

## LEGISLATIVE BILL 31

Approved by the Governor March 11, 1993

Introduced by Kristensen, 37

AN ACT relating to penal and correctional facilities; to amend sections 21-1331.01, 25-1601, 29-112.01, 29-113, 29-752, 29-1002, 29-1004, 29-1709, 29-2204, 29-2221, 29-2407, 29-2543, 29-2546, 37-515, 39-6,104.03, 69-110, 72-703, 77-1855, 77-3210, 83-123, 83-171, 83-177 to 83-179, 83-182, 83-183, 83-185, 83-227.02, 83-422 to 83-424, 83-427, 83-443, 83-444, 83-465, 83-467, 83-469, 83-470, 83-472, 83-473, 83-474.01, 83-487, 83-490, 83-4,101, 83-4,104, 83-4,109 to 83-4,113, 83-4,115 to 83-4,119, 83-905, 83-909, 83-910, 83-913.01, 83-922, 83-924, 83-925 to 83-928, 83-930 to 83-933, 83-936, 83-939, and 83-943, Reissue Revised Statutes of Nebraska, 1943, and sections 29-3901, 39-669.06, 39-669.27, 60-4,169, 83-134, 83-176, 83-4,122, 83-4,123, and 83-916, Revised Statutes Supplement, 1992; to change, provide, and eliminate divisions, programs, duties, and responsibilities of the Department of Correctional Services; to eliminate a fund; to change provisions relating to disciplinary actions against inmates; to change provisions relating to inmate grievances; to eliminate provisions relating to rewards; to eliminate provisions relating to cross-employment; to eliminate obsolete provisions; to transfer sections; to harmonize provisions; and to repeal the original sections, and also sections 83-123.01, 83-428, 83-466, 83-903, 83-904, 83-906, 83-909.01, 83-917, 83-923, 83-934, 83-935, 83-937, 83-940, and 83-941, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 21-1331.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-1331.01. Any person who shall (1) willfully and knowingly subscribe to, make, or cause to be made any false statement or entry in the books of any cooperative credit association transacting business in this state, (2) knowingly subscribe to or exhibit false papers; with the intent to deceive any person or persons authorized to examine into the affairs of any such association, (3) make, state, or publish any false statement of the amount of the assets or liabilities of any such association, (4) fail to make true and correct entry in the books and records of such association of its business and transactions in the manner and form prescribed by the Department of Banking and Finance, or (5) mutilate, alter, destroy, secrete, or remove any of the books or records of

such association; without the consent of the Director of Banking and Finance shall be deemed guilty of a felony; and upon conviction thereof shall be imprisoned in ~~the~~ a Department of Correctional Services adult correctional facility not less than one year nor more than ten years.

Sec. 2. That section 25-1601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1601. (1) All citizens of the United States residing in any of the counties of this state who are over the age of nineteen years, able to read, speak, and understand the English language, and free from all disqualifications set forth under this section and from all other legal exceptions are and shall be competent persons to serve on all grand and petit juries in their respective counties. Persons disqualified to serve as either grand or petit jurors are: (a) Judges of any court, (b) clerks of the Supreme or district courts, (c) sheriffs, (d) jailers, (e) persons, or the wife or husband of any such person, who are parties to suits pending in the district court of the county of his, her, or their then residence for trial at that jury panel, (f) persons who have been convicted of a criminal offense punishable by imprisonment in ~~the~~ a Department of Correctional Services adult correctional facility, when such conviction has not been set aside or a pardon issued, and (g) persons who are subject to liability for the commission of any offense which by special provision of law does and shall disqualify them. Persons who are husband and wife shall not be summoned as jurors on the same panel. Persons who are incapable, by reason of physical or mental disability, of rendering satisfactory jury service shall not be qualified to serve on a jury, ~~;~~ ; but a person claiming this disqualification may be required to submit a physician's certificate as to the disability and the certifying physician is subject to inquiry by the court at its discretion.

(2) The district court, or any judge thereof, may exercise the power of excusing any grand or petit juror or any person summoned for grand or petit jury service upon a showing of undue hardship, extreme inconvenience, or public necessity for such period as the court deems necessary. At the conclusion of such period the person shall reappear for jury service in accordance with the court's direction. All excuses and the grounds for such excuses shall be entered upon the record of the court and shall be considered as a public record. In districts having more than one judge of the district court, the court may by rule or order assign or delegate to the presiding judge or any one or more judges the sole authority to grant such excuses.

(3) No qualified prospective juror is exempt from jury service, except that any person sixty-five years of age or older who shall make such request to the court at the time the juror qualification form is filed with the jury commissioner shall be exempt from serving on grand and petit juries.

Sec. 3. That section 29-112.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-112.01. Any person heretofore or hereafter sentenced to be punished for any felony, ~~where~~ when the sentence is other than

confinement in ~~the~~ a Department of Correctional Services adult correctional facility, shall be restored to civil rights upon receipt from the Board of Pardons of a warrant of discharge, which shall be issued by such board upon receiving from the sentencing court a certificate showing satisfaction of the judgment and sentence entered against such person.

Sec. 4. That section 29-113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-113. Any person who shall have been actually imprisoned in the penitentiary of any other state or territory of this Union; under sentence for the commission of any crime which, by the laws of this state, is punishable by imprisonment in ~~the~~ a Department of Correctional Services adult correctional facility; shall be deemed incompetent to be an elector or juror; or to hold any office of honor, trust, or profit within this state, unless such convict ~~shall have~~ has received a general pardon from the Board of Pardons of the state in which ~~he or she was~~ may have been imprisoned; ~~agreeably~~ agreeable to the laws thereof.

Sec. 5. That section 29-752, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-752. When the punishment of the crime shall be the confinement of the criminal in ~~the~~ a Department of Correctional Services adult correctional facility, the expenses shall be paid out of the state treasury, on the certificate of the Governor and warrant of the Auditor of Public Accounts. In ~~and in~~ all other cases ~~they~~ the expenses shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose Governor the requisition is made; and shall be equal to the mileage rate authorized in section 81-1176 ~~for state employees~~ for each mile which is necessary to travel in returning such prisoner.

Sec. 6. That section 29-1002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-1002. The cost of keeping and maintaining any prisoner after his ~~or her~~ conviction of any offense punishable by imprisonment in ~~the~~ a Department of Correctional Services adult correctional facility, wherever he ~~or she~~ may be kept and confined, shall be paid by the state; according to the rate which may be established by law at the time when such services may be rendered or expenses incurred. The ~~PROVIDED;~~ ~~the~~ rate so established shall not be construed to apply to any contract which the Governor may make for the confinement of convicts in ~~the~~ a Department of Correctional Services adult correctional facility. ~~of the state.~~

Sec. 7. That section 29-1004, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-1004. The cost of keeping and maintaining any prisoner previous to his ~~or her~~ conviction of an offense punishable by imprisonment in ~~the~~ a Department of Correctional Services adult correctional facility, ~~or~~ either before or after his ~~or her~~ conviction of an

offense not so punishable, or when he or she is shall not be convicted of any offense; shall be paid by the county in which the offense may be was committed; or alleged to have been committed.

Sec. 8. That section 29-1709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-1709. Whenever any convict in the a Department of Correctional Services adult correctional facility shall be is indicted for any offense committed while confined therein, such convict shall remain in the custody of the warden of the facility; subject to the order of the district court of the county where the facility in which such convict is confined is situated.

Sec. 9. That section 29-2204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2204. (1) Except as provided in subsection (2) of this section, in all cases when any person is convicted of any offense by this code declared criminal and made punishable by imprisonment in the a Department of Correctional Services adult correctional facility, the court shall declare in its sentence for what period of time, within the respective periods prescribed by law, such convict shall be imprisoned at hard labor in the a Department of Correctional Services adult correctional facility and shall determine and declare in its sentence whether any such convict shall be kept in solitary confinement in the cells of the a Department of Correctional Services adult correctional facility; without labor; and, if so, for what period of time.

