

## LR34 Committee Updates - LR424 Recommendations

Recommendation (shorthand)	Status (December 14, 2016)	Status update (December 14, 2016)	Action to be taken	Target date	Notes & Questions
(1) Continue the Department of Correctional Services Special Investigative Committee	Partially completed	<ul style="list-style-type: none"> <li>The Department of Correctional Services Special Investigative Committee was reconstituted by the 104th Legislature. Sen. Krist introduced LR34 (2015), which re-constituted the LR424 Committee (now known as the LR34 Committee) through the end of 2016.</li> <li>The LR34 Committee provided oversight in the implementation of the recommendations made in the LR424 Report, as well as the recommendations provided in the report from the Performance Audit Committee.</li> <li>The LR34 Committee was involved in the oversight process of the Council of State Government's recommendations. Three of the five members of the Legislature's Committee on Justice Reinvestment Oversight (Senators Krist, Mello, and Seiler) were also members of the LR34 Committee.</li> </ul>	<ul style="list-style-type: none"> <li>Decide whether to reconstitute the Department of Correctional Services Special Investigative Committee in 2017.</li> <li>Consider creation of a permanent committee [see Recommendation #7(xiv)].</li> </ul>	January, 2017	See Recommendation #7(xiv)
(2) Recreate the Reentry Furlough Program by statute, or abolish it	Partially completed	<ul style="list-style-type: none"> <li>NDCS put the Reentry Furlough Program on hold, did not eliminate it or request statutory authorization.</li> <li>Sen. Mello introduced LB606 (2015), which was amended into LB598 (2015). However, the provision of LB606 that would have partially implemented this recommendation was not incorporated into the final bill. Section 36 of LB606 would have amended 84-901, to change the definition of "rules and regulations" for the Administrative Procedures Act. Because a more comprehensive approach was needed, this section was removed from the bill.</li> <li>The Performance Audit Committee issued a report on the APA in September, 2015.</li> <li>The Performance Audit Committee introduced LB867 (2016), which was enacted. The bill will take effect on January 1, 2017.</li> </ul>	<ul style="list-style-type: none"> <li>If the Reentry Furlough Program is resumed, NDCS should promulgate rules and regulations.</li> </ul>		
(3) Legislative Research Office and/or Legislative Performance Audit Committee assessment/audit of NDCS Administrative Regulations. Clarification of the APA	Completed	<ul style="list-style-type: none"> <li>Sen. Mello introduced LB606 (2015), which was amended into LB598 (2015). Sections 1 through 21 of LB598 implemented this recommendation. The provisions of LB598 took effect on August 30, 2015.</li> <li>Doug Koebernick was hired as the Inspector General in early September, 2015.</li> <li>In its first year of operation, the Office of Inspector General of the Nebraska Correctional System has assisted the Legislature in its oversight of the Nebraska correctional system. These activities were described in detail in the first OIG Report, issued in September, 2016.</li> </ul>	<ul style="list-style-type: none"> <li>None - LB867 (2016) will take effect on January 1, 2017.</li> <li>Also see recommendation (7)(iv), below.</li> </ul>	January, 2017	See Performance Audit report on APA (LR34 Report, Appendix D)
(4) Establish the "Office of Inspector General of the Nebraska Correctional System"	Completed	<ul style="list-style-type: none"> <li>Sen. Mello introduced LB606 (2015), which was amended into LB598 (2015). Sections 1 through 21 of LB598 implemented this recommendation. The provisions of LB598 took effect on August 30, 2015.</li> <li>Doug Koebernick was hired as the Inspector General in early September, 2015.</li> <li>In its first year of operation, the Office of Inspector General of the Nebraska Correctional System has assisted the Legislature in its oversight of the Nebraska correctional system. These activities were described in detail in the first OIG Report, issued in September, 2016.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure adequate funding to OIG, provide support staff as needed.</li> </ul>		See OIG Report (LR34 Report, Appendix C, Attachment 2)
(5) Terminate employment of NDCS Director and staff	Completed	<ul style="list-style-type: none"> <li>Mike Kenney, Kyle Poppert, Mark Weilage, and Larry Wayne no longer work for NDCS.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>		
