

LEGISLATIVE BILL 598

Approved by the Governor May 27, 2015

Introduced by Schumacher, 22; Bolz, 29; Chambers, 11; Krist, 10; Mello, 5;
Seiler, 33.

A BILL FOR AN ACT relating to treatment and corrections; to amend sections 81-8,241, 81-8,244, 81-8,245, 83-170, 83-171, 83-173, 83-180, 83-186.01, 83-188, 83-1,100, 83-1,107, 83-1,135, 83-4,114, 83-4,114.01, 83-904, 83-931, 83-933, and 83-962, Reissue Revised Statutes of Nebraska; to adopt the Office of Inspector General of the Nebraska Correctional System Act; to change provisions relating to the Public Counsel; 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 screening for risk assessment and mental illness and treatment and segregation of inmates with mental illness; to provide for employees of the Board of Parole as prescribed; to change provisions relating to the Office of Parole Administration; to prescribe requirements for compensation for certain parole officers and staff; to require reporting on and place restrictions on use of certain levels of confinement; to provide for creation of a long-term restrictive housing work group; to provide for investment of funds; to change provisions relating to a correctional system overcrowding emergency as prescribed; to eliminate obsolete provisions; to harmonize provisions; and to repeal the original sections.

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

Section 1. Sections 1 to 18 of this act shall be known and may be cited as the Office of Inspector General of the Nebraska Correctional System Act.

Sec. 2. (1) It is the intent of the Legislature to:

(a) Establish a full-time program of investigation and performance review to provide increased accountability and oversight of the Nebraska correctional system;

(b) Assist in improving operations of the department and the Nebraska correctional system;

(c) Provide an independent form of inquiry for concerns regarding the actions of individuals and agencies responsible for the supervision and release of persons in the Nebraska correctional system. A lack of responsibility and accountability between individuals and private agencies in the current system make it difficult to monitor and oversee the Nebraska correctional system; and

(d) Provide a process for investigation and review in order to improve policies and procedures of the correctional system.

(2) It is not the intent of the Legislature in enacting the Office of Inspector General of the Nebraska Correctional System Act to interfere with the duties of the Legislative Auditor or the Legislative Fiscal Analyst or to interfere with the statutorily defined investigative responsibilities or prerogatives of any officer, agency, board, bureau, commission, association, society, or institution of the executive branch of state government, except that the act does not preclude an inquiry on the sole basis that another agency has the same responsibility. The act shall not be construed to interfere with or supplant the responsibilities or prerogatives of the Governor to investigate, monitor, and report on the activities of the agencies, boards, bureaus, commissions, associations, societies, and institutions of the executive branch under his or her administrative direction.

Sec. 3. For purposes of the Office of Inspector General of the Nebraska Correctional System Act, the following definitions apply:

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

(2) Department means the Department of Correctional Services;

(3) Director means the Director of Correctional Services;

(4) Inspector General means the Inspector General of the Nebraska Correctional System appointed under section 4 of this act;

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

(6) Management means supervision of subordinate employees;

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

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

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

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

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

Sec. 4. (1) The office of Inspector General of the Nebraska Correctional System is created within the office of Public Counsel for the purpose of conducting investigations, audits, inspections, and other reviews of the Nebraska correctional system. The Inspector General shall be appointed by the Public Counsel with approval from the chairperson of the Executive Board of the Legislative Council and the chairperson of the Judiciary Committee of the Legislature.

(2) The Inspector General shall be appointed for a term of five years and may be reappointed. The Inspector General shall be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management, public administration, investigation, or criminal justice administration or other closely related fields. No former or current executive or manager of the department shall be appointed Inspector General within five years after such former or current executive's or manager's period of service with the department. Not later than two years after the date of appointment, the Inspector General shall obtain certification as a Certified Inspector General by the Association of Inspectors General, its successor, or another nationally recognized organization that provides and sponsors educational programs and establishes professional qualifications, certifications, and licensing for inspectors general. During his or her employment, the Inspector General shall not be actively involved in partisan affairs.

(3) The Inspector General shall employ such investigators and support staff as he or she deems necessary to carry out the duties of the office within the amount available by appropriation through the office of Public Counsel for the office of Inspector General of the Nebraska Correctional System. The Inspector General shall be subject to the control and supervision of the Public Counsel, except that removal of the Inspector General shall require approval of the chairperson of the Executive Board of the Legislative Council and the chairperson of the Judiciary Committee of the Legislature.

Sec. 5. (1) The office shall investigate:

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

(b) Death or serious injury in private agencies, department correctional facilities, and other programs and facilities licensed by or under contract with the department. The department shall report all cases of death or serious injury of a person in a private agency, department correctional facility or program, or other program or facility licensed by the department to the Inspector General as soon as reasonably possible after the department learns of such death or serious injury. For purposes of this subdivision, serious injury means an injury or illness caused by malfeasance or misfeasance which leaves a person in critical or serious condition.

(2) Any investigation conducted by the Inspector General shall be independent of and separate from an investigation pursuant to sections 23-1821 to 23-1823.

