

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 596**

Introduced by Quick, 35.

Read first time January 23, 2019

Committee: Executive Board

1 A BILL FOR AN ACT relating to the Public Counsel; to amend section  
2 81-8,240, Reissue Revised Statutes of Nebraska, and sections  
3 81-8,241, 81-8,244, and 81-8,245, Revised Statutes Cumulative  
4 Supplement, 2018; to adopt the Office of Inspector General of  
5 Nebraska Public Health Act; to harmonize provisions; and to repeal  
6 the original sections.

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

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

3           Sec. 2. For purposes of the Office of Inspector General of Nebraska  
4 Public Health Act:

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

8           (2) Department means the Division of Public Health of the Department  
9 of Health and Human Services;

10          (3) Director means the Director of Public Health of the Division of  
11 Public Health;

12          (4) Facility means a state-owned facility providing health care or a  
13 state-licensed health care facility as defined in section 71-413;

14          (5) Inspector General means the Inspector General of Nebraska Public  
15 Health appointed under section 3 of this act;

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

19          (7) Management means supervision of subordinate employees;

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

22          (9) Obstruction means hindering an investigation, preventing an  
23 investigation from progressing, stopping or delaying the progress of an  
24 investigation, or making the progress of an investigation difficult or  
25 slow;

26          (10) Office means the office of Inspector General of Nebraska Public  
27 Health and includes the Inspector General and other employees of the  
28 office;

29          (11) Private agency means an entity that contracts with the  
30 department to provide services relating to facilities;

31          (12) Record means any recording in written, audio, electronic

1 transmission, or computer storage form, including, but not limited to, a  
2 draft, memorandum, note, report, computer printout, notation, or message,  
3 and includes, but is not limited to, medical records, mental health  
4 records, case files, clinical records, financial records, and  
5 administrative records; and

6 (13) Responsible individual means the director or other  
7 administrator or employee of a facility or private agency responsible for  
8 the care or custody of records, documents, and files.

9 Sec. 3. (1) The office of Inspector General of Nebraska Public  
10 Health is created within the Office of Public Counsel for the purpose of  
11 conducting investigations, audits, inspections, and other reviews of  
12 state-owned facilities providing health care and state-licensed health  
13 care facilities as defined in section 71-413. The Inspector General shall  
14 be appointed by the Public Counsel with approval from the chairperson of  
15 the Executive Board of the Legislative Council and the chairperson of the  
16 Health and Human Services Committee of the Legislature.

17 (2) The Inspector General shall be appointed for a term of five  
18 years and may be reappointed. The Inspector General shall be selected  
19 without regard to political affiliation and on the basis of integrity,  
20 capability for strong leadership, and demonstrated ability in accounting,  
21 auditing, financial analysis, law, management, public administration,  
22 investigation, or criminal justice administration or other closely  
23 related fields. No former or current executive or manager of the  
24 Department of Health and Human Services shall be appointed Inspector  
25 General within five years after such former or current executive's or  
26 manager's period of service with the department. Not later than two years  
27 after the date of appointment, the Inspector General shall obtain  
28 certification as a Certified Inspector General by the Association of  
29 Inspectors General, its successor, or another nationally recognized  
30 organization that provides and sponsors educational programs and  
31 establishes professional qualifications, certifications, and licensing

1 for inspectors general. During his or her employment, the Inspector  
2 General shall not be actively involved in partisan affairs.

3 (3) The Inspector General shall employ such investigators and  
4 support staff as he or she deems necessary to carry out the duties of the  
5 office within the amount available by appropriation through the office of  
6 Public Counsel for the office of Inspector General. The Inspector General  
7 shall be subject to the control and supervision of the Public Counsel,  
8 except that removal of the Inspector General shall require approval of  
9 the chairperson of the Executive Board of the Legislative Council and the  
10 chairperson of the Health and Human Services Committee of the  
11 Legislature.

12 Sec. 4. (1) The office shall investigate:

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

17 (b) Allegations or incidents of possible misconduct which may  
18 provide a basis for discipline pursuant to the Uniform Credentialing Act  
19 by an employee of or person under contract with the department, a private  
20 agency, or a facility.

21 (2) Any investigation conducted by the Inspector General shall be  
22 independent of and separate from an investigation pursuant to the Adult  
23 Protective Services Act. The Inspector General and his or her staff are  
24 subject to the reporting requirements of the Adult Protective Services  
25 Act.

