LEGISLATIVE BILL 897

Introduced by Lathrop, 12.

Read first time January 07, 2022

Committee: Executive Board

A BILL FOR AN ACT relating to the Legislature; to amend sections 28-711, 43-4302, 43-4303, 43-4317, 43-4320, 43-4321, 43-4322, 43-4324, 43-4326, 43-4329, 43-4330, 47-901, 47-902, 47-903, 47-904, 47-905, 47-907, 47-908, 47-909, 47-910, 47-911, 47-912, 47-913, 47-914, 47-915, 47-918, 47-919, and 47-920, Reissue Revised Statutes of Nebraska, and sections 28-712.01, 43-2,108, 43-4301, 43-4318, 43-4323, 43-4325, 43-4327, 43-4328, 43-4331, 43-4332, and 81-8,244, Revised Statutes Cumulative Supplement, 2020; to provide, move, change, and eliminate definitions; to provide, move, change, and eliminate duties of the office of Inspector General of Nebraska Child Welfare and the office of Inspector General of the Nebraska Correctional System as prescribed; to harmonize provisions; to repeal the original sections; and to outright repeal sections 43-4304, 43-4304.01, 43-4304.02, 43-4305, 43-4306, 43-4306.01, 43-4307, 43-4307.01, 43-4308, 43-4309, 43-4310, 43-4311, 43-4312, 43-4313, 43-4314, 43-4315, 43-4316, 43-4319, and 47-906, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 28-711, Reissue Revised Statutes of Nebraska, is amended to read:

28-711 (1) When any physician, any medical institution, any nurse, any school employee, any social worker, the Inspector General appointed under section 7 of this act 43-4317, or any other person has reasonable cause to believe that a child has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the child abuse or neglect or the conditions and circumstances which would reasonably result in such child abuse or neglect, any evidence of previous child abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such child abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of child abuse or neglect under this subsection shall notify the department pursuant to section 28-718 on the next working day by telephone or mail.

(2) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night, any day of the week, to make reports of child abuse or neglect. Reports of child abuse or neglect not previously made to or by a law enforcement agency shall be made immediately to such agency by the department.

Sec. 2. Section 28-712.01, Revised Statutes Cumulative Supplement,
2020, is amended to read:

28-712.01 (1)(a) The department may assign a report for alternative response consistent with the Child Protection and Family Safety Act.

(b) No report involving any of the following shall be assigned to alternative response but shall be immediately forwarded to law enforcement or the county attorney:

(i) Murder in the first or second degree as defined in section 28-303 or 28-304 or manslaughter as defined in section 28-305;

(ii) Assault in the first, second, or third degree or assault by strangulation or suffocation as defined in section 28-308, 28-309, 28-310, or 28-310.01;

(iii) Sexual abuse, including acts prohibited by section 28-319, 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03, 28-322.04, 28-322.05, 28-703, or 28-707;

(iv) Labor trafficking of a minor or sex trafficking of a minor as defined in section 28-830;

(v) Neglect of a minor child that results in serious bodily injury as defined in section 28-109, requires hospitalization of the child, or results in an injury to the child that requires ongoing medical care, behavioral health care, or physical or occupational therapy, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(vi) Physical abuse to the head or torso of a child or physical abuse that results in bodily injury;

(vii) An allegation that requires a forensic interview at a child advocacy center or coordination with the child abuse and neglect investigation team pursuant to section 28-728;

(viii) Out-of-home child abuse or neglect;

(ix) An allegation being investigated by a law enforcement agency at the time of the assignment;

(x) A history of termination of parental rights;
(xi) Absence of a caretaker without having given an alternate
caregiver authority to make decisions and grant consents for necessary
care, treatment, and education of a child or without having made
provision to be contacted to make such decisions or grant such consents;

(xii) Domestic violence involving a caretaker in situations in which
the alleged perpetrator has access to the child or caretaker;

(xiii) A household member illegally manufactures methamphetamine or
opioids;

(xiv) A child has had contact with methamphetamine or other
nonprescribed opioids, including a positive drug screening or test; or

(xv) For a report involving an infant, a household member tests
positive for methamphetamine or nonprescribed opioids at the birth of
such infant.

(c) The department may adopt and promulgate rules and regulations to
(i) provide additional ineligibility criteria for assignment to
alternative response and (ii) establish additional criteria requiring
review by the Review, Evaluate, and Decide Team.

(d) A report that includes any of the following may be eligible for
alternative response but shall first be reviewed by the Review, Evaluate,
and Decide Team prior to assignment to alternative response:

(i) Domestic assault as defined in section 28-323 or domestic
violence in the family home;

(ii) Use of alcohol or controlled substances as defined in section
28-401 or 28-405 by a caregiver that impairs the caregiver's ability to
care and provide safety for the child; or

(iii) A family member residing in the home or a caregiver that has
been the subject of a report accepted for traditional response or
assigned to alternative response in the past six months.

