

LEGISLATIVE BILL 212

Approved by the Governor March 21, 1978

Introduced by Kremer, 34

AN ACT to amend sections 83-945, 83-946, 83-948, and 83-950 to 83-953, Reissue Revised Statutes of Nebraska, 1943, relating to criminal detention facilities; to create a standards board; to provide qualifications for members; to specify duties of the board as prescribed; to make an appropriation; to repeal the original sections, and also sections 83-947 and 83-949, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 83-945, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-945. It is hereby declared to be the policy of the State of Nebraska that all criminal detention facilities in the state shall conform to certain minimum standards of construction, maintenance, and operation. ~~The Department of Correctional Services shall administer the provisions of sections 83-945 to 83-953 and other laws enacted relating to standards for criminal detention facilities.~~

To further such policy, the Jail Standards Board is hereby created. For administrative purposes only, such board shall be within the Department of Correctional Services. Nothing in this act shall be construed to give the Director of Correctional Services any authority, power, or responsibility over the board or the exercise of its functions under this act other than as a member of the board. The board shall consist of the Director of Correctional Services or his or her designee and nine appointive members, three of whom shall be from each of the three congressional districts, to be appointed by the Governor. The appointive members of the board shall be appointed from recommendation lists containing at least three names from the Nebraska District Judges Association, the Nebraska Association of County Officials, the Nebraska County Sheriffs Association, the Nebraska Bar Association, and the Police Officers Association of Nebraska. The members of the board shall be from the following areas: (1) one district judge; (2) two county commissioners or supervisors; (3) one county

sheriff; (4) one municipal police chief; (5) one member of the Nebraska Bar Association; (6) three lay people; and (7) the Director of Correctional Services or his or her designee.

The term of office for all members shall be three years. Nothing in this act shall preclude anyone from serving more than one term on the board.

The members of the board shall serve without compensation, but they shall be reimbursed for their actual expenses while engaged in the performance of their official duties.

Sec. 2. That section 83-946, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-946. For the purposes of sections--83-945--to 83-953 this act, criminal detention facility shall mean any institution operated by a political jurisdiction or a combination of jurisdictions for the careful keeping and or rehabilitative needs of adult or juvenile criminal offenders;--including the county jails;--municipal jails; temporary holding units;--and the facilities--operated--by the--Department--of--Correctional--Services; or those persons being detained while awaiting disposition of charges against them. Criminal detention facilities are defined as follows:

(1) Type I Facilities shall mean criminal detention facilities used for the detention of persons for not more than twenty-four hours, excluding holidays and weekends;

(2) Type II Facilities shall mean criminal detention facilities used for the detention of persons for not more than ninety-six hours, excluding holidays and weekends; and

(3) Type III Facilities shall mean criminal detention facilities used for the detention of persons beyond ninety-six hours.

Sec. 3. That section 83-948, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-948. The Department-of-Correctional--Services Jail Standards Board shall have the authority and responsibility:

{1}--To--provide---consultation---and---technical assistance-to-local-government-officials-with-respect--to criminal-detention-facilities;

{2}-To-visit-and-inspect-such-criminal--detention facilities;

{3}--To--advise--government--officials,--and--the district-judge-for-the-district--in--which--any--criminal detention-facility-is-located,--of--deficiencies--in--such facility-and-make-recommendations-for-improvements;

To-submit-written-reports-of-such-inspections--to appropriate-agencies-and-persons-as-set-out--in--sections 83-950-to-83-953;

{5}-To--review--and--comment--on--plans--for--the construction-and-major-modification-or-renovation-of-such criminal-detention-facilities;

{6} {1} To develop minimum standards for the construction, maintenance, and operation of such criminal detention facilities; and

{7} {2} To perform such other duties as may be necessary to carry out the policy of the state regarding such criminal detention facilities as stated in sections 83-945 to 83-953.

Sec. 4. On or before July 1, 1979, the Jail Standards Board shall study, develop, and implement minimum standards for the construction, maintenance, and operation of criminal detention facilities pursuant to sections 5 to 7 of this act.

Sec. 5. The minimum standards for the construction of criminal detention facilities shall include but not be limited to standards for the planning, design, or actual construction of new, modified, or renovated facilities, in excess of five thousand dollars.

