

AMENDMENTS TO LB598

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Sections 1 to 18 of this act shall be known and may be  
4 cited as the Office of Inspector General of the Nebraska Correctional  
5 System Act.

6           Sec. 2. (1) It is the intent of the Legislature to:

7           (a) Establish a full-time program of investigation and performance  
8 review to provide increased accountability and oversight of the Nebraska  
9 correctional system;

10          (b) Assist in improving operations of the department and the  
11 Nebraska correctional system;

12          (c) Provide an independent form of inquiry for concerns regarding  
13 the actions of individuals and agencies responsible for the supervision  
14 and release of persons in the Nebraska correctional system. A lack of  
15 responsibility and accountability between individuals and private  
16 agencies in the current system make it difficult to monitor and oversee  
17 the Nebraska correctional system; and

18          (d) Provide a process for investigation and review in order to  
19 improve policies and procedures of the correctional system.

20          (2) It is not the intent of the Legislature in enacting the Office  
21 of Inspector General of the Nebraska Correctional System Act to interfere  
22 with the duties of the Legislative Auditor or the Legislative Fiscal  
23 Analyst or to interfere with the statutorily defined investigative  
24 responsibilities or prerogatives of any officer, agency, board, bureau,  
25 commission, association, society, or institution of the executive branch  
26 of state government, except that the act does not preclude an inquiry on  
27 the sole basis that another agency has the same responsibility. The act

1 shall not be construed to interfere with or supplant the responsibilities  
2 or prerogatives of the Governor to investigate, monitor, and report on  
3 the activities of the agencies, boards, bureaus, commissions,  
4 associations, societies, and institutions of the executive branch under  
5 his or her administrative direction.

6 Sec. 3. For purposes of the Office of Inspector General of the  
7 Nebraska Correctional System Act, the following definitions apply:

8 (1) Administrator means a person charged with administration of a  
9 program, an office, or a division of the department or administration of  
10 a private agency;

11 (2) Department means the Department of Correctional Services;

12 (3) Director means the Director of Correctional Services;

13 (4) Inspector General means the Inspector General of the Nebraska  
14 Correctional System appointed under section 4 of this act;

15 (5) Malfeasance means a wrongful act that the actor has no legal  
16 right to do or any wrongful conduct that affects, interrupts, or  
17 interferes with performance of an official duty;

18 (6) Management means supervision of subordinate employees;

19 (7) Misfeasance means the improper performance of some act that a  
20 person may lawfully do;

21 (8) Obstruction means hindering an investigation, preventing an  
22 investigation from progressing, stopping or delaying the progress of an  
23 investigation, or making the progress of an investigation difficult or  
24 slow;

25 (9) Office means the office of Inspector General of the Nebraska  
26 Correctional System and includes the Inspector General and other  
27 employees of the office;

28 (10) Private agency means an entity that contracts with the  
29 department or contracts to provide services to another entity that  
30 contracts with the department; and

31 (11) Record means any recording, in written, audio, electronic

1 transmission, or computer storage form, including, but not limited to, a  
2 draft, memorandum, note, report, computer printout, notation, or message,  
3 and includes, but is not limited to, medical records, mental health  
4 records, case files, clinical records, financial records, and  
5 administrative records.

6       Sec. 4. (1) The office of Inspector General of the Nebraska  
7 Correctional System is created within the office of Public Counsel for  
8 the purpose of conducting investigations, audits, inspections, and other  
9 reviews of the Nebraska correctional system. The Inspector General shall  
10 be appointed by the Public Counsel with approval from the chairperson of  
11 the Executive Board of the Legislative Council and the chairperson of the  
12 Judiciary Committee of the Legislature.

13       (2) The Inspector General shall be appointed for a term of five  
14 years and may be reappointed. The Inspector General shall be selected  
15 without regard to political affiliation and on the basis of integrity,  
16 capability for strong leadership, and demonstrated ability in accounting,  
17 auditing, financial analysis, law, management, public administration,  
18 investigation, or criminal justice administration or other closely  
19 related fields. No former or current executive or manager of the  
20 department shall be appointed Inspector General within five years after  
21 such former or current executive's or manager's period of service with  
22 the department. Not later than two years after the date of appointment,  
23 the Inspector General shall obtain certification as a Certified Inspector  
24 General by the Association of Inspectors General, its successor, or  
25 another nationally recognized organization that provides and sponsors  
26 educational programs and establishes professional qualifications,  
27 certifications, and licensing for inspectors general. During his or her  
28 employment, the Inspector General shall not be actively involved in  
29 partisan affairs.

30       (3) The Inspector General shall employ such investigators and  
31 support staff as he or she deems necessary to carry out the duties of the

1 office within the amount available by appropriation through the office of  
2 Public Counsel for the office of Inspector General of the Nebraska  
3 Correctional System. The Inspector General shall be subject to the  
4 control and supervision of the Public Counsel, except that removal of the  
5 Inspector General shall require approval of the chairperson of the  
6 Executive Board of the Legislative Council and the chairperson of the  
7 Judiciary Committee of the Legislature.

8       Sec. 5. (1) The office shall investigate:

9       (a) Allegations or incidents of possible misconduct, misfeasance,  
10 malfeasance, or violations of statutes or of rules or regulations of the  
11 department by an employee of or person under contract with the department  
12 or a private agency; and

13       (b) Death or serious injury in private agencies, department  
14 correctional facilities, and other programs and facilities licensed by or  
15 under contract with the department. The department shall report all cases  
16 of death or serious injury of a person in a private agency, department  
17 correctional facility or program, or other program or facility licensed  
18 by the department to the Inspector General as soon as reasonably possible  
19 after the department learns of such death or serious injury. For purposes  
20 of this subdivision, serious injury means an injury or illness caused by  
21 malfeasance or misfeasance which leaves a person in critical or serious  
22 condition.

23       (2) Any investigation conducted by the Inspector General shall be  
24 independent of and separate from an investigation pursuant to sections  
25 23-1821 to 23-1823.

26       (3) Notwithstanding the fact that a criminal investigation, a  
27 criminal prosecution, or both are in progress, all law enforcement  
28 agencies and prosecuting attorneys shall cooperate with any investigation  
29 conducted by the Inspector General and shall, immediately upon request by  
30 the Inspector General, provide the Inspector General with copies of all  
31 law enforcement reports which are relevant to the Inspector General's

1 investigation. All law enforcement reports which have been provided to  
2 the Inspector General pursuant to this section are not public records for  
3 purposes of sections 84-712 to 84-712.09 and shall not be subject to  
4 discovery by any other person or entity. Except to the extent that  
5 disclosure of information is otherwise provided for in the Office of  
6 Inspector General of the Nebraska Correctional System Act, the Inspector  
7 General shall maintain the confidentiality of all law enforcement reports  
8 received pursuant to its request under this section. Law enforcement  
9 agencies and prosecuting attorneys shall, when requested by the Inspector  
10 General, collaborate with the Inspector General regarding all other  
11 information relevant to the Inspector General's investigation. If the  
12 Inspector General in conjunction with the Public Counsel determines it  
13 appropriate, the Inspector General may, when requested to do so by a law  
14 enforcement agency or prosecuting attorney, suspend an investigation by  
15 the office until a criminal investigation or prosecution is completed or  
16 has proceeded to a point that, in the judgment of the Inspector General,  
17 reinstatement of the Inspector General's investigation will not impede or  
18 infringe upon the criminal investigation or prosecution. Under no  
19 circumstance shall the Inspector General interview any person who has  
20 already been interviewed by a law enforcement agency in connection with a  
21 relevant ongoing investigation of a law enforcement agency.

