

AMENDMENTS TO LB910

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 47-901, Revised Statutes Supplement, 2015, is
4 amended to read:

5 47-901 Sections 47-901 to 47-918 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 47-903, Revised Statutes Supplement, 2015, is
9 amended to read:

10 47-903 For purposes of the Office of Inspector General of the
11 Nebraska Correctional System Act, the following definitions apply:

12 (1) Administrator means a person charged with administration of a
13 program, an office, or a division of the department or administration of
14 a private agency;

15 (2) Department means the Department of Correctional Services;

16 (3) Director means the Director of Correctional Services;

17 (4) Inspector General means the Inspector General of the Nebraska
18 Correctional System appointed under section 47-904;

19 (5) Malfeasance means a wrongful act that the actor has no legal
20 right to do or any wrongful conduct that affects, interrupts, or
21 interferes with performance of an official duty;

22 (6) Management means supervision of subordinate employees;

23 (7) Misfeasance means the improper performance of some act that a
24 person may lawfully do;

25 (8) Obstruction means hindering an investigation, preventing an
26 investigation from progressing, stopping or delaying the progress of an
27 investigation, or making the progress of an investigation difficult or

1 slow;

2 (9) Office means the office of Inspector General of the Nebraska
3 Correctional System and includes the Inspector General and other
4 employees of the office;

5 (10) Private agency means an entity that contracts with the
6 department or contracts to provide services to another entity that
7 contracts with the department;~~and~~

8 (11) Record means any recording in written, audio, electronic
9 transmission, or computer storage form, including, but not limited to, a
10 draft, memorandum, note, report, computer printout, notation, or message,
11 and includes, but is not limited to, medical records, mental health
12 records, case files, clinical records, financial records, and
13 administrative records; and -

14 (12) Office of Parole Administration means the office created
15 pursuant to section 83-1,100.

16 Sec. 3. Section 47-908, Revised Statutes Supplement, 2015, is
17 amended to read:

18 47-908 All employees of the department, all employees of the Office
19 of Parole Administration, and all owners, operators, managers,
20 supervisors, and employees of private agencies shall cooperate with the
21 office. Cooperation includes, but is not limited to, the following:

22 (1) Provision of full access to and production of records and
23 information. Providing access to and producing records and information
24 for the office is not a violation of confidentiality provisions under any
25 statute, rule, or regulation if done in good faith for purposes of an
26 investigation under the Office of Inspector General of the Nebraska
27 Correctional System Act;

28 (2) Fair and honest disclosure of records and information reasonably
29 requested by the office in the course of an investigation under the act;

30 (3) Encouraging employees to fully comply with reasonable requests
31 of the office in the course of an investigation under the act;

1 (4) Prohibition of retaliation by owners, operators, or managers
2 against employees for providing records or information or filing or
3 otherwise making a complaint to the office;

4 (5) Not requiring employees to gain supervisory approval prior to
5 filing a complaint with or providing records or information to the
6 office;

7 (6) Provision of complete and truthful answers to questions posed by
8 the office in the course of an investigation; and

9 (7) Not willfully interfering with or obstructing the investigation.

10 Sec. 4. The Office of Parole Administration shall provide the
11 Public Counsel and the Inspector General with direct computer access to
12 all computerized records, reports, and documents maintained by the office
13 in connection with administration of the Nebraska parole system, except
14 that access for the Public Counsel and the Inspector General to a
15 parolee's medical or mental health records shall be subject to the
16 parolee's consent.

17 Sec. 5. Section 68-1017.02, Revised Statutes Cumulative Supplement,
18 2014, is amended to read:

19 68-1017.02 (1)(a) The Department of Health and Human Services shall
20 apply for and utilize to the maximum extent possible, within limits
21 established by the Legislature, any and all appropriate options available
22 to the state under the federal Supplemental Nutrition Assistance Program
23 and regulations adopted under such program to maximize the number of
24 Nebraska residents being served under such program within such limits.
25 The department shall seek to maximize federal funding for such program
26 and minimize the utilization of General Funds for such program and shall
27 employ the personnel necessary to determine the options available to the
28 state and issue the report to the Legislature required by subdivision (b)
29 of this subsection.