Sec. 6. The standards for the maintenance of criminal detention facilities shall include but not be limited to standards for:

{1} The staffing, training, and demeanor of personnel;

{2} The procedures for the admission and release of prisoners;

{3} The assignment procedures for assigning prisoners to housing, programs, and related activities;

(4) The establishment of a standardized records and statistical system for criminal detention facilities;

(5) The establishment of systems and procedures for the handling of prisoner mail, visits, and telephone services;

(6) The procedures for prisoner access to the media, general library, exercise, and recreation;

(7) The procedures for prisoner access to legal material, legal counsel, and religion;

(8) The supervision and uses of the facility arsenal, firearms, and key room;

(9) Food services;

(10) Health services; and

(11) Prisoner conduct.

Sec. 7. The standards for the operation of criminal detention facilities shall include but not be limited to standards for:

(1) The classification and reclassification of prisoners;

(2) The rehabilitative services required for prisoners;

(3) The disciplinary procedures for prisoners;

(4) The grievance procedure for prisoners; and

(5) The search and admission of visitors.

Sec. 8. That section 83-950, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-950. Personnel of the Department---of Correctional-Services Jail Standards Board shall visit and inspect each criminal detention facility in the state at-least-annually for the purpose of determining the conditions of confinement, the treatment of prisoners, and whether such facilities comply with the minimum standards established by the department board. A written report of each inspection shall be made within thirty days following such inspection to the appropriate governing body and the district judge responsible for the criminal detention facility involved. The report shall

specify those areas in which the facility does not comply with the required minimum standards.

Sec. 9. That section 83-951, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-951. If an inspection under this act discloses that the criminal detention facility does not meet the minimum standards established by the ~~Department of--Correctional--Services~~ Jail Standards Board, the ~~department board~~ shall send notice, together with the inspection report, to the governing body responsible for the facility. A copy of such inspection report required by this act shall also be sent to the district judge of the judicial district in which such facility is located. The appropriate governing body and the district judge shall promptly meet to consider the inspection report, and the inspection personnel shall appear to advise and consult concerning appropriate corrective action. The governing body shall then initiate appropriate corrective action within six months of the receipt of such inspection report, or may voluntarily close the facility or the objectionable portion thereof.

Sec. 10. That section 83-952, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-952. If such governing body fails to initiate corrective action within six months of the receipt of such inspection report, fails to correct the disclosed conditions, or fails to close the facility or the objectionable portion thereof, the ~~Department---~~ Jail Standards Board is hereby authorized to petition the district court within the judicial district in which the facility is located to close such facility. Such petition shall include the inspection report regarding such facility. The local governing body shall then have thirty days to respond to such petition, and shall serve a copy of the response on the ~~Department-of-Correctional--Services~~ Jail Standards Board by certified mail, return receipt requested. Thereafter, a hearing shall be held on the petition before the district court, and an order rendered by such court which either:

(1) Dismisses the petition of the ~~Department--of~~ Jail Standards Board;

(2) Directs that corrective action be initiated in some form by the local governing body of the facility in question; or

(3) Directs that the facility be closed. An appeal from the decision of the district court may be taken to the Supreme Court of Nebraska.

Sec. 11. That section 83-953, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-953. This act shall be implemented upon completion of the development of minimum standards by the Jail Standards Board. The--implementation--of--sections 83-945-to-83-953--shall--commence--at--the--time--minimum standards-are-developed-and-published-in-accordance--with the-Nebraska-Administrative-Procedures-Act. Thereafter, inspections shall begin, but no criminal detention facility shall be closed within one year of the date of first filing of the minimum standards in the office of the Secretary of State. After one year from the date of first filing of the minimum standards, a facility may be closed for any violation of the minimum standards. Those standards relating to the construction of the facility itself, its plumbing, heating, and wiring systems, shall not be enforced so as to require the closing of any facility for a period of two years from the date of the first filing of the minimum standards unless such violations are of immediate danger to the safety of the prisoners or facility personnel, in which case such period shall be one year.

Sec. 12. There is hereby appropriated five thousand four hundred dollars from the General Fund for the period July 1, 1978, to June 30, 1979, to the Department of Correctional Services, Agency No. 46 for Program 386, to pay the expenses of the Jail Standards Board.

Sec. 13. That original sections 83-945, 83-946, 83-948, and 83-950 to 83-953, Reissue Revised Statutes of Nebraska, 1943, and also sections 83-947 and 83-949, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 14. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.