22       Sec. 6. (1) The office shall have access to all information and  
23 personnel necessary to perform the duties of the office.

24       (2) A full investigation conducted by the office shall consist of  
25 retrieval of relevant records through subpoena, request, or voluntary  
26 production, review of all relevant records, and interviews of all  
27 relevant persons.

28       Sec. 7. (1) Complaints to the office may be made in writing. A  
29 complaint shall be evaluated to determine if it alleges possible  
30 misconduct, misfeasance, malfeasance, or violation of a statute or of  
31 rules and regulations of the department by an employee of or a person

1 under contract with the department or a private agency. All complaints  
2 shall be evaluated to determine whether a full investigation is  
3 warranted.

4 (2) The office shall not conduct a full investigation of a complaint  
5 unless:

6 (a) The complaint alleges misconduct, misfeasance, malfeasance, or  
7 violation of a statute or of rules and regulations of the department;

8 (b) The complaint is against a person within the jurisdiction of the  
9 office; and

10 (c) The allegations can be independently verified through  
11 investigation.

12 (3) The Inspector General shall determine within fourteen days after  
13 receipt of a complaint whether the office will conduct a full  
14 investigation.

15 (4) When a full investigation is opened on a private agency that  
16 contracts with the department, the Inspector General shall give notice of  
17 such investigation to the department.

18 Sec. 8. All employees of the department and all owners, operators,  
19 managers, supervisors, and employees of private agencies shall cooperate  
20 with the office. Cooperation includes, but is not limited to, the  
21 following:

22 (1) Provision of full access to and production of records and  
23 information. Providing access to and producing records and information  
24 for the office is not a violation of confidentiality provisions under any  
25 statute, rule, or regulation if done in good faith for purposes of an  
26 investigation under the Office of Inspector General of the Nebraska  
27 Correctional System Act;

28 (2) Fair and honest disclosure of records and information reasonably  
29 requested by the office in the course of an investigation under the act;

30 (3) Encouraging employees to fully comply with reasonable requests  
31 of the office in the course of an investigation under the act;

1       (4) Prohibition of retaliation by owners, operators, or managers  
2 against employees for providing records or information or filing or  
3 otherwise making a complaint to the office;

4       (5) Not requiring employees to gain supervisory approval prior to  
5 filing a complaint with or providing records or information to the  
6 office;

7       (6) Provision of complete and truthful answers to questions posed by  
8 the office in the course of an investigation; and

9       (7) Not willfully interfering with or obstructing the investigation.

10       Sec. 9. Failure to cooperate with an investigation by the office  
11 may result in discipline or other sanctions.

12       Sec. 10. The Inspector General may issue a subpoena, enforceable by  
13 action in an appropriate court, to compel any person to appear, give  
14 sworn testimony, or produce documentary or other evidence deemed relevant  
15 to a matter under his or her inquiry. A person thus required to provide  
16 information shall be paid the same fees and travel allowances and shall  
17 be accorded the same privileges and immunities as are extended to  
18 witnesses in the district courts of this state and shall also be entitled  
19 to have counsel present while being questioned.

20       Sec. 11. (1) In conducting investigations, the office shall access  
21 all relevant records through subpoena, compliance with a request of the  
22 office, and voluntary production. The office may request or subpoena any  
23 record necessary for the investigation from the department or a private  
24 agency that is pertinent to an investigation. All case files, licensing  
25 files, medical records, financial and administrative records, and records  
26 required to be maintained pursuant to applicable licensing rules shall be  
27 produced for review by the office in the course of an investigation.

28       (2) Compliance with a request of the office includes:

29       (a) Production of all records requested;

30       (b) A diligent search to ensure that all appropriate records are  
31 included; and

1       (c) A continuing obligation to immediately forward to the office any  
2 relevant records received, located, or generated after the date of the  
3 request.

4       (3) The office shall seek access in a manner that respects the  
5 dignity and human rights of all persons involved, maintains the integrity  
6 of the investigation, and does not unnecessarily disrupt department  
7 programs or services. When advance notice to an administrator or his or  
8 her designee is not provided, the office investigator shall, upon arrival  
9 at the departmental office, bureau, or division or private agency,  
10 request that an onsite employee notify the administrator or his or her  
11 designee of the investigator's arrival.

12       (4) When circumstances of an investigation require, the office may  
13 make an unannounced visit to a departmental office, bureau, or division,  
14 a department correctional facility, or a private agency to request  
15 records relevant to an investigation.

16       (5) A responsible individual or an administrator may be asked to  
17 sign a statement of record integrity and security when a record is  
18 secured by request as the result of a visit by the office, stating:

19       (a) That the responsible individual or the administrator has made a  
20 diligent search of the office, bureau, division, private agency, or  
21 department correctional facility to determine that all appropriate  
22 records in existence at the time of the request were produced;

23       (b) That the responsible individual or the administrator agrees to  
24 immediately forward to the office any relevant records received, located,  
25 or generated after the visit;

26       (c) The persons who have had access to the records since they were  
27 secured; and

28       (d) Whether, to the best of the knowledge of the responsible  
29 individual or the administrator, any records were removed from or added  
30 to the record since it was secured.

31       (6) The office shall permit a responsible individual, an



1 administrator, or an employee of a departmental office, bureau, or  
2 division, a private agency, or a department correctional facility to make  
3 photocopies of the original records within a reasonable time in the  
4 presence of the office for purposes of creating a working record in a  
5 manner that assures confidentiality.

6 (7) The office shall present to the responsible individual or the  
7 administrator or other employee of the departmental office, bureau, or  
8 division, private agency, or department correctional facility a copy of  
9 the request, stating the date and the titles of the records received.

10 (8) If an original record is provided during an investigation, the  
11 office shall return the original record as soon as practical but no later  
12 than ten working days after the date of the compliance request.

13 (9) All investigations conducted by the office shall be conducted in  
14 a manner designed to ensure the preservation of evidence for possible use  
15 in a criminal prosecution.

16 Sec. 12. (1) Reports of investigations conducted by the office  
17 shall not be distributed beyond the entity that is the subject of the  
18 report without the consent of the Inspector General.

