

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

IN RE INTEREST OF ANIY'LA M.

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION
AND MAY NOT BE CITED EXCEPT AS PROVIDED BY NEB. CT. R. APP. P. § 2-102(E).

IN RE INTEREST OF ANIY'LA M., A CHILD UNDER 18 YEARS OF AGE.

STATE OF NEBRASKA, APPELLEE,

V.

NIRESHA M., APPELLANT.

Filed October 6, 2026. No. A-26-082.

Appeal from the Juvenile Court of Douglas County: MATTHEW R. KAHLER, Judge.
Affirmed.

Thomas C. Riley, Douglas County Public Defender, and Hayley J. Kaiser for appellant.

Emily C. Cvitanov, Deputy Douglas County Attorney, for appellee.

Kelli M. Hauptman, guardian ad litem.

BISHOP, WELCH, and FREEMAN, Judges.

BISHOP, Judge.

I. INTRODUCTION

Niresha M. appeals the order of the separate juvenile court of Douglas County that adjudicated her daughter, Aniy'la M., as a child within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Cum. Supp. 2024). We affirm.

II. BACKGROUND

Niresha is the natural mother of Aniy'la, who was born in April 2019.

1. PETITION AND PROTECTIVE CUSTODY ORDER

On August 19, 2025, the State filed a petition seeking to adjudicate Aniy'la as a child within the meaning of § 43-247(3)(a). The petition specifically alleged that Aniy'la lacked proper parental care by reason of Niresha's fault or habits in that:

- A. Niresha M[.] is the mother of [Aniy'la].
- B. On or about August 17, 2025, Niresha M[.] drove off after [Aniy'la] exited her car at a red light, leaving [Aniy'la] unsupervised.
- C. Niresha M[.] is currently homeless.
- D. Niresha M[.]'s current and/or prior use of alcohol and/or controlled substances places [Aniy'la] at risk for harm.
- E. Niresha M[.] has failed to provide for the daily needs of [Aniy'la].
- F. Niresha M[.] has failed to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of [Aniy'la].
- G. Niresha M[.] has failed to provide [Aniy'la] with safe, stable and/or appropriate housing.
- H. Niresha M[.] has failed to provide [Aniy'la] with proper parental care, support, supervision, and/or safety.
- I. Due to the above allegations, [Aniy'la] is at risk for harm.

That same day, the State filed an ex parte motion for immediate custody, requesting an order placing Aniy'la in the temporary care and custody of the Nebraska Department of Health and Human Services (DHHS), with placement to exclude the home of Niresha. A corresponding affidavit indicated that on the evening of August 17, 2025, law enforcement was dispatched to a restaurant in downtown Omaha, Nebraska, for a "found child" call. Officers located the child, later identified as Aniy'la, and made contact with Niresha outside the restaurant. During this interaction with Niresha, the officers became concerned about possible mental health issues and homelessness. The officers ultimately made the decision to remove Aniy'la from her mother's custody and care. See Neb. Rev. Stat. § 43-248(6) (Cum. Supp. 2024) (peace officer may take juvenile into temporary custody without warrant or court order when juvenile is seriously endangered in his or her surroundings and immediate removal appears to be necessary for juvenile's protection). The juvenile court granted the State's motion, and a hearing on the matter was set for August 22.

At the hearing, Niresha entered a denial as to all allegations in the petition and resisted the State's request to continue custody of Aniy'la with DHHS pending adjudication. An evidentiary hearing on the issue of protective custody was held over the course of two days. On September 29, 2025, the juvenile court entered an order continuing custody of Aniy'la with DHHS, with placement still excluding the home of Niresha.

2. ADJUDICATION HEARING

An adjudication hearing on the State's petition took place over two partial days in December 2025. The State called several witnesses. Niresha offered no evidence. We set forth the relevant testimony below.

(a) Law Enforcement Testimony

Three witnesses from the Omaha Police Department provided testimony at the adjudication hearing: Officer Katherine Trimble, Officer Erick Contreras, and Sergeant Ben Hoffman.

