

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB598

Hearing Date: Friday February 20, 2015
Committee On: Judiciary
Introducer: Schumacher
One Liner: Change and provide requirements regarding treatment and segregation of mentally ill inmates

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Chambers, Coash, Ebke, Krist, Morfeld, Pansing Brooks, Seiler, Williams

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

SEN. PAUL SCHUMACHER
DIRECTOR SCOTT FRAKES
BRAD MEURRENS
JOHN KRECJI
JULIET SUMMERS
ALAN PETERSON
TOMMIE WILSON
SARITA PENKA
CAROL MCSHANE
MARK DAVIS

Representing:

INTRODUCER
NEBRASKA DEPARTMENT OF CORRECTIONS
DISABILITY RIGHTS NEBRASKA
REENTRY ALLIANCE OF NEBRASKA
VOICES FOR CHILDREN
ACLU NEBRASKA
OTOC/MCC TABLE TALK RE-ENTRY
OTOC OMAHA TOGETHER ON COMMUNITY
NEBRASKANS FOR PEACE
REENTRY ALLIANCE OF NEBRASKA

Opponents:

Representing:

Neutral:

MARTHA CARTER

Representing:

LEGISLATIVE AUDIT OFFICE

Summary of purpose and/or changes:

LB598 would implement several of the recommendations made by the Department of Correctional Services Special Investigative Committee (the LR424 Committee).

Section 1 would amend 83-173 to provide a new duty for the Director of the Nebraska Department of Correctional Services (NDCS or "the Department"), to maintain electronic records for programming recommendations and time in segregation.

Section 2 would provide new language regarding the Director's reporting requirement and for long-term plan for reducing the use of segregation.

Section 3 would provide new language to require NDCS to adopt formal rules and regulations for the use of segregation,

transition plans back to general population (within prison) or to society (after release). The rules and regulations may authorize the director to issue policy guidance documents, which must be filed with the Legislature.

Section 4 would add sections 2 and 3 of this act to the Treatment and Corrections Act

Section 5 would amend 83-4,114, the restrictions on disciplinary measures, by establishing a detailed reporting requirement to the Legislature, and a segregation working group within the Department.

The work group members would include the Director, all deputy directors, the director of health services, the behavioral health administrator, two representatives from a prisoners' rights advocacy group, two mental health professionals who do not work within the department.

Section 6 would repeal the sections amended by this act.

Section 7 would provide an emergency clause.

Explanation of amendments:

AM928 to LB598 would incorporate provisions of LB592 (Bolz) and LB606 (Mello) into LB598 (Schumacher). All three bills were introduced to implement the recommendations made by the Department of Correctional Services Special Investigative Committee (the LR424 Committee). The LR424 Committee recommendations included the Performance Audit Committee recommendations from its audit of the Department of Correctional Services.

Section 1 through Section 21 would create the Office of Inspector General of the Nebraska Correctional System.

The Inspector General would be within the Office of Public Counsel (Ombudsman's office), and would be authorized to investigate and report on issues that may require systemic reform, in addition to case-specific action.

The Inspector General would be required to issue an annual report to the Judiciary Committee regarding the reports and investigations conducted in the previous year.

Section 22 would amend 83-171 to set a timeframe for ensuring Parole Board independence, by moving primary responsibility for the administration of parole out of the Department of Correctional Services. Beginning June 1, 2016, the Board of Parole will oversee the administration of parole services, with the assistance of the Department of Correctional Services.

Section 23 would amend 83-173 to provide a new duty for the Director of the Nebraska Department of Correctional Services. This section would require the department to maintain electronic records for committed offenders, which include information about programming recommendations, completion of programming, time spent in housing other than general population, and medical records.

Section 24 would amend 83-180, regarding the duties of physicians or psychologists within the Department of Corrections. This section would authorize the chief executive officer of a correctional facility to order a mentally committed offender to be segregated in the least restrictive manner possible, or be transferred to a different facility for proper treatment.

This section would also require the department to adopt rules and regulations regarding mental health evaluations and risk assessments.

Section 25 would amend 83-186.01 to change the re-entry pilot program into a permanent program within the Department of Correctional Services.

