A BILL FOR AN ACT relating to treatment and corrections; to amend
sections 83-173, 83-1,135, and 83-4,114, Reissue Revised Statutes of
Nebraska; to provide and change powers and duties of the Director of
Correctional Services and the Department of Correctional Services;
to provide and change requirements regarding treatment and
segregation of inmates with mental illness; to require reports; to
harmonize provisions; to repeal the original sections; and to
declare an emergency.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 83-173, Reissue Revised Statutes of Nebraska, is amended to read:

83-173 The Director of Correctional Services shall:

(1) Supervise and be responsible for the administration of the Department of Correctional Services;

(2) Establish, consolidate, or abolish any administrative subdivision within the department and appoint and remove for cause the heads thereof and delegate appropriate powers and duties to them;

(3) Establish and administer policies and programs for the operation of the facilities in the department and for the custody, control, safety, correction, and rehabilitation of persons committed to the department;

(4) Appoint and remove the chief executive officer of each facility and delegate appropriate powers and duties to him or her;

(5) Appoint and remove employees of the department and delegate appropriate powers and duties to them;

(6) Adopt and promulgate rules and regulations for the management, correctional treatment, and rehabilitation of persons committed to the department, the administration of facilities, and the conduct of officers and employees under his or her jurisdiction;

(7) Designate the place of confinement of persons committed to the department subject to section 83-176;

(8) Establish and administer policies that ensure that complete and up-to-date electronic records are maintained for each person committed to the department, including, but not limited to, programming recommendations and time spent in segregation;

(9) Collect, develop, and maintain statistical information concerning persons committed to the department, sentencing practices, and correctional treatment as may be useful in penological research or in the development of treatment programs;

(10) Provide training programs designed to equip employees for duty in the facilities and related services of the department and to
raise and maintain the educational standards and the level of performance
of such employees;

(1) Notify law enforcement agencies of upcoming furloughs as
required by section 83-173.01;

(2) Issue or authorize the issuance of a warrant for the arrest
of any person committed to the department who has escaped from the
custody of the department; and

(3) Exercise all powers and perform all duties necessary and
proper in carrying out his or her responsibilities.

Sec. 2. The director shall issue a report to the Governor and the
Legislature no later than April 1, 2016. The report to the Legislature
shall be issued electronically. The report shall contain:

(1) A long-term plan for the usage of segregation or other type of
isolation with the explicit goal of reducing the use of segregation or
other type of isolation; and

(2) A long-term plan for oversight of the department by an
independent third-party.

Sec. 3. (1) On and after July 1, 2016, no inmate shall be held
outside the general population unless done so in the least restrictive
manner consistent with maintaining order in the institution and pursuant
to rules and regulations adopted and promulgated by the department
pursuant to the Administrative Procedure Act.

(2) The department shall adopt and promulgate rules and regulations
pursuant to the Administrative Procedure Act establishing levels of
confinement outside the population as may be necessary to administer the
correctional system. Rules and regulations shall establish behavior,
conditions, and mental health status under which an inmate may be placed
in each confinement level as well as procedures for making such
determinations. Rules and regulations shall also provide for
individualized transition plans for each confinement level back to the
general population or to society.
(3) Rules and regulations may authorize the director to issue written directives, guidance, and operational manuals not inconsistent with law and rules and regulations. Such directives, guidance, and operational manuals shall be made available to the public in the same manner that rules and regulations are made available, however, if security of a correctional institution would be placed at risk by such publication, the directive, guidance, and operational manuals need not be made available to the public but shall be filed with the chairperson of the Executive Board of the Legislature.

Sec. 4. Section 83-1,135, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,135 Sections 83-170 to 83-1,135 and sections 2 and 3 of this act shall be known and may be cited as the Nebraska Treatment and Corrections Act.

Sec. 5. Section 83-4,114, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Disciplinary restrictions on clothing, bedding, mail, visitations, use of toilets, washbowls, or scheduled showers shall be imposed only for abuse of such privilege or facility.

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

(4) The director shall issue a quarterly report to the Legislature. The report shall be issued electronically. The report shall contain:
(a) The number of inmates in segregation and the number of inmates in any other type of isolation;

(b) The reasons such inmates are in segregation or isolation, whether for disciplinary reasons, violence or attempted violence, safety of the inmate, or any other reason;

(c) Whether or not any of such inmates in segregation or isolation have been diagnosed with a mental illness or mental disability and the type of mental illness or mental disability;

(d) The number of inmates who were released from segregation or isolation directly to parole or the general public, not including any inmate segregated or isolated for his or her own safety; and

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

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

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

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

(iii) The behavioral health administrator within the department;

(iv) Two representatives from a nonprofit prisoners' rights advocacy group, appointed by the Governor; and

(v) Two mental health professionals independent from the department with particular knowledge of prisons and conditions of confinement, appointed by the Governor.

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

(c) The work group has the power to request, on a periodic basis, information and data from the department on the status of the department's work on the subject matter of the work group.
(d) The chairperson of the work group shall convene the work group's first meeting no later than July 1, 2015, and the work group shall meet at least semiannually thereafter. The chairperson shall schedule and convene the work group's meetings.

(e) The chairperson shall provide the work group with quarterly updates on the department's policies related to the work group's subject matter.

Sec. 6. Original sections 83-173, 83-1,135, and 83-4,114, Reissue Revised Statutes of Nebraska, are repealed.

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