

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 539**

FINAL READING

Introduced by Krist, 10.

Read first time January 18, 2017

Committee: Executive Board

1 A BILL FOR AN ACT relating to the Office of Inspector General of the  
2 Nebraska Correctional System Act; to amend sections 47-901, 47-905,  
3 and 47-912, Revised Statutes Cumulative Supplement, 2016; to change  
4 and eliminate provisions relating to investigations; to authorize  
5 the public release of certain reports as prescribed; to prohibit  
6 certain personnel actions against employees; to harmonize  
7 provisions; to repeal the original sections; and to declare an  
8 emergency.

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

1 Section 1. Section 47-901, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 47-901 Sections 47-901 to 47-919 and section 4 of this act shall be  
4 known and may be cited as the Office of Inspector General of the Nebraska  
5 Correctional System Act.

6 Sec. 2. Section 47-905, Revised Statutes Cumulative Supplement,  
7 2016, is amended to read:

8 47-905 (1) The office shall investigate:

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

13 (b) Death or serious injury in private agencies, department  
14 correctional facilities, and other programs and facilities licensed by or  
15 under contract with the department. The department shall report all cases  
16 of death or serious injury of a person in a private agency, department  
17 correctional facility or program, or other program or facility licensed  
18 by the department to the Inspector General as soon as reasonably possible  
19 after the department learns of such death or serious injury. The  
20 department shall also report all cases of the death or serious injury of  
21 an employee when acting in his or her capacity as an employee of the  
22 department as soon as reasonably possible after the department learns of  
23 such death or serious injury. The department shall also report all cases  
24 when an employee is hospitalized in response to an injury received when  
25 acting in his or her capacity as an employee of the department as soon as  
26 reasonably possible after the department learns of such hospitalization.  
27 For purposes of this subdivision, serious injury means an injury which  
28 requires urgent and immediate medical treatment and restricts the injured  
29 person's usual activity or illness caused by malfeasance or misfeasance  
30 which leaves a person in critical or serious condition.

31 (2) Any investigation conducted by the Inspector General shall be

1 independent of and separate from an investigation pursuant to sections  
2 23-1821 to 23-1823.

3 (3) Notwithstanding the fact that a criminal investigation, a  
4 criminal prosecution, or both are in progress, all law enforcement  
5 agencies and prosecuting attorneys shall cooperate with any investigation  
6 conducted by the Inspector General and shall, immediately upon request by  
7 the Inspector General, provide the Inspector General with copies of all  
8 law enforcement reports which are relevant to the Inspector General's  
9 investigation. All law enforcement reports which have been provided to  
10 the Inspector General pursuant to this section are not public records for  
11 purposes of sections 84-712 to 84-712.09 and shall not be subject to  
12 discovery by any other person or entity. Except to the extent that  
13 disclosure of information is otherwise provided for in the Office of  
14 Inspector General of the Nebraska Correctional System Act, the Inspector  
15 General shall maintain the confidentiality of all law enforcement reports  
16 received pursuant to its request under this section. Law enforcement  
17 agencies and prosecuting attorneys shall, when requested by the Inspector  
18 General, collaborate with the Inspector General regarding all other  
19 information relevant to the Inspector General's investigation. If the  
20 Inspector General in conjunction with the Public Counsel determines it  
21 appropriate, the Inspector General may, when requested to do so by a law  
22 enforcement agency or prosecuting attorney, suspend an investigation by  
23 the office until a criminal investigation or prosecution is completed or  
24 has proceeded to a point that, in the judgment of the Inspector General,  
25 reinstatement of the Inspector General's investigation will not impede or  
26 infringe upon the criminal investigation or prosecution.—Under no  
27 circumstance shall the Inspector General interview any person who has  
28 already been interviewed by a law enforcement agency in connection with a  
29 relevant ongoing investigation of a law enforcement agency.

30 Sec. 3. Section 47-912, Revised Statutes Cumulative Supplement,  
31 2016, is amended to read:

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

4           (2) The office shall redact confidential information before  
5 distributing a report of an investigation. The office may disclose  
6 confidential information to the chairperson of the Judiciary Committee of  
7 the Legislature when such disclosure is, in the judgment of the Public  
8 Counsel, desirable to keep the chairperson informed of important events,  
9 issues, and developments in the Nebraska correctional system.

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

12          (b) Such report shall be released only:

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

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

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

21          (4) ~~(3)~~ Records and documents, regardless of physical form, that are  
22 obtained or produced by the office in the course of an investigation are  
23 not public records for purposes of sections 84-712 to 84-712.09. Reports  
24 of investigations conducted by the office are not public records for  
25 purposes of sections 84-712 to 84-712.09.

26          (5) ~~(4)~~ The office may withhold the identity of sources of  
27 information to protect from retaliation any person who files a complaint  
28 or provides information in good faith pursuant to the Office of Inspector  
29 General of the Nebraska Correctional System Act.

30          Sec. 4. Any person who has authority to recommend, approve, direct,  
31 or otherwise take or affect personnel action shall not, with respect to

1 such authority:

2 (1) Take personnel action against an employee because of the  
3 disclosure of information by the employee to the office which the  
4 employee reasonably believes evidences wrongdoing under the Office of  
5 Inspector General of the Nebraska Correctional System Act;

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

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

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

14 Sec. 6. Since an emergency exists, this act takes effect when  
15 passed and approved according to law.