(2) The Review, Evaluate, and Decide Team shall convene to review
reports pursuant to the department's rules, regulations, and policies, to
evaluate the information, and to determine assignment for alternative
response or traditional response. The team shall utilize consistent
criteria to review the severity of the allegation of child abuse or
neglect, access to the perpetrator, vulnerability of the child, family
history including previous reports, parental cooperation, parental or
caretaker protective factors, and other information as deemed necessary.
At the conclusion of the review, the report shall be assigned to either
traditional response or alternative response. Decisions of the team shall
be made by consensus. If the team cannot come to consensus, the report
shall be assigned for a traditional response.

(3) In the case of an alternative response, the department shall
complete a comprehensive assessment. The department shall transfer the
case being given alternative response to traditional response if the
department determines that a child is unsafe or if the concern for the
safety of the child is due to a temporary living arrangement. Upon
completion of the comprehensive assessment, if it is determined that the
child is safe, participation in services offered to the family receiving
an alternative response is voluntary, the case shall not be transferred
to traditional response based upon the family's failure to enroll or
participate in such services, and the subject of the report shall not be
entered into the central registry of child protection cases maintained
pursuant to section 28-718.

(4) The department shall, by the next working day after receipt of a
report of child abuse or neglect, enter into the tracking system of child
protection cases maintained pursuant to section 28-715 all reports of
child abuse or neglect received under this section that are opened for
alternative response and any action taken.

(5) The department shall make available to the appropriate
investigating law enforcement agency, child advocacy center, and county
attorney a copy of all reports relative to a case of suspected child
abuse or neglect. Aggregate, nonidentifying data regarding reports of
child abuse or neglect receiving an alternative response shall be made
available quarterly to requesting agencies outside the department. Such alternative response data shall include, but not be limited to, the nature of the initial child abuse or neglect report, the age of the child or children, the nature of services offered, the location of the cases, the number of cases per month, and the number of alternative response cases that were transferred to traditional response. Other than the office of Inspector General of Nebraska Child Welfare, the Public Counsel, law enforcement agency personnel, child advocacy center employees, and county attorneys, no other agency or individual shall be provided specific, identifying reports of child abuse or neglect being given alternative response. The office of Inspector General of Nebraska Child Welfare shall have access to all reports relative to cases of suspected child abuse or neglect subject to traditional response and those subject to alternative response. The department and the office shall develop procedures allowing for the Inspector General's review of cases subject to alternative response. The Inspector General shall include in the report pursuant to section 20 of this act 43-4331 a summary of all cases reviewed pursuant to this subsection.

Sec. 3. Section 43-2,108, Revised Statutes Cumulative Supplement, 2020, is amended to read:

43-2,108 (1) The juvenile court judge shall keep a record of all proceedings of the court in each case, including appearances, findings, orders, decrees, and judgments, and any evidence which he or she feels it is necessary and proper to record. The case file shall contain the complaint or petition and subsequent pleadings. The case file may be maintained as an electronic document through the court's electronic case management system, on microfilm, or in a paper volume and disposed of when determined by the State Records Administrator pursuant to the Records Management Act.

(2) Except as provided in subsections (3) and (4) of this section, the medical, psychological, psychiatric, and social welfare reports and
the records of juvenile probation officers as they relate to individual proceedings in the juvenile court shall not be open to inspection, without order of the court. Such records shall be made available to a district court of this state or the District Court of the United States on the order of a judge thereof for the confidential use of such judge or his or her probation officer as to matters pending before such court but shall not be made available to parties or their counsel; and such district court records shall be made available to a county court or separate juvenile court upon request of the county judge or separate juvenile judge for the confidential use of such judge and his or her probation officer as to matters pending before such court, but shall not be made available by such judge to the parties or their counsel.

(3) As used in this section, confidential record information means all docket records, other than the pleadings, orders, decrees, and judgments; case files and records; reports and records of probation officers; and information supplied to the court of jurisdiction in such cases by any individual or any public or private institution, agency, facility, or clinic, which is compiled by, produced by, and in the possession of any court. In all cases under subdivision (3)(a) of section 43-247, access to all confidential record information in such cases shall be granted only as follows: (a) The court of jurisdiction may, subject to applicable federal and state regulations, disseminate such confidential record information to any individual, or public or private agency, institution, facility, or clinic which is providing services directly to the juvenile and such juvenile's parents or guardian and his or her immediate family who are the subject of such record information; (b) the court of jurisdiction may disseminate such confidential record information, with the consent of persons who are subjects of such information, or by order of such court after showing of good cause, to any law enforcement agency upon such agency's specific request for such agency's exclusive use in the investigation of any protective service.
case or investigation of allegations under subdivision (3)(a) of section 43-247, regarding the juvenile or such juvenile's immediate family, who are the subject of such investigation; and (c) the court of jurisdiction may disseminate such confidential record information to any court, which has jurisdiction of the juvenile who is the subject of such information upon such court's request.

