

## LEGISLATIVE BILL 233

Approved by the Governor April 9, 1996

Introduced by Lindsay, 9

AN ACT relating to city and county jails; to amend sections 23-2802, 47-101, 47-102, 47-104 to 47-106, 47-108 to 47-110, 47-116, 47-201 to 47-206, 83-4,131, and 83-4,132, Reissue Revised Statutes of Nebraska; to change provisions relating to the Jail Standards Board; to eliminate duties of the judges of the district court; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 23-2802, Reissue Revised Statutes of Nebraska, is amended to read:

23-2802. In each county having a population of one hundred fifty thousand or more inhabitants, the county board shall also serve as the county board of corrections and in counties of less than one hundred fifty thousand inhabitants the county board may choose to serve as the county board of corrections. Any such county board of corrections shall have charge of the county jail and correctional facilities and of all persons by law confined in such jail or correctional facilities. Such county board of corrections shall comply with any rule prescribed by the district judges Jail Standards Board pursuant to sections 47-101 to 47-104.

Sec. 2. Section 47-101, Reissue Revised Statutes of Nebraska, is amended to read:

47-101. The Jail Standards Board judges of the district courts of the several judicial districts of this state shall from time to time as they it may deem necessary prescribe, in writing, rules for the regulation and government of the jails in the several counties within their respective districts, upon the following subjects: (1) The cleanliness of the prison jail and prisoners; (2) the classification of prisoners in regard to sex, age, and crime, and also persons with physical or mental disabilities; (3) beds and clothing; (4) warming, lighting, and ventilation of the prison jail; (5) the employment of medical and surgical aid when necessary; (6) employment, temperance, and instruction of the prisoners; (7) the supplying of each prisoner with a Bible; (8) the intercourse between prisoners and their counsel and other persons; (9) the punishment discipline of prisoners for violation of the rules of the prison jail; and (10) such other matters as the judges board may deem necessary to promote the welfare of the prisoners.

Sec. 3. Section 47-102, Reissue Revised Statutes of Nebraska, is amended to read:

47-102. The Jail Standards Board judges shall, as soon as may be, cause a copy of the rules to be delivered to the county boards, in the several counties in their respective judicial districts. It shall be the duty of each county board forthwith to cause the same to be printed, and to furnish the sheriff of its county or such other person as may be charged with the administrative direction of the jail with a copy of the rules for every room or cell of the jail, and to forward a copy of the rules by mail to the Auditor of Public Accounts, who shall carefully file away and preserve the same.

Sec. 4. Section 47-104, Reissue Revised Statutes of Nebraska, is amended to read:

47-104. The Jail Standards Board judges may, from time to time, as they it may deem necessary, revise, alter, or amend the rules, and such revised, altered, or amended rules shall be printed and disposed of by the county board and the sheriff or such other person as may be charged with the administrative direction of the jail in the same manner as is directed by sections 47-102 and 47-103.

Sec. 5. Section 47-105, Reissue Revised Statutes of Nebraska, is amended to read:

47-105. The sheriff, or, in case of his or her death, removal, or disability, the person by law appointed to such office, supply his place, shall have charge of the county jail of his or her proper county, and of all persons by law confined therein, and such sheriff or other person as may be charged with the administration of the jail officer is hereby required to shall conform, in all respects, to the rules and directions of the Jail Standards Board district judges above specified, or which may, from time to time, by the judges be made and communicated to him or her by the county board.

Sec. 6. Section 47-105.01, Reissue Revised Statutes of Nebraska, is

amended to read:

47-105.01. The sheriff or such other person as may be charged with the administration of the jail shall conform, ~~in all respects,~~ to the rules and directions as prescribed by the Jail Standards Board ~~district judges~~ pursuant to sections 47-101 and 47-104 which may be made and communicated to him or her by the county board.

