

AMENDMENTS TO LB598

(Amendments to E and R amendments, ER83)

Introduced by Schumacher, 22.

1 1. Strike sections 32, 33, and 35 and insert the following new
2 sections:

3 Sec. 22. Section 83-170, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 83-170 As used in the Nebraska Treatment and Corrections Act, unless
6 the context otherwise requires:

7 (1) Administrator means ~~shall mean~~ the Parole Administrator;

8 (2) Board means ~~shall mean~~ the Board of Parole;

9 (3) Committed offender means ~~shall mean~~ any person who, under any
10 provision of law, is sentenced or committed to a facility operated by the
11 department or is sentenced or committed to the department other than a
12 person adjudged to be as described in subdivision (1), (2), (3)(b), or
13 (4) of section 43-247 by a juvenile court;

14 (4) Department means ~~shall mean~~ the Department of Correctional
15 Services;

16 (5) Director means ~~shall mean~~ the Director of Correctional Services;

17 (6) Facility means ~~shall mean~~ any prison, reformatory, training
18 school, reception center, community guidance center, group home, or other
19 institution operated by the department;

20 (7) Good time means ~~shall mean~~ any reduction of sentence granted
21 pursuant to sections 83-1,107 and 83-1,108;

22 (8) Maximum term means ~~shall mean~~ the maximum sentence provided by
23 law or the maximum sentence imposed by a court, whichever is shorter;

24 (9) Minimum term means ~~shall mean~~ the minimum sentence provided by
25 law or the minimum sentence imposed by a court, whichever is longer;

26 (10) Pardon authority means ~~shall mean~~ the power to remit fines and

1 forfeitures and to grant respites, reprieves, pardons, or commutations;

2 (11) Parole term means shall mean the time from release on parole to
3 the completion of the maximum term, reduced by good time; and

4 (12) Person committed to the department means shall mean any person
5 sentenced or committed to a facility within the department; and -

6 (13) Restrictive housing means conditions of confinement that
7 provide limited contact with other offenders, strictly controlled
8 movement while out of cell, and out-of-cell time of less than twenty-four
9 hours per week.

10 Sec. 33. The director shall issue a report to the Governor and the
11 Legislature no later than July 1, 2016. The report to the Legislature
12 shall be issued electronically. The report shall contain a long-term plan
13 for the use of restrictive housing with the explicit goal of reducing the
14 use of restrictive housing.

15 Sec. 34. (1) Beginning July 1, 2016, no inmate in the adult
16 division shall be placed in solitary confinement. In addition, no inmate
17 shall be held in restrictive housing unless done in the least restrictive
18 manner consistent with maintaining order in the facility and pursuant to
19 rules and regulations adopted and promulgated by the department pursuant
20 to the Administrative Procedure Act.

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

30 (3) On or after July 1, 2016, no inmate who is a member of a
31 vulnerable population shall be housed in solitary confinement. Vulnerable

1 population shall be designated as any inmate who is eighteen years of age
2 or younger, pregnant, or diagnosed with a mental illness as defined in
3 section 71-907. However, in line with the least restrictive framework,
4 inmates who are members of vulnerable populations may be assigned to
5 restrictive housing to address risk. The department shall also adopt and
6 promulgate rules and regulations pursuant to the Administrative Procedure
7 Act regarding restrictive housing to address risk for inmates who are
8 members of vulnerable populations.

9 (4) Rules and regulations may authorize the director to issue
10 written directives, guidance documents, and operational manuals not
11 inconsistent with law, rules, and regulations. Such directives, guidance
12 documents, and operational manuals shall be made available to the public
13 in the same manner that rules and regulations are made available unless
14 the safety and security of a correctional institution would be placed at
15 substantial risk by such publication. If any directive, guidance
16 document, or operational manual is not made available to the public,
17 notice shall be given to the deputy public counsel for corrections and to
18 the Inspector General of the Nebraska Correctional System. The notice
19 shall identify all documents not publicly available by title, number of
20 pages, and date adopted. All directives, guidance documents, and
21 operational manuals shall be made available to any member of the
22 Legislature upon request. Security manuals shall be made available to the
23 Legislature for inspection upon request, but shall not be copied or
24 removed from secure locations as designated by the director.

25 Sec. 36. Section 83-4,114, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 83-4,114 (1) There shall be no corporal punishment or disciplinary
28 restrictions on diet.

29 (2) Disciplinary restrictions on clothing, bedding, mail,
30 visitations, use of toilets, washbowls, or scheduled showers shall be
31 imposed only as authorized by written directives, guidance documents, and

1 ~~operational manuals for abuse of such privilege or facility.~~

2 ~~No person in the adult division shall be placed in solitary~~
3 ~~confinement for disciplinary reasons for more than fifteen consecutive~~
4 ~~days, or more than thirty days out of any forty-five-day period, except~~
5 ~~in cases of violence or attempted violence committed against another~~
6 ~~person or property when an additional period of isolation for~~
7 ~~disciplinary reasons is approved by the warden. This provision shall not~~
8 ~~apply to segregation or isolation of persons for purposes of~~
9 ~~institutional control.~~

10 (3) The director shall issue an annual report to the Governor and
11 the Clerk of the Legislature. The report to the Clerk of the Legislature
12 shall be issued electronically. For all inmates who were held in
13 restrictive housing during the prior year, the report shall contain the
14 race, gender, age, and length of time each inmate has continuously been
15 held in restrictive housing. The report shall also contain:

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

17 (b) The reason or reasons each inmate was held in restrictive
18 housing;

19 (c) The number of inmates held in restrictive housing who have been
20 diagnosed with a mental illness as defined in section 71-907 and the type
21 of mental illness by inmate;

22 (d) The number of inmates who were released from restrictive housing
23 directly to parole or into the general public and the reason for such
24 release;

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

28 (f) To the extent reasonably ascertainable, comparable statistics
29 for the nation and each of the states that border Nebraska pertaining to
30 subdivisions (3)(a) through (e) of this section; and

31 (g) The mean and median length of time for all inmates held in

1 restrictive housing.

2 (4)(a) There is hereby established within the department a long-term
3 restrictive housing work group. The work group shall consist of:

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

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

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

8 (iv) Two employees of the department who currently work with inmates
9 held in restrictive housing; and

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

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

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

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

18 (c) The director shall convene the work group's first meeting no
19 later than September 15, 2015, and the work group shall meet at least
20 semiannually thereafter. The chairperson shall schedule and convene the
21 work group's meetings.

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

24 2. Renumber the remaining sections and correct internal references
25 and the repealer accordingly.