(6) Require Governor to declare a correctional system overcrowding emergency when the system exceeds 140% design capacity	Partially completed	<ul style="list-style-type: none"> <li>Sen. Mello introduced LB606, which was amended into LB598, with some changes. Section 38 of LB598 implemented this recommendation by amending 83-962. The provisions of LB598 took effect on August 30, 2015.</li> <li>Section 38 of LB 598 makes the declaration of an emergency mandatory, but not until July 1, 2020: "Beginning July 1, 2020, a correctional system overcrowding emergency shall exist whenever the director certifies that the department's inmate population is over one hundred forty percent of design capacity. The director shall so certify within thirty days after the date on which the population first exceeds one hundred forty percent of design capacity."</li> </ul>	<ul style="list-style-type: none"> <li>To ensure that the procedure found in Section 83-962 results in a more transparent and accountable process, the Board of Parole and NDCS should develop an Overcrowding Emergency Act implementation plan.</li> <li>Further amendments to the Overcrowding Emergency Act, if needed, to ensure transparency and accountability when addressing prison overcrowding by means other than developing additional capacity.</li> </ul>	July 2020	See 83-962 (Also see LR34 Report, Appendix A - LR34 recommendations)
(7) Recommendations from the Ombudsman					
(7)(i) Renew LR424 Committee	Completed	<ul style="list-style-type: none"> <li>The LR 424 Committee mandate was renewed in the 2015-2016 Legislative session - Recommendation #1.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>		
(7)(ii) Ensure Parole Board independence from NDCS	Partially complete	<ul style="list-style-type: none"> <li>Sen. Bolz introduced LB592 (2015), which was partially amended into LB598 (2015). Sections 15, 18, and 19 of LB592 were not incorporated into LB598.</li> <li>Sections 23, 27, 28, 36, and 37 of LB598 implemented this recommendation, by amending 83-171; 83-188; 83-1,100; 83-931; and 83-933, with some changes. The provisions of LB598 took effect on August 30, 2015.</li> <li>LB598 required NDCS and the Board of Parole to submit a transition plan report to the Legislature by December 1, 2015, and LB598A required the Board to hire support staff by January 1, 2016.</li> <li>In addition to LB598, LR32 (2015) (Seiler) was introduced to ensure further study of statutory changes needed to assist with the Parole Administration transition.</li> <li>As of January 7, 2016, the Board had not yet hired any of the support staff authorized and funded by LB598. The possibility of moving the July 2016 deadline for the transition was suggested, but ultimately rejected. The Committee decided that an amendment could potentially be discussed when the Parole Board hired their own legal counsel.</li> <li>Senator Bolz introduced LB910 (2016), a clean-up bill for LB598. LB910 was amended into LB1094 (2016), which passed. The bill took effect on April 20, 2016.</li> <li>Sections 28, 29, 30, 36, and 43 of LB1094 included LB598 clean-up, by amending 47-901; 47-903; 47-908; 83-1,101; and 83-4,114. Section 31 of LB1094 also included LB598 clean-up, by creating a new section.</li> <li>LB598 did not require the Board to move to a separate office space, but did provide funding for the Parole Board to hire their own legal counsel and other support staff. The Board of Parole hired a Legal Counsel (Nicole Miller) and a Program and Fiscal Analyst (Jennifer Miller).</li> </ul>	<ul style="list-style-type: none"> <li>Legislation will likely be needed in 2017 to clarify the new duties of NDCS, Parole Administration, and the Parole Board after the transition.</li> <li>The Parole Board has requested funding in FY17-18 for new office space to move staff from Trabert Hall and NDCS Central Office into one location.</li> </ul>	April 2017 (new office space)	<ul style="list-style-type: none"> <li>See "Parole Transition Plan" (LR34 Report, Appendix C, Attachment 14)</li> <li>Also see "Parole 2017 budget request summary" (LR34 Report, Appendix C, Attachment 15)</li> </ul>
(7)(iii) Parole Board should develop standards for reentry programming	Revised	<ul style="list-style-type: none"> <li>LB598 (2015) allowed NDCS to continue its reentry functions.</li> <li>Sen. Bolz introduced LB592 (2015), which was amended into LB598 (2015). However, the provisions of LB592 that would have implemented this recommendation, by shifting reentry duties from NDCS to the Parole Board, were not incorporated into the final bill. (See LB592, sections 12 and 13)</li> <li>The Ombudsman's office (email correspondence, 6/8/2016) still believes that this is a good idea, but acknowledged that it would probably be desirable to defer such a move until the new Parole Administration has had time to get itself together, and is operating at peak level.</li> </ul>	<ul style="list-style-type: none"> <li>Monitor, potentially revisit at a later date.</li> </ul>		