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

Sec. 6. (1) The office shall have access to all information and personnel necessary to perform the duties of the office.

(2) A full investigation conducted by the office shall consist of retrieval of relevant records through subpoena, request, or voluntary production, review of all relevant records, and interviews of all relevant

persons.

Sec. 7. (1) Complaints to the office may be made in writing. A complaint shall be evaluated to determine if it alleges possible misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations of the department by an employee of or a person under contract with the department or a private agency. All complaints shall be evaluated to determine whether a full investigation is warranted.

(2) The office shall not conduct a full investigation of a complaint unless:

(a) The complaint alleges misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations of the department;

(b) The complaint is against a person within the jurisdiction of the office; and

(c) The allegations can be independently verified through investigation.

(3) The Inspector General shall determine within fourteen days after receipt of a complaint whether the office will conduct a full investigation.

(4) When a full investigation is opened on a private agency that contracts with the department, the Inspector General shall give notice of such investigation to the department.

Sec. 8. All employees of the department and all owners, operators, managers, supervisors, and employees of private agencies shall cooperate with the office. Cooperation includes, but is not limited to, the following:

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

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

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

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

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

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

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

Sec. 9. Failure to cooperate with an investigation by the office may result in discipline or other sanctions.

Sec. 10. The Inspector General may issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony, or produce documentary or other evidence deemed relevant to a matter under his or her inquiry. A person thus required to provide information shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state and shall also be entitled to have counsel present while being questioned.

Sec. 11. (1) In conducting investigations, the office shall access all relevant records through subpoena, compliance with a request by the office, and voluntary production. The office may request or subpoena any record necessary for the investigation from the department or a private agency that is pertinent to an investigation. All case files, licensing files, medical records, financial and administrative records, and records required to be maintained pursuant to applicable licensing rules shall be produced for review by the office in the course of an investigation.

(2) Compliance with a request of the office includes:

(a) Production of all records requested;

(b) A diligent search to ensure that all appropriate records are included;

and
(c) A continuing obligation to immediately forward to the office any relevant records received, located, or generated after the date of the request.

(3) The office shall seek access in a manner that respects the dignity and human rights of all persons involved, maintains the integrity of the investigation, and does not unnecessarily disrupt department programs or services. When advance notice to an administrator or his or her designee is not provided, the office investigator shall, upon arrival at the departmental office, bureau, or division or private agency, request that an onsite employee notify the administrator or his or her designee of the investigator's arrival.

(4) When circumstances of an investigation require, the office may make an unannounced visit to a departmental office, bureau, or division, a department correctional facility, or a private agency to request records relevant to an investigation.

(5) A responsible individual or an administrator may be asked to sign a statement of record integrity and security when a record is secured by request as the result of a visit by the office, stating:

(a) That the responsible individual or the administrator has made a diligent search of the office, bureau, division, private agency, or department correctional facility to determine that all appropriate records in existence at the time of the request were produced;

(b) That the responsible individual or the administrator agrees to immediately forward to the office any relevant records received, located, or

generated after the visit;

(c) The persons who have had access to the records since they were secured; and

(d) Whether, to the best of the knowledge of the responsible individual or the administrator, any records were removed from or added to the record since it was secured.

(6) The office shall permit a responsible individual, an administrator, or an employee of a departmental office, bureau, or division, a private agency, or a department correctional facility to make photocopies of the original records within a reasonable time in the presence of the office for purposes of creating a working record in a manner that assures confidentiality.

(7) The office shall present to the responsible individual or the administrator or other employee of the departmental office, bureau, or division, private agency, or department correctional facility a copy of the request, stating the date and the titles of the records received.

(8) If an original record is provided during an investigation, the office shall return the original record as soon as practical but no later than ten working days after the date of the compliance request.

(9) All investigations conducted by the office shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

Sec. 12. (1) Reports of investigations conducted by the office shall not be distributed beyond the entity that is the subject of the report without the consent of the Inspector General.

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

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

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

Sec. 13. The department shall provide the Public Counsel and the Inspector General with direct computer access to all computerized records, reports, and documents maintained by the department in connection with administration of the Nebraska correctional system, except that the Public Counsel's and Inspector General's access to an inmate's medical or mental health records shall be subject to the inmate's consent.

Sec. 14. (1) The Inspector General's report of an investigation shall be in writing to the Public Counsel and shall contain recommendations. The report may recommend systemic reform or case-specific action, including a recommendation for discharge or discipline of employees or for sanctions against a private agency. All recommendations to pursue discipline shall be in writing and signed by the Inspector General. A report of an investigation shall be presented to the director within fifteen days after the report is presented to the Public Counsel.

(2) Any person receiving a report under this section shall not further distribute the report or any confidential information contained in the report. The report shall not be distributed beyond the parties except through the appropriate court procedures to the judge.

(3) A report that identifies misconduct, misfeasance, malfeasance, violation of statute, or violation of rules and regulations by an employee of the department or a private agency that is relevant to providing appropriate supervision of an employee may be shared with the employer of such employee. The employer may not further distribute the report or any confidential information contained in the report.