(2) Whenever the defendant was under eighteen years of age at the time he or she committed the crime for which he or she was convicted, the court may in its discretion, instead of imposing the penalty provided for the crime, make such disposition of the defendant as the court deems proper under the Nebraska Juvenile Code.

Sec. 10. That section 29-2221, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2221. (1) Whoever has been twice convicted of crime, sentenced, and committed to prison, in this or any other state; or by the United States; or once in this state and once at least in any other state; or by the United States, for terms of not less than one year each; shall, upon conviction of a felony committed in this state, be deemed to be an habitual criminal; and shall be punished by imprisonment in a the Department of Correctional Services adult correctional facility for a term of not less than ten nor more than sixty years; ~~PROVIDED, that~~ if no greater punishment is otherwise provided by statute, in which case the law creating the greater punishment shall govern.

(2) When ~~Where~~ punishment of an accused as an habitual criminal is sought, the facts with reference thereto ~~must~~ shall be charged in the indictment or information which contains the charge of the felony upon which the accused is prosecuted, but the fact that the accused is charged with being an habitual criminal shall not be an issue upon the trial of the felony charge and shall not in any manner be disclosed to the jury. If the accused is convicted of a felony and before sentence is

imposed, a hearing shall be had before the court alone as to whether such person has been previously convicted of prior felonies. The court shall fix a time for the hearing and notice thereof shall be given to the accused at least three days prior thereto. At the hearing, if the court shall find from the evidence submitted that the accused has been convicted two or more times of felonies and sentences imposed therefor by the courts of this or any other state; or by the United States, the court shall sentence such person so convicted as an habitual criminal.

(3) If the person so convicted shall show to the satisfaction of the court before whom such conviction was had that he or she was released from imprisonment; upon either of such sentences; upon a pardon granted for the reason that he or she was innocent, such conviction and sentence shall not be considered as such under sections 29-2221 and 29-2222.

Sec. 11. That section 29-2407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2407. Judgments for fines and costs in criminal cases shall be a lien upon all the property of the defendant within the county from the time of docketing the case by the clerk of the proper court, and judgments upon forfeited recognizance shall be a like lien from the time of forfeiture. No property of any convict shall be exempt from execution issued upon any such judgment as ~~aforsaid;~~ set out in this section against such convict; except in cases ~~where~~ when the convict ~~shall be~~ is sentenced to ~~the~~ a Department of Correctional Services adult correctional facility for a period of more than two years; or to suffer death, in which cases there shall be the same exemptions as at the time may be provided by law for civil cases. The lien on real estate of any such judgment for costs shall terminate as provided in section 25-1716.

Sec. 12. That section 29-2543, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2543. Whenever any person has been tried and convicted before any district court in this state; of a crime punishable by death; and under the conviction has been sentenced by the court to suffer death, it shall be the duty of the clerk of the court before which the conviction was had to issue ~~his~~ a warrant, under the seal of the court, reciting therein the conviction and sentence directed to the warden of the Nebraska Penal and Correctional Complex, commanding him or her to proceed at the time named in the sentence to carry the same into execution by causing the person so convicted and sentenced to be electrocuted by the passage of an electric current through the body until dead. ~~The~~ ~~the~~ clerk shall deliver the warrant to the sheriff of the county in which conviction was had; and such sheriff shall thereupon forthwith remove such convicted person to ~~the~~ a Department of Correctional Services adult correctional facility of the state; and there deliver him or her, together with the warrant, into the custody of the warden who shall receive and safely keep such convict within ~~the~~ a Department of Correctional Services adult correctional facility until the time of execution; or until otherwise ordered by competent authority.

Sec. 13. That section 29-2546, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2546. Whenever the Supreme Court ~~shall reverse~~ reverses the judgment of conviction in accordance with which any convict has been sentenced to death and is confined in ~~the a~~ Department of Correctional Services adult correctional facility as herein provided, it shall be the duty of the warden, upon receipt of a copy of such judgment of reversal, duly certified by the clerk of the court; and under the seal thereof, to forthwith deliver such convict into the custody of the sheriff of the county in which the conviction was had; to be ~~by him~~ held in the jail of the county awaiting the further judgment and order of the court in the case.

Sec. 14. That section 29-3901, Revised Statutes Supplement, 1992, be amended to read as follows:

29-3901. For purposes of sections 29-3901 to 29-3908:

(1) Court shall mean a district court or a county court;

(2) Felony defendant shall mean a person who is charged by complaint, information, or indictment with or who is under arrest for investigation or on suspicion that he or she may have committed any criminal offense which may be punishable by imprisonment in ~~the a~~ Department of Correctional Services adult correctional facility;

(3) Indigent shall mean the inability to retain legal counsel without prejudicing one's financial ability to provide economic necessities for one's self or one's family. Before a felony defendant's initial court appearance, the determination of his or her indigency shall be made by the public defender, but thereafter it shall be made by the court; and

(4) Judge shall mean a judge of the district court, a judge of the county court, or a clerk magistrate.

Sec. 15. That section 37-515, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-515. Any person who (1) explodes, causes to be exploded, or aids or abets in the explosion of any dynamite, giant powder, bomb, or other explosive in any lake, river, stream, pond, bay, bayou, or other waters in this state; with the intent thereby to kill, stun, take, or possess any fish therein, (2) places or aids or abets in placing any bomb or explosive in any waters of this state for the purpose of exploding the same with ~~said~~ such intent, or (3) places or aids or abets in placing lime or other poisonous or noxious substance in any of the waters of this state with ~~said~~ such intent, shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars; and by imprisonment in ~~the a~~ Department of Correctional Services adult correctional facility for not less than one year nor more than three years, ~~PROVIDED~~, except that ~~the provisions of~~ this section shall not prohibit the Game and Parks Commission from using or authorizing the use by written agreement of chemicals and other substances for fish management purposes. It shall be unlawful to explode or cause to be exploded for any purpose any giant powder, dynamite, or other explosives in any lake, river, stream, pond,

bay, bayou, or other waters of this state; without first obtaining from the Game and Parks Commission, as hereinafter provided, an order permitting it to be done, except that ; **PROVIDED**, this shall not apply where when, to safeguard public or private property from damage by ice gorges, immediate use of explosives is necessitated. Whenever, in the course of removing any obstruction in any waters within this state; or in constructing any foundation for dams, bridges, or other structures, any person shall desire to explode any giant powder, dynamite, or other explosive in any such waters, he or she shall, before doing so, file a verified application with the commission setting forth his or her plans and objects, the time or times when he or she desires to use the explosive, and the necessity for using it. If it reasonably appears that the use of explosives in such waters is necessary to the advancement of a useful work or project, the commission shall grant leave for the use thereof, designating the place or places and period within which the explosives may be used; and prescribing such precautions as will save the fish from injury. If any such person disregards such order he or she shall be deemed to have violated this section; and upon conviction shall be punished accordingly.

Sec. 16. That section 39-669.06, Revised Statutes Supplement, 1992, be amended to read as follows:

39-669.06. Upon a third or subsequent conviction of any person for either reckless driving or willful reckless driving, he or she shall be imprisoned in ~~the~~ a Department of Correctional Services adult correctional facility for not less than one year nor more than three years. The court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for a period of one year from the date of his or her final discharge from ~~the~~ a Department of Correctional Services adult correctional facility and shall order that the operator's license of such person be revoked for a like period. The court shall transmit a copy of the judgment of conviction to the Department of Motor Vehicles for revocation of the operator's license of the person so convicted.

