

## LEGISLATIVE BILL 776

Approved by the Governor April 17, 2018

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

A BILL FOR AN ACT relating to jails; to amend sections 47-101, 47-108, 47-109, 47-116, 47-201, and 47-206, Reissue Revised Statutes of Nebraska; to change provisions relating to the powers and duties of the Jail Standards Board; to provide requirements for inmate access to telephone or videoconferencing systems in county and city jails; to define terms; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

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

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

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

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

(3) A county operating a county jail may receive revenue for the reasonable operating costs for establishing and administering such telephone services system or videoconferencing system, but shall not receive excessive commissions or bonus payments. In determining the amount of such reasonable operating costs, the Jail Standards Board may consider for comparative purposes the rates for inmate calling services provided in 47 C.F.R. part 64. Amounts in excess of the reasonable operating costs include, but are not limited to, any excessive commissions and bonus payments, as determined by the Jail Standards Board, including, but not limited to, awards paid to a county for contracting with an entity that provides such service.

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

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

Sec. 3. The Jail Standards Board shall ensure that county jails are providing inmates with means to communicate by telephone or videoconferencing with inmates' families, loved ones, and counsel.

Sec. 4. Section 47-108, Reissue Revised Statutes of Nebraska, is amended to read:

47-108 It shall be the duty of the district court in its charge to the grand jury to inform the jury of the provisions of sections 47-101 to 47-116 and sections 2 and 3 of this act and all rules, plans, or regulations established by the Jail Standards Board relating to county jails and prison discipline.

Sec. 5. Section 47-109, Reissue Revised Statutes of Nebraska, is amended to read:

47-109 The grand jury of each county in this state may, while in attendance, visit the jail, examine its state and condition, and examine and inquire into the discipline and treatment of prisoners, their habits, diet, and accommodations. If the grand jury visits a jail, it shall be its duty to report to the court in writing, whether the rules of the Jail Standards Board have been faithfully kept and observed, or whether any of the provisions of sections 47-101 to 47-116 and sections 2 and 3 of this act, have been violated, pointing

out particularly in what the violation, if any, consists. It shall also be the duty of the county board of each county of this state to visit the jail of its county once during each of its sessions in January, April, July, and October of each year.

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

47-116 If the sheriff or jailer, having charge of any county jail, shall neglect or refuse to conform to all or any of the rules and regulations established by the Jail Standards Board, or to perform any other duty required of him or her by sections 47-101 to 47-116 and sections 2 and 3 of this act, he or she shall, upon conviction thereof for each case of such failure or neglect of duty, pay into the county treasury of the proper county for the use of such county a fine of not less than five dollars nor more than one hundred dollars, to be assessed by the district court of the proper district.

Sec. 7. Section 47-201, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 8. (1) Each city jail shall make available either a prepaid telephone call system or collect telephone call system, or a combination thereof, for telephone services for inmates. Under either system, the provision of inmate telephone services shall be subject to the requirements of this section.

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

(3) A city operating a city jail may receive revenue for the reasonable operating costs for establishing and administering such telephone services system or videoconferencing system, but shall not receive excessive commissions or bonus payments. In determining the amount of such reasonable operating costs, the Jail Standards Board may consider for comparative purposes the rates for inmate calling services provided in 47 C.F.R. part 64. Amounts in excess of the reasonable operating costs include, but are not limited to, any excessive commissions and bonus payments, as determined by the Jail Standards Board, including, but not limited to, awards paid to a city for contracting with an entity that provides such service.

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

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

Sec. 9. The Jail Standards Board shall ensure that city jails are providing inmates with means to communicate by telephone or videoconferencing with inmates' families, loved ones, and counsel.

Sec. 10. Section 47-206, Reissue Revised Statutes of Nebraska, is amended to read:

47-206 The officer in charge of any municipal prison or jail who fails to comply with the provisions of sections 47-201 to 47-205 and sections 8 and 9 of this act or the rules prescribed by the Jail Standards Board shall be guilty of a Class V misdemeanor.

Sec. 11. Original sections 47-101, 47-108, 47-109, 47-116, 47-201, and 47-206, Reissue Revised Statutes of Nebraska, are repealed.