(4) The court shall provide copies of predispositional reports and evaluations of the juvenile to the juvenile's attorney and the county attorney or city attorney prior to any hearing in which the report or evaluation will be relied upon.

(5) In all cases under sections 43-246.01 and 43-247, the office of Inspector General of Nebraska Child Welfare may submit a written request to the probation administrator for access to the records of juvenile probation officers in a specific case. Upon a juvenile court order, the records shall be provided to the Inspector General within five days for the exclusive use in an investigation pursuant to the Office of Inspector General of Nebraska Child Welfare Act. Nothing in this subsection shall prevent the notification of death or serious injury of a juvenile to the Inspector General of Nebraska Child Welfare pursuant to section 8 of this act as soon as reasonably possible after the Office of Probation Administration learns of such death or serious injury.

(6) In all cases under sections 43-246.01 and 43-247, the juvenile court shall disseminate confidential record information to the Foster Care Review Office pursuant to the Foster Care Review Act.

(7) Nothing in subsections (3), (5), and (6) of this section shall be construed to restrict the dissemination of confidential record information between any individual or public or private agency, institute, facility, or clinic, except any such confidential record information disseminated by the court of jurisdiction pursuant to this section shall be for the exclusive and private use of those to whom it was released and shall not be disseminated further without order of such
(a) Any records concerning a juvenile court petition filed pursuant to subdivision (3)(c) of section 43-247 shall remain confidential except as may be provided otherwise by law. Such records shall be accessible to (i) the juvenile except as provided in subdivision (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's parent or guardian, and (iv) persons authorized by an order of a judge or court.

(b) Upon application by the county attorney or by the director of the facility where the juvenile is placed and upon a showing of good cause therefor, a judge of the juvenile court having jurisdiction over the juvenile or of the county where the facility is located may order that the records shall not be made available to the juvenile if, in the judgment of the court, the availability of such records to the juvenile will adversely affect the juvenile's mental state and the treatment thereof.

(9) Nothing in subsection (3), (5), or (6) of this section shall be construed to restrict the immediate dissemination of a current picture and information about a child who is missing from a foster care or out-of-home placement. Such dissemination by the Office of Probation Administration shall be authorized by an order of a judge or court. Such information shall be subject to state and federal confidentiality laws and shall not include that the child is in the care, custody, or control of the Department of Health and Human Services or under the supervision of the Office of Probation Administration.

Sec. 4. Section 43-4301, Revised Statutes Cumulative Supplement, 2020, is amended to read:

43-4301 Sections 4 to 22 of this act 43-4301 to 43-4332 shall be known and may be cited as the Office of Inspector General of Nebraska Child Welfare Act.

Sec. 5. Section 43-4302, Reissue Revised Statutes of Nebraska, is
amended to read:

43-4302 (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 child welfare system;

(b) Assist in improving operations of the Nebraska child welfare system;

(c) Provide an independent form of inquiry for concerns regarding the actions of individuals and agencies responsible for the care and protection of children and youth in the Nebraska child welfare system. Confusion of the roles, responsibilities, and accountability structures between individuals, private contractors, branches of government, and agencies in the current system make it difficult to monitor and oversee the Nebraska child welfare system; and

(d) Provide a process for investigation and review to determine if individual complaints and issues of investigation and inquiry reveal a problem in the child welfare system, not just individual cases, that necessitates legislative action for improved policies and restructuring of the child welfare system.

(2) It is not the intent of the Legislature in enacting the Office of Inspector General of Nebraska Child Welfare 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. 6. Section 43-4303, Reissue Revised Statutes of Nebraska, is amended to read:

43-4303 For purposes of the Office of Inspector General of Nebraska Child Welfare Act, the definitions found in sections 43-4304 to 43-4316 apply.

(1) Administrator means a person charged with administration of: A program, an office, or a division of the department; a private agency; a licensed child care facility; the probation administrator; or the executive director of the commission;

(2) Child welfare system means public and private agencies and parties that provide or effect services or supervision to system-involved children and their families;

(3) Commission means the Nebraska Commission on Law Enforcement and Criminal Justice;

(4) Department means the Department of Health and Human Services;

(5) Director means the chief executive officer of the department;

(6) Executive director means the executive director of the commission;

(7) Inspector General means the Inspector General of Nebraska Child Welfare appointed under section 7 of this act;

(8) Juvenile services division means the juvenile services division of the Office of Probation Administration;

(9) Licensed child care facility means a facility or program licensed under the Child Care Licensing Act, the Children's Residential Facilities and Placing Licensure Act, or sections 71-1901 to 71-1906.01;

