

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 816**

FINAL READING

Introduced by Scheer, 19.

Read first time January 08, 2016

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health; to amend section 83-109,  
2 Reissue Revised Statutes of Nebraska, and section 50-424, Revised  
3 Statutes Supplement, 2015; to change provisions relating to release  
4 of patient and resident records; to eliminate certain reporting  
5 requirements; to harmonize provisions; to repeal the original  
6 sections; and to outright repeal section 71-825, Revised Statutes  
7 Cumulative Supplement, 2014.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 50-424, Revised Statutes Supplement, 2015, is  
2 amended to read:

3 50-424 On December 15 of 2012, 2013, and 2014, the Health and Human  
4 Services Committee of the Legislature shall provide a report to the  
5 Legislature, Governor, and Chief Justice of the Supreme Court with  
6 respect to the progress made by the Department of Health and Human  
7 Services implementing the recommendations of the committee contained in  
8 the final report of the study conducted by the committee pursuant to  
9 Legislative Resolution 37, One Hundred Second Legislature, First Session,  
10 2011. The report submitted to the Legislature shall be submitted  
11 electronically. In order to facilitate such report, the department shall  
12 provide electronically to the committee by September 15 of 2012, 2013,  
13 and 2014 the reports required pursuant to sections 43-296, 43-534,  
14 68-1207.01, ~~71-825~~, 71-1904, and 71-3407 and subdivision (6) of section  
15 43-405.

16 Sec. 2. Section 83-109, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 83-109 The Department of Health and Human Services shall have  
19 general control over the admission of patients and residents to all  
20 institutions over which it has jurisdiction. Each individual shall be  
21 assigned to the institution best adapted to care for him or her. A record  
22 of every patient or resident of every institution shall be kept complete  
23 from the date of his or her entrance to the date of his or her discharge  
24 or death, such records to be accessible only (1) to the department, a  
25 legislative committee, the Governor, any federal agency requiring medical  
26 records to adjudicate claims for federal benefits, and any public or  
27 private agency under contract to provide facilities, programs, and  
28 patient services, (2) upon order of a judge or court, (3) in accordance  
29 with sections 20-161 to 20-166, (4) to the Nebraska State Patrol pursuant  
30 to section 69-2409.01, ~~or~~ (5) to those portions of the record required to  
31 be released to a victim as defined in section 29-119 in order to comply

1 with the victim notification requirements pursuant to subsections (4) and  
2 (5) of section 81-1850, (6) to law enforcement and county attorneys when  
3 a crime occurs on the premises of an institution, (7) upon request when a  
4 patient or resident has been deceased for fifty years or more, or (8) to  
5 current treatment providers. In addition, a patient or resident or his or  
6 her legally authorized representative may authorize the specific release  
7 of his or her records, or portions thereof, by filing with the department  
8 a signed written consent. Transfers of patients or residents from one  
9 institution to another shall be within the exclusive jurisdiction of the  
10 department and shall be recorded in the office of the department, with  
11 the reasons for such transfers. When the department is unable to assign a  
12 patient to a regional center or commit him or her to any other  
13 institution at the time of application, a record thereof shall be kept  
14 and the patient accepted at the earliest practicable date. The  
15 superintendents of the regional centers and Beatrice State Developmental  
16 Center shall notify the department immediately whenever there is any  
17 question regarding the propriety of the commitment, detention, transfer,  
18 or placement of any person admitted to a state institution. The  
19 department shall then investigate the matter and take such action as  
20 shall be proper. Any interested party who is not satisfied with such  
21 action may appeal such action, and the appeal shall be in accordance with  
22 the Administrative Procedure Act. The department shall have full  
23 authority on its own suggestion or upon the application of any interested  
24 person to investigate the physical and mental status of any patient or  
25 resident of any regional center or the Beatrice State Developmental  
26 Center. If upon such investigation the department considers such patient  
27 or resident fit to be released from the regional center or Beatrice State  
28 Developmental Center, it shall cause such patient or resident to be  
29 discharged or released on convalescent leave.

30 Sec. 3. Original section 83-109, Reissue Revised Statutes of  
31 Nebraska, and section 50-424, Revised Statutes Supplement, 2015, are

1 repealed.

2           Sec. 4. The following section is outright repealed: Section 71-825,  
3 Revised Statutes Cumulative Supplement, 2014.