

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 669

Introduced by Hudkins, 21; Avery, 28; Pedersen, 39

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to jails and corrections facilities; to amend
2 sections 47-101 and 47-201, Reissue Revised Statutes
3 of Nebraska, and sections 47-627, 71-806, and 71-810,
4 Revised Statutes Cumulative Supplement, 2006; to adopt
5 the Nebraska Behavioral Health Jail Diversion Planning
6 and Coordination Advisory Council Act; to provide
7 requirements relating to behavioral health jail diversion
8 programs; to harmonize provisions; and to repeal the
9 original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known
 2 and may be cited as the Nebraska Behavioral Health Jail Diversion
 3 Planning and Coordination Advisory Council Act.

4 Sec. 2. It is the intent of the Legislature that the
 5 Nebraska Behavioral Health Jail Diversion Planning and Coordination
 6 Advisory Council Act:

7 (1) Provide for the development and establishment of
 8 community-based behavioral health jail diversion programs in
 9 Nebraska for adult offenders who have behavioral health disorders
 10 in each of Nebraska's six behavioral health regions and encourage
 11 the use of behavioral health jail diversion programs by sentencing
 12 courts as alternatives to incarceration or reincarceration in
 13 order to reduce jail and prison overcrowding and enhance offender
 14 supervision in the community; and

15 (2) Serve the interests of society by promoting the
 16 recovery of offenders who have behavioral health disorders
 17 and deterring such offenders from engaging in further criminal
 18 activity by utilizing community-based facilities and programs
 19 available to shift the offenders' reliance from expensive emergency
 20 services to more appropriate, less expensive community-based
 21 services, increasing the offenders' contribution to society
 22 through employment and volunteerism and reducing reliance upon
 23 incarceration as a means of managing nonviolent offenders.

24 Sec. 3. The Legislature declares that the policy of the
 25 State of Nebraska is that there shall be a coordinated effort

1 to (1) establish behavioral health jail diversion programs across
2 the state in each of the six behavioral health regions in order
3 to divert adult offenders who have behavioral health disorders
4 from the jail and prison systems and (2) provide necessary
5 supervision and services to adult offenders with the goal of
6 reducing the probability of criminal behavior while maintaining
7 public safety. To further such policy, the Nebraska Behavioral
8 Health Jail Diversion Planning and Coordination Advisory Council is
9 created. For administrative support and budgetary purposes only,
10 the council shall be within the Division of Behavioral Health
11 Services in the Department of Health and Human Services.

12 Sec. 4. The purposes of the Nebraska Behavioral Health
13 Jail Diversion Planning and Coordination Advisory Council are to:
14 (1) Assist Nebraska's (a) six behavioral health regions established
15 in section 71-807 and (b) counties in establishing, improving,
16 and evaluating behavioral health jail diversion programs; (2)
17 offer specialized advice based on experience, training, and
18 education to the Division of Behavioral Health Services on how to
19 develop, implement, and foster such programs; and (3) aid in the
20 solicitation of additional funding from both criminal justice and
21 behavioral health sources, both public and private.

22 Sec. 5. (1) The members of the Nebraska Behavioral Health
23 Jail Diversion Planning and Coordination Advisory Council shall be
24 comprised of a minimum of the following:

25 (a) The executive director of the Nebraska Commission on

1 Law Enforcement and Criminal Justice or his or her designee;

2 (b) The Director of Health and Human Services or his or
3 her designee;

4 (c) One member of the Legislature, appointed by the
5 Executive Board of the Legislative Council;

6 (d) Two judges of the county court, selected by the
7 Nebraska County Court Judges Association;

8 (e) One representative selected by the Nebraska Criminal
9 Defense Attorneys Association;

10 (f) One representative selected by the Nebraska County
11 Attorneys Association; and

12 (g) Fifteen members appointed by the Nebraska Association
13 of County Officials, consisting of: One full-time officer or
14 employee of a law enforcement agency; one full-time jailer from
15 a county with a population of one hundred fifty thousand people
16 or more; one full-time jailer from a county with a population of
17 less than one hundred fifty thousand people; one mental health
18 professional and one substance abuse professional; from each of
19 the six behavioral health regions, one provider of community-based
20 behavioral health services; one behavioral health consumer; one
21 consumer representative from the Division of Behavioral Health
22 Services of the Department of Health and Human Services and two
23 at-large members.

24 (2) The term of office for initial members appointed
25 under subdivisions (1)(c) through (1)(g) of this section shall be

1 for staggered terms of one, two, or three years and thereafter the
2 term of office for such members shall be three years. An appointee
3 to a vacancy occurring from an unexpired term shall serve out the
4 term of his or her predecessor. Members whose terms have expired
5 shall continue to serve until their successors have been appointed
6 and qualified.

