

E AND R AMENDMENTS TO LB 910

Introduced by Hansen, 26, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Section 47-901, Revised Statutes Supplement, 2015, is  
4 amended to read:

5           47-901 Sections 47-901 to 47-918 and section 4 of this act shall be  
6 known and may be cited as the Office of Inspector General of the Nebraska  
7 Correctional System Act.

8           Sec. 2. Section 47-903, Revised Statutes Supplement, 2015, is  
9 amended to read:

10          47-903 For purposes of the Office of Inspector General of the  
11 Nebraska Correctional System Act, the following definitions apply:

12          (1) Administrator means a person charged with administration of a  
13 program, an office, or a division of the department or administration of  
14 a private agency;

15          (2) Department means the Department of Correctional Services;

16          (3) Director means the Director of Correctional Services;

17          (4) Inspector General means the Inspector General of the Nebraska  
18 Correctional System appointed under section 47-904;

19          (5) Malfeasance means a wrongful act that the actor has no legal  
20 right to do or any wrongful conduct that affects, interrupts, or  
21 interferes with performance of an official duty;

22          (6) Management means supervision of subordinate employees;

23          (7) Misfeasance means the improper performance of some act that a  
24 person may lawfully do;

25          (8) Obstruction means hindering an investigation, preventing an  
26 investigation from progressing, stopping or delaying the progress of an  
27 investigation, or making the progress of an investigation difficult or

1 slow;

2 (9) Office means the office of Inspector General of the Nebraska  
3 Correctional System and includes the Inspector General and other  
4 employees of the office;

5 (10) Office of Parole Administration means the office created  
6 pursuant to section 83-1,100;

7 (11) (10) Private agency means an entity that contracts with the  
8 department or contracts to provide services to another entity that  
9 contracts with the department; and

10 (12) (11) Record means any recording in written, audio, electronic  
11 transmission, or computer storage form, including, but not limited to, a  
12 draft, memorandum, note, report, computer printout, notation, or message,  
13 and includes, but is not limited to, medical records, mental health  
14 records, case files, clinical records, financial records, and  
15 administrative records.

16 Sec. 3. Section 47-908, Revised Statutes Supplement, 2015, is  
17 amended to read:

18 47-908 All employees of the department, all employees of the Office  
19 of Parole Administration, and all owners, operators, managers,  
20 supervisors, and employees of private agencies shall cooperate with the  
21 office. Cooperation includes, but is not limited to, the following:

22 (1) Provision of full access to and production of records and  
23 information. Providing access to and producing records and information  
24 for the office is not a violation of confidentiality provisions under any  
25 statute, rule, or regulation if done in good faith for purposes of an  
26 investigation under the Office of Inspector General of the Nebraska  
27 Correctional System Act;

28 (2) Fair and honest disclosure of records and information reasonably  
29 requested by the office in the course of an investigation under the act;

30 (3) Encouraging employees to fully comply with reasonable requests  
31 of the office in the course of an investigation under the act;

1 (4) Prohibition of retaliation by owners, operators, or managers  
2 against employees for providing records or information or filing or  
3 otherwise making a complaint to the office;

4 (5) Not requiring employees to gain supervisory approval prior to  
5 filing a complaint with or providing records or information to the  
6 office;

7 (6) Provision of complete and truthful answers to questions posed by  
8 the office in the course of an investigation; and

9 (7) Not willfully interfering with or obstructing the investigation.

10 Sec. 4. The Office of Parole Administration shall provide the  
11 Public Counsel and the Inspector General with direct computer access to  
12 all computerized records, reports, and documents maintained by the office  
13 in connection with administration of the Nebraska parole system, except  
14 that access for the Public Counsel and the Inspector General to a  
15 parolee's medical or mental health records shall be subject to the  
16 parolee's consent.

17 Sec. 5. Section 68-1017.02, Revised Statutes Cumulative Supplement,  
18 2014, is amended to read:

19 68-1017.02 (1)(a) The Department of Health and Human Services shall  
20 apply for and utilize to the maximum extent possible, within limits  
21 established by the Legislature, any and all appropriate options available  
22 to the state under the federal Supplemental Nutrition Assistance Program  
23 and regulations adopted under such program to maximize the number of  
24 Nebraska residents being served under such program within such limits.  
25 The department shall seek to maximize federal funding for such program  
26 and minimize the utilization of General Funds for such program and shall  
27 employ the personnel necessary to determine the options available to the  
28 state and issue the report to the Legislature required by subdivision (b)  
29 of this subsection.

30 (b) The department shall submit electronically an annual report to  
31 the Health and Human Services Committee of the Legislature by December 1

1 on efforts by the department to carry out the provisions of this  
2 subsection. Such report shall provide the committee with all necessary  
3 and appropriate information to enable the committee to conduct a  
4 meaningful evaluation of such efforts. Such information shall include,  
5 but not be limited to, a clear description of various options available  
6 to the state under the federal Supplemental Nutrition Assistance Program,  
7 the department's evaluation of and any action taken by the department  
8 with respect to such options, the number of persons being served under  
9 such program, and any and all costs and expenditures associated with such  
10 program.