30 (b) The department shall submit electronically an annual report to
31 the Health and Human Services Committee of the Legislature by December 1

1 on efforts by the department to carry out the provisions of this
2 subsection. Such report shall provide the committee with all necessary
3 and appropriate information to enable the committee to conduct a
4 meaningful evaluation of such efforts. Such information shall include,
5 but not be limited to, a clear description of various options available
6 to the state under the federal Supplemental Nutrition Assistance Program,
7 the department's evaluation of and any action taken by the department
8 with respect to such options, the number of persons being served under
9 such program, and any and all costs and expenditures associated with such
10 program.

11 (c) The Health and Human Services Committee of the Legislature,
12 after receipt and evaluation of the report required in subdivision (b) of
13 this subsection, shall issue recommendations to the department on any
14 further action necessary by the department to meet the requirements of
15 this section.

16 (2)(a) The department shall develop a state outreach plan to promote
17 access by eligible persons to benefits of the Supplemental Nutrition
18 Assistance Program. The plan shall meet the criteria established by the
19 Food and Nutrition Service of the United States Department of Agriculture
20 for approval of state outreach plans. The Department of Health and Human
21 Services may apply for and accept gifts, grants, and donations to develop
22 and implement the state outreach plan.

23 (b) For purposes of developing and implementing the state outreach
24 plan, the department shall partner with one or more counties or nonprofit
25 organizations. If the department enters into a contract with a nonprofit
26 organization relating to the state outreach plan, the contract may
27 specify that the nonprofit organization is responsible for seeking
28 sufficient gifts, grants, or donations necessary for the development and
29 implementation of the state outreach plan and may additionally specify
30 that any costs to the department associated with the award and management
31 of the contract or the implementation or administration of the state

1 outreach plan shall be paid out of private or federal funds received for
2 development and implementation of the state outreach plan.

3 (c) The department shall submit the state outreach plan to the Food
4 and Nutrition Service of the United States Department of Agriculture for
5 approval on or before August 1, 2011, and shall request any federal
6 matching funds that may be available upon approval of the state outreach
7 plan. It is the intent of the Legislature that the State of Nebraska and
8 the Department of Health and Human Services use any additional public or
9 private funds to offset costs associated with increased caseload
10 resulting from the implementation of the state outreach plan.

11 (d) The department shall be exempt from implementing or
12 administering a state outreach plan under this subsection, but not from
13 developing such a plan, if it does not receive private or federal funds
14 sufficient to cover the department's costs associated with the
15 implementation and administration of the plan, including any costs
16 associated with increased caseload resulting from the implementation of
17 the plan.

18 (3)(a)(i) On or before October 1, 2011, the department shall create
19 a TANF-funded program or policy that, in compliance with federal law,
20 establishes categorical eligibility for federal food assistance benefits
21 pursuant to the Supplemental Nutrition Assistance Program to maximize the
22 number of Nebraska residents being served under such program in a manner
23 that does not increase the current gross income eligibility limit.

24 (ii) Such TANF-funded program or policy shall eliminate all asset
25 limits for eligibility for federal food assistance benefits, except that
26 the total of liquid assets which includes cash on hand and funds in
27 personal checking and savings accounts, money market accounts, and share
28 accounts shall not exceed twenty-five thousand dollars pursuant to the
29 Supplemental Nutrition Assistance Program, as allowed under federal law
30 and under 7 C.F.R. 273.2(j)(2).

31 (iii) This subsection becomes effective only if the department

1 receives funds pursuant to federal participation that may be used to
2 implement this subsection.