(10) 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;

(11) Management means supervision of subordinate employees;

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

(13) 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;

(14) Office means the office of Inspector General of Nebraska Child Welfare and includes the Inspector General and other employees of the office;

(15) Private agency means a child welfare agency that contracts with the department or the Office of Probation Administration or contracts to provide services to another child welfare agency that contracts with the department or the Office of Probation Administration;

(16) Record means any recording, in written, audio, electronic, or computer storage form, including, but not limited to, drafts, memorandums, notes, reports, computer printouts, notations, or messages, medical records, mental health records, case files, clinical records, financial records, and administrative records; and

(17) Responsible individual means: A foster parent; a relative provider of foster care; or an employee of the department, the juvenile services division, the commission, a foster home, a private agency, a licensed child care facility, or another provider of child welfare programs and services responsible for the care or custody of records, documents, and files.

Sec. 7. Section 43-4317, Reissue Revised Statutes of Nebraska, is amended to read:

43-4317 (1) The office of Inspector General of Nebraska Child Welfare is created within the office of Public Counsel for the purpose of conducting investigations, audits, inspections, and other reviews of the Nebraska child welfare 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 Health and
Human Services 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 analysis, public administration, investigation, or criminal justice administration or other closely related fields. No former or current executive or manager of the department may 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 Nebraska Child Welfare. 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 Health and Human Services Committee of the Legislature.

Sec. 8. Section 43-4318, Revised Statutes Cumulative Supplement, 2020, is amended to read:

43-4318 (1) The office shall investigate:

(a) Allegations or incidents of possible misconduct, misfeasance,
malfeasance, or violations of statutes or of rules or regulations of:

(i) The department by an employee of or person under contract with
the department, a private agency, a licensed child care facility, a
foster parent, or any other provider of child welfare services or which
may provide a basis for discipline pursuant to the Uniform Credentialing
Act;

(ii) Subject to subsection (6) (5) of this section, the juvenile
services division by an employee of or person under contract with the
juvenile services division, a private agency, a licensed facility, a
foster parent, or any other provider of juvenile justice services;

(iii) The commission by an employee of or person under contract with
the commission related to programs and services supported by the Nebraska
County Juvenile Services Plan Act, the Community-based Juvenile Services
Aid Program, juvenile pretrial diversion programs, or inspections of
juvenile facilities; and

(iv) A juvenile detention facility and staff secure juvenile
facility by an employee of or person under contract with such facilities;

(b) Death or serious injury in foster homes, private agencies, child
care facilities, juvenile detention facilities, staff secure juvenile
facilities, and other programs and facilities licensed by or under
contract with the department or the juvenile services division when the
office, upon review, determines the death or serious injury did not occur
by chance; and

(c) Death or serious injury in any case in which services are
provided by the department or the juvenile services division to a child
or his or her parents or any case involving an investigation under the
Child Protection and Family Safety Act, which case has been open for one
year or less and upon review determines the death or serious injury did
not occur by chance.

(2) The department, the juvenile services division, each juvenile
detention facility, and each staff secure juvenile facility shall report
to the office (a) all cases of death or serious injury of a child in a
foster home, private agency, child care facility or program, or other
program or facility licensed by the department or inspected through the
commission to the Inspector General as soon as reasonably possible after
the department or the Office of Probation Administration learns of such
death or serious injury and (b) all allegations of sexual abuse of a
child in any case in which services are provided by the department to the
child or the child's parents or any case involving an investigation under
the Child Protection and Family Safety Act, which case has been open for
one year or less state ward, a juvenile on probation, a juvenile in a
detention facility, and a juvenile in a residential child-caring agency.

(3) For purposes of this section subsection, serious injury means an
injury or illness caused by suspected abuse, neglect, or maltreatment
which leaves a child in critical or serious condition.

(4)(a) The Office of Juvenile Services shall report to the
office of Inspector General of Nebraska Child Welfare as soon as
reasonably possible after any of the following instances occur at a youth
rehabilitation and treatment center:

(i) An assault;
(ii) An escape or elopement;
(iii) An attempted suicide;
(iv) Self-harm by a juvenile;
(v) Property damage not caused by normal wear and tear;
(vi) The use of mechanical restraints on a juvenile;
(vii) A significant medical event suffered by a juvenile; and
(viii) Internally substantiated violations of 34 U.S.C. 30301 et seq.

(b) The Office of Juvenile Services and the office of Inspector
General of Nebraska Child Welfare shall, if requested by either party,
work in collaboration to clarify the specific parameters to comply with
subdivision (4)(a) (3)(a) of this section.
The department shall notify the office of Inspector General of Nebraska Child Welfare of any leadership changes within the Office of Juvenile Services and the youth rehabilitation and treatment centers.