19 (2) The office shall redact confidential information before  
20 distributing a report of an investigation. The office may disclose  
21 confidential information to the chairperson of the Judiciary Committee of  
22 the Legislature when such disclosure is, in the judgment of the Public  
23 Counsel, desirable to keep the chairperson informed of important events,  
24 issues, and developments in the Nebraska correctional system.

25 (3) Records and documents, regardless of physical form, that are  
26 obtained or produced by the office in the course of an investigation are  
27 not public records for purposes of sections 84-712 to 84-712.09. Reports  
28 of investigations conducted by the office are not public records for  
29 purposes of sections 84-712 to 84-712.09.

30 (4) The office may withhold the identity of sources of information  
31 to protect from retaliation any person who files a complaint or provides

1 information in good faith pursuant to the Office of Inspector General of  
2 the Nebraska Correctional System Act.

3 Sec. 13. The department shall provide the Public Counsel and the  
4 Inspector General with direct computer access to all computerized  
5 records, reports, and documents maintained by the department in  
6 connection with administration of the Nebraska correctional system,  
7 except that the Public Counsel's and Inspector General's access to an  
8 inmate's medical or mental health records shall be subject to the  
9 inmate's consent.

10 Sec. 14. (1) The Inspector General's report of an investigation  
11 shall be in writing to the Public Counsel and shall contain  
12 recommendations. The report may recommend systemic reform or case-  
13 specific action, including a recommendation for discharge or discipline  
14 of employees or for sanctions against a private agency. All  
15 recommendations to pursue discipline shall be in writing and signed by  
16 the Inspector General. A report of an investigation shall be presented to  
17 the director within fifteen days after the report is presented to the  
18 Public Counsel.

19 (2) Any person receiving a report under this section shall not  
20 further distribute the report or any confidential information contained  
21 in the report. The report shall not be distributed beyond the parties  
22 except through the appropriate court procedures to the judge.

23 (3) A report that identifies misconduct, misfeasance, malfeasance,  
24 violation of statute, or violation of rules and regulations by an  
25 employee of the department or a private agency that is relevant to  
26 providing appropriate supervision of an employee may be shared with the  
27 employer of such employee. The employer may not further distribute the  
28 report or any confidential information contained in the report.

29 Sec. 15. (1) Within fifteen days after a report is presented to the  
30 director under section 14 of this act, he or she shall determine whether  
31 to accept, reject, or request in writing modification of the

1 recommendations contained in the report. The Inspector General, with  
2 input from the Public Counsel, may consider the director's request for  
3 modifications but is not obligated to accept such request. Such report  
4 shall become final upon the decision of the director to accept or reject  
5 the recommendations in the report or, if the director requests  
6 modifications, within fifteen days after such request or after the  
7 Inspector General incorporates such modifications, whichever occurs  
8 earlier.

9 (2) Within fifteen days after the report is presented to the  
10 director, the report shall be presented to the private agency or other  
11 provider of correctional services that is the subject of the report and  
12 to persons involved in the implementation of the recommendations in the  
13 report. Within forty-five days after receipt of the report, the private  
14 agency or other provider may submit a written response to the office to  
15 correct any factual errors in the report. The Inspector General, with  
16 input from the Public Counsel, shall consider all materials submitted  
17 under this subsection to determine whether a corrected report shall be  
18 issued. If the Inspector General determines that a corrected report is  
19 necessary, the corrected report shall be issued within fifteen days after  
20 receipt of the written response.

21 (3) If the Inspector General does not issue a corrected report  
22 pursuant to subsection (2) of this section or if the corrected report  
23 does not address all issues raised in the written response, the private  
24 agency or other provider may request that its written response, or  
25 portions of the response, be appended to the report or corrected report.

26 Sec. 16. No report or other work product of an investigation by the  
27 Inspector General shall be reviewable in any court. Neither the Inspector  
28 General nor any member of his or her staff shall be required to testify  
29 or produce evidence in any judicial or administrative proceeding  
30 concerning matters within his or her official cognizance except in a  
31 proceeding brought to enforce the Office of Inspector General of the

1 Nebraska Correctional System Act.

2       Sec. 17. The Office of Inspector General of the Nebraska  
3 Correctional System Act does not require the Inspector General to  
4 investigate all complaints. The Inspector General, with input from the  
5 Public Counsel, shall prioritize and select investigations and inquiries  
6 that further the intent of the act and assist in legislative oversight of  
7 the Nebraska correctional system. If the Inspector General determines  
8 that he or she will not investigate a complaint, the Inspector General  
9 may recommend to the parties alternative means of resolution of the  
10 issues in the complaint.

11       Sec. 18. On or before September 15 of each year, the Inspector  
12 General shall provide to each member of the Judiciary Committee of the  
13 Legislature, the Governor, and the Clerk of the Legislature a summary of  
14 reports and investigations made under the Office of Inspector General of  
15 the Nebraska Correctional System Act for the preceding year. The summary  
16 provided to the Clerk of the Legislature shall be provided  
17 electronically. The summaries shall include recommendations and an update  
18 on the status of recommendations made in prior summaries, if any. The  
19 recommendations may address issues discovered through investigation,  
20 audits, inspections, and reviews by the office that will (1) increase  
21 accountability and legislative oversight of the Nebraska correctional  
22 system, (2) improve operations of the department and the Nebraska  
23 correctional system, (3) deter and identify fraud, abuse, and illegal  
24 acts, and (4) identify inconsistencies between statutory requirements and  
25 requirements for accreditation. The summaries shall not contain any  
26 confidential or identifying information concerning the subjects of the  
27 reports and investigations.

28       Sec. 19. Section 81-8,241, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30       81-8,241 The office of Public Counsel is hereby established to  
31 exercise the authority and perform the duties provided by sections

1 81-8,240 to 81-8,254, ~~and~~ the Office of Inspector General of Nebraska  
2 Child Welfare Act, and the Office of Inspector General of the Nebraska  
3 Correctional System Act. The Public Counsel shall be appointed by the  
4 Legislature, with the vote of two-thirds of the members required for  
5 approval of such appointment from nominations submitted by the Executive  
6 Board of the Legislative Council.

7 Sec. 20. Section 81-8,244, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 81-8,244 (1)(a) The Public Counsel may select, appoint, and  
10 compensate as he or she sees fit, within the amount available by  
11 appropriation, such assistants and employees as he or she deems necessary  
12 to discharge the responsibilities under sections 81-8,240 to 81-8,254. He  
13 or she shall appoint and designate one assistant to be a deputy public  
14 counsel, one assistant to be a deputy public counsel for corrections, one  
15 assistant to be a deputy public counsel for institutions, and one  
16 assistant to be a deputy public counsel for welfare services.

17 (b) Such deputy public counsels shall be subject to the control and  
18 supervision of the Public Counsel.

