

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1351

Introduced by DeBoer, 10.

Read first time January 17, 2024

Committee:

- 1 A BILL FOR AN ACT relating to corrections; to amend section 83-173.03,
- 2 Revised Statutes Cumulative Supplement, 2022, and section 83-173,
- 3 Revised Statutes Supplement, 2023; to change provisions relating to
- 4 terminology and to eliminate obsolete provisions; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-173, Revised Statutes Supplement, 2023, is
2 amended to read:

3 83-173 The Director of Correctional Services shall:

4 (1) Supervise and be responsible for the administration of the
5 Department of Correctional Services;

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

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

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

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

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

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

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

28 (9) Collect, develop, and maintain statistical information
29 concerning persons committed to the department, sentencing practices, and
30 correctional treatment as may be useful in penological research or in the
31 development of treatment programs;

1 (10) Provide training programs designed to equip employees for duty
2 in the facilities and related services of the department and to raise and
3 maintain the educational standards, level of performance, and safety of
4 such employees;

5 (11) Notify law enforcement agencies of upcoming furloughs as
6 required by section 83-173.01;

7 (12) Issue or authorize the issuance of a warrant for the arrest of
8 any person committed to the department who has escaped from the custody
9 of the department; and

10 (13) Exercise all powers and perform all duties necessary and proper
11 in carrying out the director's ~~his or her~~ responsibilities.

12 Sec. 2. Section 83-173.03, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 83-173.03 (1) No inmate shall be held in restrictive housing unless
15 done in the least restrictive manner consistent with maintaining order in
16 the facility and pursuant to rules and regulations adopted and
17 promulgated by the department pursuant to the Administrative Procedure
18 Act.

19 (2) The department shall adopt and promulgate rules and regulations
20 pursuant to the Administrative Procedure Act establishing levels of
21 restrictive housing as may be necessary to administer the correctional
22 system. Rules and regulations shall establish behavior, conditions, and
23 mental health status under which an inmate may be placed in each
24 confinement level as well as procedures for making such determinations.
25 Rules and regulations shall also provide for individualized transition
26 plans, developed with the active participation of the committed offender,
27 for each confinement level back to the general population or to society.

28 (3) ~~No On and after March 1, 2020,~~ no inmate who is a member of a
29 vulnerable population shall be placed in restrictive housing. In line
30 with the least restrictive framework, an inmate who is a member of a
31 vulnerable population may be assigned to immediate segregation to protect

1 himself or herself, staff, other inmates, or inmates who are members of
2 vulnerable populations pending classification. The department shall adopt
3 and promulgate rules and regulations pursuant to the Administrative
4 Procedure Act regarding restrictive housing to address risks for inmates
5 who are members of vulnerable populations. Nothing in this subsection
6 prohibits the department from developing secure mental health housing to
7 serve the needs of inmates with serious mental illnesses as defined in
8 section 44-792, developmental disabilities as defined in section 71-1107,
9 or traumatic brain injuries as defined in section 79-1118.01 in such a
10 way that provides for meaningful access to social interaction, exercise,
11 environmental stimulation, and therapeutic programming.

12 (4) For purposes of this section, member of a vulnerable population
13 means an inmate who is eighteen years of age or younger, pregnant, or
14 diagnosed with a serious mental illness as defined in section 44-792, a
15 developmental disability as defined in section 71-1107, or a traumatic
16 brain injury as defined in section 79-1118.01.

17 Sec. 3. Original section 83-173.03, Revised Statutes Cumulative
18 Supplement, 2022, and section 83-173, Revised Statutes Supplement, 2023,
19 are repealed.