

LEGISLATIVE BILL 467

Approved by the Governor April 11, 2008

Introduced by Chambers, 11.

FOR AN ACT relating to the Public Counsel; to amend sections 81-8,240 and 81-8,244, Reissue Revised Statutes of Nebraska; to grant authority relating to county or municipal correctional and jail facilities, mental health and veterans institutions, regional behavioral health authorities, and community-based behavioral health services providers; to provide for appointment of a deputy public counsel for institutions; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 81-8,240, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,240 As used in sections 81-8,240 to 81-8,254, unless the context otherwise requires:

(1) Administrative agency shall mean any department, board, commission, or other governmental unit, any official, any employee of the State of Nebraska acting or purporting to act by reason of connection with the State of Nebraska, ~~or~~ any corporation, partnership, business, firm, governmental entity, or person who is providing health and human services to individuals under contract with the State of Nebraska and who is subject to the jurisdiction of the office of Public Counsel as required by section 73-401, any regional behavioral health authority, any community-based behavioral health services provider that contracts with a regional behavioral health authority, and any county or municipal correctional or jail facility and employee thereof acting or purporting to act by reason of connection with the county or municipal correctional or jail facility; but shall not include (a) any court, (b) any member or employee of the Legislature or the Legislative Council, (c) the Governor or his or her personal staff, (d) any political subdivision or entity thereof except a county or municipal correctional or jail facility or a regional behavioral health authority, (e) any instrumentality formed pursuant to an interstate compact and answerable to more than one state, or (f) any entity of the federal government; and

(2) Administrative act shall include every action, rule, regulation, order, omission, decision, recommendation, practice, or procedure of an administrative agency.

Sec. 2. Section 81-8,244, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,244 The Public Counsel may select, appoint, and compensate as he or she sees fit, within the amount available by appropriation, such assistants and employees as he or she deems necessary to discharge the responsibilities under sections 81-8,240 to 81-8,254. He or she shall appoint and designate one assistant to be a deputy public counsel, one assistant to be a deputy public counsel for corrections, one assistant to be a deputy public counsel for institutions, and one assistant to be a deputy public counsel for welfare services.

Such deputy public counsels shall be subject to the control and supervision of the Public Counsel.

The authority of the deputy public counsel for corrections shall extend to all facilities and parts of facilities, offices, houses of confinement, and institutions which are operated by the Department of Correctional Services and all county or municipal correctional or jail facilities.

The authority of the deputy public counsel for institutions shall extend to all mental health and veterans institutions and facilities operated by the Department of Health and Human Services and to all regional behavioral health authorities that provide services and all community-based behavioral health services providers that contract with a regional behavioral health authority to provide services, for any individual who was a patient within the prior twelve months of a state-owned and state-operated regional center, and to all complaints pertaining to administrative acts of the department, authority, or provider when those acts are concerned with the rights and interests of individuals placed within those institutions and facilities or receiving community-based behavioral health services.

The authority of the deputy public counsel for welfare services shall extend to all complaints pertaining to administrative acts of administrative agencies when those acts are concerned with the rights and

interests of individuals involved in the welfare services system of the State of Nebraska.

The Public Counsel may delegate to members of the staff any authority or duty under sections 81-8,240 to 81-8,254 except the power of delegation and the duty of formally making recommendations to administrative agencies or reports to the Governor or the Legislature.

Sec. 3. Original sections 81-8,240 and 81-8,244, Reissue Revised Statutes of Nebraska, are repealed.