

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 840

Introduced by Council, 11.

Read first time January 06, 2012

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to detention facilities; to provide powers and
- 2 duties relating to inmate mail; and to provide a penalty.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Contraband includes illegal items, explosives, deadly
3 weapons, alcoholic beverages, drugs, tobacco products, controlled
4 substances, and any item that is controlled, limited, or prohibited
5 in a detention facility or on its grounds or within the secure
6 perimeter of a detention facility;

7 (b) Detention facility means any criminal detention
8 facility as defined in section 83-4,125 or a Department of
9 Correctional Services facility;

10 (c) Legal mail means correspondence to or from courts or
11 court staff, attorneys, established groups of attorneys involved in
12 the representation of an inmate in judicial proceedings, the Public
13 Counsel, the President or Vice President of the United States, a
14 member of the United States Congress, any representative of an
15 embassy or a consulate, the United States Department of Justice, a
16 state attorney general, a governor, any member of the Legislature,
17 and any law enforcement officer in his or her official capacity. To
18 be considered and therefor handled as legal mail, the correspondence
19 shall be clearly marked legal mail on the outside front of the
20 envelope and shall have a return address which clearly indicates that
21 the correspondence is from one of the sources enumerated in this
22 subdivision; and

23 (d) Mail means letters, publications, or packages
24 delivered to the detention facility by the United States Postal
25 Service or by other established and authorized package or letter

1 carriers.

2 (2) All mail intended for or to be sent by an inmate of a
3 detention facility, excluding legal mail, may be inspected at any
4 time by the staff designated by the Director of Correctional Services
5 or the director or head of the facility if not a state facility or
6 his or her designee. Mail, excluding legal mail, may be disapproved
7 for receipt or transmittal in accordance with Department of
8 Correctional Services rules and regulations or rules and regulations
9 of the detention facility if it is not a state facility.

10 (3) No person who inspects or participates in the
11 inspection of the mail of an inmate of a detention facility, shall
12 disclose the contents of the mail except in the course of his or her
13 official duties.

14 (4) Mail, whether it is incoming or outgoing, which is
15 clearly identified on the outside as legal mail, shall be inspected
16 only in the presence of the inmate of a detention facility. Legal
17 mail shall not be read by any employee of a detention facility
18 without a search warrant but may be inspected in the presence of the
19 inmate to verify that the mail is free from contraband.

20 (5) Mail containing illegal items or contraband shall be
21 held and disposed of in accordance with the procedures set forth in
22 Department of Correctional Services rules and regulations or rules
23 and regulations of the detention facility if it is not a state
24 facility.

25 (6)(a) Any employee of a detention facility who opens,

1 reads, inspects, copies, or shares correspondence which is considered
2 legal mail shall be guilty of a Class II misdemeanor and shall be
3 summarily discharged from his or her employment with the detention
4 facility.

5 (b) Any person who sends mail to an inmate in a detention
6 facility falsely identified as legal mail shall be guilty of a Class
7 II misdemeanor.