

Notice of Rulemaking Hearing

Notice is hereby given that the Nebraska Commission on Law Enforcement and Criminal Justice will hold a rule-making hearing pursuant to Neb. Rev. Stat. §84-907 on the 14th day of August 2020, at 9:30 am to be held in the Nebraska State Office Building, Lower Level Conference Room A, Lincoln, Nebraska.

The purpose of the hearing is to take testimony and evidence on amending and adopting changes to Title 78, Chapter 8 of the Nebraska Administrative Code, Juvenile Diversion Data Collection. This title has been drafted pursuant to Neb. Rev. Stat. §43-260.07. This chapter outlines the process by which every county or city attorney with a juvenile pretrial diversion program reports statutorily required juvenile diversion data to the Crime Commission annually.

The proposed rule would impact all county or city attorneys with a juvenile pretrial diversion program, currently approximately 77 counties, and the agencies that provide the service on behalf of the county or city attorney if outside their office. The changes being proposed align the chapter with changes made to state statute by LB 894 in 2016, on when and how to report juvenile diversion data. There are numerous deficiencies and errors that need to be changed due to the new procedure for reporting data in statute.

Draft or working copies of the proposed rule are available at the offices of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508. The description of the fiscal impact may be inspected and obtained at the Nebraska Crime Commission, 301 Centennial Mall South, P.O. Box 94946, Lincoln, NE 68509.

All interested persons may attend and testify orally or by written submission at the hearing. Interested persons may also submit written comments prior to the hearing, which will be made part of the hearing record at the time of the hearing, if received by the Nebraska Commission on Law Enforcement and Criminal Justice on or before August 1, 2020. If auxiliary aids or reasonable accommodations are needed to participate in the hearing, please call the Crime Commission at (402) 471-2194, by no later than August 1, 2020.

A handwritten signature in black ink, appearing to read "Don Arp Jr.", is positioned above the typed name.

Don Arp Jr., PhD
Executive Director, Nebraska Crime Commission

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Commission on Law Enforcement and Criminal Justice	
Title: 78	Prepared by: Amy Hoffman
Chapter: 8	Date prepared: 3/26/19
Subject: Juvenile Diversion Data Collection	Telephone: 402-471-3846

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(x)	(x)	(x)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency:

Political
Subdivision:

Regulated
Public:

If indeterminable, explain why:

Title 78, Nebraska Commission on Law Enforcement and Criminal Justice
Chapter 8, Juvenile Diversion Data Collection

001 PURPOSE: To establish procedures governing the reporting of juvenile diversion data to the Nebraska Commission on Law Enforcement and Criminal Justice, hereafter referred to as Commission.

002 SCOPE: Applicable to all county attorneys or, city attorneys of a county or city which has a juvenile diversion program, and juvenile diversion program personnel on behalf of those county and city attorneys. ~~these agencies providing juvenile pretrial diversion services.~~

003 REFERENCE: Nebraska Statute 43-260.07.

004 DEFINITIONS:

004.01: COMMISSION is the Nebraska Commission on Law Enforcement and Criminal Justice.

004.02: DIRECTOR OF JUVENILE DIVERSION PROGRAMS is the individual appointed by the Executive Director of the Commission who shall perform the duties as provided in Nebraska Revised Statute 81-1427.

004.03: JUVENILE CASE MANAGEMENT SYSTEM (JCMS): a secure data portal available as a subdomain to NCJIS, available to county and city attorney agencies to enter juvenile diversion data and utilize as a case management system.

004.04: JUVENILE DIVERSION PERSONNEL: Those individuals employed by the juvenile diversion program.

004.05: JUVENILE DIVERSION PROGRAM: A program established pursuant to Nebraska Revised Statute 43-260.02.

004.06: JUVENILE DIVERSION SERVICE: Services offered to the juvenile diversion program participant directly by a program established pursuant to Nebraska Revised Statute 43-260.02.

004.07: NEBRASKA CRIMINAL JUSTICE INFORMATION SYSTEM (NCJIS): a secure data portal available to criminal justice professionals providing access to a variety of criminal justice data for operational use. NCJIS is hosted by the Commission.

004.08: NCJIS ADMINISTRATOR is the person designated by their agency to be responsible for creating NCJIS accounts, resetting passwords, renewing certificates, and monitoring agency NCJIS usage.

004.09: DE-IDENTIFIED DATA: Data in the form of counts with information

removed or masked that could lead to the individual identification of the person to which the data applies.