7 (3) The council shall by majority vote elect a
8 chairperson from among the members of the council.

9 (4) The members of the council shall be reimbursed for
10 their actual and necessary expenses incurred while engaged in
11 the performance of their official duties as provided in sections
12 81-1174 to 81-1177.

13 Sec. 6. Section 47-101, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 47-101 The Jail Standards Board shall from time to
16 time as it may deem necessary prescribe, in writing, rules for
17 the regulation and government of the jails upon the following
18 subjects: (1) The cleanliness of the jail and prisoners; (2) the
19 classification of prisoners in regard to sex, age, and crime,
20 and also persons with physical or mental disabilities; (3) beds
21 and clothing; (4) warming, lighting, and ventilation of the jail;
22 (5) the employment of medical and surgical aid when necessary;
23 (6) employment, temperance, and instruction of the prisoners; (7)
24 the supplying of each prisoner with a Bible; (8) the ~~intereourse~~
25 interaction between prisoners and their counsel and other persons;

1 (9) the discipline of prisoners for violation of the rules of
2 the jail; (10) the execution of behavioral health jail diversion
3 protocol within the jail; and ~~(10)~~ (11) such other matters as the
4 board may deem necessary to promote the welfare of the prisoners.

5 Sec. 7. Section 47-201, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 47-201 The Jail Standards Board shall, in the month of
8 January of each year, and at such other time or times as it may
9 deem necessary, prescribe written rules for the regulation and
10 government of the municipal jails upon the subjects of (1) the
11 cleanliness of the jail and prisoners, (2) the classification of
12 prisoners in regard to sex, age, crime, and mental infirmity, (3)
13 beds, clothing, and diet, (4) warming, lighting, and ventilating
14 of the jail, (5) the employment of medical and surgical aid, (6)
15 the employment, temperance, and instruction of the prisoners, (7)
16 the ~~intereourse~~ interaction between prisoners and their attorneys
17 and other persons, (8) the discipline of prisoners, (9) the keeping
18 of records of the jail, (10) the execution of behavioral health
19 jail diversion protocol within the jail, and ~~(10)~~ (11) any other
20 matters concerning jails and their government as the board may deem
21 necessary.

22 Sec. 8. Section 47-627, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 47-627 The executive director of the Nebraska Commission
25 on Law Enforcement and Criminal Justice shall develop and maintain

1 a uniform crime data analysis system in Nebraska which shall
2 include, but need not be limited to, the number of offenses,
3 arrests, charges, probation admissions, probation violations,
4 probation discharges, admissions to and discharges from the
5 Department of Correctional Services, parole reviews, parole
6 hearings, releases on parole, parole violations, and parole
7 discharges, and admissions to and discharges from the behavioral
8 health jail diversion programs. The data shall be categorized
9 by statutory crime. The data shall be collected from the Board
10 of Parole, the State Court Administrator, the Department of
11 Correctional Services, the Office of Parole Administration, the
12 Office of Probation Administration, the Nebraska State Patrol,
13 counties, local law enforcement, and any other entity associated
14 with criminal justice. The council, the director, and the Supreme
15 Court shall have access to such data to implement the Community
16 Corrections Act and to develop guidelines pursuant to section
17 47-630. The Nebraska Behavioral Health Jail Diversion Planning and
18 Coordination Advisory Council shall have access to recidivism data
19 to aid in the evaluation and improvement of behavioral health jail
20 diversion programs.

21 Sec. 9. Section 71-806, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-806 (1) The division shall act as the chief behavioral
24 health authority for the State of Nebraska and shall direct
25 the administration and coordination of the public behavioral

1 health system, including, but not limited to: (a) Administration
2 and management of the division, regional centers, and any
3 other facilities and programs operated by the division; (b)
4 integration and coordination of the public behavioral health
5 system; (c) comprehensive statewide planning for the provision of
6 an appropriate array of community-based behavioral health services
7 and continuum of care, including behavioral health jail diversion
8 programs; (d) coordination and oversight of regional behavioral
9 health authorities, including approval of regional budgets and
10 audits of regional behavioral health authorities; (e) development
11 and management of data and information systems; (f) prioritization
12 and approval of all expenditures of funds received and administered
13 by the division, including the establishment of rates to be paid
14 and reimbursement methodologies for behavioral health services and
15 fees to be paid by consumers of such services; (g) cooperation
16 with the Department of Health and Human Services Regulation and
17 Licensure in the licensure and regulation of behavioral health
18 professionals, programs, and facilities; (h) cooperation with the
19 Department of Health and Human Services Finance and Support in
20 the provision of behavioral health services under the medical
21 assistance program; (i) audits of behavioral health programs and
22 services; ~~and~~ (j) promotion of activities in research and education
23 to improve the quality of behavioral health services, recruitment
24 and retention of behavioral health professionals, and access to
25 behavioral health programs and services; and (k) the provision

1 of administrative support to the Nebraska Behavioral Health Jail
2 Diversion Planning and Coordination Advisory Council.

