

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 559

Introduced by Vargas, 7; Hansen, M., 26.

Read first time January 19, 2021

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act;
- 2 to amend section 83-173.03, Revised Statutes Cumulative Supplement,
- 3 2020; to redefine terms; to eliminate obsolete language; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-173.03, Revised Statutes Cumulative
2 Supplement, 2020, is amended to read:

3 83-173.03 (1) No inmate shall be held in restrictive housing unless
4 done in the least restrictive manner consistent with maintaining order in
5 the facility and pursuant to rules and regulations adopted and
6 promulgated by the department pursuant to the Administrative Procedure
7 Act.

8 (2) The department shall adopt and promulgate rules and regulations
9 pursuant to the Administrative Procedure Act establishing levels of
10 restrictive housing as may be necessary to administer the correctional
11 system. Rules and regulations shall establish behavior, conditions, and
12 mental health status under which an inmate may be placed in each
13 confinement level as well as procedures for making such determinations.
14 Rules and regulations shall also provide for individualized transition
15 plans, developed with the active participation of the committed offender,
16 for each confinement level back to the general population or to society.

17 (3) ~~No On and after March 1, 2020, no~~ inmate who is a member of a
18 vulnerable population shall be placed in restrictive housing. In line
19 with the least restrictive framework, an inmate who is a member of a
20 vulnerable population may be assigned to immediate segregation to protect
21 himself or herself, staff, other inmates, or inmates who are members of
22 vulnerable populations pending classification. The department shall adopt
23 and promulgate rules and regulations pursuant to the Administrative
24 Procedure Act regarding restrictive housing to address risks for inmates
25 who are members of vulnerable populations. Nothing in this subsection
26 prohibits the department from developing secure mental health housing to
27 serve the needs of inmates with serious mental illnesses ~~as defined in~~
28 ~~section 44-792~~, developmental disabilities as defined in section 71-1107,
29 or traumatic brain injuries as defined in section 79-1118.01 in such a
30 way that provides for meaningful access to social interaction, exercise,
31 environmental stimulation, and therapeutic programming.

1 (4) For purposes of this section:

2 (a) Member , ~~member~~ of a vulnerable population means an inmate who
3 is eighteen years of age or younger, pregnant, or diagnosed with a
4 serious mental illness ~~as defined in section 44-792~~, a developmental
5 disability as defined in section 71-1107, or a traumatic brain injury as
6 defined in section 79-1118.01; and -

7 (b) Serious mental illness means any mental health condition that
8 current medical science affirms is caused by a biological disorder of the
9 brain. Serious mental illness includes, but is not limited to, (i)
10 schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder,
11 (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive
12 compulsive disorder.

13 Sec. 2. Original section 83-173.03, Revised Statutes Cumulative
14 Supplement, 2020, is repealed.