~~004 RESPONSIBILITIES: Every county attorney or city attorney of a county or city which has a juvenile pretrial diversion program shall comply with this Rule and Regulation.~~

~~005 CLASSIFICATION: For the purpose of determining the types of diversion programs available and the volume of youth they serve, counties were classified into four tiers.~~

~~Tier One Counties Defined: Diversion programs in Nebraska who deliver multiple levels of diversion services to a significant number of juveniles (250 or more).~~

~~Tier Two Counties Defined: Counties who provide several diversion options and serve a moderate number of youth (60-249).~~

~~Tier Three Counties Defined: Counties that typically have one main diversion service and serve a lower volume of youth (59 or less). These programs may use a mixture of formal and informal programming.~~

~~Tier Four Counties Defined: Counties with no juvenile diversion options.~~

~~005 PROCEDURE: Procedure for collection of juvenile diversion data from all county and city attorney established juvenile pretrial diversion programs Nebraska County Attorney's.~~

~~0056.01A Data Reporting: Individual level youth data must be submitted electronically through the Juvenile Case Management System (JCMS) accessible through the Nebraska Criminal Justice Information System (NCJIS). Each county or city attorney requiring access to JCMS will enter into a Memorandum of Understanding (MOU) with the Commission regarding access and data usage. Individual certificates for JCMS access can be obtained through the county or city attorney NCJIS Administrator or by contacting the Commission.~~

~~An access based case management system has been developed to assist counties in collecting the minimum required information. This case management system can be accessed by contacting the Nebraska Commission on Law Enforcement and Criminal Justice. The case management system allows the program to generate reports for local use as well as submit an extract of the required data reporting fields to the Crime Commission electronically. Paper reports will not be accepted. An agency or county will need to contact the Juvenile Grants Administrator at the Crime Commission if using a system other than the case management system to determine compatibility with reporting requirements.~~

0056.01B Data will be submitted by January 30 of each year by entering all individual youth data required by this chapter into the JCMS. Juvenile diversion program personnel, if other than the county or city attorney, will enter the data and submit on behalf of the county or city attorney. County and city attorneys will validate the accuracy of the data regarding the youth served submitted on their behalf and instruct juvenile diversion program personnel to correct inaccuracies before being submitted. County or city attorneys must provide juvenile diversion personnel with their own NCJIS certificate with JCMS access.

~~Counties will begin submitting data July 1, 2005. A one time upload of any/all data collected thus far in counties case management systems will be required on July 1, 2005. After that, counties will follow the following quarterly reporting schedule:~~

QUARTERLY DATA	
January 1 — March 31	Due April 1
April 1 — June 30	Due July 1
July 1 — September 30	Due October 1
October 1 — December 31	Due January 1

0056.01C Juvenile diversion program personnel will keep individual level data updated in order to have current data in JCMS at all times. The juvenile diversion program personnel providing the juvenile diversion service will be the one entering the individual level data within seven calendar days from date of referral to the program.

~~Tier Four Counties must submit a letter to the Crime Commission on December 1 of every year stating the following: a) that they do not have a juvenile pre-trial diversion program; b) reason(s) why no program exists; and c) any efforts being made to establish a juvenile pre-trial diversion program.~~

0056.02 Data Requirements Required Data: The data variables required to be entered into the JCMS and submitted to the Commission will comply with the diversion program type requirements within the Required Variables for the Juvenile Case Management System (JCMS) document produced by the Commission and published on the Commission website. This document will be published by May 1 and go into effect July 1 of each year. Juvenile diversion programs with an established data feed into the JCMS will have six months from the effective date to update their feed to include all required variables. ~~The following data elements must be provided.~~

006.02A Offense Data:

~~Date of offense~~

~~Date of referral to diversion~~

~~Date of intake~~

~~Referral Source: County Attorney; City Attorney; School~~

~~Offense(s) Cited : Using NCIC codes~~

~~Prior Legal Violations
Prior Cases Diverted~~

~~006.02B Admissions:
Date Admitted~~

~~Not Admitted: If not, why: youth/parent refused diversion; diversion program declined admission; referral withdrawn~~

~~006.02C Diversion:
End Date~~

~~Reason: juvenile discharged from diversion, no further legal action; juvenile failed to comply with program conditions; juvenile had new law violations; other (moved away, death, etc.)~~

~~006.02D Issues:
Abuse/Neglect~~

~~Suicidal Ideation~~

~~Substance abuse~~

~~Truancy~~

~~Diagnosed mental health issues~~

~~Prior crime victimization~~

006.02E Scores:

~~YLS/CMI (Youth Level of Service/Case Management Inventory)
MAYSI II (Massachusetts Youth Service Inventory)
SSI (Simple Screening Instrument)
Other~~

006.02F Diversion Requirements:

~~Education
Community Service
Restitution
Therapy/Counseling
Parent Participation Required
Fee Collected
Teen Court~~

006.02G Youth Information:

~~Youth ID #
Date of Birth
Race: American Indian or Alaska Native; Asian; Black/African-
American; Native Hawaiian or Other Pacific Islander; White
Ethnicity: Hispanic or Latino; Not Hispanic or Latino
Gender: Male or Female
Zip Code
School Enrollment: Enrolled (includes home school); Not Enrolled;
graduated High School Diploma; Completed GED
Family Income Level: 0-9,999; 10,000-24,999; 25,000-39,999;
40,000 or over
Legal custody: parent; guardian; state ward
Family size: Number of people living in household~~

0067 Data Use: The Commission will maintain and compile the juvenile diversion data and prepare an annual report on the status of juvenile diversion in Nebraska. The Commission may distribute, release, and make available upon request aggregate de-identified juvenile diversion data. Juvenile diversion data will be part of the common dataset established pursuant to Nebraska Revised Statute 43-2404.02. Data received will also be used in statewide planning efforts, determining training needs, and funding priorities.