According to their testimony, on August 17, 2025, Officers Trimble and Contreras were dispatched to a restaurant in downtown Omaha for a report that a child had wandered into the building without an adult. The restaurant was “located in a building down the stairs” and was not visible from the street. Officer Trimble stated that there was “a decent amount of foot traffic” downtown, observing “[l]ots of pedestrians, lots of vehicles.” Upon their arrival at the restaurant, the officers located a child “wearing no shoes,” who identified herself as Aniy’la. After about “five, ten minutes,” the officers escorted Aniy’la out of the restaurant to attempt to locate a caregiver. Officer Contreras testified that within seconds of reaching the street, Aniy’la pointed at a nearby intersection and said, ““That’s my mom.”” A vehicle pulled over, and the driver, later identified as Niresha, began to speak to the officers. Niresha explained to Officer Contreras that Aniy’la had abruptly exited her vehicle and “ran off” because she “wanted to look at the horses.” According to Officer Trimble, a total of 17 minutes elapsed between the time of dispatch and the time contact was established with Niresha; at no point did Niresha attempt to call 911 about Aniy’la’s absence. Niresha told the officers that after Aniy’la ran away, she attempted to secure a parking spot and search for her daughter.

Officers Trimble and Contreras questioned Niresha, and each made observations that raised concerns. Officer Trimble testified that Niresha “appeared messy,” wearing “swimsuit bottoms” and a “dirty” T-shirt. Niresha was initially “defensive” when asked by Officer Trimble to provide her “information,” but she eventually acquiesced, presenting a driver’s license. Officer Trimble could not recall the exact address listed on Niresha’s driver’s license but remembered it corresponded to a shelter located in Council Bluffs, Iowa. Niresha told Officer Trimble that she and Aniy’la were “staying in hotels” and did not have a current address. Niresha reported to the officer that she worked nights at ““Douglas County Health,”” and Aniy’la attended overnight care during her shifts. Officer Trimble suggested that Niresha go to the Lydia House, a local shelter. Niresha declined, however, explaining that she had been asked to leave the Lydia House on a prior occasion “because she had shown up intoxicated.” The officer testified that Niresha expressed a desire “to continue to drink alcohol.” Officer Trimble also discovered that Niresha had previously been cited for a “park curfew violation.”

Officer Contreras testified that Niresha “appeared to be” “talking to her herself or just making comments to herself.” He believed this was a sign of declining mental health. However, on cross-examination by Niresha, the officer agreed that he wrote in his official report, ““Niresha stated that she is not hearing voices, just speaking out loud because she has been juggling so much.”” At another point during the interaction, Officer Contreras noticed that while Niresha was sitting inside her vehicle, she “thr[ew] her arms around” and “hit[] herself against the seat multiple times.” An inspection of the car showed that it was a rental. When asked if there was “anything concerning about the inside of the car,” Officer Contreras responded that “there was no car seat for Aniy’la” or a “booster seat”; there was no “car seat or . . . safe way to have [Aniy’la] be in the vehicle with [Niresha].” (We note here that Neb. Rev. Stat. § 60-6,267(1) (Reissue 2021) requires “[a]ny person in Nebraska who drives any motor vehicle which has or is required to have an

occupant protection system or a three-point safety belt system” to “ensure that all children up to eight years of age” “use a child passenger restraint system.”)

Officer Contreras testified that Niresha had “no concern for comforting” Aniy’la, and “[e]ven at the end,” she did not ask to “go and give her a hug[.]” When Officer Contreras inquired into Niresha’s plans for that evening, she said she would “most likely” go to work. When asked where she worked, Niresha initially named a business located in Blair, Nebraska, but later provided the name of a different business located in Lincoln, Nebraska. Officer Contreras agreed with Niresha’s counsel that at the time of Aniy’la’s removal, he did not believe that Niresha was a danger to herself or others.

Officers Trimble and Contreras both testified that based on their law enforcement training and experience, they believed that Niresha suffered from mental health issues. Each conceded, however, that they had no training related to the diagnosis or treatment of mental illness.

