be used for delinquent youth but NOT for status offenders. To use a detention placement, there must be shown that the youth is a danger to himself/herself or others. It should be a short-term placement until other placements including home case be found.

SHELTER: These are short-term residential services designed to provide support to the youth that require immediate out-of-home placement because of safety concerns in their family home or due to a disrupted placement. These are considered an alternative to detention. Duration should not exceed 30 days.

FOSTER HOME (agency supported or kinship/relative): At a minimum, these placements should require background checks and home studies (kinship) and additional requirements for agency supported foster parents as they need to be licensed with the State. (*probation indicates that they are not required to complete home studies or other assessments on relatives/kinship placements). Duration is usually 4-6 months.

GROUP HOME (group living setting, such as Boys Town, Clarinda, Omaha Home for Boys, etc.): These are group setting programs based on a behavioral modification program that is not mental health or substance abuse treatment. You may see "Group Home A" and "Group Home B" in documentation. Differences between the two are ratio of staff to youth and cost per day since Group Home A requires 24 hour awake staff while Group Home B does not. Therapeutic treatment services can be offered in conjunction with group home placements, but are not a required service and must be contracted through outside providers. Duration is usually 4-6 months.

YOUTH REHABILITATION AND TREATMENT CENTERS (YRTC): This is the highest level of behavioral/congregate care in Nebraska. For girls, the facility is located in Geneva NE and for boys it is located in Kearney NE. The court must order to this level of placement and it is generally seen as a last resort option after all other community based interventions have not been successful. The youth while at the YRTC's are no longer considered to be on probation and are temporarily considered wards of the State (Office of Juvenile Services or OJS), though probation coordinates with OJS. When a youth is ready to leave the YRTC, the Court has to approve the plan and order the release. A Transition Plan is developed by the PO and the YRTC. The youth resumes probation supervision in the community and continues to be reviewed by the court. (See REENTRY SERVICES)

Treatment Placements

SUBSTANCE USE SHORT-TERM RESIDENTIAL: This is considered a short-term out-of-home placement dealing with the specific concern of substance use. It is a highly intensive treatment model usually used when other substance abuse treatment services have failed. Duration is to be 30 days.

TREATMENT GROUP HOME (TGH): This is considered a lower level of treatment care than PRTF and a higher level than group home. In addition, therapeutic services are included in the daily milieu concentrating on safety, supervision, rehabilitation services and treatment services. Most TGH are geared towards a specific treatment need such as substance abuse treatment or sex offender specific treatment. Duration is 4-6 months.

PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF): This is the highest level of treatment-based care in Nebraska and are generally in a hospital-like setting. Some examples are Boys Town, Alegent/Immanuel, Whitehall (sex offender specific). Different than acute hospitalizations, which are very short term (generally a week or less) provided to immediately stabilize a youth's mental health needs, PRTF placement can last for several weeks to several months. These placements are to be used with a mental health diagnosis and not for behavioral management. Duration is an average of 60 days but not to exceed 6 months.

APPENDIX “A”

COURT PROCESS

APPENDIX “B”

PROBATION TRAINING **DOCUMENTS**

APPENDIX “C”

SCREENING AND **ASSESSMENT/EVALUATION** **TOOLS**