

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 438**

Introduced by Wishart, 27.

Read first time January 18, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to treatment and corrections; to amend  
2 sections 47-908 and 47-918, Revised Statutes Cumulative Supplement,  
3 2018; to provide duties for the Nebraska State Patrol; to require a  
4 report by the Inspector General of the Nebraska Correctional System;  
5 to designate the Nebraska State Patrol as the agency to investigate  
6 criminal activity within correctional facilities operated by the  
7 Department of Correctional Services and the Lincoln Regional Center  
8 as prescribed; to provide powers and duties for the patrol; to  
9 provide for confidentiality of certain records; to harmonize  
10 provisions; to provide an operative date; and to repeal the original  
11 sections.  
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 47-908, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3 47-908 All employees of the department, all employees of the  
4 Division of Parole Supervision, and all owners, operators, managers,  
5 supervisors, and employees of private agencies shall cooperate with the  
6 office. The Nebraska State Patrol shall cooperate with the office as  
7 relates to investigations of correctional facilities conducted under  
8 section 3 of this act. Cooperation includes, but is not limited to, the  
9 following:

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

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

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

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

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

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

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

29 Sec. 2. Section 47-918, Revised Statutes Cumulative Supplement,  
30 2018, is amended to read:

31 47-918 On or before September 15 of each year, the Inspector General

1 shall provide to each member of the Judiciary Committee of the  
2 Legislature, the Governor, and the Clerk of the Legislature a summary of  
3 reports and investigations made under the Office of Inspector General of  
4 the Nebraska Correctional System Act for the preceding year and a summary  
5 of all reports received under section 3 of this act for during the  
6 preceding year. The summaries ~~summary~~ provided to the Clerk of the  
7 Legislature shall be provided electronically. The summaries shall include  
8 recommendations and an update on the status of recommendations made in  
9 prior summaries, if any. The recommendations may address issues  
10 discovered through investigations, audits, inspections, and reviews by  
11 the office that will (1) increase accountability and legislative  
12 oversight of the Nebraska correctional system, (2) improve operations of  
13 the department and the Nebraska correctional system, (3) deter and  
14 identify fraud, abuse, and illegal acts, and (4) identify inconsistencies  
15 between statutory requirements and requirements for accreditation. The  
16 summaries shall not contain any confidential or identifying information  
17 concerning the subjects of the reports and investigations.

18       Sec. 3. (1) The Nebraska State Patrol is authorized to conduct  
19 investigations of any criminal activity that takes place within any  
20 correctional facility operated by the Department of Correctional Services  
21 or within the Lincoln Regional Center.

22       (2) On the operative date of this act, the Nebraska State Patrol  
23 shall employ and have oversight over any investigators employed by the  
24 Department of Correctional Services.

25       (3) When the positions of any investigators employed by the  
26 Department of Correctional Services are transferred to the Nebraska State  
27 Patrol, all funds used by the Department of Correctional Services for the  
28 administration of and salaries for such investigators shall be  
29 transferred to the patrol.

30       (4) The Nebraska State Patrol shall assign at least ten criminal  
31 investigators to conduct investigations of any criminal activity that

1 takes place within any correctional facility operated by the Department  
2 of Correctional Services and within the Lincoln Regional Center. Two of  
3 such investigators shall be permanently assigned to both the Tecumseh  
4 State Correctional Institution and the Nebraska State Penitentiary in  
5 Lincoln. The other investigators shall be assigned as needed throughout  
6 the Nebraska correctional system and the Lincoln Regional Center.

7 (5) The Nebraska State Patrol shall provide information regarding  
8 any investigations conducted pursuant to this section of criminal  
9 activity occurring within Department of Correctional Services facilities  
10 to the Inspector General of the Nebraska Correctional System. Any  
11 investigation or law enforcement reports provided to the Inspector  
12 General pursuant to this section are not public records for purposes of  
13 sections 84-712 to 84-712.09 and shall not be subject to discovery by any  
14 other person or entity. Except to the extent that disclosure of  
15 information is otherwise provided for in the Office of Inspector General  
16 of the Nebraska Correctional System Act, the Inspector General shall  
17 maintain the confidentiality of any investigation or law enforcement  
18 reports received pursuant to this section.

19 Sec. 4. This act becomes operative on January 1, 2020.

20 Sec. 5. Original sections 47-908 and 47-918, Revised Statutes  
21 Cumulative Supplement, 2018, are repealed.