Sec. 17. That section 39-669.27, Revised Statutes Supplement, 1992, be amended to read as follows:

39-669.27. Whenever it comes to the attention of the director that any person has, as disclosed by the records of the director, accumulated a total of twelve or more points within any period of two years, as set out in section 39-669.26, the director shall (1) summarily revoke (a) the license and privilege of such person to operate a motor vehicle in this state or (b) the privilege, if such operator is a nonresident, of operating a motor vehicle within this state and (2) require such person to attend and successfully complete a driver's education and training course consisting of at least eight hours of instruction approved by the department. Such instruction shall be successfully completed before the license and privilege or privilege to operate a motor vehicle may be reinstated. Each person who attends such instruction shall pay the cost of such course. Such revocation shall be for a period of six months from the date of the signing of the order of revocation or six months from the date

of the release of such person from the jail or the a Department of Correctional Services adult correctional facility, whichever is the later, unless a longer period of revocation was directed by the terms of the abstract of the judgment of conviction transmitted to the director by the trial court. Any motor vehicle, except a commercial motor vehicle as defined in section 60-465, may be operated under an employment driving permit as provided by section 60-4,129.

Sec. 18. That section 39-6,104.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,104.03. Every person; convicted of violating section 39-6,104.01 relative to the duty to stop in the event of certain accidents; shall be guilty of a Class I misdemeanor. The court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of not more than one year from the date of ~~his~~ final discharge from the county or municipal jail or a Department of Correctional Services adult correctional facility; or the date of payment or satisfaction of such fine, whichever is the later, and shall order that the operator's license of such person be revoked for a like period.

Sec. 19. That section 60-4,169, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,169. Whenever it comes to the attention of the director that any person when operating a commercial motor vehicle has, based upon the records of the director, been convicted of or administratively determined to have committed an offense for which disqualification is required pursuant to section 60-4,168, the director shall summarily revoke (1) the commercial driver's license and privilege of such person to operate a commercial motor vehicle in this state or (2) the privilege, if such person is a nonresident, of operating a commercial motor vehicle in this state. Any revocation ordered by the director pursuant to this section shall commence on the date of the signing of the order of revocation or the date of the release of such person from the jail or a Department of Correctional Services adult correctional facility, whichever is later.

Sec. 20. That section 69-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-110. Any person who, after having created any security interest in any article of personal property, whether presently owned or after-acquired, for the benefit of another, shall, during the existence of such interest, remove, permit, or cause to be removed, ~~said~~ such property or any part thereof out of the county within which such property was situated, with intent to deprive the owner or owners of the security interest of his or her or their security, shall be deemed guilty of a felony; and upon conviction thereof shall be imprisoned in ~~the~~ a Department of Correctional Services adult correctional facility for a term not exceeding ten years; and be fined in a sum not exceeding one thousand dollars.

Sec. 21. That section 72-703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-703. A ~~The~~ Department of Correctional Services

adult correctional facility of the state shall be located upon a reservation in the city of Lincoln; or upon lands belonging to the state and adjacent to the city of Lincoln.

Sec. 22. That section 77-1855, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1855. No action for the recovery of real estate sold for the nonpayment of taxes shall be brought after five years from the execution and recording of the treasurer's deed, unless the owner is at the time of the sale a minor, a mentally incompetent person, or a convict in ~~the~~ a Department of Correctional Services adult correctional facility; in which case such action must be brought within five years after such disability is removed.

Sec. 23. That section 77-3210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3210. (1) Neither the members nor any salaried employee of the authority shall receive any compensation, emolument, or other profit directly or indirectly from the rental, management, purchase, sale, or other disposition of any lands held by such authority other than the salaries, expenses, and emoluments provided for in sections 77-3201 to 77-3213.

(2) Any person convicted of violating any provision of this section shall be guilty of a felony and shall, upon conviction thereof, be punished by imprisonment in ~~the~~ a Department of Correctional Services adult correctional facility not less than two years nor more than five years.

Sec. 24. That section 83-123, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-123. Out of the fund appropriated by the Legislature, the Department of Correctional Services ~~adult correctional facility~~ shall purchase the materials for, manufacture, and deliver the license plates each year to the various county treasurers in the State of Nebraska. The Department of Motor Vehicles shall furnish the information concerning license plates, together with the number of plates to be manufactured for each county in the state for the current licensing year, to the Department of Correctional Services, ~~adult correctional facility~~.

Sec. 25. That section 83-134, Revised Statutes Supplement, 1992, be amended to read as follows:

83-134. (1) The Department of Public Institutions shall have general charge of the erection of new buildings, the repair and improvement of buildings, including fire escapes, and the improvement of grounds.

(2) Buildings and other improvements costing more than fifteen thousand dollars, exclusive of equipment not germane to construction and building material made in the institution, shall be (a) constructed under the general charge of the department as provided in subsection (1) of this section and (b) let by contract to the lowest responsible bidder after proper advertisement as set forth in subsection (5) of this section, ~~except that buildings costing more than fifteen thousand dollars, such as shops, warehouses, or a cannery, when declared necessary~~

~~by the department and to be constructed within the walls of the Department of Correctional Services adult correctional facility, may be constructed by the use of convict labor. Any construction by convict labor shall have the approval of the Department of Correctional Services, the warden, and the chief engineer of the department.~~

(3) ~~Convict labor or the~~ The labor of persons committed to the Department of Correctional Services pursuant to section 83-183 or of state charges shall ~~may~~ be employed, whenever the ~~department~~ Department of Public Institutions deems it practicable, in all construction, repairs, and improvements at state institutions.

(4) The successful bidder at the letting referred to in subsection (2) of this section shall enter into a formal contract with the department, prepared ~~as is provided for by~~ pursuant to subsection (5) of this section, and shall furnish a bond for the faithful performance of his or her contract, except that a performance bond shall not be required for any project which has a total cost of fifteen thousand dollars or less unless the department includes a bond requirement in the specifications for the project.

(5) When contracts are to be let by the department as is provided for by subsection (2) of this section, advertisements shall be published in accordance with rules and regulations adopted and promulgated by the state building division of the Department of Administrative Services stating that sealed proposals will be received by the Department of Public Institutions at its office on the date therein stated for the furnishing of materials, the construction of buildings, or the making of repairs or improvements and that plans and specifications can be seen at the office of the department. All bids or proposals shall be accompanied by a certified check or bid bond in a sum fixed by the department and payable thereto. All such contracts shall be awarded to the lowest responsible bidder, but the right shall be reserved to reject any and all bids. Whenever any material described in any contract can be obtained from any state institution, the department shall exclude it from such a contract. Upon the awarding of the contract or contracts therefor, the Attorney General shall review the contract or contracts to be entered into by the department and the contracting parties.

Sec. 26. That section 83-171, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) ~~Maintain and administer the Department of Correctional Services adult correctional facility, the Nebraska Center for Women, the Youth Development Center Kearney and the Youth Development Center Geneva and such other facilities as may be~~ required for the custody, control, correctional treatment, and rehabilitation of persons committed to the department; and for the safekeeping of such other persons as may be remanded ~~thereto~~ to the department in accordance with law;

(2) Supervise persons committed to the department on

parole and administer parole services in the facilities and in the community; and

(3) Develop policies and programs for the correctional treatment and rehabilitation of persons committed to the department.

Sec. 27. That section 83-176, Revised Statutes Supplement, 1992, be amended to read as follows:

83-176. (1) Whenever any person is sentenced or committed under any provision of law to a specific facility within the ~~Department of Correctional Services~~ department or to the custody of the warden or superintendent of such facility, he or she shall be deemed to be sentenced or committed to the department.

(2) The ~~Director of Correctional Services~~ director may designate as a place of confinement of a person committed to the department any available, suitable, and appropriate residence facility or institution, whether or not operated by the state, and may at any time transfer such person from one place of confinement to another subject to the following:

(a) A minor declared to be as described in subdivision (3) of section 43-247 shall not be assigned or transferred to the ~~Department of Correctional Services adult correctional facility, the Nebraska Center for Women, or~~ any other facility designed primarily for the imprisonment of adult committed offenders.