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

24 (d) The authority of the deputy public counsel for institutions  
25 shall extend to all mental health and veterans institutions and  
26 facilities operated by the Department of Health and Human Services and to  
27 all regional behavioral health authorities that provide services and all  
28 community-based behavioral health services providers that contract with a  
29 regional behavioral health authority to provide services, for any  
30 individual who was a patient within the prior twelve months of a state-  
31 owned and state-operated regional center, and to all complaints

1 pertaining to administrative acts of the department, authority, or  
2 provider when those acts are concerned with the rights and interests of  
3 individuals placed within those institutions and facilities or receiving  
4 community-based behavioral health services.

5 (e) The authority of the deputy public counsel for welfare services  
6 shall extend to all complaints pertaining to administrative acts of  
7 administrative agencies when those acts are concerned with the rights and  
8 interests of individuals involved in the welfare services system of the  
9 State of Nebraska.

10 (f) The Public Counsel may delegate to members of the staff any  
11 authority or duty under sections 81-8,240 to 81-8,254 except the power of  
12 delegation and the duty of formally making recommendations to  
13 administrative agencies or reports to the Governor or the Legislature.

14 (2) The Public Counsel shall appoint the Inspector General of  
15 Nebraska Child Welfare as provided in section 43-4317. The Inspector  
16 General of Nebraska Child Welfare shall have the powers and duties  
17 provided in the Office of Inspector General of Nebraska Child Welfare  
18 Act.

19 (3) The Public Counsel shall appoint the Inspector General of the  
20 Nebraska Correctional System as provided in section 4 of this act. The  
21 Inspector General of the Nebraska Correctional System shall have the  
22 powers and duties provided in the Office of Inspector General of the  
23 Nebraska Correctional System Act.

24 Sec. 21. Section 81-8,245, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 81-8,245 The Public Counsel shall have the power to:

27 (1) Investigate, on complaint or on his or her own motion, any  
28 administrative act of any administrative agency;

29 (2) Prescribe the methods by which complaints are to be made,  
30 received, and acted upon; determine the scope and manner of  
31 investigations to be made; and, subject to the requirements of sections

1 81-8,240 to 81-8,254, determine the form, frequency, and distribution of  
2 his or her conclusions, recommendations, and proposals;

3 (3) Conduct inspections of the premises, or any parts thereof, of  
4 any administrative agency or any property owned, leased, or operated by  
5 any administrative agency as frequently as is necessary, in his or her  
6 opinion, to carry out duties prescribed under sections 81-8,240 to  
7 81-8,254;

8 (4) Request and receive from each administrative agency, and such  
9 agency shall provide, the assistance and information the counsel deems  
10 necessary for the discharge of his or her responsibilities; inspect and  
11 examine the records and documents of all administrative agencies  
12 notwithstanding any other provision of law; and enter and inspect  
13 premises within any administrative agency's control;

14 (5) Issue a subpoena, enforceable by action in an appropriate court,  
15 to compel any person to appear, give sworn testimony, or produce  
16 documentary or other evidence deemed relevant to a matter under his or  
17 her inquiry. A person thus required to provide information shall be paid  
18 the same fees and travel allowances and shall be accorded the same  
19 privileges and immunities as are extended to witnesses in the district  
20 courts of this state and shall also be entitled to have counsel present  
21 while being questioned;

22 (6) Undertake, participate in, or cooperate with general studies or  
23 inquiries, whether or not related to any particular administrative agency  
24 or any particular administrative act, if he or she believes that they may  
25 enhance knowledge about or lead to improvements in the functioning of  
26 administrative agencies;

27 (7) Make investigations, reports, and recommendations necessary to  
28 carry out his or her duties under the State Government Effectiveness Act;

29 (8) Carry out his or her duties under the Office of Inspector  
30 General of Nebraska Child Welfare Act. If any of the provisions of  
31 sections 81-8,240 to 81-8,254 conflict with provisions of the Office of

1 Inspector General of Nebraska Child Welfare Act, the provisions of such  
2 act shall control;

3 (9) Carry out his or her duties under the Office of Inspector  
4 General of the Nebraska Correctional System Act. If any of the provisions  
5 of sections 81-8,240 to 81-8,254 conflict with the provisions of the  
6 Office of Inspector General of the Nebraska Correctional System Act, the  
7 provisions of such act shall control;

8 (10 9) Investigate allegations of violation of subsection (2) of  
9 section 84-908 by an administrative agency pursuant to a complaint made  
10 to his or her office and make a determination as to whether such  
11 administrative agency has violated such subsection. The Public Counsel  
12 shall report his or her determination in writing to the Governor, the  
13 Secretary of State, the Attorney General, the Executive Board of the  
14 Legislative Council, and the director or chief executive officer of the  
15 agency. The report to the executive board shall be submitted  
16 electronically; and

17 (~~11 10~~) Investigate and address the complaint and case of:

18 (a) Any juvenile committed to the custody of a youth rehabilitation  
19 and treatment center; and

20 (b) Any juvenile released from a youth rehabilitation and treatment  
21 center for reentry into the community, while that juvenile is subject to  
22 the Community and Family Reentry Process and a service or treatment  
23 program in which the juvenile may be involved after his or her release  
24 from a youth rehabilitation and treatment center, whether that service or  
25 program is administrated by the Office of Juvenile Services or a private  
26 provider in the community. The Office of Juvenile Services and private  
27 providers in the community shall cooperate with any investigation  
28 conducted by the Public Counsel pursuant to this subdivision and provide  
29 all documentation and information requested by the Public Counsel in  
30 connection with such an investigation.

31 Sec. 22. Section 83-171, Reissue Revised Statutes of Nebraska, is



1 amended to read:

2 83-171 There is hereby created a Department of Correctional Services  
3 which shall:

4 (1) Maintain and administer facilities required for the custody,  
5 control, correctional treatment, and rehabilitation of persons committed  
6 to the department and for the safekeeping of such other persons as may be  
7 remanded to the department in accordance with law;

8 ~~(2) Supervise persons committed to the department on parole and  
9 administer parole services in the facilities and in the community; and~~

10 (2 3) Develop policies and programs for the correctional treatment  
11 and rehabilitation of persons committed to the department; -

12 (3) Supervise parolees who have been committed to the department;  
13 and

14 (4) Until June 1, 2016, administer parole services in the facilities  
15 and in the community and, beginning June 1, 2016, cooperate with the  
16 Board of Parole and Office of Parole Administration to assist with the  
17 efficient administration of parole services in the facilities and in the  
18 community.