(7)(iv) Clarify Administrative Procedures Act	Partially completed	<ul style="list-style-type: none"> <li>Sen. Mello introduced LB606 (2015), which would have amended the definition of "rules and regulations" for purposes of the Administrative Procedures Act. However, the provisions of LB606 that would have implemented this recommendation were not incorporated into LB598.</li> <li>See LR424 Recommendation #3</li> </ul>	<ul style="list-style-type: none"> <li>Review LB867 (2016) - did the bill include a clarification of the APA to ensure that any regulations of the rights and interests of inmates are regarded as "private rights" and "private interests" under the Act? If needed, recommend that NDCS revise rules and regulations based on those changes.</li> </ul>		See LR424 Recommendation #3
(7)(v) Abolish RFP or create legislatively	Partially completed	<ul style="list-style-type: none"> <li>See LR424 Recommendation #2</li> </ul>			
(7)(vi) Establish mental health facility at the Hastings Regional Center	Revised	<ul style="list-style-type: none"> <li>Sen. Seiler introduced LB654 (2015) to implement this recommendation. At a hearing in Hastings on this subject on August 12, 2015, Director Frakes submitted written testimony indicating that the Department did not support the proposal. LB654 did not pass; the bill was indefinitely postponed at the end of the 2016 Session.</li> <li>See LR424 Recommendation #10</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>		See LR424 Recommendation #10

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Recommendation (short-hand)	Status (December 14, 2016)	Status update (December 14, 2016)	Action to be taken	Target date	Notes & Questions
(7)(vii) Consider the privatization of mental health care inside NDCS.	Revised	<ul style="list-style-type: none"> <li>This issue was indirectly addressed in the LR34 Committee hearings regarding behavioral health workforce issues.</li> <li>See LR424 Recommendation #10</li> </ul>	None		<ul style="list-style-type: none"> <li>See LR424 Recommendation #10</li> <li>Also see LR34 Committee hearing transcripts (LR34 Report, Appendix B)</li> </ul>
(7)(viii) Share information regarding mental health treatment with HHS Committee	Completed	<ul style="list-style-type: none"> <li>Senator Seller invited HHS Committee members to attend the hearing in Hastings on August 12, 2015.</li> <li>Senator Bolz introduced LR295 (2015) and invited HHS Committee members to attend the LR295 hearing on October 9, 2015.</li> <li>The LR424 Report is available on the Legislature's website, and the LR34 Report will be available as well.</li> <li>See LR424 Recommendation #10</li> </ul>	None		See LR424 Recommendation #10
(7)(ix) Develop a computer program to calculate inmate sentences and release dates	In progress	<ul style="list-style-type: none"> <li>NDCS began developing a computer program to calculate sentences in February 2015, and subsequently discovered more sentencing miscalculation errors.</li> <li>In June 2015, NDCS announced a transition away from the old sentence calculation model, which was based on a 30-day month/360-day year. The new automated sentence calculation process is based on an actual calendar model.</li> <li>See "Department of Justice (NIC) Records Report" (LR424 Report, Appendix 2, Exhibit S)</li> <li>See "Update from NDCS - NIC Recommendations - 7.14.2016" (LR34 Report, Appendix D)</li> <li>In September 2016, NDCS announced the implementation of the new sentence automation software. The implementation automated the calculation of inmate sentences, moved sentence calculations to a calendar year model, and moved sentence calculations from a mainframe computer system to a web-based infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>During the next step in the sentence calculation automation project, NDCS and DAS will automate the process of combining consecutive and concurrent sentences from multiple offenses and/or cases. Until that function is automated, NDCS records management staff will continue to interpret sentencing orders to determine the aggregate sentence when there are multiple charges and/or multiple cases.</li> <li>The Legislative branch should continue to monitor the sentence calculation automation project.</li> </ul>	??	<ul style="list-style-type: none"> <li>Did LB867 (2016) require NDCS to promulgate rules and regulations for the new automated sentence calculation process?</li> <li>What is the anticipated timeline for the next step in the sentence calculation automation project?</li> <li>If NDCS had more staff and/or more funding, would they be able to complete the project sooner?</li> <li>See LR34 Report, Appendix D</li> </ul>