With respect to any investigation conducted by the Inspector General pursuant to subdivision (1)(a) of this section that involves possible misconduct by an employee of the juvenile services division, the Inspector General shall immediately notify the probation administrator and provide the information pertaining to potential personnel matters to the Office of Probation Administration.

Any investigation conducted by the Inspector General shall be independent of and separate from an investigation pursuant to the Child Protection and Family Safety Act. The Inspector General and his or her staff are subject to the reporting requirements of the Child Protection and Family Safety Act.

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 Nebraska Child Welfare 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 minor who has
already been interviewed by a law enforcement agency, personnel of the
Division of Children and Family Services of the department, or staff of a
child advocacy center in connection with a relevant ongoing investigation
of a law enforcement agency.

(9) The office may conduct other investigations, audits,
inspections, and reviews as necessary to perform the duties of the office
and fulfill the purposes of the Office of Inspector General of Nebraska

Sec. 9. Section 43-4320, Reissue Revised Statutes of Nebraska, is
amended to read:

43-4320 (1) Complaints to the office may be made in writing. The
office shall also maintain a toll-free telephone line for complaints. A
complaint shall be evaluated to determine if it alleges possible
misconduct, misfeasance, malfeasance, or violation of a statute or of
rules and regulations pursuant to section 8 of this act 43-4318. 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 pursuant to section 8
of this act 43-4318;

(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 thirty fourteen days after receipt of a complaint whether it will conduct a full investigation. A complaint alleging facts which, if verified, would provide a basis for discipline under the Uniform Credentialing Act shall be referred to the appropriate credentialing board under the act.

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

Sec. 10. Section 43-4321, Reissue Revised Statutes of Nebraska, is amended to read:

43-4321 (1) The office shall have access to all information and personnel necessary to perform the duties of the office.

(2) All employees of the department, the juvenile services division as directed by the juvenile court or the Office of Probation Administration, or the commission, all foster parents, and all owners, operators, managers, supervisors, and employees of private agencies, licensed child care facilities, juvenile detention facilities, staff secure juvenile facilities, and other providers of child welfare services or juvenile justice services shall cooperate with the office. Cooperation includes, but is not limited to, the following:

(a) (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 law, statute, rule, or regulation if done in good faith for purposes of an investigation under the Office of Inspector General of Nebraska Child Welfare Act;

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

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

(d) (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; and

(e) (5) Not requiring employees to gain supervisory approval prior to filing a complaint with or providing records or information to the office nor requiring the employee to report to the department, juvenile services division, or private agency of the filing of a complaint with 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. 11. Section 43-4323, Revised Statutes Cumulative Supplement, 2020, is amended to read:

43-4323 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 personal counsel present while being questioned. Any fees associated with personal counsel present under this section shall not be the responsibility of the office of Inspector General of Nebraska Child Welfare.

Sec. 12. Section 43-4324, Reissue Revised Statutes of Nebraska, is amended to read:

43-4324 (1) A full investigation conducted by the office shall
consist of access to and retrieval of all relevant records through subpoena, compliance with a request of the office or voluntary production, review of all relevant records, and interviews of all relevant persons. In conducting investigations, the office shall access all relevant records through subpoena, compliance with a request of the office, and voluntary production. The office may request or subpoena any record necessary for the investigation from the department, the juvenile services division as permitted by law, the commission, a foster parent, a licensed child care facility, a juvenile detention facility, a staff secure juvenile facility, 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) For a request for confidential record information pursuant to section 43-2,108, involving death or serious injury, the office may submit a written request to the probation administrator. The record information shall be provided to the office within five business days.

(3) 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;

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

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

(4) 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 child welfare
programs or services. When advance notice to a foster parent or to an
administrator or his or her designee is not provided, the office
investigator shall, upon arrival at the departmental office, bureau, or
division, the private agency, the licensed child care facility, the
juvenile detention facility, the staff secure juvenile facility, or the
location of another provider of child welfare services, request that an
onsite employee notify the administrator or his or her designee of the
investigator's arrival.

(5) (4) When required by circumstances of an investigation, audit,
inspection, or other review require, the office may make an announced or
unannounced visit to a foster home, a departmental office, bureau, or
division, a licensed child care facility, a juvenile detention facility,
a staff secure juvenile facility, a private agency, or another provider
to request records relevant to an investigation. The office may request
records relevant to an investigation during an unannounced visit.

(6) (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, licensed
child care facility, juvenile detention facility, staff secure juvenile
facility, or other provider's location 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.
(7) The office shall permit a responsible individual, an administrator, or an employee of a departmental office, bureau, or division, a private agency, a licensed child care facility, a juvenile detention facility, a staff secure juvenile facility, or another provider 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.

(8) The office shall present to the responsible individual or the administrator or other employee of the departmental office, bureau, or division, private agency, licensed child care facility, juvenile detention facility, staff secure juvenile facility, or other service provider a copy of the request, stating the date and the titles of the records received.