(b) A minor declared to be as described in subdivision (1), (2), or (4) of section 43-247 shall not be assigned or transferred to the ~~Department of Correctional Services adult correctional facility, the Nebraska Center for Women, or~~ any other facility designed primarily for the imprisonment of adult committed offenders unless ~~he or she~~ the minor is sixteen years of age or older and is a serious threat to the safety of persons in other facilities. The determination as to whether the minor is a serious threat to safety shall be made only after a juvenile court hearing in the court of original disposition at which the minor shall have the right to be represented by counsel.

Sec. 28. That section 83-177, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-177. There shall be in each facility a chief executive officer designated as warden or superintendent and such deputy or associate wardens or assistant superintendents as the ~~Director of Correctional Services may determine~~ director determines. The chief executive officer shall be responsible to the director for the custody, control, and correctional treatment of persons committed to the department and for the general administration of the facility. Associate Deputy or associate wardens or assistant superintendents in each facility shall advise and be responsible to the chief executive officer of the facility and shall have such powers and duties as the chief executive officer ~~may~~ delegate delegates to them in accordance with law or pursuant to the directions of the director.

Sec. 29. That section 83-178, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-178. (1) The ~~chief executive officer of each facility director~~ shall establish and maintain, in accordance with the regulations of the ~~Department of Correctional Services~~ department, an individual file for each person committed to the department. Each individual file shall include, when ~~where~~ available and appropriate, the following information on such person:

- (a) His or her admission summary;
- (b) His or her presentence investigation report;
- (c) His or her classification report and recommendation;
- (d) Official records of his or her conviction and commitment as well as any earlier criminal records;
- (e) Progress reports and admission-orientation reports;
- (f) Reports of any disciplinary infractions and of their disposition;
- (g) His or her parole plan; and
- (h) Other pertinent data concerning his or her background, conduct, associations, and family relationships.

(2) Any decision concerning the classification, reclassification, transfer to another facility, preparole preparation, or parole release of a person committed to the department shall be made only after his or her file has been reviewed. The content of the file shall be confidential and shall not be subject to public inspection except by court order for good cause shown and shall not be accessible to any person committed to the department.

(3) The program of each person committed to the department shall be reviewed at regular intervals and recommendations shall be made to the chief executive officer concerning changes in such person's program of treatment, training, employment, care, and custody as are considered necessary or desirable.

(4) The chief executive officer of the facility shall have final authority to determine matters of treatment classification within his or her facility and to recommend to the ~~Director of Correctional Services~~ director the transfer of any person committed to the department who is in his or her custody.

(5) The ~~Director of Correctional Services~~ director may at any time order a person committed to the department to undergo further examination and study for additional recommendations concerning his or her classification, custodial control, and rehabilitative treatment.

Sec. 30. That section 83-179, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-179. Upon ~~his~~ initial admission to a facility, each person committed to the department shall be given a physical examination and a thorough evaluation. ~~He shall be kept apart from other persons committed to the department until he is known to be free from any communicable disease.~~ The evaluation shall include such person's psychological, social, educational, and vocational condition and history; and the motivation of ~~his~~ the offense. A report containing the findings of the examination and evaluation shall be submitted on each such person

to the chief executive officer of the facility, ~~containing the findings of the physical examination and evaluation.~~ The report shall include recommendations regarding the facility to which such person should be assigned, the degree and kind of custodial control, and the program of treatment for ~~his~~ rehabilitation, including medical and psychological treatment and educational and vocational training. A medical determination shall be made as to whether such person shall be kept apart from other persons committed to the department.

Sec. 31. That section 83-182, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-182. The ~~Director of Correctional Services~~ director shall establish appropriate programs for each facility designed as far as practical to prepare and assist each person committed to the department to assume his or her responsibilities as a useful citizen. In developing such programs, the director shall seek to make available to each person capable of benefiting therefrom academic or vocational training, participation in productive work, religious and recreational activities, and such therapeutic measures as are practicable. No person shall be ordered or compelled to participate in religious activities.

Sec. 32. That section 83-183, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-183. (1) To establish good habits of work and responsibility, to foster vocational training, and to reduce the cost of operating the facilities, persons committed to the ~~Department of Correctional Services~~ department shall be employed, eight hours per day, so far as possible in constructive and diversified activities in the production of goods, services, and foodstuffs to maintain the facilities, for state use, and for other purposes authorized by law. To accomplish these purposes, the ~~Director of Correctional Services~~ director may establish and maintain industries and farms in appropriate facilities; and may enter into arrangements with any other department or agency of the state for the employment of persons committed to the department for state purposes.

(2) The ~~Director of Correctional Services~~ director shall make rules and regulations governing the hours, conditions of labor, and the rates of compensation of persons committed to the department. In determining the rates of compensation, such regulations may take into consideration the quantity and quality of the work performed by such person, whether or not such work was performed during regular working hours, the skill required for its performance, ~~as well as~~ and the economic value of similar work outside of correctional facilities.

(3) Except as provided in section 83-183.01, wage payments to a person committed to the department shall be set aside by the chief executive officer of the facility in a separate fund. The fund shall enable the offender to contribute to the support of his or her dependents, if any, to make necessary purchases from the commissary, and to set aside sums to be paid to him or her at the time of his or her release from the facility.

(4) The director may authorize the chief executive officer to invest the earnings of a person committed to the department. Any

accrued interest thereon shall be credited to the person's fund.

(5) The director may authorize the chief executive officer to reimburse the state from a person's wage fund for:

(a) The actual value of state property intentionally or willfully and wantonly destroyed by such person during his or her commitment; and

(b) The reasonable costs incurred in returning such person to the facility to which he or she is committed in the event of his or her escape.

(6) No person committed to the department shall be required to engage in excessive labor, and no such person shall be required to perform any work for which he or she is declared unfit by a physician designated by the ~~Director of Correctional Services~~ director.

(7) The director may authorize that a portion of the earnings of a person committed to the department be retained by that person for personal use.

Sec. 33. That section 83-227.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-227.02. (1) The Department of Public Institutions is authorized to use space which is temporarily surplus to the needs of any institution under its control, except as provided in subsection (2) of this section, for the care, custody, and treatment of the inmates of any other such institution when space at such latter institution is inadequate and the facilities of the institution to which transfer is made are suitable to the needs of the inmate. Inmates so transferred shall receive the same care, custody, and treatment as they would have received had they not been transferred. If the cost of the care, custody, and treatment of such inmate is recoverable by the institution from which the transfer was made, it shall be recovered in the manner provided in ~~this act~~ sections 83-363 to 83-380.

(2) Subsection (1) of this section shall not be construed to permit the transfer of inmates to or from ~~the~~ any Department of Correctional Services ~~adult correctional~~ facility ~~or the Nebraska Center for Women~~ unless expressly authorized by law.

Sec. 34. That section 83-422, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-422. When any ~~convict~~ convicted prisoner is delivered to the ~~warden~~ chief executive officer, the officer having the prisoner in charge shall deliver to the ~~warden~~ chief executive officer a certified copy of the sentence received by the officer from the clerk of the district court and shall take from the ~~warden~~ chief executive officer a certificate of the delivery of the ~~convict~~ prisoner. The certified copy of the sentence shall be evidence of the facts contained therein.

Sec. 35. That section 83-423, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-423. Each county shall pay the costs of transporting convicted prisoners to ~~the~~ any Department of Correctional Services adult ~~correctional~~ facility and the cost of returning fugitives from justice.