(7)(x) Set standards for use of Administrative Segregation by statute	Revised	<ul style="list-style-type: none"> <li>Sen. Schumacher introduced LB598 (2015). The bill passed, and took effect on August 30, 2015. LB598 required NDCS to promulgate rules and regulations, but did not legislate specific standards for which inmates can be placed in restrictive housing, and did not legislate specific limits on the length of time an individual can remain in restrictive housing.</li> <li>NDCS promulgated new rules and regulations for the use of restrictive housing, (Nebraska Administrative Code, Title 72, Chapter 1) which took effect on July 1, 2016.</li> <li>The rules and regulations include criteria for placement in Longer-Term Restrictive Housing, but did not set a clear limit on the length of time an individual can remain in Longer-Term Restrictive Housing.</li> <li>See LR424 Recommendation #9.</li> </ul>	<ul style="list-style-type: none"> <li>The Legislative branch should continue to monitor the implementation of LB598.</li> </ul>		<ul style="list-style-type: none"> <li>See LR34 Report, Appendix C, Attachment 28 - "N.A.C. Title 72, Chapter 1"</li> <li>See LR34 Recommendations - LR34 Report, Appendix A</li> <li>See LR424 Recommendation #9.</li> </ul>
(7)(xi) Provide mental health services and programming in Administrative Segregation	Ongoing	<ul style="list-style-type: none"> <li>Testimony at the LR34 Committee hearings provided more information about current NDCS practices. Director Frakes has initiated a "repurposing/consolidation" plan to improve access to programming in the short term, while working on longer term solutions.</li> <li>NDCS promulgated new rules and regulations for the use of restrictive housing. The new rules and regulations (Nebraska Administrative Code, Title 72, Chapter 1) took effect on July 1, 2016.</li> <li>The rules and regulations include requirements for the provision of mental health treatment in restrictive housing.</li> <li>See LR424 Recommendations #9 through #15</li> </ul>	<ul style="list-style-type: none"> <li>The Legislative branch should ensure adequate funding for behavioral and mental health staff at NDCS.</li> </ul>		<ul style="list-style-type: none"> <li>See LR34 Recommendations - LR34 Report, Appendix A</li> <li>See LR34 hearing transcripts (LR34 Report, Appendix B)</li> <li>See Vera Report (LR34 Report, Appendix C, Attachment 7)</li> <li>See LR424 Recommendations #9 through #15</li> </ul>
(7)(xii) Offer all programming in all institutions	Ongoing	<ul style="list-style-type: none"> <li>Testimony at the LR34 Committee hearings addressed this issue (see transcript from November 6, 2015). Director Frakes has initiated a "repurposing/consolidation" plan to improve access to programming in the short term, while working on longer term solutions. Ensure implementation of the right programming for the right populations at the right facilities at the right times.</li> <li>See LR424 Recommendation #10</li> </ul>	<ul style="list-style-type: none"> <li>The Legislative branch should ensure adequate funding for programming at NDCS.</li> </ul>		<ul style="list-style-type: none"> <li>See LR34 Recommendations - LR34 Report, Appendix A</li> <li>See LR34 hearing transcripts (LR34 Report, Appendix B)</li> <li>See JPA Report (LR34 Report, Appendix C, Attachment 13b)</li> <li>See LR424 Recommendation #10</li> </ul>
(7)(xiii) Increase Ombudsman's office access to NDCS records	Completed	<ul style="list-style-type: none"> <li>Sen. Mello introduced LB606 (2015), which was amended into LB598 (2015), with some changes. Section 13 of LB598 included a provision to implement this recommendation; the bill took effect on August 30, 2015.</li> <li>According to the Ombudsman's office, this has already improved the quality and efficiency of their work.</li> <li>Instead of creating a permanent oversight committee, the Legislature created the position of Inspector General for Corrections by passing LB598 (2015) and reconstituted the LR424 (2014) Committee by adopting LR34 (2015).</li> <li>See LR424 Recommendation #1 and #4</li> </ul>	None		Have Ombudsman's office staff been trained on use of NICAMS? In particular - confidentiality issues?