(9) 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.

(10) 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. 13. Section 43-4322, Reissue Revised Statutes of Nebraska, is amended to read:

43-4322 Failure to cooperate with an investigation by the office may result in public disclosure of the failure to cooperate discipline or other sanctions.

Sec. 14. Section 43-4326, Reissue Revised Statutes of Nebraska, is amended to read:

43-4326 (1) The department shall provide the office of the Public Counsel and the office of Inspector General with direct computer access to all computerized records, reports, and documents maintained by the department in connection with administration of the Nebraska child welfare system.
(2) The commission shall provide the office of Inspector General with direct computer access to all computerized records, reports, and documents maintained in connection with administration of juvenile justice services.

(3) The juvenile services division, as directed by the juvenile court or the Office of Probation Administration, shall provide the office of Inspector General with direct computer access to all computerized records, reports, and documents maintained by the juvenile services division in connection with a specific case under investigation.

Sec. 15. Section 43-4327, Revised Statutes Cumulative Supplement, 2020, is amended to read:

43-4327 (1) The Inspector General's report of an investigation shall be in writing to the Public Counsel and may 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 foster parent, private agency, licensed child care facility, or other provider of child welfare services or juvenile justice services. 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, the probation administrator, or the executive 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 beyond the entity that is the subject of the report. The Inspector General, upon notifying the Public Counsel and the director, the probation administrator, or the executive director, may distribute the report, to the extent that it is relevant to a child's welfare, to the guardian ad litem and attorneys in the juvenile court in which a case is pending involving the child or family who is the subject of 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, or violation of statute, rules, or regulations by an employee of the department, the juvenile services division, the commission, a private agency, a licensed child care facility, or another provider 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. 16. Section 43-4328, Revised Statutes Cumulative Supplement, 2020, is amended to read:

43-4328 (1) Within fifteen business days after a report is presented to the director, the probation administrator, or the executive director under section 15 of this act 43-4327, he or she shall determine whether to accept, reject, or request in writing modification of the recommendations contained in the report. The written response shall be in writing and may include corrections of factual errors. The Inspector General, with input from the Public Counsel, may consider the director's, probation administrator's, or executive director's request for modifications but is not obligated to accept such request. Such report shall become final upon (a) the decision of the director, the probation administrator, or the executive director to accept or reject the recommendations in the report or (b) within fifteen days after, if the director, the probation administrator, or the executive director requests modifications, within fifteen days after such request or after the Inspector General incorporates such modifications, whichever occurs earlier. If the Inspector General does not accept the requested modification, the recommendation for which a modification was requested shall be considered to be rejected by the director, probation administrator, or the executive director.

(2) After the recommendations have been accepted, rejected, or
modified, the report shall be presented to the foster parent, private
agency, licensed child care facility, or other provider of child welfare
services or juvenile justice services that is the subject of the report
and to persons involved in the implementation of the recommendations in
the report. Within fifteen business thirty days after receipt of the
report, the foster parent, private agency, licensed child care facility,
or other provider may submit a written response to the office to correct
any factual errors in the report and 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, 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 business 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 foster
parent, private agency, licensed child care facility, or other provider
may request that its written response, or portions of the response, be
 appended to the report or corrected report.

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

Sec. 17. Section 43-4325, Revised Statutes Cumulative Supplement,
2020, is amended to read:

43-4325 (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) Except when a report is provided to a guardian ad litem or an
attorney in the juvenile court pursuant to subsection (2) of section 15
of this act 43-4327, the office shall redact confidential information
before distributing a report of an investigation.

(3) The office may disclose confidential information to the
chairperson of the Health and Human Services Committee of the Legislature
or 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 child welfare system.

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

(b) Such report shall be released only:

(i) After a disclosure is made to the appropriate chairperson or
chairpersons pursuant to subsection (3) (2) of this section; and

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

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

(5) (4) 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.

(6) (5) 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 Nebraska Child Welfare Act.

Sec. 18. Section 43-4329, Reissue Revised Statutes of Nebraska, is
amended to read:
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 Nebraska Child Welfare Act.

Sec. 19. Section 43-4330, Reissue Revised Statutes of Nebraska, is amended to read:

The Office of Inspector General of Nebraska Child Welfare 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 child welfare system and juvenile justice 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. 20. Section 43-4331, Revised Statutes Cumulative Supplement, 2020, is amended to read:

On or before September 15 of each year, the Inspector General shall provide to the Health and Human Services Committee of the Legislature, the Judiciary Committee of the Legislature, the Supreme Court, and the Governor a summary of reports and investigations made under the Office of Inspector General of Nebraska Child Welfare Act for the preceding year. The summary provided to the committees shall be provided electronically. The summaries shall detail recommendations and the status of implementation of recommendations and may also include recommendations to the committees regarding issues discovered through investigation, audits, inspections, and reviews by the office that will increase accountability and legislative oversight of the Nebraska child welfare system.
welfare system, improve operations of the department, the juvenile services division, the commission, and the Nebraska child welfare system, or deter and identify fraud, abuse, and illegal acts. Such summary shall include summaries of alternative response cases under alternative response implemented in accordance with sections 28-710.01, 28-712, and 28-712.01 reviewed by the Inspector General. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.