3 (b) For purposes of this subsection:

4 (i) Federal law means the federal Food and Nutrition Act of 2008, 7
5 U.S.C. 2011 et seq., and regulations adopted under the act; and

6 (ii) TANF means the federal Temporary Assistance for Needy Families
7 program established in 42 U.S.C. 601 et seq.

8 ~~(4) The (4)(a) within the limits specified in this subsection, the~~
9 State of Nebraska opts out of the provision of the federal Personal
10 Responsibility and Work Opportunity Reconciliation Act of 1996, as such
11 act existed on January 1, 2009, that eliminates eligibility for the
12 Supplemental Nutrition Assistance Program for any person convicted of a
13 felony involving the possession, use, or distribution of a controlled
14 substance.

15 ~~(b) A person shall be ineligible for Supplemental Nutrition~~
16 ~~Assistance Program benefits under this subsection if he or she (i) has~~
17 ~~had three or more felony convictions for the possession or use of a~~
18 ~~controlled substance or (ii) has been convicted of a felony involving the~~
19 ~~sale or distribution of a controlled substance or the intent to sell or~~
20 ~~distribute a controlled substance. A person with one or two felony~~
21 ~~convictions for the possession or use of a controlled substance shall~~
22 ~~only be eligible to receive Supplemental Nutrition Assistance Program~~
23 ~~benefits under this subsection if he or she is participating in or has~~
24 ~~completed a state-licensed or nationally accredited substance abuse~~
25 ~~treatment program since the date of conviction. The determination of such~~
26 ~~participation or completion shall be made by the treatment provider~~
27 ~~administering the program.~~

28 Sec. 6. Section 81-161.03, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 81-161.03 The materiel division may, by written order, permit
31 purchases, contracts, or leases to be made by any using agency directly

1 with the vendor or supplier whenever it appears to the satisfaction of
2 the materiel division that, because of the unique nature of the personal
3 property, the price in connection therewith, the quantity to be
4 purchased, the location of the using agency, the time of the use of the
5 personal property, or any other circumstance, the interests of the state
6 will be served better by purchasing or contracting direct than through
7 the materiel division.

8 Such permission shall be revocable and shall be operative for a
9 period not exceeding twelve months from the date of issue. Using agencies
10 receiving such permission shall report their acts and expenditures under
11 such orders to the materiel division in writing and furnish such agent
12 with proper evidence that competition has been secured at such time and
13 covering such period as may be required by the materiel division.

14 The materiel division shall adopt and promulgate rules and
15 regulations establishing criteria which must be met by any agency seeking
16 direct market purchase authorization. Purchases for miscellaneous needs
17 may be made directly by any agency without prior approval from the
18 materiel division for purchases of less than ten thousand dollars if the
19 agency has completed a certification program as prescribed by the
20 materiel division.

21 The Department of Correctional Services may purchase raw materials,
22 supplies, component parts, and equipment perishables directly for
23 industries established pursuant to section 83-183, whether such purchases
24 are made to fill specific orders or for general inventories. Any such
25 purchase shall not exceed fifty ~~twenty-five~~ thousand dollars. The
26 department shall comply with the bidding process of the materiel division
27 and shall be subject to audit by the materiel division for such
28 purchases.

29 Sec. 7. Section 81-1185, Revised Statutes Supplement, 2015, is
30 amended to read:

31 81-1185 For purposes of the State Government Recycling Management

1 Act, state government recyclable material means any product or material
2 that has reached the end of its useful life, is obsolete, or is no longer
3 needed by state government and for which there are readily available
4 markets to take the material. State government recyclable material
5 includes paper, paperboard, aluminum and other metals, yard waste, glass,
6 tires, oil, and plastics. State government recyclable material does not
7 include cans or other containers recycled under section 83-915.01, or
8 material used in the production of goods or the provision of services by
9 the correctional industries program of the Department of Correctional
10 Services.

