

E AND R AMENDMENTS TO LB 539

Introduced by Wishart, 27, 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 Cumulative Supplement,
4 2016, is amended to read:

5 47-901 Sections 47-901 to 47-919 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 47-905, Revised Statutes Cumulative Supplement,
9 2016, is amended to read:

10 47-905 (1) The office shall investigate:

11 (a) Allegations or incidents of possible misconduct, misfeasance,
12 malfeasance, or violations of statutes or of rules or regulations of the
13 department by an employee of or a person under contract with the
14 department or a private agency; and

15 (b) Death or serious injury in private agencies, department
16 correctional facilities, and other programs and facilities licensed by or
17 under contract with the department. The department shall report all cases
18 of death or serious injury of a person in a private agency, department
19 correctional facility or program, or other program or facility licensed
20 by the department to the Inspector General as soon as reasonably possible
21 after the department learns of such death or serious injury. The
22 department shall also report all cases of the death or serious injury of
23 an employee when acting in his or her capacity as an employee of the
24 department as soon as reasonably possible after the department learns of
25 such death or serious injury. The department shall also report all cases
26 when an employee is hospitalized in response to an injury received when
27 acting in his or her capacity as an employee of the department as soon as

1 reasonably possible after the department learns of such hospitalization.
2 For purposes of this subdivision, serious injury means an injury which
3 requires urgent and immediate medical treatment and restricts the injured
4 person's usual activity or illness caused by malfeasance or misfeasance
5 which leaves a person in critical or serious condition.

6 (2) Any investigation conducted by the Inspector General shall be
7 independent of and separate from an investigation pursuant to sections
8 23-1821 to 23-1823.

9 (3) Notwithstanding the fact that a criminal investigation, a
10 criminal prosecution, or both are in progress, all law enforcement
11 agencies and prosecuting attorneys shall cooperate with any investigation
12 conducted by the Inspector General and shall, immediately upon request by
13 the Inspector General, provide the Inspector General with copies of all
14 law enforcement reports which are relevant to the Inspector General's
15 investigation. All law enforcement reports which have been provided to
16 the Inspector General pursuant to this section are not public records for
17 purposes of sections 84-712 to 84-712.09 and shall not be subject to
18 discovery by any other person or entity. Except to the extent that
19 disclosure of information is otherwise provided for in the Office of
20 Inspector General of the Nebraska Correctional System Act, the Inspector
21 General shall maintain the confidentiality of all law enforcement reports
22 received pursuant to its request under this section. Law enforcement
23 agencies and prosecuting attorneys shall, when requested by the Inspector
24 General, collaborate with the Inspector General regarding all other
25 information relevant to the Inspector General's investigation. If the
26 Inspector General in conjunction with the Public Counsel determines it
27 appropriate, the Inspector General may, when requested to do so by a law
28 enforcement agency or prosecuting attorney, suspend an investigation by
29 the office until a criminal investigation or prosecution is completed or
30 has proceeded to a point that, in the judgment of the Inspector General,
31 reinstatement of the Inspector General's investigation will not impede or

1 ~~infringe upon the criminal investigation or prosecution.—Under no~~
2 ~~circumstance shall the Inspector General interview any person who has~~
3 ~~already been interviewed by a law enforcement agency in connection with a~~
4 ~~relevant ongoing investigation of a law enforcement agency.~~

5 Sec. 3. Section 47-912, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 47-912 (1) Reports of investigations conducted by the office shall
8 not be distributed beyond the entity that is the subject of the report
9 without the consent of the Inspector General.

10 (2) The office shall redact confidential information before
11 distributing a report of an investigation. The office may disclose
12 confidential information to the chairperson of the Judiciary Committee of
13 the Legislature when such disclosure is, in the judgment of the Public
14 Counsel, desirable to keep the chairperson informed of important events,
15 issues, and developments in the Nebraska correctional system.

16 (3)(a) A summarized final report based on an investigation may be
17 publicly released in order to bring awareness to systemic issues.

18 (b) Such report shall be released only:

19 (i) After a disclosure is made to the chairperson pursuant to
20 subsection (2) of this section; and

21 (ii) If a determination is made by the Inspector General with the
22 chairperson that doing so would be in the best interest of the public.

23 (c) If there is disagreement about whether releasing the report
24 would be in the best interest of the public, the chairperson of the
25 Executive Board of the Legislative Council may be asked to make the final
26 decision.

27 (4) (3) Records and documents, regardless of physical form, that are
28 obtained or produced by the office in the course of an investigation are
29 not public records for purposes of sections 84-712 to 84-712.09. Reports
30 of investigations conducted by the office are not public records for
31 purposes of sections 84-712 to 84-712.09.

1 (5) (4) The office may withhold the identity of sources of
2 information to protect from retaliation any person who files a complaint
3 or provides information in good faith pursuant to the Office of Inspector
4 General of the Nebraska Correctional System Act.

5 Sec. 4. Any person who has authority to recommend, approve, direct,
6 or otherwise take or affect personnel action shall not, with respect to
7 such authority:

8 (1) Take personnel action against an employee because of the
9 disclosure of information by the employee to the office which the
10 employee reasonably believes evidences wrongdoing under the Office of
11 Inspector General of the Nebraska Correctional System Act;

12 (2) Take personnel action against an employee as a reprisal for the
13 submission of an allegation of wrongdoing under the act to the office by
14 such employee; or

15 (3) Take personnel action against an employee as a reprisal for
16 providing information or testimony pursuant to an investigation by the
17 office.

18 Sec. 5. Original sections 47-901, 47-905, and 47-912, Revised
19 Statutes Cumulative Supplement, 2016, are repealed.

20 2. On page 1, strike beginning with "section" in line 2 through line
21 5 and insert "sections 47-901, 47-905, and 47-912, Revised Statutes
22 Cumulative Supplement, 2016; to change and eliminate provisions relating
23 to investigations; to authorize the public release of certain reports as
24 prescribed; to prohibit certain personnel actions against employees; to
25 harmonize provisions; and to repeal the original sections."