

West's Revised Statutes of Nebraska Annotated Currentness

Chapter 43. Infants and Juveniles

→ Article 38. Foreign National Minors and Minors Having Multiple Nationalities

→43-3801. Purpose of sections

- (1) The purpose of sections 43-3801 to 43-3812 is to protect foreign national minors or minors having multiple nationalities within the State of Nebraska.
- (2) The Legislature recognizes that:
 - (a) Foreign national minors and minors having multiple nationalities are essential to the maintenance of their culture, traditions, and values;
 - (b) The governments of foreign countries have a duty to care for the interests of their nationals and citizens abroad, particularly foreign national minors and minors having multiple nationalities;
 - (c) The governments of foreign countries have the right to information and access in all cases involving minors who are children of foreign nationals and minors having multiple nationalities; and
 - (d) The state should be able to identify foreign national minors and minors having multiple nationalities and their families in order to provide services for them.

→43-3802. Terms, defined

For purposes of sections 43-3801 to 43-3812:

- (1) Agency means the agency in a foreign country charged with ensuring the welfare of minors who are nationals of that country or who have multiple nationalities in that country and the United States;
- (2) Custodian means the nonparental caretaker of a foreign national minor or minor having multiple nationalities who has been entrusted by the parent of the minor with the day-to-day care of the minor;
- (3) Department means the Department of Health and Human Services;
- (4) Foreign national minor means an unmarried person who is under the age of eighteen years and was born in a country other than the United States; and
- (5) Minor having multiple nationalities means an unmarried person who is under the age of eighteen years and who holds citizenship simultaneously in the United States and one other country.

→43-3803. Early identification; department; duties

The department, in conjunction with the appropriate consulate, shall provide a method of early identification of foreign national minors and minors having multiple nationalities and their families in order to provide services

which assure all the protections afforded by all applicable treaties and laws.

→43-3804. Ward of department; department; determination required; information provided to minor and parent or custodian; notify consulate; release of information

(1) When a court makes a minor a ward of the department, the department shall determine whether the minor is a foreign national minor or a minor having multiple nationalities. If such minor is a foreign national minor or a minor having multiple nationalities, the department shall provide such minor and his or her parent or custodian with the following information:

(a) Written information in English and the minor's native language, explaining the juvenile court process and the rights of the minor and his or her parents or custodian; and

(b) The address and telephone number of the nearest consulate serving the minor.

(2) The department shall notify the appropriate consulate in writing within ten working days after (a) the initial date the department takes custody of a foreign national minor or a minor having multiple nationalities or the date the department learns that a minor in its custody is a foreign national minor or a minor having multiple nationalities, whichever occurs first, (b) the parent of a foreign national minor or a minor having multiple nationalities has requested that the consulate be notified, or (c) the department determines that a noncustodial parent of a foreign national minor or a minor having multiple nationalities in its custody resides in the country represented by the consulate.

(3) The department shall provide the consulate with the name and date of birth of the foreign national minor or the minor having multiple nationalities, the name of his or her parent or custodian, and the name and telephone number of the departmental caseworker directly responsible for the case.

(4) If the consulate needs additional specific information regarding the case of the foreign national minor or the minor having multiple nationalities, the consulate may contact the department and the department may release any information not required to be kept confidential under the Nebraska Juvenile Code or other state or federal statutes.

→43-3805. Interview by consular representative

A consular representative may interview a foreign national minor or minor having multiple nationalities who is a citizen of the country represented by the consulate. The consular representative shall contact the department to arrange for an interview of a foreign national minor or a minor having multiple nationalities.

→43-3806. Ward of department; special immigrant juvenile status; documentation

If a court makes a foreign national minor or a minor having multiple nationalities a ward of the department and the minor has become eligible for special immigrant juvenile status as defined in 8 U.S.C. 1101(a)(27)(J), the consulate will assist the department in obtaining the necessary documentation for completion of the application for special immigrant juvenile status.

→43-3807. Minor in custody of department; birth certificate; application

The department may obtain a birth certificate from the appropriate country for a foreign national minor or a minor having multiple nationalities in the custody of the department. The department may request the assistance of the consulate in obtaining the necessary documentation to complete the application for a birth certificate under this

section.

→43-3808. Home studies; other steps to ensure minor's welfare; department; duties

(1) Upon notification to a consulate pursuant to section 43-3804, the department shall request that the consulate obtain through the agency the appropriate home studies of potential families in such country who may be involved in the case and forward the information to the departmental caseworker directly responsible for the case.

(2) When a foreign national minor is placed in his or her country or a minor having multiple nationalities is placed in the country other than the United States in which he or she holds citizenship, the department shall take all steps necessary to obtain the cooperation of the consulate and the agency to ensure the minor's welfare and provide whatever services are needed. The department shall request copies of the monitoring reports prepared by the agency concerning the welfare of the minor.

→43-3809. Court appearance; cooperation of consulate

The department will request the cooperation of the appropriate consulate in order to notify a person who resides in a foreign country and is required to appear in a court in this state regarding the case of a foreign national minor or a minor having multiple nationalities.

→43-3810. Coordination of activities; chief executive officer of the department; duties

The chief executive officer of the department or his or her designee shall meet as necessary with consular officials to discuss, clarify, and coordinate activities, ideas and concerns of a high-profile nature, timely media attention, and joint prevention efforts regarding the protection and well-being of foreign national minors and minors having multiple nationalities and families.

→43-3811. Rules and regulations

The department may adopt and promulgate rules and regulations to carry out sections 43-3801 to 43-3810.

→43-3812. Sections; how construed

Nothing in sections 43-3801 to 43-3811 shall be construed as a waiver of immunities to which a consulate and its consular agents are entitled under international law, the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. 1602 et seq., and international treaties in force between the United States and foreign countries.

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