

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 776

Introduced by McCollister, 20; Baker, 30; Hansen, 26; Howard, 9;
Kolowski, 31; Morfeld, 46; Pansing Brooks, 28.

Read first time January 03, 2018

Committee: Judiciary

1 A BILL FOR AN ACT relating to jails; to amend sections 47-101, 47-108,
2 47-109, 47-116, 47-201, and 47-206, Reissue Revised Statutes of
3 Nebraska; to state findings; to change provisions relating to the
4 powers and duties of the Jail Standards Board; to provide
5 requirements for inmate access to telephone or videoconferencing
6 systems in county and city jails; to define terms; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds and declares that:

2 (1) Pretrial detainees and people serving sentences in jails should
3 be entitled to meaningful contact and communication with their families
4 and loved ones. Regular communication between prisoners and their loved
5 ones helps to reduce the risk of recidivism by encouraging positive
6 reentry into society after inmates are released. Maintaining regular
7 contact is particularly important for prisoners who have young children
8 who are unable to visit or correspond in writing. Such contact is also
9 important for the children of inmates. Regular contact can be readily
10 facilitated through telephones or videoconferencing, which require
11 relatively little space or time for jail staff to accommodate;

12 (2) Over one-half of Nebraskans in county and city jails have not
13 been convicted of any crime and are unable to post the money bond
14 required of them. Many of these detainees are indigent and have court-
15 appointed counsel. While they are held in this pretrial status, they need
16 to be able to communicate regularly and efficiently with their attorneys
17 in such a manner that assures confidentiality and professional
18 convenience;

19 (3) For-profit prison telephone service companies provide the inmate
20 telephone service for most local jails. The contracts for such service
21 are awarded by counties and cities on a monopoly basis, with only one
22 company providing the service, and charge rates that are not subject to
23 any regulation or oversight. Many of the contracts are awarded to
24 providers that return a portion of the income or profit to the county or
25 city on a commission basis; and

26 (4) The exclusivity of the jail telephone service without regulatory
27 oversight or competition results in excessive and arbitrarily high costs
28 for such jail telephone calls. The costs of these telephone calls are
29 borne solely by the inmates and their families. This often makes it too
30 expensive for families to stay in regular communication with their loved
31 ones who are incarcerated.

1 Sec. 2. Section 47-101, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 47-101 The Jail Standards Board shall, each January, and at such
4 other time or times ~~from time to time~~ as it may deem necessary,
5 prescribe, in writing, rules for the regulation and government of the
6 jails upon the following subjects: (1) The cleanliness of the jail and
7 prisoners; (2) the classification of prisoners in regard to sex, age, and
8 crime, and also persons with physical or mental disabilities; (3) beds,
9 ~~and~~ clothing, and diet; (4) warming, lighting, and ventilation of the
10 jail; (5) the employment of medical and surgical aid when necessary; (6)
11 employment, temperance, and instruction of the prisoners; (7) the
12 supplying of each prisoner with a Bible or other religious or spiritual
13 material; (8) the intercourse between prisoners and their counsel and
14 other persons including access to telephones or videoconferencing as
15 required in section 3 of this act; (9) the discipline of prisoners for
16 violation of the rules of the jail; and (10) such other matters as the
17 board may deem necessary to promote the welfare of the prisoners.

18 Sec. 3. (1) Each county jail shall make available either a prepaid
19 telephone call system or collect telephone call system, or a combination
20 thereof, for telephone services for inmates. Under either system, the
21 provision of inmate telephone services shall be subject to the
22 requirements of this section.

23 (2) Under a prepaid system, funds may be deposited into an inmate
24 account in order to pay for telephone calls. The provider of the inmate
25 telephone services, as an additional means of payment, shall permit the
26 recipient of inmate collect telephone calls to establish an account with
27 that provider in order to deposit funds for advance payment of those
28 collect telephone calls. The provider of the inmate telephone services
29 shall also allow inmates to communicate on the telephone, or by
30 videoconferencing, with their attorneys without charge and without
31 monitoring or recording by the county jail or law enforcement.

1 (3) A county operating a county jail shall not accept or receive
2 revenue in excess of the reasonable operating costs for establishing and
3 administering such telephone services system or videoconferencing system.
4 Amounts in excess of the reasonable operating costs include, but are not
5 limited to, any commission or bonus payment for contracting with an
6 entity that provides such service.

7 (4) Nothing in this section shall require a county jail to provide
8 or administer a prepaid telephone call system.

9 (5) For the purposes of this section, collect telephone call system
10 means a system pursuant to which recipients are billed for the cost of an
11 accepted telephone call initiated by an inmate.

12 Sec. 4. The Jail Standards Board shall ensure that county jails are
13 providing inmates with affordable and meaningful means to communicate by
14 telephone or videoconferencing with inmates' families, loved ones, and
15 counsel.