Sec. 36. That section 83-424, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-424. The expenses and fees of sheriffs and other officers incurred in conveying ~~convicts~~ convicted prisoners to the ~~any~~ Department of Correctional Services adult ~~correctional~~ facility shall be examined, adjusted, and approved by the county board and paid out of the treasury of the county in which the crime was committed. The county board shall allow expenses and fees at the following rates: (1) For the sheriff, six dollars per day for time actually necessary in conveying a prisoner to the ~~Department of Correctional Services adult correctional~~ facility and return; and (2) for each assistant or guard absolutely necessary, six dollars per day. ~~No ; and (3) no~~ allowance for assistance shall be made ~~where but~~ when only one prisoner is conveyed to the ~~Department of Correctional Services adult correctional~~ a facility. The county board shall allow the actual and necessary traveling expenses in going and coming. ~~Where~~ When the trip is made by automobile, mileage included in such expenses shall be computed at the rate provided in section 33-117 for county sheriffs and deputy county sheriffs for each mile actually and necessarily traveled by the most direct route.

Sec. 37. That section 83-427, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-427. When any ~~convict~~ inmate escapes from the ~~any~~ Department of Correctional Services adult ~~correctional~~ facility, the ~~warden~~ chief executive officer of the facility shall use all proper means for the apprehension of the inmate. ~~convict, and for this purpose he shall offer a reward not to exceed one hundred dollars and not less than twenty-five dollars. When an escape is caused by the negligence of the warden, or any officer under him, the reward shall be paid by the warden.~~

Sec. 38. That section 83-443, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-443. No ~~warden, deputy warden, inspector, guard,~~ physician officer or other employee of the Department of Correctional Services who has charge, control, or direction of any ~~convicts~~ inmates shall be in any manner whatever financially interested in the work or profit of the labor of any ~~convict; nor shall he~~ inmate, and no such officer or employee shall receive any pay, gift, gratuity, or favor of a valuable character from any person interested either directly or indirectly in such labor. Any person ~~guilty of a violation of the provisions of~~ violating this section shall be deemed guilty of a Class IV felony. The offense may be reduced to a misdemeanor upon recommendation of the jury, if the court concurs in the recommendation. ~~In ; in~~ such a case, the defendant shall be summarily discharged by the Director of Correctional Services. ~~This section shall not prohibit the camp physician from the practice of his profession.~~

Sec. 39. That section 83-444, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-444. No officer or employee of the Department of

Correctional Services ~~adult correctional facility~~ shall employ the ~~convicts inmates~~ on work in which he or she or any other officer has a personal interest. ~~No such officer or employee shall nor be connected, nor with or have any interest in the business or shops belonging to the Department of Correctional Services adult correctional facility department.~~

Sec. 40. That section 83-465, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-465. When a ~~boy or girl~~ juvenile of sane mind, twelve years of age or older but under the age of eighteen years, has been found guilty of any crime; except murder or manslaughter; in any court of record in this state, the court may order that the ~~boy or girl~~ juvenile be committed to the Youth Development ~~Center-Kearney or the Youth Development Center-Geneva.~~ Center for his or her sex. ~~If the court so orders, a boy shall be sent to the Youth Development Center-Kearney and a girl shall be sent to the Youth Development Center-Geneva.~~ A copy of the order under the seal of the court shall be sufficient warrant for delivering the ~~boy or girl~~ juvenile to the center and committing him or her to the custody of the superintendent.

Sec. 41. That section 83-467, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-467. When a ~~boy~~ juvenile of sane mind; under the age of sixteen years; has been convicted of any crime, the court pursuant to the Nebraska Juvenile Code may issue an order to the parent, guardian, or the person in charge of the ~~boy~~ juvenile or with whom the ~~boy~~ juvenile last resided, ~~or to any one known to be a close relative of the boy juvenile, or if the boy be juvenile is alone and friendless, then~~ to the person whom the judge shall appoint as guardian ad litem, requiring ~~him~~ the juvenile to appear at a time and place stated in the order; to show cause why the ~~boy~~ juvenile should not be committed to the Youth Development Center-Kearney or the Youth Development Center-Geneva.

Sec. 42. That section 83-469, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-469. Either the party to whom the order provided for in section 83-467 was addressed or a guardian ad litem shall be present at the hearing, at which time the judge shall make a voluntary examination of the ~~boy~~ juvenile and hear the testimony in relation to the case that is produced. If the judge finds that the ~~boy~~ juvenile should be committed to the Youth Development Center-Kearney or the Youth Development Center-Geneva, then ~~he~~ the judge shall issue a warrant of commitment.

Sec. 43. That section 83-470, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-470. The judge shall certify in ~~his~~ the warrant of commitment the ~~place in which the boy resided~~ juvenile's residence and age at the time of ~~his~~ arrest, ~~and his age;~~ as nearly as can be ascertained, and shall command the officer to take ~~the boy~~ and deliver ~~him~~ the juvenile without delay to the superintendent of the Youth

Development Center-Kearney or the Youth Development Center-Geneva. The certificate, for ~~the purpose~~ purposes of sections ~~83-463 to 83-474~~ 83-465 to 83-473, shall be conclusive evidence of the boy's juvenile's residence and age. The judge shall transmit to the superintendent, by the officer executing the warrant, a statement of the nature of the complaint, together with such other particulars concerning the boy juvenile as the judge is able to ascertain. The expense of conveying a boy juvenile to the Youth Development Center-Kearney; or the Youth Development Center-Geneva or returning him or her to his or her parent or guardian after ~~his~~ release; shall be paid by the county.

Sec. 44. That section 83-472, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-472. Every boy juvenile committed to the Youth Development Center-Kearney or Youth Development Center-Geneva under sections 83-465 to 83-470 shall remain there until he or she attains ~~arrives at~~ the age of nineteen unless sooner paroled or legally discharged. The assistant director of the Division of Juvenile Services shall adopt bylaws and promulgate rules and regulations for the promotion, paroling parole, and final discharge of inmates juveniles such as shall be considered mutually beneficial for the institution and the inmates juveniles. The discharge of any ~~boy pursuant to the bylaws,~~ juvenile pursuant to the rules and regulations or upon his or her attainment of arrival at the age of nineteen; shall be a complete release from all penalties incurred by conviction of the offense for which he or she was committed.

Sec. 45. That section 83-473, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-473. Any person ~~or persons~~ who ~~shall entice, or shall attempt entices or attempts~~ to entice; away from the Youth Development Center-Kearney ~~any boy or Youth Development Center-Geneva any juvenile~~ legally committed to the school facility, or who shall knowingly ~~harbor, conceal or aid~~ harbors, conceals, or aids in harboring or concealing; any boy juvenile who shall have has escaped from the school facility, shall be guilty of a Class IV felony. Any sheriff or other officer authorized to make arrests; or any officer or employee of the school, facility shall arrest any inmate who shall have juvenile who has escaped from the school facility and shall return him thereto or her to the facility. The assistant director of the Division of Juvenile Services shall use all proper means for the apprehension of any escaped inmate juvenile, and for this purpose he or she may offer a reward, ~~not to exceed twenty five dollars, in each case.~~

Sec. 46. That section 83-474.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-474.01. ~~There is hereby created a fund, to be known as the The Youth Development Center-Kearney Revolving Fund for the purpose of operating the Youth Development Center-Kearney service station. The fund shall contain all revenue derived from activities under the jurisdiction of the service station. Such revenue shall be collected by~~

~~the superintendent to be paid into the state treasury and the State Treasurer shall credit the money to the Youth Development Center-Kearney Revolving Fund. The sum of ten thousand dollars is hereby authorized to~~ is hereby eliminated. Any money remaining in the fund on the effective date of this act shall be transferred from to the Department of Correctional Services Facility Cash Fund, to the Youth Development Center-Kearney Revolving Fund to provide the necessary operating balance to carry out the provisions of this section. Any money in such revolving fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 47. That section 83-487, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-487. ~~The Youth Development Center-Geneva for juvenile delinquents, located near Geneva in the county of Fillmore,~~ shall be recognized and shall continue as the only a state-operated school facility for the detention, education, industrial training, and reformation of ~~female juvenile delinquents~~ juveniles committed to the Department of Correctional Services.