19 Sec. 23. Section 83-173, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 83-173 The Director of Correctional Services shall:

22 (1) Supervise and be responsible for the administration of the  
23 Department of Correctional Services;

24 (2) Establish, consolidate, or abolish any administrative  
25 subdivision within the department and appoint and remove for cause the  
26 heads thereof and delegate appropriate powers and duties to them;

27 (3) Establish and administer policies and programs for the operation  
28 of the facilities in the department and for the custody, control, safety,  
29 correction, and rehabilitation of persons committed to the department;

30 (4) Appoint and remove the chief executive officer of each facility  
31 and delegate appropriate powers and duties to him or her;

1 (5) Appoint and remove employees of the department and delegate  
2 appropriate powers and duties to them;

3 (6) Adopt and promulgate rules and regulations for the management,  
4 correctional treatment, and rehabilitation of persons committed to the  
5 department, the administration of facilities, and the conduct of officers  
6 and employees under his or her jurisdiction;

7 (7) Designate the place of confinement of persons committed to the  
8 department subject to section 83-176;

9 (8) Establish and administer policies that ensure that complete and  
10 up-to-date electronic records are maintained for each person committed to  
11 the department and which also ensure privacy protections. Electronic  
12 records shall include programming recommendations, program completions,  
13 time spent in housing other than general population, and medical records,  
14 including mental and behavioral health records;

15 (~~9~~ 8) Collect, develop, and maintain statistical information  
16 concerning persons committed to the department, sentencing practices, and  
17 correctional treatment as may be useful in penological research or in the  
18 development of treatment programs;

19 (~~10~~ 9) Provide training programs designed to equip employees for  
20 duty in the facilities and related services of the department and to  
21 raise and maintain the educational standards and the level of performance  
22 of such employees;

23 (~~11~~ ~~10~~) Notify law enforcement agencies of upcoming furloughs as  
24 required by section 83-173.01;

25 (~~12~~ ~~11~~) Issue or authorize the issuance of a warrant for the arrest  
26 of any person committed to the department who has escaped from the  
27 custody of the department; and

28 (~~13~~ ~~12~~) Exercise all powers and perform all duties necessary and  
29 proper in carrying out his or her responsibilities.

30 Sec. 24. Section 83-180, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           83-180 (1) When a physician designated by the Director of  
2 Correctional Services finds that a person committed to the department  
3 suffers from a physical disease or defect, or when a physician or  
4 psychologist designated by the director finds that a person committed to  
5 the department is mentally ill as defined in section 71-907 ~~suffers from~~  
6 ~~a mental disease or defect~~, the chief executive officer of the facility  
7 may order such person to be segregated from other persons in the facility  
8 in the least restrictive manner possible. If the physician or  
9 psychologist is of the opinion that the person cannot be given proper  
10 treatment in that facility, the director may arrange for his or her  
11 transfer for examination, study, and treatment to any medical-  
12 correctional facility, or to another institution in the Department of  
13 Health and Human Services where proper treatment is available. A person  
14 who is so transferred shall remain subject to the jurisdiction and  
15 custody of the Department of Correctional Services and shall be returned  
16 to the department when, prior to the expiration of his or her sentence,  
17 treatment in such facility is no longer necessary.

18           (2) When the physician or psychologist designated by the Director of  
19 Correctional Services finds that a person committed to the department  
20 suffers from a physical ~~or mental~~ disease or defect or mental illness  
21 which in his or her opinion cannot be properly treated in any facility or  
22 institution in the Department of Health and Human Services, the director  
23 may arrange for his or her transfer for treatment to a hospital or  
24 psychiatric facility outside the department. The director shall make  
25 appropriate arrangements with other public or private agencies for the  
26 transportation to, and for the care, custody, and security of the person  
27 in, such hospital or psychiatric facility. While receiving treatment in  
28 such hospital or psychiatric facility, the person shall remain subject to  
29 the jurisdiction and custody of the Department of Correctional Services  
30 and shall be returned to the department when, prior to the expiration of  
31 his or her sentence, such hospital or psychiatric treatment is no longer

1 necessary.

2       (3) The director shall adopt and promulgate rules and regulations to  
3 establish evidence-based criteria which the department shall use to  
4 identify any person nearing release who should be evaluated to determine  
5 whether he or she is a mentally ill and dangerous person as defined in  
6 section 71-908. When two psychiatrists designated by the director  
7 ~~Director of Correctional Services~~ find that a person about to be released  
8 or discharged from any facility is a mentally ill and dangerous person as  
9 defined in section 71-908 suffers from a mental disease or defect of such  
10 a nature that his or her release or discharge will endanger the public  
11 safety or the safety of the offender, the director shall transfer him or  
12 her to, or if he or she has already been transferred, permit him or her  
13 to remain in, a psychiatric facility in the Department of Health and  
14 Human Services and shall promptly commence proceedings under the Nebraska  
15 Mental Health Commitment Act applicable to the civil commitment and  
16 detention of persons suffering from such disease or defect.

17       (4) The director shall adopt and promulgate rules and regulations  
18 for risk assessment and management for inmates. Such rules and  
19 regulations shall establish a structured decisionmaking process that is  
20 consistent with professional standards of care and is consistent with  
21 available risk assessment and management guidelines. The process  
22 developed shall be performed by individuals with proper training and  
23 continuing education related to relevant areas of risk assessment and  
24 management. Appropriate quality assurance and outcome assessment shall be  
25 included to ensure fidelity to the process and address relevant  
26 challenges. The rules and regulations shall establish a rational process  
27 for prioritizing who shall be screened and evaluated and when, which  
28 shall include, but is not limited to: Incidents of violent activity  
29 during incarceration; attempts of suicide or other major self-harm  
30 behaviors; and a process for staff to nominate inmates for screening  
31 based upon behavior that raises concern for community safety as release

1 approaches.

2 (5) The director shall adopt and promulgate rules and regulations to  
3 ensure that all persons who are incarcerated receive a full mental health  
4 screening within the first two weeks of intake to determine whether or  
5 not an inmate is mentally ill as defined in section 71-907. Such  
6 determination shall be reflected in the inmate's individualized treatment  
7 plan and shall include adequate mental health treatment. If, at any point  
8 during his or her incarceration, an inmate is found to be mentally ill,  
9 such determination shall be reflected in the inmate's individualized  
10 treatment plan and shall include adequate mental health treatment.

11 Sec. 25. Section 83-186.01, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 83-186.01 (1) The Legislature finds that:

14 (a) Research reveals that children who have parents involved in  
15 their lives perform better academically and socially in school,  
16 experience fewer mental health and substance abuse issues, and are less  
17 likely to commit serious crime;

18 (b) Strategies to address family stability and intergenerational  
19 poverty are specifically needed for children with incarcerated parents;  
20 and

21 (c) Research reveals that family-based reentry planning, including  
22 relationship development and housing and employment strategies, results  
23 in lower recidivism and greater family economic stability.

24 (2) The department ~~Department of Correctional Services~~ shall  
25 implement a ~~establish a two-year pilot~~ program for the purpose of  
26 providing in Nebraska adult correctional facilities an evidence-based  
27 program of parent education, early literacy, relationship skills  
28 development, and reentry planning involving family members of  
29 incarcerated parents prior to their release. Incarcerated parents of  
30 children between birth and five years of age shall have priority for  
31 participation in the program. The department may award a contract to

1 operate the ~~pilot~~ program. Such contract shall be based on competitive  
2 bids as provided in sections 73-101 to 73-105. The department shall track  
3 data related to program participation and recidivism.