Sec. 15. (1) Within fifteen days after a report is presented to the director under section 14 of this act, he or she shall determine whether to accept, reject, or request in writing modification of the recommendations contained in the report. The Inspector General, with input from the Public Counsel, may consider the director's request for modifications but is not obligated to accept such request. Such report shall become final upon the decision of the director to accept or reject the recommendations in the report or, if the director requests modifications, within fifteen days after such request or after the Inspector General incorporates such modifications, whichever occurs earlier.

(2) Within fifteen days after the report is presented to the director, the report shall be presented to the private agency or other provider of correctional services that is the subject of the report and to persons involved in the implementation of the recommendations in the report. Within forty-five days after receipt of the report, the private agency or other provider may submit a written response to the office to correct any factual errors in the report. The Inspector General, with input from the Public Counsel, shall consider all materials submitted under this subsection to determine whether a corrected report shall be issued. If the Inspector General determines that a corrected report is necessary, the corrected report shall be issued within

fifteen days after receipt of the written response.

(3) If the Inspector General does not issue a corrected report pursuant to subsection (2) of this section or if the corrected report does not address all issues raised in the written response, the private agency or other provider may request that its written response, or portions of the response, be appended to the report or corrected report.

Sec. 16. No report or other work product of an investigation by the Inspector General shall be reviewable in any court. Neither the Inspector General nor any member of his or her staff shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters within his or her official cognizance except in a proceeding brought to enforce the Office of Inspector General of the Nebraska Correctional System Act.

Sec. 17. The Office of Inspector General of the Nebraska Correctional System Act does not require the Inspector General to investigate all complaints. The Inspector General, with input from the Public Counsel, shall prioritize and select investigations and inquiries that further the intent of the act and assist in legislative oversight of the Nebraska correctional system. If the Inspector General determines that he or she will not investigate a complaint, the Inspector General may recommend to the parties alternative means of resolution of the issues in the complaint.

Sec. 18. On or before September 15 of each year, the Inspector General shall provide to each member of the Judiciary Committee of the Legislature, the Governor, and the Clerk of the Legislature a summary of reports and investigations made under the Office of Inspector General of the Nebraska Correctional System Act for the preceding year. The summary provided to the Clerk of the Legislature shall be provided electronically. The summaries shall include recommendations and an update on the status of recommendations made in prior summaries, if any. The recommendations may address issues discovered through investigations, audits, inspections, and reviews by the office that will (1) increase accountability and legislative oversight of the Nebraska correctional system, (2) improve operations of the department and the Nebraska correctional system, (3) deter and identify fraud, abuse, and illegal acts, and (4) identify inconsistencies between statutory requirements and requirements for accreditation. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.

Sec. 19. Section 81-8,241, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,241 The office of Public Counsel is hereby established to exercise the authority and perform the duties provided by sections 81-8,240 to 81-8,254, and the Office of Inspector General of Nebraska Child Welfare Act, and the Office of Inspector General of the Nebraska Correctional System Act. The Public Counsel shall be appointed by the Legislature, with the vote of two-thirds of the members required for approval of such appointment from nominations submitted by the Executive Board of the Legislative Council.

Sec. 20. Section 81-8,244, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,244 (1)(a) The Public Counsel may select, appoint, and compensate as he or she sees fit, within the amount available by appropriation, such assistants and employees as he or she deems necessary to discharge the responsibilities under sections 81-8,240 to 81-8,254. He or she shall appoint and designate one assistant to be a deputy public counsel, one assistant to be a deputy public counsel for corrections, one assistant to be a deputy public counsel for institutions, and one assistant to be a deputy public counsel for welfare services.

(b) Such deputy public counsels shall be subject to the control and supervision of the Public Counsel.

(c) The authority of the deputy public counsel for corrections shall extend to all facilities and parts of facilities, offices, houses of confinement, and institutions which are operated by the Department of Correctional Services and all county or municipal correctional or jail facilities.

(d) The authority of the deputy public counsel for institutions shall extend to all mental health and veterans institutions and facilities operated by the Department of Health and Human Services and to all regional behavioral health authorities that provide services and all community-based behavioral health services providers that contract with a regional behavioral health authority to provide services, for any individual who was a patient within the prior twelve months of a state-owned and state-operated regional center, and to all complaints pertaining to administrative acts of the department, authority, or provider when those acts are concerned with the rights and interests of individuals placed within those institutions and facilities or receiving community-based behavioral health services.

(e) The authority of the deputy public counsel for welfare services shall extend to all complaints pertaining to administrative acts of administrative agencies when those acts are concerned with the rights and interests of individuals involved in the welfare services system of the State of Nebraska.

(f) The Public Counsel may delegate to members of the staff any authority or duty under sections 81-8,240 to 81-8,254 except the power of delegation and the duty of formally making recommendations to administrative agencies or reports to the Governor or the Legislature.

(2) The Public Counsel shall appoint the Inspector General of Nebraska

Child Welfare as provided in section 43-4317. The Inspector General of Nebraska Child Welfare shall have the powers and duties provided in the Office of Inspector General of Nebraska Child Welfare Act.