At some point during the officers’ interaction with Niresha, she requested to speak with a supervisor. Sergeant Hoffman was dispatched to the scene, and Niresha disclosed to him that she was homeless. On direct examination by the State, the sergeant testified that Niresha informed him that she and Aniy’la “stay in the car and in tents” when they cannot afford a hotel room. However, after being shown his body-worn camera footage on cross-examination, he later acknowledged Niresha’s statement was somewhat ambiguous:

[Niresha’s counsel:] You had a conversation with [Niresha] regarding where she could stay, correct?

[Sergeant Hoffman:] Yes.

[Niresha’s counsel:] And she told you that what homeless shelters ask on the paper is like, “If you [are] sleeping in your car, if you [are] sleeping outside, or if you [are] sleeping in a tent, you would have to wait 30 days; so that’s what we’ve been doing.” Is that fair to say?

[Sergeant Hoffman:] Yes.

....

[Niresha’s counsel:] Okay. Is that statement kind of ambiguous?

[Sergeant Hoffman:] I can’t confirm what she was doing.

According to Sergeant Hoffman, Niresha did not have a hotel room booked at the time of their conversation, but she told him that she had sufficient funds to book one for the night. Niresha told him that she was planning on sending Aniy’la to overnight care that evening. The sergeant was able to contact the childcare business and confirm that it provided overnight services, but he was not able to confirm that Aniy’la was enrolled due to a “language barrier.” Sergeant Hoffman also observed behavior similar to that described by Officer Contreras. He explained that Niresha “seemed to be talking to herself, and even more, talking to somebody that wasn’t actually there.” The sergeant did not notice any physical injuries to Aniy’la, and he stated that Aniy’la wanted to be reunited with her mother.

The officers also provided testimony on Aniy’la’s demeanor throughout the incident. Officer Contreras testified that Aniy’la was acting “very defiant” and “want[ed] to have her way.” Sergeant Hoffman indicated that she was “quite hysterical,” going through “a lot of emotional changes.” The sergeant said he offered Niresha a chance to comfort Aniy’la, who was “crying at

that time,” but Niresha “refused to,” “[s]he just said she wanted to get out of there and . . . refused to comfort her daughter.” Aniy’la was placed in the officers’ cruiser because the sergeant was “personally concerned for her running away again.” Aniy’la was “actively” trying to escape the vehicle, and Sergeant Hoffman was fearful that “she could just bolt and run again.”

After consulting with DHHS, a collective decision was made to remove Aniy’la from Niresha’s care. During their testimony, the three officers cited several factors in support of this decision, including concerns related to Niresha’s mental health, homelessness, Niresha’s unwillingness to seek permanent shelter, and Niresha’s failure to immediately call 911 after her daughter ran away.

(b) DHHS Worker Testimony

The only other witness to offer testimony at the adjudication hearing was Katie Lira, a child/family services specialist with DHHS.

Lira received an intake report regarding Aniy’la on August 18, 2025, and was charged with conducting an investigation. Lira was able to make phone contact with Niresha, and an in-person meeting was scheduled for the following day in Lincoln. During this initial phone interaction, Lira asked Niresha why she did not call 911 to report a missing child immediately after Aniy’la exited her vehicle. Niresha responded by saying “she could have waited 30 minutes” or “an hour” before contacting law enforcement. Niresha explained to Lira that “in Nebraska, there’s a certain amount of time before she can call the police.”

The in-person meeting scheduled for August 19, 2025, was cancelled due to a scheduling conflict; it was rescheduled for the next day at a fast-food restaurant in Blair. At the meeting, Niresha told Lira that she was on the wait list for several shelters. However, Niresha mentioned that she “could go to a hotel right now and get a room if she wanted to because of the money she makes with her job.” Lira agreed with Niresha’s counsel during cross-examination that a hotel is a safe and suitable place for a child to live. Niresha advised that she worked as a certified nursing assistant for a “temp” agency. Lira testified that during the in-person meeting, Niresha was “going in circles and her stories were not making sense.” Lira also indicated that Niresha’s car “looked like it was being lived out of,” observing several personal hygiene products and blankets. Lira opined that Aniy’la would be at risk of harm if she returned to Niresha’s care because of her mother’s “lack of housing” and her failure to contact law enforcement after her daughter ran away.