(7)(xiv) Establish permanent oversight committee over NDCS	Revised	<ul style="list-style-type: none"> <li>Ombudsman's office correspondence (6/8/2016): This [LR424 Recommendation #7(xiv) - create permanent oversight committee] is a very important recommendation, and as you know it has not happened as of yet. The Legislature did create the IG's position, and that was a major step forward, but I believe that the Legislature still needs to create that permanent DCS oversight committee. In fact, I would argue that the failure to do this is encouraging the Department's "power elite" (high level officials, immediately below Mr. Frakes) to hope that someday soon the Legislature will "go away," and leave DCS alone. As long as these officials have this hope, they have little incentive to reform, and the effect is to slow down change, and limit momentum for reform of the status quo. I believe that a permanent committee would change this equation substantially, and help to spur desirable reform that is not happening thus far.</li> </ul>	<ul style="list-style-type: none"> <li>The Legislature should consider establishing a permanent committee to serve as an oversight body for the Department of Correctional Services and for correctional issues.</li> </ul>		
(8) Conduct a nationwide search for the next NDCS Director; next Director should be a "reform minded" individual committed to overhauling the state's use of segregated confinement, and to carrying out recommendations of LR424 Committee, and the CSG working group	Partially completed	<ul style="list-style-type: none"> <li>Following a nationwide search for the next Director of Correctional Services, the Legislature confirmed Gov. Ricketts' appointee, Scott Frakes, as NDCS director in February 2015.</li> <li>Director Frakes seems to be a "reform minded" individual, and appears to be committed to carrying out the LR424 Committee recommendations and the recommendations from CSG as part of the Justice Reinvestment Initiative. In addition to the JRI work with CSG, Director Frakes asked CSG to conduct a Justice Program Assessment and suggest changes to improve program delivery within the Department. Director Frakes seems particularly committed to overhauling the state's use of segregated confinement; to carry out that work, he invited the Vera Institute to provide technical support to NDCS through the Safe Alternatives to Segregation Initiative.</li> <li>The Governor's Chief Human Resource Officer, Sharon Pettid, worked with Director Frakes to conduct an agency-wide culture study of NDCS. The interview process was completed in early January 2016 and a report was released in May 2016.</li> <li>Director Frakes appointed a new behavioral health director for NDCS (Dr. Lisa Jones), appointed an individual to the newly created Chief of Psychiatry position (Dr. Martin Wetzel), and appointed several new wardens and deputy directors (most of whom came from within the organization).</li> <li>Dr. Jones resigned in August 2016, and Dr. Wetzel resigned in October 2016.</li> <li>It is not clear whether Governor Ricketts has scrutinized each individual who works in the central office at the Department of Correctional Services, those who work in the area of behavioral health, and each warden at a correctional facility, to determine his/her qualifications to continue in that capacity.</li> </ul>			<ul style="list-style-type: none"> <li>See JPA Report (LR34 Report, Appendix C, Attachment 13)</li> <li>See NDCS Culture Study (LR34 Report, Appendix C, Attachment 4)</li> </ul>

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		<ul style="list-style-type: none"> <li>Reforms have been undertaken to significantly reduce the State's reliance on segregated confinement.</li> <li>Sen. Schumacher introduced LB598 (2015), which included several provisions to implement this recommendation; see section 24 of the final bill. LB598 took effect on August 30, 2015.</li> <li>The Vera Report and the long-term plan required by LB598 set out a process for reform.</li> <li>NDCS promulgated new rules and regulations for the use of restrictive housing, as required by LB598. The new rules and regs took effect on July 1, 2016.</li> <li>There has been a fundamental change in the way NDCS administrators talk about segregated confinement, the Director has declared an end to the use of Disciplinary Segregation, and the rules and regulations use different terminology, but the substance of the rules and regulations is pretty much the same as how segregated confinement has been handled by DCS in the past. Specifically, the new "Long-Term Restrictive Housing" is essentially the same as the old "Administrative Confinement."