(3) The Public Counsel shall appoint the Inspector General of the Nebraska Correctional System as provided in section 4 of this act. The Inspector General of the Nebraska Correctional System shall have the powers and duties provided in the Office of Inspector General of the Nebraska Correctional System Act.

Sec. 21. Section 81-8,245, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,245 The Public Counsel shall have the power to:

(1) Investigate, on complaint or on his or her own motion, any administrative act of any administrative agency;

(2) Prescribe the methods by which complaints are to be made, received, and acted upon; determine the scope and manner of investigations to be made; and, subject to the requirements of sections 81-8,240 to 81-8,254, determine the form, frequency, and distribution of his or her conclusions, recommendations, and proposals;

(3) Conduct inspections of the premises, or any parts thereof, of any administrative agency or any property owned, leased, or operated by any administrative agency as frequently as is necessary, in his or her opinion, to carry out duties prescribed under sections 81-8,240 to 81-8,254;

(4) Request and receive from each administrative agency, and such agency shall provide, the assistance and information the counsel deems necessary for the discharge of his or her responsibilities; inspect and examine the records and documents of all administrative agencies notwithstanding any other provision of law; and enter and inspect premises within any administrative agency's control;

(5) Issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony, or produce documentary or other evidence deemed relevant to a matter under his or her inquiry. A person thus required to provide information shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state and shall also be entitled to have counsel present while being questioned;

(6) Undertake, participate in, or cooperate with general studies or inquiries, whether or not related to any particular administrative agency or any particular administrative act, if he or she believes that they may enhance knowledge about or lead to improvements in the functioning of administrative agencies;

(7) Make investigations, reports, and recommendations necessary to carry out his or her duties under the State Government Effectiveness Act;

(8) Carry out his or her duties under the Office of Inspector General of Nebraska Child Welfare Act. If any of the provisions of sections 81-8,240 to 81-8,254 conflict with provisions of the Office of Inspector General of Nebraska Child Welfare Act, the provisions of such act shall control;

(9) Carry out his or her duties under the Office of Inspector General of the Nebraska Correctional System Act. If any of the provisions of sections 81-8,240 to 81-8,254 conflict with the provisions of the Office of Inspector General of the Nebraska Correctional System Act, the provisions of such act shall control;

~~(10)~~ (9) Investigate allegations of violation of subsection (2) of section 84-908 by an administrative agency pursuant to a complaint made to his or her office and make a determination as to whether such administrative agency has violated such subsection. The Public Counsel shall report his or her determination in writing to the Governor, the Secretary of State, the Attorney General, the Executive Board of the Legislative Council, and the director or chief executive officer of the agency. The report to the executive board shall be submitted electronically; and

~~(11)~~ (10) Investigate and address the complaint and case of:

(a) Any juvenile committed to the custody of a youth rehabilitation and treatment center; and

(b) Any juvenile released from a youth rehabilitation and treatment center for reentry into the community, while that juvenile is subject to the Community and Family Reentry Process and a service or treatment program in which the juvenile may be involved after his or her release from a youth rehabilitation and treatment center, whether that service or program is administrated by the Office of Juvenile Services or a private provider in the community. The Office of Juvenile Services and private providers in the community shall cooperate with any investigation conducted by the Public Counsel pursuant to this subdivision and provide all documentation and information requested by the Public Counsel in connection with such an investigation.

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

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

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

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

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

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

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

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

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

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

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

(10) Pardon authority ~~means shall mean~~ the power to remit fines and forfeitures and to grant respites, reprieves, pardons, or commutations;

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

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

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

(14) Solitary confinement means the status of confinement of an inmate in an individual cell having solid, soundproof doors and which deprives the inmate of all visual and auditory contact with other persons.

Sec. 23. Section 83-171, Reissue Revised Statutes of Nebraska, is amended to read:

83-171 There is hereby created a Department of Correctional Services which shall:

(1) Maintain and administer facilities required for the custody, control, correctional treatment, and rehabilitation of persons committed to the department and for the safekeeping of such other persons as may be remanded to the department in accordance with law;

~~(2) Supervise persons committed to the department on parole and administer parole services in the facilities and in the community; and~~

~~(2 3) Develop policies and programs for the correctional treatment and rehabilitation of persons committed to the department; -~~

(3) Supervise parolees who have been committed to the department; and

(4) Until July 1, 2016, administer parole services in the facilities and in the community and, beginning July 1, 2016, cooperate with the Board of Parole and Office of Parole Administration to assist with the efficient administration of parole services in the facilities and in the community.