Sec. 21. Section 43-4332, Revised Statutes Cumulative Supplement, 2020, is amended to read:

43-4332 Any person who has authority to recommend, approve, direct, or otherwise take or affect personnel action shall not, with respect to such authority:

(1) Take personnel action against an employee because of the disclosure of information by the employee to the office which the employee reasonably believes evidences wrongdoing under the Office of Inspector General of Nebraska Child Welfare Act;

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

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

Sec. 22. If the Inspector General has reason to believe that any public officer or employee has acted in a manner warranting criminal or disciplinary proceedings, the Inspector General shall refer the matter to the appropriate authorities.

Sec. 23. Section 47-901, Reissue Revised Statutes of Nebraska, is amended to read:

47-901 Sections 47-901 to 47-920 and section 40 of this act shall be known and may be cited as the Office of Inspector General of the Nebraska
Correctional System Act.

Sec. 24. Section 47-902, Reissue Revised Statutes of Nebraska, is amended to read:

47-902 (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. 25. Section 47-903, Reissue Revised Statutes of Nebraska, is
amended to read:

47-903 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 the Division of Parole Supervision; or administration of a private agency;

(2) Department means the Department of Correctional Services;

(3) Director means the Director of Correctional Services;

(4) Division means the Division of Parole Supervision means the division created pursuant to section 83-1,100;

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

(6) 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;

(7) Management means supervision of subordinate employees;

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

(9) Nebraska correctional system means the Department of Correctional Services and the Division of Parole Supervision;

(10) 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;

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

(12) Parole director means the director of the division;

(13) Private agency means an entity that contracts with the department or division or contracts to provide services to another entity that contracts with the department or division; and
Section 47-904, Reissue Revised Statutes of Nebraska, is amended to read:

(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 or division shall be appointed Inspector General within five years after such former or current executive's or manager's period of service with the department or division. 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. 27. Section 47-905, Reissue Revised Statutes of Nebraska, is amended to read:

47-905 (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 or division by an employee of or a person under contract with the department or division or a private agency; and

(b) Death or serious injury in private agencies, department or division, correctional facilities, and other programs and facilities licensed by or under contract with the department or division. The department or division shall report all cases of death or serious injury of a person in a private agency, department or division correctional facility or program, or other program or facility licensed by the department or division to the Inspector General as soon as reasonably possible after the department or division learns of such death or serious injury. The department or division shall also report all cases of the death or serious injury of an employee when acting in his or her capacity as an employee of the department or division as soon as reasonably possible after the department or division learns of such death or serious injury. The department or division shall also report all cases when an employee is hospitalized in response to an injury received when acting in
his or her capacity as an employee of the department or division as soon as reasonably possible after the department or division learns of such hospitalization. For purposes of this subdivision, serious injury means an injury which requires urgent and immediate medical treatment and restricts the injured person’s usual activity.

(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.

(4) The office may conduct other investigations, audits, inspections, and reviews as necessary to perform the duties of the office and fulfill the purposes of the Office of Inspector General of the Nebraska Correctional System Act.

Sec. 28. Section 47-907, Reissue Revised Statutes of Nebraska, is amended to read:

47-907 (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 or division by an employee of or a person under contract with the department or division 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 or division;

(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 thirty-four 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 or division, the Inspector General shall give notice of such investigation to the department or division.

Sec. 29. Section 47-908, Reissue Revised Statutes of Nebraska, is amended to read:
47-908 (1) The office shall have access to all information and personnel necessary to perform the duties of the office.

(2) All employees of the department, all employees of the Division of Parole Supervision, 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:

(a) (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;

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

(c) (2) Encouraging employees to fully comply with reasonable requests of the office in the course of an investigation under the act;

(d) (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; and

(e) (5) Not requiring employees to gain supervisory approval prior to filing a complaint with or providing records or information to the office, nor requiring the employee to report to the department or division of the filing of a complaint with 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. 30. Section 47-909, Reissue Revised Statutes of Nebraska, is amended to read:

47-909 Failure to cooperate with an investigation by the office may result in public disclosure of the failure to cooperate discipline or
other sanctions.

Sec. 31. Section 47-910, Reissue Revised Statutes of Nebraska, is amended to read:

47-910 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 personal counsel present while being questioned.

