

## LEGISLATIVE BILL 15

Approved by the Governor March 28, 2001

Introduced by Chambers, 11; Dw. Pedersen, 39

AN ACT relating to the Department of Correctional Services; to amend section 83-178, Reissue Revised Statutes of Nebraska; to provide access to records for inmates and the Public Counsel as prescribed; and to repeal the original section.

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

Section 1. Section 83-178, Reissue Revised Statutes of Nebraska, is amended to read:

83-178. (1) The director shall establish and maintain, in accordance with the regulations of the department, an individual file for each person committed to the department. Each individual file shall include, when 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. An inmate may obtain access to his or her medical records by request to the provider pursuant to sections 71-8401 to 71-8407 notwithstanding the fact that such medical records may be a part of his or her individual department file. The department retains the authority to withhold mental health and psychological records of the inmate when appropriate.

(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 the transfer of any person committed to the department who is in his or her custody.

(5) The 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.

(6) Nothing in this section shall be construed to limit in any manner the authority of the Public Counsel to inspect and examine the records and documents of the department pursuant to sections 81-8,240 to 81-8,254, except that the Public Counsel's access to an inmate's medical or mental health records shall be subject to the inmate's consent. The office of Public Counsel shall not disclose an inmate's medical or mental health records to anyone else, including any person committed to the department, except as authorized by law.

Sec. 2. Original section 83-178, Reissue Revised Statutes of Nebraska, is repealed.