26 (3) Notwithstanding the fact that a criminal investigation, a  
27 criminal prosecution, or both are in progress, all law enforcement  
28 agencies and prosecuting attorneys shall cooperate with any investigation  
29 conducted by the Inspector General and shall, immediately upon request by  
30 the Inspector General, provide the Inspector General with copies of all  
31 law enforcement reports which are relevant to the Inspector General's

1 investigation. All law enforcement reports which have been provided to  
2 the Inspector General pursuant to this section are not public records for  
3 purposes of sections 84-712 to 84-712.09 and shall not be subject to  
4 discovery by any other person or entity. Except to the extent that  
5 disclosure of information is otherwise provided for in the Office of  
6 Inspector General of Nebraska Public Health Act, the Inspector General  
7 shall maintain the confidentiality of all law enforcement reports  
8 received pursuant to its request under this section. Law enforcement  
9 agencies and prosecuting attorneys shall, when requested by the Inspector  
10 General, collaborate with the Inspector General regarding all other  
11 information relevant to the Inspector General's investigation. If the  
12 Inspector General in conjunction with the Public Counsel determines it  
13 appropriate, the Inspector General may, when requested to do so by a law  
14 enforcement agency or prosecuting attorney, suspend an investigation by  
15 the office until a criminal investigation or prosecution is completed or  
16 has proceeded to a point that, in the judgment of the Inspector General,  
17 reinstatement of the Inspector General's investigation will not impede or  
18 infringe upon the criminal investigation or prosecution.

19       Sec. 5. (1) The office shall have access to all information and  
20 personnel necessary to perform the duties of the office.

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

25       Sec. 6. (1) Complaints to the office may be made in writing. The  
26 office shall also maintain a toll-free telephone line for complaints. A  
27 complaint shall be evaluated to determine if it alleges possible  
28 misconduct, misfeasance, malfeasance, or violation of a statute or of  
29 rules and regulations pursuant to section 4 of this act. All complaints  
30 shall be evaluated to determine whether a full investigation is  
31 warranted.

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

3       (a) The complaint alleges misconduct, misfeasance, malfeasance, or  
4 violation of a statute or of rules and regulations pursuant to section 4  
5 of this act;

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

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

10       (3) The Inspector General shall determine within fourteen days after  
11 receipt of a complaint whether it will conduct a full investigation. A  
12 complaint alleging facts which, if verified, would provide a basis for  
13 discipline under the Uniform Credentialing Act shall be referred to the  
14 appropriate credentialing board under such act.

15       Sec. 7. All employees of the department and all owners, operators,  
16 managers, supervisors, and employees of facilities and private agencies  
17 shall cooperate with the office. Cooperation includes, but is not limited  
18 to, the following:

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

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

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

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

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

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

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

7       Sec. 8. Failure to cooperate with an investigation by the office  
8 may result in discipline or other sanctions.

9       Sec. 9. The Inspector General may issue a subpoena, enforceable by  
10 action in an appropriate court, to compel any person to appear, give  
11 sworn testimony, or produce documentary or other evidence deemed relevant  
12 to a matter under his or her inquiry. A person thus required to provide  
13 information shall be paid the same fees and travel allowances and shall  
14 be accorded the same privileges and immunities as are extended to  
15 witnesses in the district courts of this state and shall also be entitled  
16 to have counsel present while being questioned. Any fees associated with  
17 counsel present under this section shall not be the responsibility of the  
18 office.

19       Sec. 10. (1) In conducting investigations, the office shall access  
20 all relevant records through subpoena, compliance with a request of the  
21 office, and voluntary production. The office may request or subpoena any  
22 record necessary for the investigation from the department, a facility,  
23 or a private agency. All case files, licensing files, medical records,  
24 financial and administrative records, and records required to be  
25 maintained pursuant to applicable licensing rules shall be produced for  
26 review by the office in the course of an investigation.

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

28       (a) Production of all records requested;

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

31       (c) A continuing obligation to immediately forward to the office any

1 relevant records received, located, or generated after the date of the  
2 request.

3 (3) The office shall seek access in a manner that respects the  
4 dignity and human rights of all persons involved, maintains the integrity  
5 of the investigation, and does not unnecessarily disrupt facilities. The  
6 office investigator shall, upon arrival at the departmental office,  
7 bureau, or division, the facility, or the private agency, request that an  
8 onsite employee notify the administrator or his or her designee of the  
9 investigator's arrival.