Sec. 32. Section 47-911, Reissue Revised Statutes of Nebraska, is amended to read:

47-911 (1) A full investigation conducted by the office shall consist of: Access to and retrieval of all relevant records through subpoena, compliance with a request of the office, or voluntary production; review of all relevant records; and interviews of all relevant persons. 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, the division, 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; 

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

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

(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 or division 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 announced or unannounced visit to a departmental office, bureau, or division, a department correctional facility, a parole office, 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
(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.
Such report shall be released only:

(i) After a disclosure is made to the chairperson pursuant to subsection (3) (2) of this section; and

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

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

(5) 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.

(6) 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. 34. Section 47-913, Reissue Revised Statutes of Nebraska, is amended to read:

47-913 The department shall provide the office of Public Counsel and the office of 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. 35. Section 47-914, Reissue Revised Statutes of Nebraska, is amended to read:

47-914 (1) The Inspector General's report of an investigation shall be in writing to the Public Counsel and may 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 or parole director after the Inspector General has received the report, along with any specific input from the Public Counsel, within fifteen business 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, the division, 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. 36. Section 47-915, Reissue Revised Statutes of Nebraska, is amended to read:

47-915 (1) Within fifteen business days after a report is presented to the director or parole director under section 47-914, 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 or parole director's request for modifications but is not obligated to accept such request. Such report shall become final upon the decision of the director or parole director to accept or reject any the recommendations in the report or, if the director or parole director requests modifications,
within fifteen days after such request or after the Inspector General responds to incorporates such modifications, whichever occurs earlier. If the Inspector General does not accept the requested modification, the recommendation for which a modification was requested shall be considered to be rejected by the director or parole director.

(2) Within fifteen business days after the report is presented to the director or parole director, the report shall be presented to the private agency or other provider of correctional or parole services that is the subject of the report and to persons involved in the implementation of the recommendations in the report. Within fifteen business 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 business 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. 37. Section 47-918, Reissue Revised Statutes of Nebraska, is amended to read:

47-918 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 report which summarizes summary of reports and investigations made under the Office of Inspector General of the Nebraska Correctional System Act for the preceding year. The report summary provided to the Clerk of the
Legislature shall be provided electronically. The report summaries shall include recommendations and an update on the status of recommendations made in prior report 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 report summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.

Sec. 38. Section 47-919, Reissue Revised Statutes of Nebraska, is amended to read:

47-919 The Division of Parole Supervision shall provide the office of Public Counsel and the office of Inspector General with direct computer access to all computerized records, reports, and documents maintained in connection with administration of the Nebraska parole system, except that access for the office of Public Counsel and the office of Inspector General to a parolee’s medical or mental health records shall be subject to the parolee’s consent.

Sec. 39. Section 47-920, Reissue Revised Statutes of Nebraska, is amended to read:

47-920 Any person who has authority to recommend, approve, direct, or otherwise take or affect personnel action shall not, with respect to such authority:

(1) Take personnel action against an employee because of the disclosure of information by the employee to the office which the employee reasonably believes evidences wrongdoing under the Office of Inspector General of the Nebraska Correctional System Act;

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

(3) Take personnel action against an employee as a reprisal for providing information or testimony pursuant to actions initiated and undertaken an investigation by the office.

Sec. 40. If the Inspector General has reason to believe that any public officer or employee has acted in a manner warranting criminal or disciplinary proceedings, the Inspector General shall refer the matter to the appropriate authorities.

Sec. 41. Section 81-8,244, Revised Statutes Cumulative Supplement, 2020, 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 institutions and facilities operated by the Department of Health and Human Services, to all veterans institutions operated by the Department of Veterans' Affairs, 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 twenty-four 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 7 of this act 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 47-904. 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. 42. Original sections 28-711, 43-4302, 43-4303, 43-4317, 43-4320, 43-4321, 43-4322, 43-4324, 43-4326, 43-4329, 43-4330, 47-901, 47-902, 47-903, 47-904, 47-905, 47-907, 47-908, 47-909, 47-910, 47-911, 47-912, 47-913, 47-914, 47-915, 47-918, 47-919, and 47-920, Reissue
Revised Statutes of Nebraska, and sections 28-712.01, 43-2,108, 43-4301, 43-4318, 43-4323, 43-4325, 43-4327, 43-4328, 43-4331, 43-4332, and 81-8,244, Revised Statutes Cumulative Supplement, 2020, are repealed.

Sec. 43. The following sections are outright repealed: Sections 43-4304, 43-4304.01, 43-4304.02, 43-4305, 43-4306, 43-4306.01, 43-4307, 43-4307.01, 43-4308, 43-4309, 43-4310, 43-4311, 43-4312, 43-4313, 43-4314, 43-4315, 43-4316, 43-4319, and 47-906, Reissue Revised Statutes of Nebraska.