16 Sec. 5. Section 47-108, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 47-108 It shall be the duty of the district court in its charge to
19 the grand jury to inform the jury of the provisions of sections 47-101 to
20 47-116 and sections 3 and 4 of this act and all rules, plans, or
21 regulations established by the Jail Standards Board relating to county
22 jails and prison discipline.

23 Sec. 6. Section 47-109, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 47-109 The grand jury of each county in this state may, while in
26 attendance, visit the jail, examine its state and condition, and examine
27 and inquire into the discipline and treatment of prisoners, their habits,
28 diet, and accommodations. If the grand jury visits a jail, it shall be
29 its duty to report to the court in writing, whether the rules of the Jail
30 Standards Board have been faithfully kept and observed, or whether any of
31 the provisions of sections 47-101 to 47-116 and sections 3 and 4 of this

1 act, have been violated, pointing out particularly in what the violation,
2 if any, consists. It shall also be the duty of the county board of each
3 county of this state to visit the jail of its county once during each of
4 its sessions in January, April, July, and October of each year.

5 Sec. 7. Section 47-116, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 47-116 If the sheriff or jailer, having charge of any county jail,
8 shall neglect or refuse to conform to all or any of the rules and
9 regulations established by the Jail Standards Board, or to perform any
10 other duty required of him or her by sections 47-101 to 47-116 and
11 sections 3 and 4 of this act, he or she shall, upon conviction thereof
12 for each case of such failure or neglect of duty, pay into the county
13 treasury of the proper county for the use of such county a fine of not
14 less than five dollars nor more than one hundred dollars, to be assessed
15 by the district court of the proper district.

16 Sec. 8. Section 47-201, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 47-201 The Jail Standards Board shall, each ~~in the month of~~ January
19 ~~of each year~~, and at such other time or times as it may deem necessary,
20 prescribe written rules for the regulation and government of the
21 municipal jails upon the subjects of (1) the cleanliness of the jail and
22 prisoners, (2) the classification of prisoners in regard to sex, age,
23 crime, and also persons with physical or mental disabilities ~~mental~~
24 ~~infirmity~~, (3) beds, clothing, and diet, (4) warming, lighting, and
25 ventilation ~~ventilating~~ of the jail, (5) the employment of medical and
26 surgical aid, (6) the employment, temperance, and instruction of the
27 prisoners, (7) the intercourse between prisoners and their attorneys and
28 other persons, including access to telephones or videoconferencing as
29 required by section 9 of this act, (8) the discipline of prisoners, (9)
30 the keeping of records of the jail, and (10) any other matters concerning
31 jails and their government as the board may deem necessary.

1 Sec. 9. (1) Each city jail shall make available either a prepaid
2 telephone call system or collect telephone call system, or a combination
3 thereof, for telephone services for inmates. Under either system, the
4 provision of inmate telephone services shall be subject to the
5 requirements of this section.

6 (2) Under a prepaid system, funds may be deposited into an inmate
7 account in order to pay for telephone calls. The provider of the inmate
8 telephone services, as an additional means of payment, shall permit the
9 recipient of inmate collect telephone calls to establish an account with
10 that provider in order to deposit funds for advance payment of those
11 collect telephone calls. The provider of the inmate telephone services
12 shall also allow inmates to communicate on the telephone, or by
13 videoconferencing, with their attorneys without charge and without
14 monitoring or recording by the city jail or law enforcement.

15 (3) A city operating a city jail shall not accept or receive revenue
16 in excess of the reasonable operating costs for establishing and
17 administering such telephone services system or videoconferencing system.
18 Amounts in excess of the reasonable operating costs include, but are not
19 limited to, any commission or bonus payment for contracting with an
20 entity that provides such service.

21 (4) Nothing in this section shall require a city jail to provide or
22 administer a prepaid telephone call system.

23 (5) For the purposes of this section, collect telephone call system
24 means a system pursuant to which recipients are billed for the cost of an
25 accepted telephone call initiated by an inmate.

26 Sec. 10. The Jail Standards Board shall ensure that city jails are
27 providing inmates with affordable and meaningful means to communicate by
28 telephone or videoconferencing with inmates' families, loved ones, and
29 counsel.

30 Sec. 11. Section 47-206, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 47-206 The officer in charge of any municipal prison or jail who
2 fails to comply with the provisions of sections 47-201 to 47-205 and
3 sections 9 and 10 of this act or the rules prescribed by the Jail
4 Standards Board shall be guilty of a Class V misdemeanor.

5 Sec. 12. Original sections 47-101, 47-108, 47-109, 47-116, 47-201,
6 and 47-206, Reissue Revised Statutes of Nebraska, are repealed.