

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 82

Introduced by DeBoer, 10.

Read first time January 05, 2023

Committee:

- 1 A BILL FOR AN ACT relating to corrections; to amend sections 83-4,114 and
- 2 83-918, Revised Statutes Cumulative Supplement, 2022; to change
- 3 provisions relating to certain reports; to define a term; to provide
- 4 a duty for the Department of Correctional Services; to eliminate
- 5 obsolete provisions relating to a work group; to repeal the original
- 6 sections; and to outright repeal section 83-173.02, Revised Statutes
- 7 Cumulative Supplement, 2022.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-4,114, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 83-4,114 (1) There shall be no corporal punishment or disciplinary
4 restrictions on diet.

5 (2) Disciplinary restrictions on clothing, bedding, mail,
6 visitations, use of toilets, washbowls, or scheduled showers shall be
7 imposed only for abuse of such privilege or facility and only as
8 authorized by written directives, guidance documents, and operational
9 manuals.

10 (3) No person shall be placed in solitary confinement.

11 (4) The director shall issue an annual report on or before September
12 15 to the Governor and the Clerk of the Legislature. The report to the
13 Clerk of the Legislature shall be issued electronically. For all inmates
14 who were held in restrictive housing during the prior year, the report
15 shall contain the race, gender, age, and length of time each inmate has
16 continuously been held in restrictive housing. ~~Prior to releasing the~~
17 ~~report, the director shall meet with the long term restrictive housing~~
18 ~~work group to share the contents of the report.~~ The report shall also
19 contain:

20 (a) The number of inmates held in restrictive housing;

21 (b) The reason or reasons each inmate was held in restrictive
22 housing;

23 (c) The number of inmates held in restrictive housing who have been
24 diagnosed with a mental illness or behavioral disorder and the type of
25 mental illness or behavioral disorder by inmate;

26 (d) The number of inmates who were released from restrictive housing
27 directly to parole or into the general public and the reason for such
28 release;

29 (e) The number of inmates who were placed in restrictive housing for
30 his or her own safety and the underlying circumstances for each
31 placement;

1 (f) To the extent reasonably ascertainable, comparable statistics
2 for the nation and each of the states that border Nebraska pertaining to
3 subdivisions (4)(a) through (e) of this section; ~~and~~

4 (g) The mean and median length of time for all inmates held in
5 restrictive housing; and -

6 (h) A description of all inmate housing areas that hold inmates in a
7 setting that is neither general population nor restrictive housing,
8 including the purpose of each setting, data on how many inmates were held
9 in such settings, the average length of stay in such settings,
10 information on programs provided in each setting, data on program
11 completions in each setting, staffing levels and types of staff in each
12 setting, and any other information or data relevant to the operation of
13 such settings. For the purposes of this subdivision, general population
14 means an inmate housing area that allows out-of-cell movement without the
15 use of restraints, a minimum of six hours per day of out-of-cell time,
16 regular access to programming areas outside the living unit, and access
17 to services available to the broader population.

18 ~~(5)(a) There is hereby established within the department a long-term~~
19 ~~restrictive housing work group. The work group shall consist of one~~
20 ~~member of the Judiciary Committee of the Legislature appointed by the~~
21 ~~Executive Board of the Legislative Council who shall be a nonvoting, ex~~
22 ~~officio member and the following voting members:~~

23 ~~(i) The director and all deputy directors who have oversight over~~
24 ~~inmate health services or correctional facilities. The director or his or~~
25 ~~her designee shall serve as the chairperson of the work group;~~

26 ~~(ii) The behavioral health administrator within the department;~~

27 ~~(iii) Two employees of the department who currently work with~~
28 ~~inmates held in restrictive housing as designated by the director;~~

29 ~~(iv) Additional department staff as designated by the director; and~~

30 ~~(v) Six members appointed by the Governor who have demonstrated an~~
31 ~~interest in correctional issues. Of these members at least one shall be~~

1 ~~an individual who was previously incarcerated in Nebraska's correctional~~
2 ~~system. The remaining members shall consist of individuals who are mental~~
3 ~~health professionals, have been employed in a restrictive housing unit in~~
4 ~~a correctional facility, have advocated for the rights of incarcerated~~
5 ~~individuals, or have otherwise been engaged in activities related to~~
6 ~~Nebraska's correctional system.~~

7 ~~(b) The work group shall advise the department on policies and~~
8 ~~procedures related to the proper treatment and care of offenders in long-~~
9 ~~term restrictive housing.~~

10 ~~(c) The director shall convene the work group's first meeting no~~
11 ~~later than September 15, 2015, and the work group shall meet at least~~
12 ~~semiannually thereafter. The chairperson shall schedule and convene the~~
13 ~~work group's meetings.~~

14 ~~(d) The director shall provide the work group with quarterly updates~~
15 ~~on the department's policies related to the work group's subject matter~~
16 ~~and with any other information related to long-term restrictive housing~~
17 ~~that is requested by members of the work group.~~

18 ~~(e) The work group shall terminate on December 31, 2021.~~

19 Sec. 2. Section 83-918, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 83-918 (1) For each ~~the biennium ending June 30, 2019, and the~~
22 ~~biennium ending June 30, 2021,~~ the Department of Correctional Services
23 shall, as part of the appropriations request process pursuant to
24 subsection (1) of section 81-132, include a strategic plan that
25 identifies the main purpose or purposes of each program, verifiable and
26 auditable key goals that the department believes are fair measures of its
27 progress in meeting each program's main purpose or purposes, and
28 benchmarks for improving performance on the key goals. The department
29 shall also report whether the benchmarks are being met and, if not, the
30 expected timeframes for meeting them.

31 ~~(2) On or before Not later than September 15 of each year in 2017,~~

1 ~~2018, 2019, 2020, and 2021~~, the Department of Correctional Services shall
2 report electronically to the Judiciary Committee of the Legislature and
3 the Appropriations Committee of the Legislature on the progress towards
4 the key goals identified pursuant to this section that occurred in the
5 previous twelve months. Upon request ~~In calendar years 2017, 2018, 2019,~~
6 ~~2020, and 2021~~, the department shall appear at a joint hearing of the
7 Judiciary Committee and Appropriations Committee and present the report.

8 Sec. 3. Original sections 83-4,114 and 83-918, Revised Statutes
9 Cumulative Supplement, 2022, are repealed.

10 Sec. 4. The following section is outright repealed: Section
11 83-173.02, Revised Statutes Cumulative Supplement, 2022.