Sec. 48. That section 83-490, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-490. All proceedings, service of orders, examinations, commitments, and other provisions of sections 83-465 to 83-473 shall govern all commitments of ~~girls~~ juveniles who are fit subjects for a training school.

Sec. 49. That section 83-4,101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-4,101. (1) The juvenile court may commit any ~~boy or girl~~ juvenile to the Youth Diagnostic and Rehabilitation Center upon the same terms and conditions and subject to all provisions of law as govern ~~boys committed~~ commitments to the Youth Development Center-Kearney or the Youth Development Center-Geneva.

(2) The juvenile court may, without formal commitment, refer any ~~boy or girl~~ juvenile found in need thereof to the Youth Diagnostic and Rehabilitation Center for detention for purposes of observation, testing, and examination, both mental and physical.

Sec. 50. That section 83-4,104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-4,104. (1) Any ~~boy or girl~~ juvenile committed to the Youth Diagnostic and Rehabilitation Center may be released therefrom upon the same terms and conditions and subject to all provisions of law as govern the release of ~~boys~~ juveniles committed to the Youth Development Center-Kearney or the Youth Development Center-Geneva.

(2) Any ~~boy or girl~~ juvenile referred to the Youth Diagnostic and Rehabilitation Center may be released therefrom upon order of the court by which he or she was referred or when the purposes of ~~his~~ the referral have been accomplished.

Sec. 51. That section 83-4,109, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

83-4,109. Disciplinary procedures in adult institutions administered by the Department of Correctional Services shall be governed by the provisions of sections 83-4,109 to 83-4,123 and section 56 of this act.

Sec. 52. That section 83-4,110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-4,110. ~~As used in~~ For purposes of sections 83-4,109 to 83-4,123 and section 56 of this act, unless the context otherwise requires:

- (1) Director shall mean the Director of Correctional Services; and
- (2) Department shall mean the Department of Correctional Services.

Sec. 53. That section 83-4,111, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-4,111. (1) ~~Within sixty days after July 10, 1976, the~~ The department shall adopt and promulgate rules and regulations to establish criteria for justifiably and reasonably determining which rights and privileges ~~a committed person~~ an inmate forfeits upon commitment and which rights and privileges ~~a committed person~~ an inmate retains.

(2) Such rules and regulations shall include, but not be limited to, criteria concerning (a) disciplinary ~~restrictions on clothing, bedding, facilities, mail, and visitations in an institution,~~ (b) solitary confinement procedures and a code of offenses for which discipline may be imposed, (b) disciplinary segregation, (c) grievance procedures, ~~hearings, and review;~~ (d) good-time credit, (e) ~~criteria for psychological treatment and sociological development programs;~~ mail and visiting privileges, and (f) rehabilitation opportunities, ~~and (g) educational or employment programs.~~

(3) The rules and regulations adopted pursuant to sections 83-4,109 to 83-4,123 and section 56 of this act shall in no manner deprive an inmate of any rights and privileges to which ~~such person~~ he or she is entitled under other provisions of law or under policies adopted in a correctional ~~institution~~ facility.

Sec. 54. That section 83-4,112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-4,112. (1) Copies of all rules and regulations shall be filed pursuant to the Administrative Procedure Act and shall be distributed to all adult correctional ~~institutions~~ facilities in this state.

(2) ~~Committed persons~~ Inmates shall be informed of rules and policies concerning ~~institutional~~ behavior and discipline, inmate rights and developmental opportunities, work or education programs, and complaint procedures at the facility. Such rules and policies, or significant portions thereof, shall be posted at conspicuous places throughout the ~~institution~~ facility.

Sec. 55. That section 83-4,113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-4,113. All adult disciplinary action within the system of the department shall be pursuant to sections 83-4,109 to 83-4,123 and section 56 of this act. Inmates — ~~Committed persons~~ shall be informed of rules of behavior and discipline. Such rules shall be posted or otherwise made available to ~~such persons~~ the inmates.

Sec. 56. That section 83-185, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~83-185.~~ (1) The chief executive officer of each facility of the department shall be responsible for the discipline of ~~these persons committed to the Department of Correctional Services~~ inmates who reside ~~therein in such facility~~. No ~~person inmate~~ shall be punished except upon the order of the chief executive officer of the facility, and no ~~nor shall any~~ punishment shall be imposed otherwise than in accordance with this section.

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

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

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

Sec. 57. That section 83-4,115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-4,115. Any review of disciplinary action imposed upon any person shall be pursuant to ~~the provisions of sections 83-4,109 to 83-4,123 and section 56 of this act.~~ The director shall establish procedures to review the ~~grievances of committed persons~~ disciplinary actions of inmates. The director may establish one or more administrative review boards within the department to review ~~grievances~~ disciplinary actions. ~~A committed person's right to file grievances shall not be restricted. Such procedure shall provide for the review of grievances by a person or persons other than the person or persons directly responsible for the conditions or actions against which the grievance is filed.~~ No member

of any review board shall also be a member of a disciplinary hearing board, but the same considerations for appointing members to the disciplinary hearing board may apply to appointing members to a review board.

Sec. 58. That section 83-4,122, Revised Statutes Supplement, 1992, be amended to read as follows:

83-4,122. In disciplinary cases which may involve the imposition of disciplinary isolation; or the loss of good-time credit, ~~or a change in work, education, or other program assignment;~~ the director shall establish disciplinary procedures consistent with the following principles:

(1) Any person or persons who initiate a disciplinary charge against ~~a person~~ an inmate shall not determine the disposition of the charge. The director may establish one or more disciplinary boards to hear and determine charges. To the extent possible, a person representing the treatment or counseling staff of the institution or facility shall participate in determining the disposition of the disciplinary case;

(2) ~~Any committed person~~ An inmate charged with a violation of department rules of behavior shall be given notice of the charge including a statement of the misconduct alleged and of the rules such conduct is alleged to violate. Such notice shall be given at least twenty-four hours before a hearing on the matter is held;

(3) ~~Any person~~ An inmate charged with a violation of rules shall be entitled to a hearing on that charge at which time he or she ~~will~~ shall have an opportunity to appear before and address the person or persons deciding the charge. The individual bringing the charge shall also appear at such hearing;

(4) The person or persons determining the disposition of the charge may also summon to testify any witnesses or other persons with relevant knowledge of the incident. The ~~person~~ inmate charged shall be permitted to question any person so summoned and shall be allowed to call witnesses and present documentary evidence in his or her defense when permitting him or her to do so will not be unduly hazardous to institutional safety or correctional goals. The person or persons determining the disposition of charges shall state his, her, or their reasons in writing for refusing to call a witness;

(5) If the charge is sustained, the ~~person~~ inmate charged shall be entitled to a written statement of the decision by the persons determining the disposition of the charge, which statement shall include the basis for the decision and the disciplinary action, if any, to be imposed;

(6) A change in work, education, or other program assignment shall not be used for disciplinary purposes; ~~without prior review and approval of the warden;~~

(7) The ~~person~~ inmate charged shall be entitled to an adequate opportunity to prepare a defense. Such opportunity shall include the right to assistance and advice in preparing and presenting a defense from any ~~resident~~ inmate in general population or staff member at the institution where the hearing is held. Such ~~resident~~ inmate or staff

member may serve in such an advisory capacity for the person inmate so charged; and

(8) Any hearing conducted pursuant to this section shall be tape recorded, and such recording shall be preserved for a period of six months.