Sec. 24. 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 and which also ensure privacy protections. Electronic records shall include programming recommendations, program completions, time spent in housing other than general population, and medical records, including mental and behavioral health records;

~~(9 8) 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 9) 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;~~

~~(11 10) Notify law enforcement agencies of upcoming furloughs as required by section 83-173.01;~~

~~(12 11) 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~~

~~(13 12) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.~~

Sec. 25. Section 83-180, Reissue Revised Statutes of Nebraska, is amended to read:

83-180 (1) When a physician designated by the Director of Correctional

Services finds that a person committed to the department suffers from a physical disease or defect, or when a physician or psychologist designated by the director finds that a person committed to the department is mentally ill as defined in section 71-907 suffers from a mental disease or defect, the chief executive officer of the facility may order such person to be segregated from other persons in the facility in the least restrictive manner possible. If the physician or psychologist is of the opinion that the person cannot be given proper treatment in that facility, the director may arrange for his or her transfer for examination, study, and treatment to any medical-correctional facility, or to another institution in the Department of Health and Human Services where proper treatment is available. A person who is so transferred shall remain subject to the jurisdiction and custody of the Department of Correctional Services and shall be returned to the department when, prior to the expiration of his or her sentence, treatment in such facility is no longer necessary.

(2) When the physician or psychologist designated by the Director of Correctional Services finds that a person committed to the department suffers from a physical ~~or mental~~ disease or defect or mental illness which in his or her opinion cannot be properly treated in any facility or institution in the Department of Health and Human Services, the director may arrange for his or her transfer for treatment to a hospital or psychiatric facility outside the department. The director shall make appropriate arrangements with other public or private agencies for the transportation to, and for the care, custody, and security of the person in, such hospital or psychiatric facility. While receiving treatment in such hospital or psychiatric facility, the person shall remain subject to the jurisdiction and custody of the Department of Correctional Services and shall be returned to the department when, prior to the expiration of his or her sentence, such hospital or psychiatric treatment is no longer necessary.

(3) The director shall adopt and promulgate rules and regulations to establish evidence-based criteria which the department shall use to identify any person nearing release who should be evaluated to determine whether he or she is a mentally ill and dangerous person as defined in section 71-908. When two psychiatrists designated by the director Director of Correctional Services find that a person about to be released or discharged from any facility is a mentally ill and dangerous person as defined in section 71-908 suffers from a mental disease or defect of such a nature that his or her release or discharge will endanger the public safety or the safety of the offender, the director shall transfer him or her to, or if he or she has already been transferred, permit him or her to remain in, a psychiatric facility in the Department of Health and Human Services and shall promptly commence proceedings under the Nebraska Mental Health Commitment Act applicable to the civil commitment and detention of persons suffering from such disease or defect.

(4) The director shall adopt and promulgate rules and regulations for risk assessment and management for inmates. Such rules and regulations shall establish a structured decisionmaking process that is consistent with professional standards of care and is consistent with available risk assessment and management guidelines. The process developed shall be performed by individuals with proper training and continuing education related to relevant areas of risk assessment and management. Appropriate quality assurance and outcome assessment shall be included to ensure fidelity to the process and address relevant challenges. The rules and regulations shall establish a rational process for prioritizing who shall be screened and evaluated and when, which shall include, but not be limited to: Incidents of violent activity during incarceration; attempts of suicide or other major self-harm behaviors; and a process for staff to nominate inmates for screening based upon behavior that raises concern for community safety as release approaches.

(5) The director shall adopt and promulgate rules and regulations to ensure that all persons who are incarcerated receive a full mental health screening within the first two weeks of intake to determine whether or not an inmate is mentally ill as defined in section 71-907. Such determination shall be reflected in the inmate's individualized treatment plan and shall include adequate mental health treatment. If, at any point during his or her incarceration, an inmate is found to be mentally ill, such determination shall be reflected in the inmate's individualized treatment plan and shall include adequate mental health treatment.

Sec. 26. Section 83-186.01, Reissue Revised Statutes of Nebraska, is amended to read:

83-186.01 (1) The Legislature finds that:

(a) Research reveals that children who have parents involved in their lives perform better academically and socially in school, experience fewer mental health and substance abuse issues, and are less likely to commit serious crime;

(b) Strategies to address family stability and intergenerational poverty are specifically needed for children with incarcerated parents; and

(c) Research reveals that family-based reentry planning, including relationship development and housing and employment strategies, results in lower recidivism and greater family economic stability.

(2) The department Department of Correctional Services shall implement a establish a two-year pilot program for the purpose of providing in Nebraska adult correctional facilities an evidence-based program of parent education, early literacy, relationship skills development, and reentry planning involving family members of incarcerated parents prior to their release. Incarcerated

parents of children between birth and five years of age shall have priority for participation in the program. The department may award a contract to operate the pilot program. Such contract shall be based on competitive bids as provided in sections 73-101 to 73-105. The department shall track data related to program participation and recidivism.

~~(3) It is the intent of the Legislature to appropriate two hundred fifty thousand dollars from the General Fund to the department in each of fiscal years 2013-14 and 2014-15 for purposes of funding the pilot program required by this section.~~

Sec. 27. Section 83-188, Reissue Revised Statutes of Nebraska, is amended to read:

83-188 (1) There is hereby created the Board of Parole. For administrative purposes only, the board shall be within the Board of Pardons. Nothing in the Nebraska Treatment and Corrections Act shall be construed to give the director or the Board of Pardons any authority, power, or responsibility over the Board of Parole, its employees, or the exercise of its functions under the provisions of the act. The employees of the Board of Parole shall be covered by the State Personnel System.