4 ~~(3) It is the intent of the Legislature to appropriate two hundred~~  
5 ~~fifty thousand dollars from the General Fund to the department in each of~~  
6 ~~fiscal years 2013-14 and 2014-15 for purposes of funding the pilot~~  
7 ~~program required by this section.~~

8 Sec. 26. Section 83-188, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 83-188 (1) There is hereby created the Board of Parole. For  
11 administrative purposes only, the board shall be within the Board of  
12 Pardons. Nothing in the Nebraska Treatment and Corrections Act shall be  
13 construed to give the director or the Board of Pardons any authority,  
14 power, or responsibility over the Board of Parole, its employees, or the  
15 exercise of its functions under the provisions of the act. The employees  
16 of the Board of Parole shall be covered by the State Personnel System.

17 (2) Employees of the Board of Parole shall consist of the following:

18 (a) The administrative staff necessary to assist the board with  
19 parole reviews, revocations, and hearings;

20 (b) At least one legal counsel;

21 (c) At least one fiscal analyst, policy analyst, or data analyst;

22 and

23 (d) At least one staff member to assist with the daily supervision  
24 and training of employees of the board.

25 Sec. 27. Section 83-1,100, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 83-1,100 (1) There is hereby created within the department the  
28 Office of Parole Administration. Until June 1, 2016, the office shall be  
29 within the Department of Correctional Services. Beginning June 1, 2016,  
30 the office shall be within the Board of Parole. The employees of the  
31 office shall consist of the Parole Administrator, the field parole

1 service\_officers, and all other office staff. The office shall be  
2 responsible for the following:

3 (a 1) The administration of parole services in the community;

4 (b 2) The maintenance of all records and files associated with the  
5 Board of Parole;

6 (c 3) The daily supervision and training of staff members of the  
7 office; and

8 (d 4) The assessment, evaluation, and supervision of individuals who  
9 are subject to lifetime community supervision pursuant to section  
10 83-174.03.

11 (2) Parole officers shall be compensated with salaries substantially  
12 equal to other state employees who have similar responsibilities. This  
13 subsection shall apply only to field parole service officers and support  
14 staff and shall not apply to the Parole Administrator, any deputy parole  
15 administrator, or any other similarly established management position.

16 (3) Nothing in this section shall be construed to prohibit the  
17 office from maintaining daily records and files associated with the Board  
18 of Pardons.

19 Sec. 28. Section 83-1,107, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 83-1,107 (1)(a) Within sixty days after initial classification and  
22 assignment of any offender committed to the department, all available  
23 information regarding such committed offender shall be reviewed and a  
24 committed offender department-approved personalized program plan document  
25 shall be drawn up. The document shall specifically describe the  
26 department-approved personalized program plan and the specific goals the  
27 department expects the committed offender to achieve. The document shall  
28 also contain a realistic schedule for completion of the department-  
29 approved personalized program plan. The department-approved personalized  
30 program plan shall be developed with the active participation of fully  
31 explained to the committed offender. The department shall provide

1 programs to allow compliance by the committed offender with the  
2 department-approved personalized program plan.

3 Programming may include, but is not limited to:

4 (i) Academic and vocational education, including teaching such  
5 classes by qualified offenders;

6 (ii) Substance abuse treatment;

7 (iii) Mental health and psychiatric treatment, including criminal  
8 personality programming;

9 (iv) Constructive, meaningful work programs; and

10 (v) Any other program deemed necessary and appropriate by the  
11 department.

12 (b) A modification in the department-approved personalized program  
13 plan may be made to account for the increased or decreased abilities of  
14 the committed offender or the availability of any program. Any  
15 modification shall be made only after notice is given to the committed  
16 offender. The department may not impose disciplinary action upon any  
17 committed offender solely because of the committed offender's failure to  
18 comply with the department-approved personalized program plan, but such  
19 failure may be considered by the board in its deliberations on whether or  
20 not to grant parole to a committed offender.

21 (2)(a) The department shall reduce the term of a committed offender  
22 by six months for each year of the offender's term and pro rata for any  
23 part thereof which is less than a year.

24 (b) In addition to reductions granted in subdivision (2)(a) of this  
25 section, the department shall reduce the term of a committed offender by  
26 three days on the first day of each month following a twelve-month period  
27 of incarceration within the department during which the offender has not  
28 been found guilty of (i) a Class I or Class II offense or (ii) more than  
29 three Class III offenses under the department's disciplinary code.  
30 Reductions earned under this subdivision shall not be subject to forfeit  
31 or withholding by the department.



1 (c) The total reductions under this subsection shall be credited  
2 from the date of sentence, which shall include any term of confinement  
3 prior to sentence and commitment as provided pursuant to section  
4 83-1,106, and shall be deducted from the maximum term, to determine the  
5 date when discharge from the custody of the state becomes mandatory.

6 (3) While the offender is in the custody of the department,  
7 reductions of terms granted pursuant to subdivision (2)(a) of this  
8 section may be forfeited, withheld, and restored by the chief executive  
9 officer of the facility with the approval of the director after the  
10 offender has been notified regarding the charges of misconduct.

11 (4) The department shall ensure that a release or reentry plan is  
12 complete or near completion when the offender has served at least eighty  
13 percent of his or her sentence. For purposes of this subsection, release  
14 or reentry plan means a comprehensive and individualized strategic plan  
15 to ensure an individual's safe and effective transition or reentry into  
16 the community to which he or she resides with the primary goal of  
17 reducing recidivism. At a minimum, the release or reentry plan shall  
18 include, but not be limited to, consideration of the individual's housing  
19 needs, medical or mental health care needs, and transportation and job  
20 needs and shall address an individual's barriers to successful release or  
21 reentry in order to prevent recidivism. The release or reentry plan does  
22 not include an individual's programming needs included in the  
23 individual's personalized program plan for use inside the prison.

24 (5)(a) The department shall make treatment programming available to  
25 committed offenders as provided in section 83-1,110.01 and shall include  
26 continuing participation in such programming as part of each offender's  
27 parolee personalized program plan.

28 (b) Any committed offender with a mental illness shall be provided  
29 with the community standard of mental health care. The mental health care  
30 shall utilize evidenced-based therapy models that include an evaluation  
31 component to track the effectiveness of interventions.

1           (c) Any committed offender with a mental illness shall be evaluated  
2           before release to ensure that adequate monitoring and treatment of the  
3           committed offender will take place or, if appropriate, that commitment  
4           proceeding under the Nebraska Mental Health Commitment Act or the Sex  
5           Offender Commitment Act will take place.

6           (6)(a) Within thirty days after any committed offender has been  
7           paroled, all available information regarding such parolee shall be  
8           reviewed and a parolee personalized program plan document shall be drawn  
9           up and approved by the Office of Parole Administration. The document  
10          shall specifically describe the approved personalized program plan and  
11          the specific goals the office expects the parolee to achieve. The  
12          document shall also contain a realistic schedule for completion of the  
13          approved personalized program plan. The approved personalized program  
14          plan shall be fully explained to the parolee. During the term of parole,  
15          the parolee shall comply with the approved personalized program plan and  
16          the office shall provide programs to allow compliance by the parolee with  
17          the approved personalized program plan.