3. JUVENILE COURT’S DECISION

On January 6, 2026, the juvenile court entered an order adjudicating Aniy’la as a child within the meaning of § 43-247(3)(a). The court specifically found the following paragraphs of the State’s petition to be true by a preponderance of the evidence: “A” (Niresha is Aniy’la’s mother); “B” (Niresha drove off after Aniy’la exited the car at a red light, leaving Aniy’la unsupervised); “C” (Niresha is homeless); “G” (Niresha failed to provide safe, stable and/or appropriate housing for Aniy’la); “H” (Niresha failed to provide Aniy’la with proper parental care, support, supervision, and/or safety); and “I” (Aniy’la is at risk of harm). All other allegations were dismissed for insufficient evidence; these were related to Niresha’s use of alcohol or controlled substances, Niresha failing to provide for Aniy’la’s daily needs, and Niresha failing to provide for

proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of Aniy’la.

In its order, the juvenile court found that Niresha “continued to operate [her] vehicle and failed to immediately stop” “despite being aware that her six-year[-]old child had exited the vehicle” and had run away. It went on to explain that Aniy’la was left unattended for “at least” 17 minutes, and Niresha’s failure to “immediately stop her vehicle” and search for her daughter demonstrated a lack of proper parental supervision and protection. Relying on the officers’ testimony, the court further found that Niresha “display[ed] mental health issues,” “lacked stable housing,” and “declined the option of locating a shelter for temporary housing.” The court also observed that Niresha “had no car-seat or booster-seat” in the vehicle for her 6-year-old child. The court determined that it would be “contrary to the health and safety of [Aniy’la] to be returned home at this time,” thus adjudging her to be within the meaning of § 43-247(3)(a).

Niresha appeals.

III. ASSIGNMENT OF ERROR

Niresha assigns that the juvenile court erred in finding sufficient evidence to adjudicate Aniy’la as child within the meaning of § 43-247(3)(a).

IV. STANDARD OF REVIEW

An appellate court reviews juvenile cases de novo on the record and reaches its conclusions independently of the juvenile court’s findings; however, when the evidence is in conflict, an appellate court may consider and give weight to the fact that the trial court observed the witnesses and accepted one version of the facts over the other. *In re Interest of Xandria P.*, 311 Neb. 591, 973 N.W.2d 692 (2022).

V. ANALYSIS

The purpose of the adjudication phase is to protect the interests of the child. *In re Interest of Prince R.*, 308 Neb. 415, 954 N.W.2d 294 (2021). To obtain jurisdiction over a juvenile at the adjudication stage, the court’s only concern is whether the conditions in which the juvenile presently finds himself or herself fit within the asserted subsection of § 43-247. *In re Interest of Prince R.*, *supra*. Section 43-247(3)(a) sets forth numerous grounds by which the juvenile court could take jurisdiction over a juvenile. *In re Interest of Prince R.*, *supra*. Under § 43-247(3)(a), a juvenile court has jurisdiction of any juvenile:

Who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; who is in a situation or engages in an occupation, including prostitution, dangerous to life or limb or injurious to the health or morals of such juvenile; or who has committed an act or engaged in behavior described in subdivision (1), (2),

(3)(b), or (4) of this section and who was under eleven years of age at the time of such act or behavior[.]

The factual allegations of a petition seeking to adjudicate a child must give a parent notice of the bases for seeking to prove that the child is within the meaning of § 43-247(3)(a). *In re Interest of Jeremy U. et al.*, 304 Neb. 734, 936 N.W.2d 733 (2020). The State has the burden to prove the allegations of the petition by a preponderance of the evidence, which is the equivalent of the greater weight of the evidence. *Id.* See, also, Neb. Rev. Stat. § 43-279.01(4) (Reissue 2016) (burden of proof in adjudication proceedings brought under § 43-247(3)(a) is preponderance of evidence). The greater weight of the evidence means evidence sufficient to make a claim more likely true than not true. *In re Interest of Jeremy U. et al.*, *supra*.