(2) Employees of the Board of Parole shall consist of the following:

(a) The administrative staff necessary to assist the board with parole reviews, revocations, and hearings;

(b) At least one legal counsel;

(c) At least one fiscal analyst, policy analyst, or data analyst; and

(d) At least one staff member to assist with the daily supervision and training of employees of the board.

Sec. 28. Section 83-1,100, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,100 (1) There is hereby created within the department the Office of Parole Administration. Until July 1, 2016, the office shall be within the Department of Correctional Services. Beginning July 1, 2016, the office shall be within the Board of Parole. The director and the board shall jointly develop a transition implementation plan. The plan shall be presented to the Governor and to the Legislature no later than December 1, 2015. The report to the Legislature shall be delivered electronically. The employees of the office shall consist of the Parole Administrator, the field parole service officers, and all other office staff. The office shall be responsible for the following:

(a) 1) The administration of parole services in the community;

(b) 2) The maintenance of all records and files associated with the Board of Parole;

(c) 3) The daily supervision and training of staff members of the office;
and

(d) 4) The assessment, evaluation, and supervision of individuals who are subject to lifetime community supervision pursuant to section 83-174.03.

(2) Parole officers shall be compensated with salaries substantially equal to other state employees who have similar responsibilities, including employees of the Office of Probation Administration. This subsection shall apply only to field parole service officers and support staff and shall not apply to the Parole Administrator, any deputy parole administrator, or any other similarly established management position.

(3) Nothing in this section shall be construed to prohibit the office from maintaining daily records and files associated with the Board of Pardons.

Sec. 29. Section 83-1,107, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,107 (1)(a) Within sixty days after initial classification and assignment of any offender committed to the department, all available information regarding such committed offender shall be reviewed and a committed offender department-approved personalized program plan document shall be drawn up. The document shall specifically describe the department-approved personalized program plan and the specific goals the department expects the committed offender to achieve. The document shall also contain a realistic schedule for completion of the department-approved personalized program plan. The department-approved personalized program plan shall be developed with the active participation of fully explained to the committed offender. The department shall provide programs to allow compliance by the committed offender with the department-approved personalized program plan.

Programming may include, but is not limited to:

(i) Academic and vocational education, including teaching such classes by qualified offenders;

(ii) Substance abuse treatment;

(iii) Mental health and psychiatric treatment, including criminal personality programming;

(iv) Constructive, meaningful work programs; and

(v) Any other program deemed necessary and appropriate by the department.

(b) A modification in the department-approved personalized program plan may be made to account for the increased or decreased abilities of the committed offender or the availability of any program. Any modification shall be made only after notice is given to the committed offender. The department may not impose disciplinary action upon any committed offender solely because of the committed offender's failure to comply with the department-approved personalized program plan, but such failure may be considered by the board in its deliberations on whether or not to grant parole to a committed offender.

(2)(a) The department shall reduce the term of a committed offender by six months for each year of the offender's term and pro rata for any part thereof

which is less than a year.

(b) In addition to reductions granted in subdivision (2)(a) of this section, the department shall reduce the term of a committed offender by three days on the first day of each month following a twelve-month period of incarceration within the department during which the offender has not been found guilty of (i) a Class I or Class II offense or (ii) more than three Class III offenses under the department's disciplinary code. Reductions earned under this subdivision shall not be subject to forfeit or withholding by the department.

(c) The total reductions under this subsection shall be credited from the date of sentence, which shall include any term of confinement prior to sentence and commitment as provided pursuant to section 83-1,106, and shall be deducted from the maximum term, to determine the date when discharge from the custody of the state becomes mandatory.

(3) While the offender is in the custody of the department, reductions of terms granted pursuant to subdivision (2)(a) of this section may be forfeited, withheld, and restored by the chief executive officer of the facility with the approval of the director after the offender has been notified regarding the charges of misconduct.

(4) The department shall ensure that a release or reentry plan is complete or near completion when the offender has served at least eighty percent of his or her sentence. For purposes of this subsection, release or reentry plan means a comprehensive and individualized strategic plan to ensure an individual's safe and effective transition or reentry into the community to which he or she resides with the primary goal of reducing recidivism. At a minimum, the release or reentry plan shall include, but not be limited to, consideration of the individual's housing needs, medical or mental health care needs, and transportation and job needs and shall address an individual's barriers to successful release or reentry in order to prevent recidivism. The release or reentry plan does not include an individual's programming needs included in the individual's personalized program plan for use inside the prison.

(5)(a) The department shall make treatment programming available to committed offenders as provided in section 83-1,110.01 and shall include continuing participation in such programming as part of each offender's parolee personalized program plan.

(b) Any committed offender with a mental illness shall be provided with the community standard of mental health care. The mental health care shall utilize evidenced-based therapy models that include an evaluation component to track the effectiveness of interventions.