Sec. 7. Section 47-106, Reissue Revised Statutes of Nebraska, is amended to read:

47-106. The sheriff or such other person as may be charged with the administrative direction of the jail shall procure, at the expense of the proper county, a suitable book to be called the jail register, in which he or she shall enter (1) the name of each prisoner, with the date and cause of his or her commitment, (2) the date or manner of his or her discharge, (3) what sickness, if any, has prevailed in the jail during the year and if known, what were the causes of such disease, (4) whether any or what labor has been performed by the prisoners, and the value thereof, (5) the habits of the prisoners as to personal cleanliness, diet, and order, (6) the operations of the rules and directions prescribed by the district judges Jail Standards Board, (7) the means furnished prisoners of literary, moral, and religious instruction, and of labor, and (8) all other matters required by the rules, or in the discretion of such person deemed proper. The sheriff or such other person as may be charged with the administrative direction of the jail shall carefully keep and preserve the jail register in his or her office and at the expiration of his or her office shall deliver the same to the successor in office.

Sec. 8. Section 47-108, Reissue Revised Statutes of Nebraska, is amended to read:

47-108. It shall be the duty of the district court in its charge to the grand jury to inform the jury of the provisions of sections 47-101 to 47-116, ~~and to lay before them any~~ and all rules, plans, or regulations established by the district judges Jail Standards Board relating to county jails and prison discipline.

Sec. 9. Section 47-109, Reissue Revised Statutes of Nebraska, is amended to read:

47-109. The grand jury of each county in this state may, while in attendance, visit the jail, examine its state and condition, and examine and inquire into the discipline and treatment of prisoners, their habits, diet, and accommodations. If the grand jury visits a jail, it shall be its duty to report to the court in writing, whether the rules of the Jail Standards Board ~~district judges~~ have been faithfully kept and observed, or whether any of the provisions of sections 47-101 to 47-116, have been violated, pointing out particularly in what the violation, if any, consists. It shall also be the duty of the county board of each county of this state to visit the jail of its county once during each of its sessions in January, April, July, and October of each year.

Sec. 10. Section 47-110, Reissue Revised Statutes of Nebraska, is amended to read:

47-110. It shall be the duty of the county board at the expense of the respective counties to provide suitable means for warming the jail and its cells or apartments, and provide frames and mattresses for beds, and such other permanent fixtures and repairs as may be prescribed by the district judges Jail Standards Board. The county board shall have power to appoint a physician to the jail when it deems it necessary, and shall pay to such physician an annual or other salary as it may think reasonable and proper, which salary shall be drawn out of the county treasury. Such medical officer, or any physician or surgeon who is employed in the jail, shall make a report in writing whenever required by the county board, Jail Standards Board, district judges or grand jury.

Sec. 11. Section 47-116, Reissue Revised Statutes of Nebraska, is amended to read:

47-116. If the sheriff or jailer, having charge of any county jail, shall neglect or refuse to conform to all or any of the rules and regulations established by the judges Jail Standards Board, or to perform any other duty required of him or her by sections 47-101 to 47-116, he or she shall, upon conviction thereof for each case of such failure or neglect of duty, pay into the county treasury of the proper county for the use of such county a fine of not less than five dollars nor more than one hundred dollars, to be assessed by the district court of the proper district.

Sec. 12. Section 47-201, Reissue Revised Statutes of Nebraska, is amended to read:

47-201. The Jail Standards Board ~~judges of the district courts of the several judicial districts of this state~~ shall, in the month of January of

each year, and at such other time or times as they it may deem necessary, prescribe, in writing, written rules for the regulation and government of the municipal jails within the limits of their several districts upon the subjects of (1) the cleanliness of the prison jail and prisoners, (2) the classification of prisoners in regard to sex, age, crime, and mental infirmity, (3) beds, clothing, and diet, (4) warming, lighting, and ventilating of the prison jail, (5) the employment of medical and surgical aid, (6) the employment, temperance, and instruction of the prisoners, (7) the intercourse between prisoners and their attorneys and other persons, (8) the punishment discipline of prisoners, (9) the keeping of records of the prison jail, and (10) any other matters concerning jails said prisons and their government as they the board may deem necessary.