In the instant case, the State’s petition alleged only one ground under § 43-247(3)(a): that Aniy’la lacked proper parental care by reason of the fault or habits of Niresha. “Proper parental care” under § 43-247(3)(a) includes providing a home, support, subsistence, education, and other care necessary for the health, morals, and well-being of the child. *In re Interest of Jeremy U. et al.*, *supra*. It commands that the child not be placed in situations dangerous to life or limb, and not be permitted to engage in activities injurious to his or her health or morals. *Id.*

The Nebraska Supreme Court has explained that determining whether a juvenile lacks proper parental care by reason of the fault or habits of his or her parent is a two-step inquiry:

The first step is to determine if the juvenile is lacking proper parental care, whether such care is being provided by a parent, a guardian, or a custodian. If the juvenile is not lacking that type of care (and, as discussed below, there is no definite risk of harm), adjudication under this provision of § 43-247(3)(a) is improper. If, on the other hand, the juvenile is lacking such care, the court should proceed to the second step: Does that condition result from the fault or habits of the juvenile’s parent, guardian, or custodian? If the answer to that question is also yes, then the juvenile court should take jurisdiction of the juvenile and proceed to a proper disposition.

In re Interest of Jeremy U. et al., 304 Neb. at 748, 936 N.W.2d at 744-45.

In considering whether a juvenile lacks proper parental care, our case law has incorporated a risk of harm component. *Id.* While the State need not prove that the child has actually suffered physical harm, Nebraska case law is clear that at a minimum, the State must establish that without intervention, there is a definite risk of future harm. *In re Interest of Lilly S. & Vincent S.*, 298 Neb. 306, 903 N.W.2d 651 (2017). In order to establish a definite risk of future harm, there must be an evidentiary nexus between the allegations of the petition and a definite risk of future harm. *In re Interest of Chloe P.*, 21 Neb. App. 456, 840 N.W.2d 549 (2013).

We note that Niresha broadly asserts in her sole assignment of error that the juvenile court erred in finding sufficient evidence to adjudicate Aniy’la as a child within the meaning of § 43-247(3)(a). However, in the argument section of her brief, Niresha only contests the court’s finding that her daughter is at a risk of harm. She essentially claims that the State failed to present an evidentiary nexus linking the conduct described in the petition to a tangible risk of harm. Niresha specifically argues that the State failed to show how a single incident of Aniy’la running away, a lack of permanent housing, or the purported mental health issues observed by the officers

create a risk of harm specific to Aniy'la. We therefore confine our inquiry to a risk of harm analysis.

At the outset, we acknowledge that the petition in this case arose from a single occurrence where Aniy'la abruptly exited her mother's vehicle in a busy downtown area and ran away. Testimony elicited at the adjudication hearing showed that Aniy'la was outside of Niresha's care and supervision for at least 17 minutes but suffered no physical harm as a result. Sergeant Hoffman agreed during his testimony that Niresha gave no indication that Aniy'la had a prior history of running away, and although Niresha failed to immediately stop her vehicle or call 911, she told officers that she was actively "looking for a parking spot and looking for [her daughter]."

However, as noted by the appellees, the circumstances giving rise to Aniy'la's adjudication were not based solely on the single incident of Aniy'la exiting a stopped vehicle in the street. There were several other factors warranting consideration. Of significance, Niresha failed to immediately pursue Aniy'la and seek assistance from law enforcement to help locate her child; instead, Niresha chose to drive around for at least 17 minutes "looking for a parking spot and looking for [her daughter]." The State points out in its brief that Niresha "lacked a sense of urgency in both locating Aniy'la and contacting law enforcement to notify them that Aniy'la was missing," and thus, Niresha "failed to supervise and protect" her daughter, "creating a substantial risk to Aniy'la's safety and well-being." Brief for appellee at 22. We agree. Also, the guardian ad litem (GAL) for Aniy'la emphasizes that Niresha was "unable to provide basic protections for Aniy'la like having a booster seat required by law and calling 911 when Aniy'la went missing." Brief for GAL at 12. The GAL also points to Niresha's unwillingness to comfort Aniy'la when she was in distress and to Niresha's "concerning behaviors that suggested she had mental health concerns." *Id.*

