

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 296

Introduced by Hansen, B., 16.

Read first time January 12, 2021

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to state institutions; to amend section
- 2 83-109, Revised Statutes Cumulative Supplement, 2020; to change
- 3 provisions regarding access to records; to harmonize provisions; and
- 4 to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-109, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 83-109 (1) The Department of Health and Human Services shall have
4 general control over the admission of patients and residents to all
5 institutions over which it has jurisdiction. Each individual shall be
6 assigned to the institution best adapted to care for him or her.

7 (2) A record of every patient or resident of every institution shall
8 be kept complete from the date of his or her entrance to the date of his
9 or her discharge or death. Such ~~such~~ records shall ~~to~~ be accessible
10 only (a) ~~(1)~~ to the department, a legislative committee, the Governor,
11 any federal agency requiring medical records to adjudicate claims for
12 federal benefits, and any public or private agency under contract to
13 provide facilities, programs, and patient services, (b) ~~(2)~~ upon order of
14 a judge, ~~or~~ court, or mental health board, (c) ~~(3)~~ in accordance with
15 sections 20-161 to 20-166, (d) ~~(4)~~ to the Nebraska State Patrol pursuant
16 to section 69-2409.01, (e) ~~(5)~~ to those portions of the record required
17 to be released to a victim as defined in section 29-119 in order to
18 comply with the victim notification requirements pursuant to subsections
19 (4) and (5) of section 81-1850, (f) ~~(6)~~ to law enforcement and county
20 attorneys when a crime occurs on the premises of an institution, (g) ~~(7)~~
21 upon request when a patient or resident has been deceased for fifty years
22 or more, (h) ~~or~~ ~~(8)~~ to current treatment providers, or (i) to treatment
23 providers for coordination of care related to transfer or discharge. In
24 addition, a patient or resident or his or her legally authorized
25 representative may authorize the specific release of his or her records,
26 or portions thereof, by filing with the department a signed written
27 consent.

28 (3) Transfers of patients or residents from one institution to
29 another shall be within the exclusive jurisdiction of the department and
30 shall be recorded in the office of the department, with the reasons for
31 such transfers.

1 (4) When the department is unable to assign a patient to a regional
2 center or commit him or her to any other institution at the time of
3 application, a record thereof shall be kept and the patient accepted at
4 the earliest practicable date.

5 (5) The superintendents of the regional centers and Beatrice State
6 Developmental Center shall notify the department immediately whenever
7 there is any question regarding the propriety of the commitment,
8 detention, transfer, or placement of any person admitted to a state
9 institution. The department shall then investigate the matter and take
10 such action as shall be proper. Any interested party who is not satisfied
11 with such action may appeal such action, and the appeal shall be in
12 accordance with the Administrative Procedure Act.

13 (6) The department shall have full authority on its own suggestion
14 or upon the application of any interested person to investigate the
15 physical and mental status of any patient or resident of any regional
16 center or the Beatrice State Developmental Center. If upon such
17 investigation the department considers such patient or resident fit to be
18 released from the regional center or Beatrice State Developmental Center,
19 it shall cause such patient or resident to be discharged or released on
20 convalescent leave.

21 Sec. 2. Original section 83-109, Revised Statutes Cumulative
22 Supplement, 2020, is repealed.