11 (c) The Health and Human Services Committee of the Legislature,  
12 after receipt and evaluation of the report required in subdivision (b) of  
13 this subsection, shall issue recommendations to the department on any  
14 further action necessary by the department to meet the requirements of  
15 this section.

16 (2)(a) The department shall develop a state outreach plan to promote  
17 access by eligible persons to benefits of the Supplemental Nutrition  
18 Assistance Program. The plan shall meet the criteria established by the  
19 Food and Nutrition Service of the United States Department of Agriculture  
20 for approval of state outreach plans. The Department of Health and Human  
21 Services may apply for and accept gifts, grants, and donations to develop  
22 and implement the state outreach plan.

23 (b) For purposes of developing and implementing the state outreach  
24 plan, the department shall partner with one or more counties or nonprofit  
25 organizations. If the department enters into a contract with a nonprofit  
26 organization relating to the state outreach plan, the contract may  
27 specify that the nonprofit organization is responsible for seeking  
28 sufficient gifts, grants, or donations necessary for the development and  
29 implementation of the state outreach plan and may additionally specify  
30 that any costs to the department associated with the award and management  
31 of the contract or the implementation or administration of the state

1 outreach plan shall be paid out of private or federal funds received for  
2 development and implementation of the state outreach plan.

3 (c) The department shall submit the state outreach plan to the Food  
4 and Nutrition Service of the United States Department of Agriculture for  
5 approval on or before August 1, 2011, and shall request any federal  
6 matching funds that may be available upon approval of the state outreach  
7 plan. It is the intent of the Legislature that the State of Nebraska and  
8 the Department of Health and Human Services use any additional public or  
9 private funds to offset costs associated with increased caseload  
10 resulting from the implementation of the state outreach plan.

11 (d) The department shall be exempt from implementing or  
12 administering a state outreach plan under this subsection, but not from  
13 developing such a plan, if it does not receive private or federal funds  
14 sufficient to cover the department's costs associated with the  
15 implementation and administration of the plan, including any costs  
16 associated with increased caseload resulting from the implementation of  
17 the plan.

18 (3)(a)(i) On or before October 1, 2011, the department shall create  
19 a TANF-funded program or policy that, in compliance with federal law,  
20 establishes categorical eligibility for federal food assistance benefits  
21 pursuant to the Supplemental Nutrition Assistance Program to maximize the  
22 number of Nebraska residents being served under such program in a manner  
23 that does not increase the current gross income eligibility limit.

24 (ii) Such TANF-funded program or policy shall eliminate all asset  
25 limits for eligibility for federal food assistance benefits, except that  
26 the total of liquid assets which includes cash on hand and funds in  
27 personal checking and savings accounts, money market accounts, and share  
28 accounts shall not exceed twenty-five thousand dollars pursuant to the  
29 Supplemental Nutrition Assistance Program, as allowed under federal law  
30 and under 7 C.F.R. 273.2(j)(2).

31 (iii) This subsection becomes effective only if the department

1 receives funds pursuant to federal participation that may be used to  
2 implement this subsection.

3 (b) For purposes of this subsection:

4 (i) Federal law means the federal Food and Nutrition Act of 2008, 7  
5 U.S.C. 2011 et seq., and regulations adopted under the act; and

6 (ii) TANF means the federal Temporary Assistance for Needy Families  
7 program established in 42 U.S.C. 601 et seq.

8 ~~(4) The (4)(a) within the limits specified in this subsection, the~~  
9 State of Nebraska opts out of the provision of the federal Personal  
10 Responsibility and Work Opportunity Reconciliation Act of 1996, as such  
11 act existed on January 1, 2009, that eliminates eligibility for the  
12 Supplemental Nutrition Assistance Program for any person convicted of a  
13 felony involving the possession, use, or distribution of a controlled  
14 substance.

15 ~~(b) A person shall be ineligible for Supplemental Nutrition~~  
16 ~~Assistance Program benefits under this subsection if he or she (i) has~~  
17 ~~had three or more felony convictions for the possession or use of a~~  
18 ~~controlled substance or (ii) has been convicted of a felony involving the~~  
19 ~~sale or distribution of a controlled substance or the intent to sell or~~  
20 ~~distribute a controlled substance. A person with one or two felony~~  
21 ~~convictions for the possession or use of a controlled substance shall~~  
22 ~~only be eligible to receive Supplemental Nutrition Assistance Program~~  
23 ~~benefits under this subsection if he or she is participating in or has~~  
24 ~~completed a state-licensed or nationally accredited substance abuse~~  
25 ~~treatment program since the date of conviction. The determination of such~~  
26 ~~participation or completion shall be made by the treatment provider~~  
27 ~~administering the program.~~

28 Sec. 6. Section 83-1,101, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 83-1,101 ~~The Director of Correctional Services with the consent of~~  
31 ~~the Board of Parole shall appoint a Parole Administrator. The Parole~~

1 Administrator ~~, who~~ shall be a person with appropriate experience and  
2 training, including, but not limited to, familiarity with the  
3 implementation of evidence-based processes for utilizing risk and needs  
4 assessments to measure criminal risk factors and specific individual  
5 needs in the field of corrections, or with training in relevant  
6 disciplines at a recognized university.