10 (4) When circumstances of an investigation require, the office may  
11 make an unannounced visit to a foster home, a departmental office,  
12 bureau, or division, facility, or private agency to request records  
13 relevant to an investigation.

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

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

21 (b) That the responsible individual or the administrator agrees to  
22 immediately forward to the office any relevant records received, located,  
23 or generated after the visit;

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

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

29 (6) The office shall permit a responsible individual, an  
30 administrator, or an employee of a departmental office, bureau, or  
31 division, a facility, or a private agency to make photocopies of the

1 original records within a reasonable time in the presence of the office  
2 for purposes of creating a working record in a manner that assures  
3 confidentiality.

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

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

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

14 Sec. 11. (1) Reports of investigations conducted by the office  
15 shall not be distributed beyond the entity that is the subject of the  
16 report without the consent of the Inspector General.

17 (2) The office shall redact confidential information before  
18 distributing a report of an investigation. The office may disclose  
19 confidential information to the chairperson of the Health and Human  
20 Services Committee of the Legislature when such disclosure is, in the  
21 judgment of the Public Counsel, desirable to keep the chairperson  
22 informed of important events, issues, and developments under the purview  
23 of the office.

24 (3)(a) A summarized final report based on an investigation may be  
25 publicly released in order to bring awareness to systemic issues.

26 (b) Such report shall be released only:

27 (i) After a disclosure is made to the appropriate chairperson or  
28 chairpersons pursuant to subsection (2) of this section; and

29 (ii) If a determination is made by the Inspector General with the  
30 appropriate chairperson that doing so would be in the best interest of  
31 the public.

1        (c) If there is disagreement about whether releasing the report  
2 would be in the best interest of the public, the chairperson of the  
3 Executive Board of the Legislative Council may be asked to make the final  
4 decision.

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

10       (5) The office may withhold the identity of sources of information  
11 to protect from retaliation any person who files a complaint or provides  
12 information in good faith pursuant to the Office of Inspector General of  
13 Nebraska Public Health Act.

14       Sec. 12. The department shall provide the Public Counsel and the  
15 Inspector General with direct computer access to all computerized  
16 records, reports, and documents maintained by the department in  
17 connection with administration of the facilities and private agencies and  
18 related programs of the department.

19       Sec. 13. (1) The Inspector General's report of an investigation  
20 shall be in writing to the Public Counsel and shall contain  
21 recommendations. The report may recommend systemic reform or case-  
22 specific action, including a recommendation for discharge or discipline  
23 of employees or for sanctions against a facility or private agency. All  
24 recommendations to pursue discipline shall be in writing and signed by  
25 the Inspector General. A report of an investigation shall be presented to  
26 the director within fifteen days after the report is presented to the  
27 Public Counsel.

28       (2) Any person receiving a report under this section shall not  
29 further distribute the report or any confidential information contained  
30 in the report beyond the entity that is the subject of the report. The  
31 Inspector General, upon notifying the Public Counsel and the director,

1 may distribute the report, to the extent that it is relevant to a  
2 patient's welfare, to any attorney representing such patient in a pending  
3 case. The report shall not be distributed beyond the parties except  
4 through the appropriate court procedures to the judge.

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

11 Sec. 14. (1) Within fifteen days after a report is presented to the  
12 director under section 13 of this act, the director shall determine  
13 whether to accept, reject, or request in writing modification of the  
14 recommendations contained in the report. The written response may include  
15 corrections of factual errors. The Inspector General, with input from the  
16 Public Counsel, may consider the director's request for modifications but  
17 is not obligated to accept such request. Such report shall become final  
18 upon the decision of the director to accept or reject the recommendations  
19 in the report or, if the director requests modifications, within fifteen  
20 days after such request or after the Inspector General incorporates such  
21 modifications, whichever occurs earlier.

22 (2) After the recommendations have been accepted, rejected, or  
23 modified, the report shall be presented to any facility or private agency  
24 that is the subject of the report and to persons involved in the  
25 implementation of the recommendations in the report. Within thirty days  
26 after receipt of the report, the facility or private agency may submit a  
27 written response to the office to correct any factual errors in the  
28 report and shall determine whether to accept, reject, or request in  
29 writing modification of the recommendations contained in the report. The  
30 Inspector General, with input from the Public Counsel, shall consider all  
31 materials submitted under this subsection to determine whether a

1 corrected report shall be issued. If the Inspector General determines  
2 that a corrected report is necessary, the corrected report shall be  
3 issued within fifteen days after receipt of the written response.