</li> <li>Nebraska has not fully committed to a significant reduction in the use of segregated confinement, beginning with removing the mentally ill and the cognitively impaired.</li> <li>It is not clear if the reforms began with an evaluation of the mentally ill and cognitively impaired individuals confined to segregation - terminology used to describe individuals with mental and behavioral disorders is still vague and inconsistent. In October 2015 the Department's Mental Illness Review Team (MIRT) reviewed all inmates in the secure mental health unit at TSCI and transferred those with "serious mental illness" to the residential mental health unit at LCC.</li> <li>Reforms have been undertaken to provide mental health care for inmates in restrictive housing, but it still is still not clear - when is it ok to place an individual with mental health needs in restrictive housing? There still seems to be a lack of housing and treatment options for individuals with mental health needs who also pose a high security risk.</li> <li>According to the new NDCS rules and regulations, inmates in restrictive housing should be able to have private conversations with mental health professionals on a regular basis. Inmate to licensed mental health staff member ratios should be aligned with an appropriate standard of care. We're not there yet, because of understaffing. Not clear if filling vacancies will solve that problem, or if the Department will need more mental health staff even after the vacancies are filled.</li> <li>Based on the JPA report and related testimony, it sounds like most NDCS mental health professionals do utilize evidenced based therapy models that include an evaluation component to track the effectiveness of interventions, and have been for several years.</li> <li>Director Frakes wrote in an email dated May 18, 2016, to James Davis, Deputy Ombudsman for Corrections, that he "made a commitment to the Workgroup to go through the promulgation process again in the summer of 2017, and update the R&amp;R's based on the practices established, improvements made, and increased capacity to achieve greater levels of performance."</li> </ul>			
(9) Reform the State's use of segregation	Ongoing		<ul style="list-style-type: none"> <li>Director Frakes wrote in an email dated May 18, 2016, to James Davis, Deputy Ombudsman for Corrections, that he "made a commitment to the Workgroup to go through the promulgation process again in the summer of 2017, and update the R&amp;R's based on the practices established, improvements made, and increased capacity to achieve greater levels of performance."</li> </ul>	Continue to monitor implementation of LB598, particularly the revision of rules and regulations for the use of restrictive housing in 2017.	See LR34 Report
(10) Devote additional resources to mental health care and adequate programming within NDCS. Devote additional resources to community-based mental health treatment.	Ongoing	<ul style="list-style-type: none"> <li>Sen. Bolz introduced LB592 (2015), and Sen. Schumacher introduced LB598 (2015), to implement this recommendation. LB592 was partially amended into LB598. Sections 24, 25, 26, and 29 of LB598 implemented this recommendation, by amending 83-173; 83-180; 83-186.01; and 83-1,107, with some changes. The provisions of LB598 took effect on August 30, 2015.</li> <li>The Judiciary Committee held a public hearing on LR295 (2015) (Bolz), which further studied the intersection of the community mental health system and the corrections system.</li> <li>The Performance Audit Committee reviewed the community mental health system and released a report in November, 2015, entitled The DHHS Behavioral Health Division's Role in Reducing Service Gaps</li> <li>Sen. Etko and Sen. Pansing Brooks initiated a field trip and Programming Day, Part 1 during the 2015 interim.</li> <li>LB657 (2015) required NDCS to submit a Behavioral Health Needs Assessment report to the Governor and to the Legislature; it was received in December of 2015.</li> <li>NDCS received technical support from CSG through the "Justice Program Assessment (JPA)" to make recommendations for improving programming.</li> <li>LR413 (2016) created the Behavioral and Mental Health Task Force, which held meetings and hearings and issued a report during the 2016 interim.</li> </ul>	<ul style="list-style-type: none"> <li>Invest additional resources in community based mental health</li> </ul>		See LR34 Report. Also see LR413 Report (LR34 Report, Appendix C, Attachment 24)