11 Sec. 8. Section 83-150, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 83-150 All funds received by the Department of Correctional Services
14 under sections 83-144 to 83-152 and from the recycling of material used
15 in the production of goods or the provision of services by the
16 department's correctional industries program shall be remitted to the
17 State Treasurer for credit to the Correctional Industries Revolving Fund,
18 which fund is hereby created. The fund shall be administered by the
19 Director of Correctional Services. The fund (1) shall be used to pay all
20 proper expenses incident to the administration of sections 83-144 to
21 83-152 and (2) may be used to carry out section 83-186.01, except that
22 transfers from the fund to the General Fund may be made at the direction
23 of the Legislature. Any money in the Correctional Industries Revolving
24 Fund available for investment shall be invested by the state investment
25 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
26 State Funds Investment Act.

27 Sec. 9. Section 83-1,101, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 ~~83-1,101 The Director of Correctional Services with the consent of~~
30 ~~the Board of Parole shall appoint a Parole Administrator. The Parole~~
31 ~~Administrator~~ , who shall be a person with appropriate experience and

1 training, including, but not limited to, familiarity with the
2 implementation of evidence-based processes for utilizing risk and needs
3 assessments to measure criminal risk factors and specific individual
4 needs in the field of corrections, or with training in relevant
5 disciplines at a recognized university.

6 Sec. 10. Section 83-4,114, Revised Statutes Supplement, 2015, is
7 amended to read:

8 83-4,114 (1) There shall be no corporal punishment or disciplinary
9 restrictions on diet.

10 (2) Disciplinary restrictions on clothing, bedding, mail,
11 visitations, use of toilets, washbowls, or scheduled showers shall be
12 imposed only for abuse of such privilege or facility and only as
13 authorized by written directives, guidance documents, and operational
14 manuals.

15 (3) No person shall be placed in solitary confinement.

16 (4) The director shall issue an annual report on or before September
17 15 to the Governor and the Clerk of the Legislature. The report to the
18 Clerk of the Legislature shall be issued electronically. For all inmates
19 who were held in restrictive housing during the prior year, the report
20 shall contain the race, gender, age, and length of time each inmate has
21 continuously been held in restrictive housing. The report shall also
22 contain:

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

24 (b) The reason or reasons each inmate was held in restrictive
25 housing;

26 (c) The number of inmates held in restrictive housing who have been
27 diagnosed with a mental illness or behavioral disorder as defined in
28 section 71-907 and the type of mental illness or behavioral disorder by
29 inmate;

30 (d) The number of inmates who were released from restrictive housing
31 directly to parole or into the general public and the reason for such

1 release;

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

5 (f) To the extent reasonably ascertainable, comparable statistics
6 for the nation and each of the states that border Nebraska pertaining to
7 subdivisions (4)(a) through (e) of this section; and

8 (g) The mean and median length of time for all inmates held in
9 restrictive housing.

10 (5)(a) There is hereby established within the department a long-term
11 restrictive housing work group. The work group shall consist of:

12 (i) The director and all deputy directors. The director shall serve
13 as the chairperson of the work group;

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

15 (ii iii) The behavioral health administrator within the department;

16 (iii iv) Two employees of the department who currently work with
17 inmates held in restrictive housing;

18 (iv v) Additional department staff as designated by the director;
19 and

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

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

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

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

28 (c) The director shall convene the work group's first meeting no
29 later than September 15, 2015, and the work group shall meet at least
30 semiannually thereafter. The chairperson shall schedule and convene the
31 work group's meetings.

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

3 Sec. 11. Original sections 81-161.03, 83-150, and 83-1,101, Reissue
4 Revised Statutes of Nebraska, section 68-1017.02, Revised Statutes
5 Cumulative Supplement, 2014, and sections 47-901, 47-903, 47-908,
6 81-1185, and 83-4,114, Revised Statutes Supplement, 2015, are repealed.

7 Sec. 12. Since an emergency exists, this act takes effect when
8 passed and approved according to law.