

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 270

Introduced by Executive Board; Wightman, 36, Chairperson;
Christensen, 44; Fischer, 43; Flood, 19; Heidemann, 1;
Karpisek, 32; Langemeier, 23; Nelson, 6; Pahls, 31.

Read first time January 11, 2011

Committee: Executive Board

A BILL

1 FOR AN ACT relating to the Public Counsel; to amend sections 81-8,240
2 and 81-8,244, Reissue Revised Statutes of Nebraska; to
3 eliminate duties and positions relating to county or
4 municipal correctional and jail facilities, mental health
5 and veterans institutions, regional behavioral health
6 authorities, and community-based behavioral health
7 services providers; to harmonize provisions; to provide
8 an operative date; to repeal the original sections; and
9 to declare an emergency.

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

1 Section 1. Section 81-8,240, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-8,240 As used in sections 81-8,240 to 81-8,254, unless
4 the context otherwise requires:

5 (1) Administrative agency shall mean any department,
6 board, commission, or other governmental unit, any official, any
7 employee of the State of Nebraska acting or purporting to act by
8 reason of connection with the State of Nebraska, any corporation,
9 partnership, business, firm, governmental entity, or person who is
10 providing health and human services to individuals under contract
11 with the State of Nebraska and who is subject to the jurisdiction of
12 the office of Public Counsel as required by section 73-401, ~~any~~
13 ~~regional behavioral health authority, any community based behavioral~~
14 ~~health services provider that contracts with a regional behavioral~~
15 ~~health authority, and any county or municipal correctional or jail~~
16 ~~facility and employee thereof acting or purporting to act by reason~~
17 ~~of connection with the county or municipal correctional or jail~~
18 ~~facility;~~ but shall not include (a) any court, (b) any member or
19 employee of the Legislature or the Legislative Council, (c) the
20 Governor or his or her personal staff, (d) any political subdivision
21 or entity thereof, ~~except a county or municipal correctional or jail~~
22 ~~facility or a regional behavioral health authority,~~ (e) any
23 instrumentality formed pursuant to an interstate compact and
24 answerable to more than one state, or (f) any entity of the federal
25 government; and

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

4 Sec. 2. Section 81-8,244, Reissue Revised Statutes of
5 Nebraska, is amended to read:

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

15 Such deputy public counsels shall be subject to the
16 control and supervision of the Public Counsel.

17 The authority of the deputy public counsel for
18 corrections shall extend to all facilities and parts of facilities,
19 offices, houses of confinement, and institutions which are operated
20 by the Department of Correctional Services, ~~and all county or~~
21 ~~municipal correctional or jail facilities.~~

22 ~~The authority of the deputy public counsel for~~
23 ~~institutions shall extend to all mental health and veterans~~
24 ~~institutions and facilities operated by the Department of Health and~~
25 ~~Human Services and to all regional behavioral health authorities that~~

1 ~~provide services and all community-based behavioral health services~~
2 ~~providers that contract with a regional behavioral health authority~~
3 ~~to provide services, for any individual who was a patient within the~~
4 ~~prior twelve months of a state-owned and state-operated regional~~
5 ~~center, and to all complaints pertaining to administrative acts of~~
6 ~~the department, authority, or provider when those acts are concerned~~
7 ~~with the rights and interests of individuals placed within those~~
8 ~~institutions and facilities or receiving community-based behavioral~~
9 ~~health services.~~

10 The authority of the deputy public counsel for welfare
11 services shall extend to all complaints pertaining to administrative
12 acts of administrative agencies when those acts are concerned with
13 the rights and interests of individuals involved in the welfare
14 services system of the State of Nebraska.

15 The Public Counsel may delegate to members of the staff
16 any authority or duty under sections 81-8,240 to 81-8,254 except the
17 power of delegation and the duty of formally making recommendations
18 to administrative agencies or reports to the Governor or the
19 Legislature.

20 Sec. 3. This act becomes operative on July 1, 2011.

21 Sec. 4. Original sections 81-8,240 and 81-8,244, Reissue
22 Revised Statutes of Nebraska, are repealed.

23 Sec. 5. Since an emergency exists, this act takes effect
24 when passed and approved according to law.