(c) Any committed offender with a mental illness shall be evaluated before release to ensure that adequate monitoring and treatment of the committed offender will take place or, if appropriate, that a commitment proceeding under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act will take place.

(6)(a) Within thirty days after any committed offender has been paroled, all available information regarding such parolee shall be reviewed and a parolee personalized program plan document shall be drawn up and approved by the Office of Parole Administration. The document shall specifically describe the approved personalized program plan and the specific goals the office expects the parolee to achieve. The document shall also contain a realistic schedule for completion of the approved personalized program plan. The approved personalized program plan shall be developed with the active participation of ~~fully explained to~~ the parolee. During the term of parole, the parolee shall comply with the approved personalized program plan and the office shall provide programs to allow compliance by the parolee with the approved personalized program plan.

Programming may include, but is not limited to:

- (i) Academic and vocational education;
- (ii) Substance abuse treatment;
- (iii) Mental health and psychiatric treatment, including criminal personality programming;
- (iv) Constructive, meaningful work programs;
- (v) Community service programs; and
- (vi) Any other program deemed necessary and appropriate by the office.

(b) A modification in the approved personalized program plan may be made to account for the increased or decreased abilities of the parolee or the availability of any program. Any modification shall be made only after notice is given to the parolee. Intentional failure to comply with the approved personalized program plan by any parolee as scheduled for any year, or pro rata part thereof, shall cause disciplinary action to be taken by the office resulting in the forfeiture of up to a maximum of three months' good time for the scheduled year.

(7) While the offender is in the custody of the board, reductions of terms granted pursuant to subdivision (2)(a) of this section may be forfeited, withheld, and restored by the administrator with the approval of the director after the offender has been notified regarding the charges of misconduct or breach of the conditions of parole. In addition, the board may recommend such forfeitures of good time to the director.

(8) Good time or other reductions of sentence granted under the provisions of any law prior to July 1, 1996, may be forfeited, withheld, or restored in accordance with the terms of the Nebraska Treatment and Corrections Act.

Sec. 30. The director shall issue a report to the Governor and the Legislature no later than July 1, 2016. The report to the Legislature shall be

issued electronically. The report shall contain a long-term plan for the use of restrictive housing with the explicit goal of reducing the use of restrictive housing.

Sec. 31. (1) Beginning July 1, 2016, no inmate shall be held in restrictive housing unless done in the least restrictive manner consistent with maintaining order in the facility 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 restrictive housing 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, developed with the active participation of the committed offender, 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 documents, and operational manuals not inconsistent with law and rules and regulations. Such directives, guidance documents, and operational manuals shall be made available to the public in the same manner that rules and regulations are made available unless the safety and security of a correctional institution would be placed at imminent and substantial risk by such publication. If any directive, guidance document, or operational manual is not made available to the public, notice shall be given to the deputy public counsel for corrections and to the Inspector General of the Nebraska Correctional System. The notice shall identify all documents not publicly available by title, number of pages, and date adopted. All directives, guidance documents, and operational manuals shall be made available to any member of the Legislature upon request. Security manuals shall be made available to the Legislature for inspection upon request, but shall not be copied or removed from secure locations as designated by the director.

Sec. 32. 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 30 and 31 of this act shall be known and may be cited as the Nebraska Treatment and Corrections Act.

Sec. 33. 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 and only as authorized by written directives, guidance documents, and operational manuals.

(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 provision shall not apply to segregation or isolation of persons for purposes of institutional control.

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

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

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

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

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

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

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

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

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

(i) The director and all deputy directors. The director shall 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 employees of the department who currently work with inmates held in restrictive housing;

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

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

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

(B) Two mental health professionals independent from the department with

particular knowledge of prisons and conditions of confinement.

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

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

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

Sec. 34. Section 83-4,114.01, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,114.01 (1) The chief executive officer of each facility of the department shall be responsible for the discipline of inmates who reside in such facility. No inmate shall be punished except upon the order of the chief executive officer of the facility, and no punishment shall be imposed otherwise than in accordance with this section.

(2) Except in flagrant or serious cases, punishment for misconduct shall consist of deprivation of privileges. In cases of flagrant or serious misconduct, the chief executive officer may order that an inmate's reduction of term as provided in section 83-1,107 be forfeited or withheld and also that the inmate be confined in disciplinary segregation. During the period of disciplinary segregation, such inmate shall be put on an adequate and healthful diet. An inmate in disciplinary segregation shall be visited at least once every eight hours. No cruel, inhuman, or corporal punishment shall be used on any inmate.

(3) The chief executive officer shall maintain a record of breaches of discipline, of the disposition of each case, and of the punishment, if any, for each such breach. Each breach of discipline shall be entered in the inmate's file, together with the disposition or punishment for the breach.

(4) The chief executive officer may recommend to the director that an inmate who is considered to be incorrigible by reason of frequent intentional breaches of discipline or who is detrimental to the discipline or the morale of the facility be transferred to another facility for stricter safekeeping and closer confinement, subject to the provisions of section 83-176.

(5) The department shall adopt and promulgate rules and regulations to define the term flagrant or serious misconduct.