Sec. 59. That section 83-4,123, Revised Statutes Supplement, 1992, be amended to read as follows:

83-4,123. Nothing in sections 83-4,109 to 83-4,123 and section 56 of this act shall be construed as to restrict or impair an inmate's free access to the courts and necessary legal assistance in any cause of action arising under such sections ~~83-4,109 to 83-4,123~~ or to judicial review for disciplinary cases which involve the imposition of disciplinary isolation; or the loss of good-time credit, or a change in work, education; or other program assignment in accordance with the Administrative Procedure Act. Such judicial review may only be invoked after completion of any review of the hearing prescribed by section 83-4,122 by the department.

Sec. 60. An inmate shall have the right to file a grievance on any subject except disciplinary actions and matters over which the Department of Correctional Services has no control. Grievance procedures shall provide for the review of grievances by a person or persons other than the person or persons directly responsible for the conditions or actions against which the grievance is filed.

Sec. 61. That section 83-4,116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~83-4,116.~~ Grievance review procedures shall provide that a record of grievances and any decision made with respect to such grievances shall be preserved for a period of one year.

Sec. 62. That section 83-4,117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~83-4,117.~~ Grievance review procedures shall allow ~~committed persons~~ inmates to communicate grievances directly to the ~~director~~ Director of Correctional Services, a person designated by the director outside the institution or facility where the committed person is confined, or the office of the Public Counsel, established by section 81-8,241 or any other appropriate person outside the Department of Correctional Services.

Sec. 63. That section 83-4,118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~83-4,118.~~ All ~~committed persons~~ inmates shall be informed of the grievance procedures established by the department and copies of such procedures shall be available to all ~~committed persons~~ inmates.

Sec. 64. That section 83-4,119, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~83-4,119.~~ Discipline shall not be imposed because of use of the grievance procedure.

Sec. 65. That section 83-905, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

83-905. The Department of Correctional Services shall have oversight and general control of all state adult and juvenile correctional institutions. ~~official names of the state institutions under the supervision of the Department of Correctional Services shall be as follows: (1) Department of Correctional Services adult correctional facility, (2) Youth Development Center Kearney, (3) Youth Development Center Geneva, (4) Nebraska Center for Women, (5) Youth Diagnostic and Rehabilitation Center, (6) Lincoln Correctional Center, and (7) Diagnostic and Evaluation Center.~~

Sec. 66. That section 83-909, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-909. (1) The Department of Correctional Services shall gather demographic information ~~as to the expenditures of reformatory and penal institutions in this and other countries, and regarding the best and most successful methods of caring for criminals.~~

(2) ~~The Department of Correctional Services~~ for statistical reporting purposes, shall encourage scientific investigation of the treatment of delinquency and crime. ~~The department shall provide forms for statistical returns to be made by the institutions in their annual reports, and shall supervise~~ The department shall make an investigation of crime and delinquency. The department shall give special attention to the methods of care, treatment, education, and improvement of the inmates of the institutions under its control, and shall exercise a careful supervision of the methods to the end that, so far as practicable, the best treatment and care known to modern science shall be given to the inmates, and that the best methods of teaching, improving, and educating defectives shall be used.

Sec. 67. That section 83-910, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-910. The ~~director~~ Director of Correctional Services may examine any ~~of the officers, attendants, guards, and other employees; employee of the Department of Correctional Services~~ and make such inquiries as will determine ~~their~~ the employee's fitness for ~~their~~ his or her respective duties, and ~~he~~ the director shall investigate and report to the Governor any abuses or wrongs alleged to exist in the ~~institution~~ department.

Sec. 68. That section 83-913.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-913.01. (1) There is hereby created ~~a fund to be known as~~ the Department of Correctional Services Facility Cash Fund. ~~All money currently held in the Department of Correctional Services Cash Fund is hereby transferred to the Department of Correctional Services Facility Cash Fund.~~

(2) Except as otherwise provided, all money derived from any source in any facility under the supervision of the Department of Correctional Services shall be remitted to the State Treasurer in accordance with the policies and procedures established by the Director of

~~Correctional Services.—The State Treasurer shall place such funds remitted to him in the Department of Correctional Services Facility Cash Fund, which funds for credit to the fund. Any money in the fund available for investment~~ may be invested pursuant to ~~law sections 72-1237 to 72-1276.~~

(3) (2) All disbursements from the fund shall be made by the Director of Administrative Services by warrants drawn on ~~such the~~ fund only upon certification of expenses by the chief executive officer of the appropriate facility within the Department of Correctional Services and upon presentation of proper vouchers for such expenses by the Director of Correctional Services or his ~~or her~~ authorized agent.

Sec. 69. That section 83-916, Revised Statutes Supplement, 1992, be amended to read as follows:

83-916. (1) The Department of Correctional Services shall have general charge of the erection of new buildings, the repair and improvement of buildings, including fire escapes, and the improvement of grounds.

(2) Buildings and other improvements costing more than fifteen thousand dollars, exclusive of equipment not germane to construction and building material made in the institution, shall be (a) constructed under the general charge of the department as provided in subsection (1) of this section and (b) let by contract to the lowest responsible bidder after proper advertisement as set forth in subsection (5) of this section, except that buildings costing more than fifteen thousand dollars, such as shops, warehouses, or a cannery, when declared necessary by the department and to be constructed ~~within the walls on the grounds~~ of the ~~any~~ Department of Correctional Services adult correctional facility, may be constructed by the use of ~~convict inmate~~ labor. Any construction by ~~convict inmate~~ labor shall have the approval of the department, the warden, and the chief engineer of the department.

(3) ~~Convict~~ Inmate labor or the labor of state charges shall be employed, whenever the department deems it practicable, in all construction, repairs, and improvements at state institutions.

(4) The successful bidder at the letting referred to in subsection (2) of this section shall enter into a formal contract with the department, prepared as provided for by subsection (5) of this section, and shall furnish a bond for the faithful performance of his or her contract, except that a performance bond shall not be required for any project which has a total cost of fifteen thousand dollars or less unless the department includes a bond requirement in the specifications for the project.

(5) When contracts are to be let by the department as provided for by subsection (2) of this section, advertisements shall be published in accordance with rules and regulations adopted and promulgated by the state building division of the Department of Administrative Services stating that sealed proposals will be received by the Department of Correctional Services at its office on the date therein

stated for the furnishing of materials, the construction of buildings, or the making of repairs or improvements and that plans and specifications can be seen at the office of the department. All bids or proposals shall be accompanied by a certified check or bid bond in a sum fixed by the department and payable thereto. All such contracts shall be awarded to the lowest responsible bidder, but the right shall be reserved to reject any and all bids. Whenever any material described in any contract can be obtained from any state institution, the department shall exclude it from such a contract. Upon the awarding of the contract or contracts therefor, the Attorney General shall review the contract or contracts to be entered into by the department and the contracting parties.

Sec. 70. That section 83-922, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-922. The Department of Correctional Services shall fulfill those functions of state government relating to the custody, study, care, discipline, training, and treatment of persons in correctional and detention institutions. There shall be separate divisions within the department to assist in fulfilling these functions. The divisions shall be the Division of Community-Centered Services, the Division of Juvenile Services, the Division of Administrative Services, and the Division of Adult Services. The Director of Correctional Services shall appoint ~~a separate~~ an assistant director as head of each division, ~~which appointments shall be made not later than July 1, 1978, and shall be empowered to~~ and may remove or change the powers and responsibilities of the assistant director of any of the divisions at his or her discretion.