18          Programming may include, but is not limited to:

19           (i) Academic and vocational education;

20           (ii) Substance abuse treatment;

21           (iii) Mental health and psychiatric treatment, including criminal  
22          personality programming;

23           (iv) Constructive, meaningful work programs;

24           (v) Community service programs; and

25           (vi) Any other program deemed necessary and appropriate by the  
26          office.

27          (b) A modification in the approved personalized program plan may be  
28          made to account for the increased or decreased abilities of the parolee  
29          or the availability of any program. Any modification shall be made only  
30          after notice is given to the parolee. Intentional failure to comply with  
31          the approved personalized program plan by any parolee as scheduled for

1 any year, or pro rata part thereof, shall cause disciplinary action to be  
2 taken by the office resulting in the forfeiture of up to a maximum of  
3 three months' good time for the scheduled year.

4 (7) While the offender is in the custody of the board, reductions of  
5 terms granted pursuant to subdivision (2)(a) of this section may be  
6 forfeited, withheld, and restored by the administrator with the approval  
7 of the director after the offender has been notified regarding the  
8 charges of misconduct or breach of the conditions of parole. In addition,  
9 the board may recommend such forfeitures of good time to the director.

10 (8) Good time or other reductions of sentence granted under the  
11 provisions of any law prior to July 1, 1996, may be forfeited, withheld,  
12 or restored in accordance with the terms of the Nebraska Treatment and  
13 Corrections Act.

14 Sec. 29. Section 83-904, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 83-904 (1) The Vocational and Life Skills Program is created within  
17 the Department of Correctional Services, in consultation with the Board  
18 of Parole. The program shall provide funding to aid in the establishment  
19 and provision of community-based vocational training and life skills  
20 training for adults who are incarcerated, formerly incarcerated, or  
21 serving a period of supervision on either probation or parole.

22 (2) The Vocational and Life Skills Programming Fund is created. The  
23 fund shall consist of appropriations from the Legislature, funds donated  
24 by nonprofit entities, funds from the federal government, and funds from  
25 other sources. Up to thirty percent of the fund may be used for staffing  
26 the reentry program created under section 83-903 and to provide treatment  
27 to individuals preparing for release from incarceration. At least seventy  
28 percent of the fund shall be used to provide grants to community-based  
29 organizations, community colleges, federally recognized or state-  
30 recognized Indian tribes, or nonprofit organizations that provide  
31 vocational and life skills programming and services to adults and

1 juveniles who are incarcerated, who have been incarcerated within the  
2 prior eighteen months, or who are serving a period of supervision on  
3 either probation or parole. The department, in awarding grants, shall  
4 give priority to programs, services, or training that results in  
5 meaningful employment, and no money from the fund shall be used for  
6 capital construction. Any money in the fund available for investment  
7 shall be invested by the state investment officer pursuant to the  
8 Nebraska Capital Expansion Act and the Nebraska State Funds Investment  
9 Act. Investment earnings from investment of money in the fund shall be  
10 credited to the fund.

11 (3) The department, in consultation with the Board of Parole, shall  
12 adopt and promulgate rules and regulations to carry out the Vocational  
13 and Life Skills Program. The rules and regulations shall include, but not  
14 be limited to, a plan for evaluating the effectiveness of programs,  
15 services, and training that receive funding and a reporting process for  
16 aid recipients. The reentry program administrator shall report quarterly  
17 to the Governor and the Clerk of the Legislature beginning October 1,  
18 2014, on the distribution and use of the aid distributed under the  
19 Vocational and Life Skills Program, including how many individuals  
20 received programming, the types of programming, the cost per individual  
21 for each program, service, or training provided, how many individuals  
22 successfully completed their programming, and information on any funds  
23 that have not been used. The report to the Clerk of the Legislature shall  
24 be submitted electronically. Any funds not distributed to community-based  
25 organizations, community colleges, federally recognized or state-  
26 recognized Indian tribes, or nonprofit organizations under this  
27 subsection shall be retained by the department to be distributed on a  
28 competitive basis under the Vocational and Life Skills Program. These  
29 funds shall not be expended by the department for any other purpose.

30 Sec. 30. Section 83-931, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           83-931 The Director of Correctional Services shall appoint as  
2 assistant director of the Division of Community-Centered Services any  
3 person who has an appropriate academic background and adequate training  
4 and experience ~~in corrections.~~

5           Sec. 31. Section 83-933, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7           83-933 Until June 1, 2016, the ~~The~~ Office of Parole Administration  
8 shall be within the Division of Community-Centered Services. Beginning  
9 June 1, 2016, the Office of Parole Administration shall be within the  
10 Board of Parole. Subject to the supervision, ~~of the assistant director of~~  
11 ~~the division,~~ the Parole Administrator shall be charged with the  
12 administration of parole services in the community pursuant to the  
13 provisions of section 83-1,102, implementation and administration of the  
14 Interstate Compact for Adult Offender Supervision as it affects parolees,  
15 community supervision of sex offenders pursuant to section 83-174.03, and  
16 supervision of parolees either paroled in Nebraska and supervised in  
17 another state or paroled in another state and supervised in Nebraska,  
18 pursuant to the compact.

19           Sec. 32. The director shall issue a report to the Governor and the  
20 Legislature no later than April 1, 2016. The report to the Legislature  
21 shall be issued electronically. The report shall contain a long-term plan  
22 for the usage of segregation or other type of isolation with the explicit  
23 goal of reducing the use of segregation, any other type of isolation, or  
24 any housing other than general population.

25           Sec. 33. (1) Beginning July 1, 2016, no inmate shall be held in  
26 housing other than general population unless done in the least  
27 restrictive manner consistent with maintaining order in the institution  
28 and pursuant to rules and regulations adopted and promulgated by the  
29 department pursuant to the Administrative Procedure Act.

30           (2) The department shall adopt and promulgate rules and regulations  
31 pursuant to the Administrative Procedure Act establishing levels of

1 confinement outside the general population as may be necessary to  
2 administer the correctional system. Rules and regulations shall establish  
3 behavior, conditions, and mental health status under which an inmate may  
4 be placed in each confinement level as well as procedures for making such  
5 determinations. Rules and regulations shall also provide for  
6 individualized transition plans, developed with the active participation  
7 of the committed offender, for each confinement level back to the general  
8 population or to society.

9 (3) Rules and regulations may authorize the director to issue  
10 written directives, guidance documents, and operational manuals not  
11 inconsistent with law and rules and regulations. Such directives,  
12 guidance documents, and operational manuals shall be made available to  
13 the public in the same manner that rules and regulations are made  
14 available, unless the safety and security of a correctional institution  
15 would be placed at imminent and substantial risk by such publication. If  
16 any directive, guidance document, or operational manual is not made  
17 available to the public, notice shall be given to the deputy public  
18 counsel for corrections and to the Inspector General of the Nebraska  
19 Correctional System. All directives, guidance documents, and operations  
20 manuals shall be made available to any member of the Legislature upon  
21 request.