Sec. 35. Section 83-904, Reissue Revised Statutes of Nebraska, is amended to read:

83-904 (1) The Vocational and Life Skills Program is created within the Department of Correctional Services, in consultation with the Board of Parole. The program shall provide funding to aid in the establishment and provision of community-based vocational training and life skills training for adults who are incarcerated, formerly incarcerated, or serving a period of supervision on either probation or parole.

(2) The Vocational and Life Skills Programming Fund is created. The fund shall consist of appropriations from the Legislature, funds donated by nonprofit entities, funds from the federal government, and funds from other sources. Up to thirty percent of the fund may be used for staffing the reentry program created under section 83-903 and to provide treatment to individuals preparing for release from incarceration. At least seventy percent of the fund shall be used to provide grants to community-based organizations, community colleges, federally recognized or state-recognized Indian tribes, or nonprofit organizations that provide vocational and life skills programming and services to adults and juveniles who are incarcerated, who have been incarcerated within the prior eighteen months, or who are serving a period of supervision on either probation or parole. The department, in awarding grants, shall give priority to programs, services, or training that results in meaningful employment, and no money from the fund shall be used for capital construction. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings from investment of money in the fund shall be credited to the fund.

(3) The department, in consultation with the Board of Parole, shall adopt and promulgate rules and regulations to carry out the Vocational and Life Skills Program. The rules and regulations shall include, but not be limited to, a plan for evaluating the effectiveness of programs, services, and training that receive funding and a reporting process for aid recipients. The reentry program administrator shall report quarterly to the Governor and the Clerk of the Legislature beginning October 1, 2014, on the distribution and use of the aid distributed under the Vocational and Life Skills Program, including how many individuals received programming, the types of programming, the cost per individual for each program, service, or training provided, how many individuals successfully completed their programming, and information on any funds that have not been used. The report to the Clerk of the Legislature shall be submitted electronically. Any funds not distributed to community-based organizations, community colleges, federally recognized or state-recognized Indian tribes, or nonprofit organizations under this subsection shall be retained by the department to be distributed on a competitive basis under the Vocational and Life Skills Program. These funds shall not be expended by the department for any other purpose.

Sec. 36. Section 83-931, Reissue Revised Statutes of Nebraska, is amended to read:

83-931 The Director of Correctional Services shall appoint as assistant director of the Division of Community-Centered Services any person who has an appropriate academic background and adequate training and experience—~~in corrections.~~

Sec. 37. Section 83-933, Reissue Revised Statutes of Nebraska, is amended to read:

83-933 Until July 1, 2016, the ~~The~~ Office of Parole Administration shall be within the Division of Community-Centered Services. Beginning July 1, 2016, the Office of Parole Administration shall be within the Board of Parole. ~~Subject to the supervision, of the assistant director of the division, the Parole Administrator shall be charged with the administration of parole services in the community pursuant to the provisions of section 83-1,102, implementation and administration of the Interstate Compact for Adult Offender Supervision as it affects parolees, community supervision of sex offenders pursuant to section 83-174.03, and supervision of parolees either paroled in Nebraska and supervised in another state or paroled in another state and supervised in Nebraska, pursuant to the compact.~~

Sec. 38. Section 83-962, Reissue Revised Statutes of Nebraska, is amended to read:

83-962 (1) Until July 1, 2020, the ~~The~~ Governor may declare a correctional system overcrowding emergency whenever the director certifies that the department's inmate population is over one hundred forty percent of design capacity. Beginning July 1, 2020, a correctional system overcrowding emergency shall exist whenever the director certifies that the department's inmate population is over one hundred forty percent of design capacity. ~~The director shall so certify within thirty days after the date on which the population first exceeds one hundred forty percent of design capacity.~~

(2) During ~~Upon declaration of~~ a correctional system overcrowding emergency, the board shall immediately consider or reconsider committed offenders eligible for parole who have not been released on parole.

(3) Upon such consideration or reconsideration, and for all other consideration of committed offenders eligible for parole while the correctional system overcrowding emergency is in effect, the board shall order the release of each committed offender unless it is of the opinion that such release should be deferred because:

(a) The board has determined that it is more likely than not that the committed offender will not conform to the conditions of parole;

(b) The board has determined that release of the committed offender would have a very significant and quantifiable effect on institutional discipline; or

(c) The board has determined that there is a very substantial risk that the committed offender will commit a violent act against a person.

(4) In making the determination regarding the risk that a committed offender will not conform to the conditions of parole, the board shall take into account the factors set forth in subsection (2) of section 83-1,114.

(5) The board shall continue granting parole to offenders under this section until the director certifies that the population is at operational capacity. The director shall so certify within thirty days after the date on which the population first reaches operational capacity.

Sec. 39. Original sections 81-8,241, 81-8,244, 81-8,245, 83-170, 83-171, 83-173, 83-180, 83-186.01, 83-188, 83-1,100, 83-1,107, 83-1,135, 83-4,114, 83-4,114.01, 83-904, 83-931, 83-933, and 83-962, Reissue Revised Statutes of Nebraska, are repealed.