Sec. 71. That section 83-924, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-924. Subject to the supervision and approval of the Director of Correctional Services, each assistant director shall have the following duties, powers, and responsibilities:

- (1) To coordinate and direct all programs and facilities under his or her jurisdiction;
- (2) To select and manage such staff and supervise the operation of such equipment as he or she may require;
- (3) To make such revisions to internal systems in each division as may be necessary to promote economy and facilitate maximum utilization of existing correctional services and facilities;
- (4) To cause any existing program and facilities to be utilized by or merged with those of any other division in order to provide for greater efficiency or achieve any economic advantage;
- (5) To provide the Legislature and the Governor technical assistance, advice, and information concerning administrative operations within his or her division;
- (6) To provide the Legislature and the Governor with recommendations for dealing with financial, management, and organization problems affecting his or her division; and
- (7) To exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

Sec. 72. That section 83-925, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-925. The Director of Correctional Services shall appoint as assistant director of the Division of Juvenile Services any person who ~~shall have~~ has a thorough academic background and broad practical experience in the field of ~~institutionalized juvenile delinquents corrections.~~

Sec. 73. That section 83-926, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-926. The Division of Juvenile Services shall standardize policies and procedures and prescribe and promulgate rules and regulations for all juvenile correctional facilities ~~in the state and programs.~~

Sec. 74. That section 83-927, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-927. The assistant director of the Division of Juvenile Services shall:

(1) Develop specialized programs and services within the Division of Juvenile Services for the guidance, treatment, and rehabilitation of juveniles committed to the division;

(2) Cooperate with the courts and all other agencies, public and private, which are concerned with the prevention or control of juvenile delinquency;

(3) Coordinate the programs and services of the division with the programs and services of other agencies, public and private, relating to the prevention and control of juvenile delinquency;

(4) ~~Cooperate with the Office of Parole Administration in the development of~~ Develop specialized and diversified community-based programs and services for the parole of juveniles;

(5) Encourage the planning and implementation of a statewide program for the prevention and control of juvenile delinquency; ~~and~~

(6) Develop and supervise diagnostic and evaluation services for all juveniles within the division; and

(7) Perform any other duties assigned by the Director of Correctional Services.

Sec. 75. That section 83-928, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-928. The Division of Juvenile Services shall have full supervision and control of the Youth Development Center-Kearney, the Youth Development Center-Geneva, juvenile parole administration, and any other similar institution or program that may be established.

Sec. 76. That section 83-930, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-930. The assistant director of the Division of Juvenile Services shall ~~plan, supervise, and coordinate~~ encourage and promote a statewide program for the prevention and control of juvenile delinquency.

Sec. 77. That section 83-931, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

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

Sec. 78. That section 83-932, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-932. The Division of Community-Centered Services shall; ~~have the following powers, duties, and responsibilities:~~

(1) ~~To organize and supervise all adult community release programs and facilities in the state, including all adult work release, educational release, and furlough programs, with the assistance of the Division of Adult Services;~~

(2) ~~To coordinate~~ Coordinate all adult parole programs and services in the state and supervise the administration of such programs and services;

(3) ~~To assist~~ (2) Cooperate with the Division of Adult Services ~~with~~ in the coordination of volunteer programs ~~within~~ in the adult correctional facilities;

(4) ~~To coordinate~~ (3) Coordinate and supervise community educational programs to increase community awareness and understanding of the community rehabilitative programs of the division; and

(5) ~~To make such rules and regulations and perform~~ (4) Perform all duties necessary to carry out the provisions of this section.

Sec. 79. That section 83-933, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-933. The Office of Parole Administration shall be within the Division of Community-Centered Services. Subject to the supervision of the ~~Community-Centered Services~~ assistant director of the division, the Parole Administrator shall be charged with the administration of: ~~(1) Parole~~ parole services in the community pursuant to the provisions of section 83-1,102; ~~(2) and administration of the Uniform Act for Out-of-State Parolee Supervision, ; and (3) the Interstate Compact on Juveniles pursuant to the provisions of section 43-1001.~~

Sec. 80. That section 83-936, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-936. ~~The~~ There is hereby established the Adult Diagnostic and Evaluation Services Program within the Division of Adult Services. Subject to the supervision of the assistant director of the division, the program shall: ~~shall have the following powers, duties, and responsibilities:~~

(1) ~~To establish~~ Establish programs for the observation, testing, and examination, both mental and physical, of adult individuals within the jurisdiction of the Department of Correctional Services;

(2) ~~To recommend~~ Recommend treatment for and disposition of adult individuals within the jurisdiction of the department;

and

(3) ~~To cooperate~~ Cooperate with the ~~Division of Adult Services division~~ to establish and maintain rehabilitation programs for individuals committed or referred to any institution within the ~~Division of Adult Services division~~.

Sec. 81. That section 83-939, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-939. The Division of Adult Services shall; ~~have the following powers, duties, and responsibilities:~~

(1) ~~To establish~~ Establish, administer, and supervise the ~~maximum and medium minimum security institutions and the Nebraska Center for Women which contain all correctional facilities designed to house~~ adult offenders;

(2) ~~To assist the Division of Community-Centered Services to establish, administer, and supervise all adult work-release, educational release, and furlough programs, and to notify the Director of Correctional Services of furloughs requiring notification under section 83-173.01;~~

(3) ~~To make recommendations for the diagnostic and evaluation services to be provided adult offenders;~~

(4) ~~To establish~~ Establish and maintain ~~an the~~ Adult Diagnostic and Evaluation Services Program; ~~pursuant to sections 83-935 and 83-936;~~

(5) ~~To establish and maintain a Chemical Dependency Rehabilitation Program pursuant to section 83-940; and~~

(6) ~~To develop,~~ (3) Develop and coordinate, ~~and implement,~~ with the assistance of the Division of Community-Centered Services, volunteer programs within adult correctional facilities; ~~and~~

(4) Perform any other duties assigned by the Director of Correctional Services. in its jurisdiction.

Sec. 82. That section 83-943, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-943. The Division of Administrative Services shall coordinate and supervise services available to all divisions of the Department of Correctional Services from a centralized location within the department. Such services shall include:

(1) Providing technical assistance on budget preparation, accounting procedures, federal funding administration, procurement, and inventory;

(2) Providing assistance in the total concept of human resource management involving staffing, recruitment, and evaluation; and establishing and maintaining inservice training programs for existing programs as well as future programs;

(3) Providing technical assistance in the planning and development of new capital construction projects and supervising maintenance functions for all facilities within the department;

(4) Providing data collection and analysis from Nebraska and other states to assist the director in the formulation of current and future corrections policy and to justify budgetary needs to implement

policy decisions, and developing standards for evaluation of corrections programs to better evaluate social worth and budgetary performance; and

(5) Design and implementation of a comprehensive data record system for the disposition of the criminal records of adult offenders inmates in the state; and

(6) Performance of other duties assigned by the Director of Correctional Services.

Sec. 83. That original sections 21-1331.01, 25-1601, 29-112.01, 29-113, 29-752, 29-1002, 29-1004, 29-1709, 29-2204, 29-2221, 29-2407, 29-2543, 29-2546, 37-515, 39-6,104.03, 69-110, 72-703, 77-1855, 77-3210, 83-123, 83-171, 83-177 to 83-179, 83-182, 83-183, 83-185, 83-227.02, 83-422 to 83-424, 83-427, 83-443, 83-444, 83-465, 83-467, 83-469, 83-470, 83-472, 83-473, 83-474.01, 83-487, 83-490, 83-4,101, 83-4,104, 83-4,109 to 83-4,113, 83-4,115 to 83-4,119, 83-905, 83-909, 83-910, 83-913.01, 83-922, 83-924, 83-925 to 83-928, 83-930 to 83-933, 83-936, 83-939, and 83-943, Reissue Revised Statutes of Nebraska, 1943, and sections 29-3901, 39-669.06, 39-669.27, 60-4,169, 83-134, 83-176, 83-4,122, 83-4,123, and 83-916, Revised Statutes Supplement, 1992, and also sections 83-123.01, 83-428, 83-466, 83-903, 83-904, 83-906, 83-909.01, 83-917, 83-923, 83-934, 83-935, 83-937, 83-940, and 83-941, Reissue Revised Statutes of Nebraska, 1943, are repealed.