

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 598**

Introduced by Schumacher, 22; Bolz, 29; Chambers, 11; Krist, 10; Mello,  
5; Seiler, 33.

Read first time January 21, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to treatment and corrections; to amend  
2 sections 83-173, 83-1,135, and 83-4,114, Reissue Revised Statutes of  
3 Nebraska; to provide and change powers and duties of the Director of  
4 Correctional Services and the Department of Correctional Services;  
5 to provide and change requirements regarding treatment and  
6 segregation of inmates with mental illness; to require reports; to  
7 harmonize provisions; to repeal the original sections; and to  
8 declare an emergency.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-173, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 83-173 The Director of Correctional Services shall:

4 (1) Supervise and be responsible for the administration of the  
5 Department of Correctional Services;

6 (2) Establish, consolidate, or abolish any administrative  
7 subdivision within the department and appoint and remove for cause the  
8 heads thereof and delegate appropriate powers and duties to them;

9 (3) Establish and administer policies and programs for the operation  
10 of the facilities in the department and for the custody, control, safety,  
11 correction, and rehabilitation of persons committed to the department;

12 (4) Appoint and remove the chief executive officer of each facility  
13 and delegate appropriate powers and duties to him or her;

14 (5) Appoint and remove employees of the department and delegate  
15 appropriate powers and duties to them;

16 (6) Adopt and promulgate rules and regulations for the management,  
17 correctional treatment, and rehabilitation of persons committed to the  
18 department, the administration of facilities, and the conduct of officers  
19 and employees under his or her jurisdiction;

20 (7) Designate the place of confinement of persons committed to the  
21 department subject to section 83-176;

22 (8) Establish and administer policies that ensure that complete and  
23 up-to-date electronic records are maintained for each person committed to  
24 the department, including, but not limited to, programming  
25 recommendations and time spent in segregation;

26 (9 8) Collect, develop, and maintain statistical information  
27 concerning persons committed to the department, sentencing practices, and  
28 correctional treatment as may be useful in penological research or in the  
29 development of treatment programs;

30 (10 9) Provide training programs designed to equip employees for  
31 duty in the facilities and related services of the department and to

1 raise and maintain the educational standards and the level of performance  
2 of such employees;

3 (~~11~~ 10) Notify law enforcement agencies of upcoming furloughs as  
4 required by section 83-173.01;

5 (~~12~~ 11) Issue or authorize the issuance of a warrant for the arrest  
6 of any person committed to the department who has escaped from the  
7 custody of the department; and

8 (~~13~~ 12) Exercise all powers and perform all duties necessary and  
9 proper in carrying out his or her responsibilities.

10 Sec. 2. The director shall issue a report to the Governor and the  
11 Legislature no later than April 1, 2016. The report to the Legislature  
12 shall be issued electronically. The report shall contain:

13 (1) A long-term plan for the usage of segregation or other type of  
14 isolation with the explicit goal of reducing the use of segregation or  
15 other type of isolation; and

16 (2) A long-term plan for oversight of the department by an  
17 independent third-party.

18 Sec. 3. (1) On and after July 1, 2016, no inmate shall be held  
19 outside the general population unless done so in the least restrictive  
20 manner consistent with maintaining order in the institution and pursuant  
21 to rules and regulations adopted and promulgated by the department  
22 pursuant to the Administrative Procedure Act.

23 (2) The department shall adopt and promulgate rules and regulations  
24 pursuant to the Administrative Procedure Act establishing levels of  
25 confinement outside the population as may be necessary to administer the  
26 correctional system. Rules and regulations shall establish behavior,  
27 conditions, and mental health status under which an inmate may be placed  
28 in each confinement level as well as procedures for making such  
29 determinations. Rules and regulations shall also provide for  
30 individualized transition plans for each confinement level back to the  
31 general population or to society.

1       (3) Rules and regulations may authorize the director to issue  
2 written directives, guidance, and operational manuals not inconsistent  
3 with law and rules and regulations. Such directives, guidance, and  
4 operational manuals shall be made available to the public in the same  
5 manner that rules and regulations are made available, however, if  
6 security of a correctional institution would be placed at risk by such  
7 publication, the directive, guidance, and operational manuals need not be  
8 made available to the public but shall be filed with the chairperson of  
9 the Executive Board of the Legislature.

10       Sec. 4. Section 83-1,135, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12       83-1,135 Sections 83-170 to 83-1,135 and sections 2 and 3 of this  
13 act shall be known and may be cited as the Nebraska Treatment and  
14 Corrections Act.

15       Sec. 5. Section 83-4,114, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17       83-4,114 (1) There shall be no corporal punishment or disciplinary  
18 restrictions on diet.

19       (2) Disciplinary restrictions on clothing, bedding, mail,  
20 visitations, use of toilets, washbowls, or scheduled showers shall be  
21 imposed only for abuse of such privilege or facility.

22       (3) No person in the adult division shall be placed in solitary  
23 confinement for disciplinary reasons for more than fifteen consecutive  
24 days, or more than thirty days out of any forty-five-day period, except  
25 in cases of violence or attempted violence committed against another  
26 person or property when an additional period of isolation for  
27 disciplinary reasons is approved by the warden. This subsection ~~provision~~  
28 shall not apply to segregation ~~or isolation~~ of persons for purposes of  
29 institutional control.

30       (4) The director shall issue a quarterly report to the Legislature.  
31 The report shall be issued electronically. The report shall contain:

1       (a) The number of inmates in segregation and the number of inmates  
2 in any other type of isolation;

3       (b) The reasons such inmates are in segregation or isolation,  
4 whether for disciplinary reasons, violence or attempted violence, safety  
5 of the inmate, or any other reason;

6       (c) Whether or not any of such inmates in segregation or isolation  
7 have been diagnosed with a mental illness or mental disability and the  
8 type of mental illness or mental disability;

9       (d) The number of inmates who were released from segregation or  
10 isolation directly to parole or the general public, not including any  
11 inmate segregated or isolated for his or her own safety; and

12       (e) To the extent reasonably ascertainable, comparable statistics  
13 for the nation and each of the states that border Nebraska pertaining to  
14 subdivisions (4)(a) through (d) of this section.

15       (5)(a) There is hereby established within the department a long-term  
16 segregation work group. The work group shall consist of:

17       (i) The director and all deputy directors. The director shall  
18 convene and serve as the chairperson of the work group;

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

20       (iii) The behavioral health administrator within the department;

21       (iv) Two representatives from a nonprofit prisoners' rights advocacy  
22 group, appointed by the Governor; and

23       (v) Two mental health professionals independent from the department  
24 with particular knowledge of prisons and conditions of confinement,  
25 appointed by the Governor.

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 segregation.

29       (c) The work group has the power to request, on a periodic basis,  
30 information and data from the department on the status of the  
31 department's work on the subject matter of the work group.

1        (d) The chairperson of the work group shall convene the work group's  
2 first meeting no later than July 1, 2015, and the work group shall meet  
3 at least semiannually thereafter. The chairperson shall schedule and  
4 convene the work group's meetings.

5        (e) The chairperson shall provide the work group with quarterly  
6 updates on the department's policies related to the work group's subject  
7 matter.

8        Sec. 6. Original sections 83-173, 83-1,135, and 83-4,114, Reissue  
9 Revised Statutes of Nebraska, are repealed.

10       Sec. 7. Since an emergency exists, this act takes effect when  
11 passed and approved according to law.