Thus, although a one-time incident of a 6-year-old child exiting a stopped car in the street may not always establish a lack of proper parental care sufficient to constitute a definite risk of future harm, there were other factors to be considered in this case. We cannot ignore the testimony in the record demonstrating that Niresha failed to appreciate or comprehend the danger posed by her failure to immediately pursue her daughter when she exited the car or to immediately notify the police after her daughter ran away. Niresha's lack of understanding and lack of urgency about the dangerous situation created by her daughter's actions is concerning, especially in light of the responding officers' observations that Aniy'la exhibited a defiant attitude and a demonstrative propensity to flee.

Lira testified that, during her initial phone call with Niresha, she "started going on about how the police removed Aniy'la for no reason." Even after Lira provided the officers' justification for removing Aniy'la, Niresha stated that she "knows the law" and expressed her belief that "in Nebraska, there's a certain amount of time before she can call the police when she notices that her daughter or a child is missing." According to Lira, Niresha indicated that "she could have waited 30 minutes" or "an hour" but did not have to report the incident "right away." At a subsequent in-person meeting, Niresha "still didn't understand why Aniy'la was out of her care." Lira opined that Aniy'la was at risk of harm due, in part, to Niresha's assertion that "she had a certain amount of time before she could call the police and call her child in missing."

Testimony elicited from the officers also suggests that Aniy'la is emotionally volatile and prone to abscond. Officer Contreras described Aniy'la as "very defiant" and "wanting to have her way." Sergeant Hoffman similarly testified that Aniy'la was "quite hysterical" during his

interaction with her and that she went through “a lot of emotional changes,” such as going “from laughing to crying.” The sergeant explained that Aniy’la was placed in the police cruiser because he was “personally concerned for her running away again.” Sergeant Hoffman observed Aniy’la “actively trying to get out of the cruiser,” and he “had a fear that she could just bolt and run again.” We also note that Niresha’s failure to ensure that her daughter was in a proper safety restraint while in the car--which is itself unlawful, see § 60-6,267--allowed Aniy’la to easily exit the vehicle and run away.

Contrary to Niresha’s argument, the record does not merely establish an isolated, one-time incident presenting no continuing concern for Aniy’la’s safety. Rather, the evidence described above shows a combination of circumstances that could easily be repeated in the future if not addressed through appropriate services for both Niresha and Aniy’la. Officers made observations during their interaction with Aniy’la that demonstrated her emotional volatility and inclination to run away. Niresha failed to appreciate the need to promptly report her daughter’s disappearance, going so far as to express her belief that she has the right to wait up to an hour before contacting law enforcement. In this instance, Aniy’la did not suffer any physical harm from wandering alone in a busy urban area because helpful strangers phoned 911. But there is no guarantee that such assistance will always be available. If Aniy’la were to run away again, Niresha’s inability to recognize the danger and promptly notify law enforcement could have hazardous consequences. As the oft-quoted maxim states, “The Nebraska Juvenile Code does not require a juvenile court to wait until disaster has befallen a minor child before the court may acquire jurisdiction.” *In re Interest of Prince R.*, 308 Neb. at 428, 954 N.W.2d at 303. See, also, *In re Interest of Lilly S. & Vincent S.*, *supra* (juvenile court need not await certain disaster before taking protective steps in interest of minor child).

Therefore, upon our de novo review of the record, we agree with the juvenile court that without intervention, Aniy’la is at a definite risk of future harm.

VI. CONCLUSION

For the foregoing reasons, we conclude that the State proved by a preponderance of the evidence that Aniy’la is at a definite risk of future harm. Accordingly, we affirm the juvenile court’s January 6, 2026, order adjudicating Aniy’la as a child within the meaning of § 43-247(3)(a).

AFFIRMED.