3 (2) The department shall adopt and promulgate rules and
4 regulations to carry out the Nebraska Behavioral Health Services
5 Act.

6 Sec. 10. Section 71-810, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-810 (1) The division shall encourage and facilitate
9 the statewide development and provision of an appropriate array of
10 community-based behavioral health services and continuum of care
11 for the purposes of (a) providing greater access to such services
12 and improved outcomes for consumers of such services and (b)
13 reducing the necessity and demand for regional center behavioral
14 health services without supplanting such services with jail and
15 prison behavioral health services.

16 (2) The division may reduce or discontinue regional
17 center behavioral health services only if (a) appropriate
18 community-based services or other regional center behavioral health
19 services are available for every person receiving the regional
20 center services that would be reduced or discontinued, (b) such
21 services possess sufficient capacity and capability to effectively
22 replace the service needs which otherwise would have been
23 provided at such regional center, and (c) no further commitments,
24 admissions, or readmissions for such services are required due
25 to the availability of community-based services or other regional

1 center services to replace such services.

2 (3) The division shall notify the Governor and the
3 Legislature of any intended reduction or discontinuation of
4 regional center services under this section. Such notice shall
5 include detailed documentation of the community-based services or
6 other regional center services that are being utilized to replace
7 such services. The Behavioral Health Oversight Commission of the
8 Legislature shall review such documentation and shall report to
9 the Governor and the Health and Human Services Committee of the
10 Legislature whether, in its opinion, the requirements of subsection
11 (2) of this section have been met with respect to such intended
12 reduction or discontinuation of regional center services and shall
13 enumerate the criteria used by the commission in making such
14 determination.

15 (4) As regional center services are reduced or
16 discontinued under this section, the division shall make
17 appropriate corresponding reductions in regional center personnel
18 and other expenditures related to the provision of such services.
19 All funding related to the provision of regional center services
20 that are reduced or discontinued under this section shall be
21 reallocated and expended by the division for purposes related
22 to the statewide development and provision of community-based
23 services.

24 (5) The division may establish state-operated
25 community-based services to replace regional center services

1 that are reduced or discontinued under this section. The division
2 shall provide regional center employees with appropriate training
3 and support to transition such employees into positions as may be
4 necessary for the provision of such state-operated services.

5 (6) When the occupancy of the licensed psychiatric
6 hospital beds of any regional center reaches twenty percent or
7 less of its licensed psychiatric hospital bed capacity on March 15,
8 2004, the division shall notify the Governor and the Legislature of
9 such fact. Upon such notification, the division, with the approval
10 of a majority of members of the Executive Board of the Legislative
11 Council, may provide for the transfer of all remaining patients
12 at such center to appropriate community-based services or other
13 regional center services pursuant to this section and cease the
14 operation of such regional center.

15 (7) The division, in consultation with each regional
16 behavioral health authority, shall establish and maintain a data
17 and information system for all persons receiving state-funded
18 behavioral health services under the Nebraska Behavioral Health
19 Services Act. Information maintained by the division shall include,
20 but not be limited to, (a) the number of persons receiving regional
21 center services, (b) the number of persons ordered by a mental
22 health board to receive inpatient or outpatient treatment and
23 receiving regional center services, (c) the number of persons
24 ordered by a mental health board to receive inpatient or outpatient
25 treatment and receiving community-based services, (d) the number of

1 persons voluntarily admitted to a regional center and receiving
2 regional center services, (e) the number of persons waiting
3 to receive regional center services, (f) the number of persons
4 waiting to be transferred from a regional center to community-based
5 services or other regional center services, (g) the number of
6 persons discharged from a regional center who are receiving
7 community-based services or other regional center services, and
8 (h) the number of persons admitted to behavioral health crisis
9 centers, and (i) the uniform crime data analysis system established
10 in section 47-627 and the number of persons discharged from a
11 regional center who are incarcerated. Each regional behavioral
12 health authority shall provide such information as requested by
13 the division and necessary to carry out this subsection. The
14 division shall submit reports of such information to the Governor
15 and the Legislature on a quarterly basis beginning July 1, 2005,
16 in a format which does not identify any person by name, address,
17 county of residence, social security number, or other personally
18 identifying characteristic.

19 (8) The provisions of this section are self-executing and
20 require no further authorization or other enabling legislation.

21 Sec. 11. Original sections 47-101 and 47-201, Reissue
22 Revised Statutes of Nebraska, and sections 47-627, 71-806, and
23 71-810, Revised Statutes Cumulative Supplement, 2006, are repealed.