



March 19, 2020

The Hon. Chief Justice Heavican and Court Administrator Corey Steele
1213 State Capitol
1445 K Street / P.O. Box 98910
Lincoln, NE 68509

Dear Chief Justice Heavican and Mr. Steele,

In conjunction with advocates across the country today, we are writing to share our concerns about the impact of the coronavirus disease (COVID-19) virus on incarcerated youth and youth in congregate care settings.

As states across the country undertake steps to stop the spread of the COVID-19 virus, closing schools, canceling events, and shifting to supporting children in their homes and communities, one group of young people is being left behind: the nearly 50,000 youth in custody in the United States. In Nebraska that includes youth held in our county juvenile detention facilities, Youth Rehabilitation and Treatment Centers, and the Nebraska Correctional Facility for Youth. Further, a number of our youth are placed out-of-home in congregate care group homes. Youth of color are significantly more likely to be incarcerated in our juvenile facilities or placed in out-of-home care, making this emergency one more crisis that will disproportionately impact communities of color.

Research by health care experts shows that incarcerated populations are most at risk during a public health crisis. COVID-19 spread quickly in enclosed spaces such as cruise ships and nursing homes and it will spread just as quickly in detention centers, prisons, and jails. Contagious viruses such as COVID-19 spread much faster in detention centers and prisons as incarcerated youth are in close quarters and sometimes in unsanitary conditions. Behind bars, youth are not able to participate in proactive measures to keep themselves safe, such as social distancing, frequently washing hands, or staying in sanitized spaces. Infection control is a challenge in these situations as incarcerated youth are often in large congregate and communal settings. Even if youth are in individual cells, ventilation is often inadequate. When traveling to and from court, hearings or legal appointments, it is harder to stop the spread of a virus while handcuffed or shackled, for instance, by catching a cough or sneeze in an elbow. This places others in the vehicle at risk as well.

We are also concerned about the damage the virus can wreak on youth placed in congregate care settings both in-state and out-of-state, creating both physical and mental harms that may last a lifetime.

As we have seen in other congregate care facilities, viruses and diseases spread quickly, endangering everyone's lives. We have to do our part in such critical times.

While some jurisdictions have canceled visitation, we believe that this is not a time for youth to be separated from their support systems. This will only exacerbate mental health issues and further isolate youth. Further, youth detention, correctional, and congregate care facilities are unlikely equipped to meet the medical needs of youth if a COVID-19 outbreak inside juvenile detention or correctional facility should occur. Youth will not have many options to stay away from other youth if they become ill and there are limited infirmary beds. If staff become ill, it will be difficult to provide care and support to youth and if lockdowns are utilized, that will only intensify virus infection rates. For youth placed out of state, travel bans may separate them from home and family far longer than intended in their initial court order.

To prevent the spread of COVID-19, we urge you to craft and share an emergency plan for the courts and probation, addressing COVID-19 in the juvenile justice system, including the adoption of measures such as these to protect youth under the supervision of the juvenile justice system:

1. **Instructing that judges and probation immediately halt new admissions to juvenile detention and correctional facilities and facilitate the removal of youth from juvenile detention and correctional facilities by:**
 - Examining all pre- and post-adjudication release processes and mechanisms and begin employing these as quickly as possible;
 - Removing youth who have COVID-19 symptoms; chronic illnesses, such as asthma or diabetes; other serious illnesses; or are in need of medical care;
 - Eliminating the use of detention or incarceration for youth unless a determination is made that a youth is a substantial and immediate safety risk to others;
 - Children in state custody or in out-of-home care who can return to the community safely should be sent home.

2. **While youth are awaiting release, ensure that probation officers work to:**
 - Provide written and verbal communications to youth and families on COVID-19, facility measures to address the public health crisis, access to medical care, and community-based supports;
 - Ensure continued access to education;
 - Ensure access to legal counsel through confidential visits or teleconferencing;
 - Ensure access to family contacts and support networks;
 - Guarantee access to unlimited, phone calls and video calls.

3. **Create transitional plans for youth released from custody and congregate care to:**
 - Ensure they have a place to live;
 - Meet their basic needs;
 - Ensure they receive immediate & adequate medical care, including access to Medicaid.

4. **For youth on probation:**
 - Eliminate incarceration as an option for technical violations of probation;

- Allow youth to travel and access medical care, stay isolated when necessary, and take care of themselves and their loved ones;
- Eliminate requirements for in-person meetings with their probation officers;
- Make a concerted effort to reduce any extraneous conditions of probation that may increase social contacts;
- Place a moratorium on all requirements to attend and pay for court and Probation-ordered programs, community service and labor.

As a blanket measure to swiftly accomplish these objectives, we would also respectfully recommend an emergency electronic convening of the Supreme Court Commission on Children and the Courts to collaborate on appropriate and urgent solutions for youth in juvenile justice during this time of crisis.

Thank you for your time and consideration.

Sincerely,

Juliet Summers, Voices for Children in Nebraska

Danielle Conrad, ACLU of Nebraska

Jasmine Harris, RISE

Sarah Helvey, Nebraska Appleseed

Christine Henningsen, juvenile attorney