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

9 (4) A report which raises issues related to credentialing under the  
10 Uniform Credentialing Act shall be submitted to the appropriate  
11 credentialing board under such act.

12 Sec. 15. No report or other work product of an investigation by the  
13 Inspector General shall be reviewable in any court. Neither the Inspector  
14 General nor any member of his or her staff shall be required to testify  
15 or produce evidence in any judicial or administrative proceeding  
16 concerning matters within his or her official cognizance except in a  
17 proceeding brought to enforce the Office of Inspector General of Nebraska  
18 Public Health Act.

19 Sec. 16. The Office of Inspector General of Nebraska Public Health  
20 Act does not require the Inspector General to investigate all complaints.  
21 The Inspector General, with input from the Public Counsel, shall  
22 prioritize and select investigations and inquiries that further the  
23 intent of the act and assist in legislative oversight of the division,  
24 facilities, and private agencies. If the Inspector General determines  
25 that he or she will not investigate a complaint, the Inspector General  
26 may recommend to the parties alternative means of resolution of the  
27 issues in the complaint.

28 Sec. 17. On or before September 15, 2020, and each September 15  
29 thereafter, the Inspector General shall provide to the Health and Human  
30 Services Committee of the Legislature and the Governor a summary of  
31 reports and investigations made under the Office of Inspector General of

1 Nebraska Public Health Act for the preceding year. The summary provided  
2 to the committee shall be provided electronically. The summary shall  
3 detail recommendations and the status of implementation of  
4 recommendations and may also include recommendations to the committee  
5 regarding issues discovered through investigations, audits, inspections,  
6 and reviews by the office that will increase accountability and  
7 legislative oversight of the division, facilities, and private agencies  
8 or deter and identify fraud, abuse, and illegal acts. The summary shall  
9 not contain any confidential or identifying information concerning the  
10 subjects of the reports and investigations.

11 Sec. 18. Any person who has authority to recommend, approve,  
12 direct, or otherwise take or affect personnel action shall not, with  
13 respect to such authority:

14 (1) Take personnel action against an employee because of the  
15 disclosure of information by the employee to the office which the  
16 employee reasonably believes evidences wrongdoing under the Office of  
17 Inspector General of Nebraska Public Health Act;

18 (2) Take personnel action against an employee as a reprisal for the  
19 submission of an allegation of wrongdoing under the act to the office by  
20 such employee; or

21 (3) Take personnel action against an employee as a reprisal for  
22 providing information or testimony pursuant to an investigation by the  
23 office.

24 Sec. 19. Section 81-8,240, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 81-8,240 As used in sections 81-8,240 to 81-8,254, unless the  
27 context otherwise requires:

28 (1) Administrative agency shall mean any department, board,  
29 commission, or other governmental unit, any official, any employee of the  
30 State of Nebraska acting or purporting to act by reason of connection  
31 with the State of Nebraska, any corporation, partnership, business, firm,

1 governmental entity, or person who is providing health and human services  
2 to individuals or service delivery, service coordination, or case  
3 management under contract with the State of Nebraska and who is subject  
4 to the jurisdiction of the office of Public Counsel as required by  
5 section 73-401, any regional behavioral health authority, any community-  
6 based behavioral health services provider that contracts with a regional  
7 behavioral health authority, a facility or private agency as defined in  
8 section 2 of this act, and any county or municipal correctional or jail  
9 facility and employee thereof acting or purporting to act by reason of  
10 connection with the county or municipal correctional or jail facility;  
11 but shall not include (a) any court, (b) any member or employee of the  
12 Legislature or the Legislative Council, (c) the Governor or his or her  
13 personal staff, (d) any political subdivision or entity thereof except a  
14 county or municipal correctional or jail facility or a regional  
15 behavioral health authority, (e) any instrumentality formed pursuant to  
16 an interstate compact and answerable to more than one state, or (f) any  
17 entity of the federal government; and

18 (2) Administrative act shall include every action, rule, regulation,  
19 order, omission, decision, recommendation, practice, or procedure of an  
20 administrative agency.