Sec. 13. Section 47-202, Reissue Revised Statutes of Nebraska, is amended to read:

47-202. The Jail Standards Board judges shall, as soon as may be, cause a copy of the rules to be delivered to the mayor or chief officer of the several municipalities, within their respective judicial districts, and it shall be the duty of such mayor or other chief officer to cause a copy of the same to be furnished to the person in charge of the prison or jail, to file a copy with the clerk of the municipality, and to further cause a copy to be conspicuously posted in the prison or jail.

Sec. 14. Section 47-203, Reissue Revised Statutes of Nebraska, is amended to read:

47-203. The Jail Standards Board judges may, from time to time, as they it may deem proper, revise, alter or amend the said rules, and such revised, altered or amended rules, and their copies of the same shall be disposed of in the same manner as provided and directed in section 47-202.

Sec. 15. Section 47-204, Reissue Revised Statutes of Nebraska, is amended to read:

47-204. The officer in charge of any municipal jail shall keep a written record which shall show the name of each person confined, the date of the commencement and termination of his or her confinement, the nature of the charge against him or her, and the medical service provided. Such officer shall keep such further records as may be prescribed by the rules of the district judge or judges Jail Standards Board. The records so kept shall be subject to the inspection of any person and to the public generally and shall be kept for such periods of time as may be prescribed by the rules of the State Records Administrator.

Sec. 16. Section 47-205, Reissue Revised Statutes of Nebraska, is amended to read:

47-205. The officer in charge of any municipal jail shall on or before the first day of February of each year, for the preceding calendar year, and at such other times as he or she may be required by the judges of the district court Jail Standards Board, make out a written report, and cause copies of the same to be filed with the city clerk and the clerk of the district court of the county where such municipality is located. Such report shall contain a summary of the records required to be kept by said officer as provided in section 47-204, and the such other data and matters as may be required by the judge or judges of his judicial district Jail Standards Board.

Sec. 17. Section 47-206, Reissue Revised Statutes of Nebraska, is amended to read:

47-206. The officer in charge of any municipal prison or jail who shall fail fails to comply with the provisions of sections 47-201 to 47-205 or the rules prescribed by the Jail Standards Board laid down by the district judge or judges under such provisions, shall be guilty of a Class V misdemeanor.

Sec. 18. Section 83-4,131, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,131. Personnel of the Nebraska Commission on Law Enforcement and Criminal Justice shall visit and inspect each criminal detention facility and juvenile detention facility in the state for the purpose of determining the conditions of confinement, the treatment of persons confined in the facilities, and whether such facilities comply with the minimum standards established by the Jail Standards Board. A written report of each inspection shall be made within thirty days following such inspection to the appropriate governing body and the district judge responsible for the criminal detention facility or juvenile detention facility involved. The report shall specify those areas in which the facility does not comply with the required minimum standards.

Sec. 19. Section 83-4,132, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,132. If an inspection under sections 83-4,124 to 83-4,134

discloses that the criminal detention facility or juvenile detention facility does not meet the minimum standards established by the Jail Standards Board, the board shall send notice, together with the inspection report, to the governing body responsible for the facility. A copy of such inspection report shall also be sent to the district judge of the judicial district in which such facility is located. The appropriate governing body and the district judge shall promptly meet to consider the inspection report, and the inspection personnel shall appear to advise and consult concerning appropriate corrective action. The governing body shall then initiate appropriate corrective action within six months of the receipt of such inspection report or may voluntarily close the facility or the objectionable portion thereof.

Sec. 20. Original sections 23-2802, 47-101, 47-102, 47-104 to 47-106, 47-108 to 47-110, 47-116, 47-201 to 47-206, 83-4,131, and 83-4,132, Reissue Revised Statutes of Nebraska, are repealed.