Section 26 would amend 83-188 to ensure that the Board of Parole staff includes, at a minimum, administrative staff to assist the board with parole reviews, revocations, and hearings; at least one legal counsel; at least one fiscal analyst,

policy analyst, or data analyst; and at least one staff member to assist with the daily supervision and training of employees of the board.

Section 27 would amend 82-1,100 to set a timeframe for ensuring Parole Board independence. Beginning June 1, 2016, the Office of Parole Administration will be within the Board of Parole. This section would also require compensation for parole officers to be substantially equal to other state employees who have similar responsibilities.

Section 28 would amend 83-1,107, regarding the development of a personalized program plan and a reentry plan for each inmate. This section would require the department to include a committed offender in the development of his or her personalized program plan, and provide any committed offender who has a mental illness with the community standard of mental health care. This section would also require the department to initiate a commitment proceeding prior to release, if needed.

Section 29 would amend 83-904 to provide that any available funds in the Vocational and Life Skills Programming Fund shall be invested by the state investment officer.

Section 30 would amend 83-931 to strike the requirement that the assistant director of the Division of Community-Centered Services have a background in corrections.

Section 31 would amend 83-933 to set a timeframe for ensuring Parole Board independence. Beginning June 1, 2016, the Office of Parole Administration will be within the Board of Parole. Until then, the Office will remain within the Division of Community-Centered Services, in the Department of Correctional Services.

Section 32 would provide new language requiring the director of the Department of Correctional Services to issue a report to the Governor and to the Legislature. The report shall include a long-term plan for reducing the use of segregation.

Section 33 would provide new language to require the Department to adopt rules and regulations for the use of segregation. This section would also require the Department to adopt rules and regulations to ensure the creation of individualized transition plans back to general population or to society for each committed offender held in segregation.

The rules and regulations may authorize the director to issue policy guidance documents, which must be available to the public, unless publication of a guidance document would place the safety and security of a correctional facility at risk. If a document is not made available to the public, the department must notify the ombudsman and the Inspector General. All guidance documents shall be made available to a member of the Legislature upon request.

Section 34 would amend 83-1,135 to add sections 32 and 33 to the Nebraska Treatment and Corrections Act.

Section 35 would amend 83-4,114 to change an outdated provision regarding disciplinary measures, to require the Department to issue an annual report to the Governor and to the Legislature, and to establish a working group within the Department to advise the department on policies and procedures related to the proper treatment and care of offenders in long-term segregation or isolation. The director shall convene the work group's first meeting no later than July 1, 2015, and provide the work group with quarterly updates on the department's policies related to the work group's subject matter. The work group shall meet at least semiannually.

The report shall include:

The number of inmates in segregation and the number of inmates in any other type of isolation;

The reasons such inmates are in segregation or isolation, whether for disciplinary reasons, violence or attempted violence, safety of the inmate, or any other reason;

The number of inmates in segregation or isolation who have been diagnosed with a mental illness or mental disability and the number and types of mental illness or mental disability;

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

To the extent reasonably ascertainable, comparable statistics for the nation and each of the states that border Nebraska

The long-term segregation work-group shall consist of:

The director and all deputy directors. The director shall convene and serve as the chairperson of the work group;

The director of health services within the department;

The behavioral health administrator within the department;

Two employees of the department who currently work with inmates in segregation or isolation; and

Four members appointed by the Governor:

Two representatives from a nonprofit prisoners' rights advocacy group, including at least one former inmate; and

Two mental health professionals independent from the department with particular knowledge of prisons and conditions of confinement.

Section 36 would amend 83-4,114.01 to require the department to promulgate rules and regulations to define the term "flagrant or serious misconduct".

Section 37 would amend 83-962 to change the permissive language of the Correctional System Overcrowding Emergency Act to mandatory language.

Under current law, the Governor "may" declare an overcrowding emergency when the prison population reaches 140%. As amended, beginning July 1, 2020, the Governor would be required to declare an emergency, which would require the Parole Board to consider or reconsider inmates who are parole eligible.

Section 38 would repeal the sections amended by this act.

Les Seiler, Chairperson