7 Sec. 7. Section 83-4,114, Revised Statutes Supplement, 2015, is  
8 amended to read:

9 83-4,114 (1) There shall be no corporal punishment or disciplinary  
10 restrictions on diet.

11 (2) Disciplinary restrictions on clothing, bedding, mail,  
12 visitations, use of toilets, washbowls, or scheduled showers shall be  
13 imposed only for abuse of such privilege or facility and only as  
14 authorized by written directives, guidance documents, and operational  
15 manuals.

16 (3) No person shall be placed in solitary confinement.

17 (4) The director shall issue an annual report on or before September  
18 15 to the Governor and the Clerk of the Legislature. The report to the  
19 Clerk of the Legislature shall be issued electronically. For all inmates  
20 who were held in restrictive housing during the prior year, the report  
21 shall contain the race, gender, age, and length of time each inmate has  
22 continuously been held in restrictive housing. The report shall also  
23 contain:

24 (a) The number of inmates held in restrictive housing;

25 (b) The reason or reasons each inmate was held in restrictive  
26 housing;

27 (c) The number of inmates held in restrictive housing who have been  
28 diagnosed with a mental illness or behavioral disorder as defined in  
29 section 71-907 and the type of mental illness or behavioral disorder by  
30 inmate;

31 (d) The number of inmates who were released from restrictive housing

1 directly to parole or into the general public and the reason for such  
2 release;

3 (e) The number of inmates who were placed in restrictive housing for  
4 his or her own safety and the underlying circumstances for each  
5 placement;

6 (f) To the extent reasonably ascertainable, comparable statistics  
7 for the nation and each of the states that border Nebraska pertaining to  
8 subdivisions (4)(a) through (e) of this section; and

9 (g) The mean and median length of time for all inmates held in  
10 restrictive housing.

11 (5)(a) There is hereby established within the department a long-term  
12 restrictive housing work group. The work group shall consist of:

13 (i) The director and all deputy directors. The director shall serve  
14 as the chairperson of the work group;

15 ~~(ii) The director of health services within the department;~~

16 (ii) The behavioral health administrator within the department;

17 (iii) Two employees of the department who currently work with  
18 inmates held in restrictive housing;

19 (iv) Additional department staff as designated by the director;  
20 and

21 (v) Four members as follows appointed by the Governor:

22 (A) Two representatives from a nonprofit prisoners' rights advocacy  
23 group, including at least one former inmate; and

24 (B) Two mental health professionals independent from the department  
25 with particular knowledge of prisons and conditions of confinement.

26 (b) The work group shall advise the department on policies and  
27 procedures related to the proper treatment and care of offenders in long-  
28 term restrictive housing.

29 (c) The director shall convene the work group's first meeting no  
30 later than September 15, 2015, and the work group shall meet at least  
31 semiannually thereafter. The chairperson shall schedule and convene the

1 work group's meetings.

2 (d) The director shall provide the work group with quarterly updates  
3 on the department's policies related to the work group's subject matter.

4 Sec. 8. Original section 83-1,101, Reissue Revised Statutes of  
5 Nebraska, section 68-1017.02, Revised Statutes Cumulative Supplement,  
6 2014, and sections 47-901, 47-903, 47-908, and 83-4,114, Revised Statutes  
7 Supplement, 2015, are repealed.

8 Sec. 9. Since an emergency exists, this act takes effect when  
9 passed and approved according to law.

10 2. On page 1, strike beginning with "parole" in line 1 through the  
11 semicolon in line 9 and insert "criminal justice; to amend section  
12 83-1,101, Reissue Revised Statutes of Nebraska, section 68-1017.02,  
13 Revised Statutes Cumulative Supplement, 2014, and sections 47-901,  
14 47-903, 47-908, and 83-4,114, Revised Statutes Supplement, 2015; to  
15 define a term; to require cooperation by and provide access to  
16 information maintained by the Office of Parole Administration as  
17 prescribed; to eliminate a provision relating to ineligibility for  
18 Supplemental Nutrition Assistance Program benefits relating to certain  
19 felons; to change provisions relating to appointment and qualifications  
20 of the Parole Administrator; to change reporting requirements and work  
21 group membership relating to restrictive housing as prescribed;".