

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 816

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