(11) NDCS report to Legislature regarding use of solitary confinement	Ongoing	<ul style="list-style-type: none"> <li>Sen. Schumacher introduced LB598 (2015); section 33 implemented this recommendation by amending 83-4,114 to require a report on the use of restrictive housing. The bill required an annual report instead of a quarterly report. The bill took effect on August 30, 2015.</li> <li>Senator Schumacher introduced LB861 (2016) to provide for judicial review of inmates placed in restrictive housing for over 90 days. The bill failed to advance from General File and was indefinitely postponed at the end of the 2016 Session.</li> <li>Senator Bolz introduced LB910 (2016) as a clean-up bill for LB598. Provisions of LB910 were amended into LB1094 (2016), which passed and took effect on April 20, 2016. Section 43 of LB1094 provided a deadline for the first report. The bill also eliminated a reference to the definition of the term "mental illness" used in 71-907, and struck a redundant member of the work group. The statute initially required "all deputy directors" to serve on the work group, and also required "the director of health services" to serve on the work group. Because the "director of health services" is one of the "deputy directors", unnecessary language was removed.</li> <li>NDCS submitted their first report on September 15, 2016.</li> </ul>	<ul style="list-style-type: none"> <li>Continue to monitor number of people released directly from solitary confinement and number of people with mental health issues in solitary confinement.</li> </ul>		See NDCS Restrictive Housing Report (LR34 Report, Appendix C, Attachment 25)
(12) NDCS plan for use of segregation, report to Governor and Legislature	Partially completed	<ul style="list-style-type: none"> <li>Sen. Schumacher introduced LB598 (2015); section 30 implemented this recommendation by requiring the department to develop a plan by July 1, 2016, for reducing the use of restrictive housing. The bill took effect on August 30, 2015. See 83-173.02.</li> <li>NDCS presented a long-term plan for the reduced usage of segregation to the Governor and to the Legislature on June 30, 2015, as required by LB598.</li> <li>The plan did not include better oversight from outside of NDCS, but working group meetings and consultation with Vera are ongoing. The work group meetings are described in the Office of Inspector General annual report.</li> </ul>	<ul style="list-style-type: none"> <li>Communicate with NDCS and work group members about possible changes in work group statute - specifically, if a clarification of the work group role is needed, or if work group members should receive compensation.</li> </ul>		<ul style="list-style-type: none"> <li>See NDCS Restrictive Housing Plan (LR34 Report, Appendix D)</li> <li>See IGO Report (LR34 Report, Appendix C, Attachment 2)</li> <li>See Vera Report (LR34 Report, Appendix C, Attachment 7)</li> </ul>
(13) NDCS establish a separate facility for certain inmates in long-term protective custody	In progress	<ul style="list-style-type: none"> <li>Director Frakes has initiated a "repurposing/consolidation" plan to improve access to programming in the short term, while working on longer term solutions.</li> <li>The TSCI Protective Management Unit opened in the fall of 2015. In February 2016, behavioral health staff began offering substance abuse programming in the protective management unit. The Department intends to implement other forms of mission specific housing.</li> <li>Parts of the "repurposing/consolidation" plan have been scaled back - specifically, no more "general population" unit in the Secure Management Unit at TSCI.</li> <li>See email from James Davis (6/20/2016) - cost of the "Repurposing and Consolidating" plan, cost of double-bunking in seg."</li> </ul>	<ul style="list-style-type: none"> <li>Ask NDCS for an updated document summarizing the current status of the "repurposing/reconsolidating" plan.</li> </ul>		Which aspects of the "repurposing/reconsolidating" plan are still in place? Which aspects have been abandoned? What other Mission Specific Housing Units have been created, and what is next? What programming options are available in mission specific housing units?