22 Sec. 34. Section 83-1,135, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 83-1,135 Sections 83-170 to 83-1,135 and sections 32 and 33 of this  
25 act shall be known and may be cited as the Nebraska Treatment and  
26 Corrections Act.

27 Sec. 35. Section 83-4,114, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 83-4,114 (1) There shall be no corporal punishment or disciplinary  
30 restrictions on diet.

31 (2) Disciplinary restrictions on clothing, bedding, mail,

1 visitations, use of toilets, washbowls, or scheduled showers shall be  
2 imposed only as authorized by written directives, guidance documents, and  
3 operations manuals for abuse of such privilege or facility.

4 (3) No person in the adult division shall be placed in solitary  
5 confinement. For purposes of this subsection, solitary confinement means  
6 the status of confinement of an inmate in an individual cell having  
7 solid, sound proof doors and which deprives the inmate of all visual and  
8 auditory contact with other persons for disciplinary reasons for more  
9 than fifteen consecutive days, or more than thirty days out of any forty-  
10 five-day period, except in cases of violence or attempted violence  
11 committed against another person or property when an additional period of  
12 isolation for disciplinary reasons is approved by the warden. This  
13 provision shall not apply to segregation or isolation of persons for  
14 purposes of institutional control.

15 (4) The director shall issue an annual report to the Governor and  
16 the Clerk of the Legislature. The report to the Clerk of the Legislature  
17 shall be issued electronically. The report shall contain:

18 (a) The number of inmates in segregation and the number of inmates  
19 in any other type of isolation;

20 (b) The reasons such inmates are in segregation or isolation,  
21 whether for disciplinary reasons, violence or attempted violence, safety  
22 of the inmate, or any other reason;

23 (c) The number of inmates in segregation or isolation who have been  
24 diagnosed with a mental illness or mental disability and the number and  
25 types of mental illness or mental disability;

26 (d) The number of inmates who were released from segregation or  
27 isolation directly to parole or the general public, not including any  
28 inmate segregated or isolated for his or her own safety; and

29 (e) To the extent reasonably ascertainable, comparable statistics  
30 for the nation and each of the states that border Nebraska pertaining to  
31 subdivisions (4)(a) through (d) of this section.

1           (5)(a) There is hereby established within the department a long-term  
2 segregation work group. The work group shall consist of:

3           (i) The director and all deputy directors. The director shall  
4 convene and serve as the chairperson of the work group;

5           (ii) The director of health services within the department;

6           (iii) The behavioral health administrator within the department;

7           (iv) Two employees of the department who currently work with inmates  
8 in segregation or isolation; and

9           (v) Four members as follows appointed by the Governor:

10           (A) Two representatives from a nonprofit prisoners' rights advocacy  
11 group, including at least one former inmate; and

12           (B) Two mental health professionals independent from the department  
13 with particular knowledge of prisons and conditions of confinement.

14           (b) The work group shall advise the department on policies and  
15 procedures related to the proper treatment and care of offenders in long-  
16 term segregation or isolation.

17           (c) The director shall convene the work group's first meeting no  
18 later than July 1, 2015, and the work group shall meet at least  
19 semiannually thereafter. The chairperson shall schedule and convene the  
20 work group's meetings.

21           (d) The director shall provide the work group with quarterly updates  
22 on the department's policies related to the work group's subject matter.

23           Sec. 36. Section 83-4,114.01, Reissue Revised Statutes of Nebraska,  
24 is amended to read:

25           83-4,114.01 (1) The chief executive officer of each facility of the  
26 department shall be responsible for the discipline of inmates who reside  
27 in such facility. No inmate shall be punished except upon the order of  
28 the chief executive officer of the facility, and no punishment shall be  
29 imposed otherwise than in accordance with this section.

30           (2) Except in flagrant or serious cases, punishment for misconduct  
31 shall consist of deprivation of privileges. In cases of flagrant or



1 serious misconduct, the chief executive officer may order that an  
2 inmate's reduction of term as provided in section 83-1,107 be forfeited  
3 or withheld and also that the inmate be confined in disciplinary  
4 segregation. During the period of disciplinary segregation, such inmate  
5 shall be put on an adequate and healthful diet. An inmate in disciplinary  
6 segregation shall be visited at least once every eight hours. No cruel,  
7 inhuman, or corporal punishment shall be used on any inmate.

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

13 (4) The chief executive officer may recommend to the director that  
14 an inmate who is considered to be incorrigible by reason of frequent  
15 intentional breaches of discipline or who is detrimental to the  
16 discipline or the morale of the facility be transferred to another  
17 facility for stricter safekeeping and closer confinement, subject to the  
18 provisions of section 83-176.

19 (5) The department shall adopt and promulgate rules and regulations  
20 to define the term flagrant or serious misconduct.

21 Sec. 37. Section 83-962, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 83-962 (1) Beginning July 1, 2020, the The Governor shall ~~may~~  
24 declare a correctional system overcrowding emergency whenever the  
25 director certifies that the population is over one hundred forty percent  
26 of design capacity. The director shall so certify within thirty days  
27 after the date on which the population first exceeds one hundred forty  
28 percent of design capacity.

29 (2) Upon declaration of a correctional system overcrowding  
30 emergency, the board shall immediately consider or reconsider committed  
31 offenders eligible for parole who have not been released on parole.

1           (3) Upon such consideration or reconsideration, and for all other  
2 consideration of committed offenders eligible for parole while the  
3 correctional system overcrowding emergency is in effect, the board shall  
4 order the release of each committed offender unless it is of the opinion  
5 that such release should be deferred because:

6           (a) The board has determined that it is more likely than not that  
7 the committed offender will not conform to the conditions of parole;

8           (b) The board has determined that release of the committed offender  
9 would have a very significant and quantifiable effect on institutional  
10 discipline; or

11           (c) The board has determined that there is a very substantial risk  
12 that the committed offender will commit a violent act against a person.

13           (4) In making the determination regarding the risk that a committed  
14 offender will not conform to the conditions of parole, the board shall  
15 take into account the factors set forth in subsection (2) of section  
16 83-1,114.

17           (5) The board shall continue granting parole to offenders under this  
18 section until the director certifies that the population is at  
19 operational capacity. The director shall so certify within thirty days  
20 after the date on which the population first reaches operational  
21 capacity.

22           Sec. 38. Original sections 81-8,241, 81-8,244, 81-8,245, 83-171,  
23 83-173, 83-180, 83-186.01, 83-188, 83-1,100, 83-1,107, 83-1,135,  
24 83-4,114, 83-4,114.01, 83-904, 83-931, 83-933, and 83-962, Reissue  
25 Revised Statutes of Nebraska, are repealed.