21 Sec. 20. Section 81-8,241, Revised Statutes Cumulative Supplement,  
22 2018, is amended to read:

23 81-8,241 The office of Public Counsel is hereby established to  
24 exercise the authority and perform the duties provided by sections  
25 81-8,240 to 81-8,254, the Office of Inspector General of Nebraska Child  
26 Welfare Act, ~~and~~ the Office of Inspector General of the Nebraska  
27 Correctional System Act, and the Office of Inspector General of Nebraska  
28 Public Health Act. The Public Counsel shall be appointed by the  
29 Legislature, with the vote of two-thirds of the members required for  
30 approval of such appointment from nominations submitted by the Executive  
31 Board of the Legislative Council.

1           Sec. 21. Section 81-8,244, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3           81-8,244 (1)(a) The Public Counsel may select, appoint, and  
4 compensate as he or she sees fit, within the amount available by  
5 appropriation, such assistants and employees as he or she deems necessary  
6 to discharge the responsibilities under sections 81-8,240 to 81-8,254. He  
7 or she shall appoint and designate one assistant to be a deputy public  
8 counsel, one assistant to be a deputy public counsel for corrections, one  
9 assistant to be a deputy public counsel for institutions, and one  
10 assistant to be a deputy public counsel for welfare services.

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

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

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

30           (e) The authority of the deputy public counsel for welfare services  
31 shall extend to all complaints pertaining to administrative acts of

1 administrative agencies when those acts are concerned with the rights and  
2 interests of individuals involved in the welfare services system of the  
3 State of Nebraska.

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

8 (2) The Public Counsel shall appoint the Inspector General of  
9 Nebraska Child Welfare as provided in section 43-4317. The Inspector  
10 General of Nebraska Child Welfare shall have the powers and duties  
11 provided in the Office of Inspector General of Nebraska Child Welfare  
12 Act.

13 (3) The Public Counsel shall appoint the Inspector General of the  
14 Nebraska Correctional System as provided in section 47-904. The Inspector  
15 General of the Nebraska Correctional System shall have the powers and  
16 duties provided in the Office of Inspector General of the Nebraska  
17 Correctional System Act.

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

23 Sec. 22. Section 81-8,245, Revised Statutes Cumulative Supplement,  
24 2018, is amended to read:

25 81-8,245 The Public Counsel shall have the power to:

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

28 (2) Prescribe the methods by which complaints are to be made,  
29 received, and acted upon; determine the scope and manner of  
30 investigations to be made; and, subject to the requirements of sections  
31 81-8,240 to 81-8,254, determine the form, frequency, and distribution of

1 his or her conclusions, recommendations, and proposals;

2 (3) Conduct inspections of the premises, or any parts thereof, of  
3 any administrative agency or any property owned, leased, or operated by  
4 any administrative agency as frequently as is necessary, in his or her  
5 opinion, to carry out duties prescribed under sections 81-8,240 to  
6 81-8,254;

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

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

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

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

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

1 act shall control;

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

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

12 (11) ~~(10)~~ Investigate allegations of violation of subsection (2) of  
13 section 84-908 by an administrative agency pursuant to a complaint made  
14 to his or her office and make a determination as to whether such  
15 administrative agency has violated such subsection. The Public Counsel  
16 shall report his or her determination in writing to the Governor, the  
17 Secretary of State, the Attorney General, the Executive Board of the  
18 Legislative Council, and the director or chief executive officer of the  
19 agency. The report to the executive board shall be submitted  
20 electronically; and

21 (12) ~~(11)~~ Investigate and address the complaint and case of:

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

24 (b) Any juvenile released from a youth rehabilitation and treatment  
25 center for reentry into the community, while that juvenile is subject to  
26 the Community and Family Reentry Process and a service or treatment  
27 program in which the juvenile may be involved after his or her release  
28 from a youth rehabilitation and treatment center, whether that service or  
29 program is administrated by the Office of Juvenile Services or a private  
30 provider in the community. The Office of Juvenile Services and private  
31 providers in the community shall cooperate with any investigation

1 conducted by the Public Counsel pursuant to this subdivision and provide  
2 all documentation and information requested by the Public Counsel in  
3 connection with such an investigation.

4       Sec. 23. Original section 81-8,240, Reissue Revised Statutes of  
5 Nebraska, and sections 81-8,241, 81-8,244, and 81-8,245, Revised Statutes  
6 Cumulative Supplement, 2018, are repealed.