(14) NDCS establish transition plans for inmates who are housed in any type of segregation (other than protective custody), and are nearing their mandatory release date.	Ongoing	<ul style="list-style-type: none"> <li>The number of individuals released directly to the community after spending any amount of time in restrictive housing in FY 2016 was 49, down from 58 in FY 2015 and 78 in FY 2014. (9.15.2016 NDCS Restrictive Housing Report, page 13.)</li> <li>Sen. Bolz introduced LB592 (2015), and Sen. Schumacher introduced LB598 (2015), which included provisions to implement this recommendation. LB592 was amended into LB598, which took effect on August 30, 2015. Section 29 of LB598 amended 83-1,107, and Section 31 created a new section, with some changes to the language of the bills as introduced.</li> <li>In addition to the transition plans required by LB598, NDCS is also already required to help inmates complete a reentry plan, as required by LB907 (2014).</li> <li>See LR424 Recommendation #11 and #15</li> </ul>	<ul style="list-style-type: none"> <li>Work with the OIG and Ombudsman's office, continue to monitor the number of individuals released directly to the community from restrictive housing.</li> </ul>		<ul style="list-style-type: none"> <li>See LR424 Recommendation #11 and #15</li> </ul>

## LR34 Committee Updates - LR424 Recommendations

Recommendation (shorthand)	Status (December 14, 2016)	Status update (December 14, 2016)	Action to be taken	Target date	Notes & Questions
(15) NDCS develop clear and transparent process to review certain inmates to ensure adequate programming, consultation with mental health practitioners, and possible referral to the Mental Health Board for commitment if appropriate.	Ongoing	<ul style="list-style-type: none"> <li>• Sen. Bolz introduced LB592 (2016), which included provisions to implement this recommendation. LB592 was partially amended into LB598 (2015). Sections 6 and 7 of LB592 were not incorporated into the final bill, which took effect on August 30, 2015. Section 24 of LB598 amended 83-173, with some changes, to require electronic record keeping; Section 25 amended 83-180, to require rules and regulations for mental health screening; and Section 29 amended 83-1,107, with some changes, to require evaluations prior to release for certain inmates.</li> <li>• The LR34 (2015) Committee heard testimony regarding this topic at the interim hearing on Friday, November 6, 2015. The LR34 Committee also heard testimony from Dr. Lisa Jones regarding this topic at a hearing on Monday, April 18, 2016.</li> <li>• According to Dr. Jones: All DRT members are trained in threat and risk assessment. NDCS contracted with a national expert in threat/risk assessment to review DRT policies and procedures. NDCS purchased "therapeutic restraint chairs" in December 2015, to allow inmates in secure mental health unit to participate in therapy. NDCS adopted a mental health coding system, modeled on Massachusetts system - incorporates level of functioning in addition to diagnosis.</li> <li>• The Justice Program Assessment (June, 2016) raised issues with the Department's data collection and reporting. The issues raised by CSG in the JPA were similar to issues raised in the Performance Audit report (November 2014) regarding the Department's data collection and reporting, which led to the requirement in LB598 for the Department to "Establish and administer policies that ensure that complete and up-to-date electronic records are maintained for each person committed to the department and which also ensure privacy protections. Electronic records shall include programming recommendations, program completions, time spent in housing other than general population, and medical records, including mental and behavioral health records." [LB598 (section 24)]</li> <li>• NDCS is in the process of promulgating rules and regulations. The Ombudsman's office testified at the hearing on 11/15/2016 regarding Title 72, Chapter 4 - "process for screening inmates for mental illness at intake, risk assessment for high risk inmates and reviewing potentially dangerous inmates prior to discharge."</li> </ul>	NDCS: Promulgate rules and regs for Discharge Review Team	DRT Rules and regs - promulgation of Title 72, Chapter 4 finalized in early 2017?	<ul style="list-style-type: none"> <li>• See 4.18.2016 LR34 hearing transcript, and see Dr. Jones documents from hearing and follow-up documents sent after hearing.</li> <li>• See Ombudsman comments from 11.15.2016 NDCS hearing on Title 72, Chapter 4 (LR34 Report, Appendix D)</li> <li>• Also see "Gage Report" (LR34 Report, Appendix C, Attachment 22)</li> <li>• From CSG's comments in the JPA report, it sounds like nothing has changed in the past 2 years. Is that the case? If so - what has Director Frakes tried to do to change the situation? What does he need to comply with the statute? If that's not the case - what has changed?</li> </ul>
(16) Examine definition of "mentally ill"	Not completed	<ul style="list-style-type: none"> <li>• Sen. Bolz introduced LB592 (2015), which was amended into LB598 (2015). However, the provisions of LB592 that would have implemented this recommendation received strong opposition, and were not incorporated into the final bill. (See LB592 Sections 1 and 4; also see amendment discussed at hearing on LB592.)</li> </ul>			<ul style="list-style-type: none"> <li>• See LR34 Report ("Mental and Behavioral Health Treatment" section)</li> <li>• Did LR413 (2016) behavioral health task force address this issue? See LR413 Report (LR34 Report, Appendix C, Attachment 24)</li> </ul>