

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 897

Introduced by Lathrop, 12.

Read first time January 07, 2022

Committee: Executive Board

1 A BILL FOR AN ACT relating to the Legislature; to amend sections 28-711,
2 43-4302, 43-4303, 43-4317, 43-4320, 43-4321, 43-4322, 43-4324,
3 43-4326, 43-4329, 43-4330, 47-901, 47-902, 47-903, 47-904, 47-905,
4 47-907, 47-908, 47-909, 47-910, 47-911, 47-912, 47-913, 47-914,
5 47-915, 47-918, 47-919, and 47-920, Reissue Revised Statutes of
6 Nebraska, and sections 28-712.01, 43-2,108, 43-4301, 43-4318,
7 43-4323, 43-4325, 43-4327, 43-4328, 43-4331, 43-4332, and 81-8,244,
8 Revised Statutes Cumulative Supplement, 2020; to provide, move,
9 change, and eliminate definitions; to provide, move, change, and
10 eliminate duties of the office of Inspector General of Nebraska
11 Child Welfare and the office of Inspector General of the Nebraska
12 Correctional System as prescribed; to harmonize provisions; to
13 repeal the original sections; and to outright repeal sections
14 43-4304, 43-4304.01, 43-4304.02, 43-4305, 43-4306, 43-4306.01,
15 43-4307, 43-4307.01, 43-4308, 43-4309, 43-4310, 43-4311, 43-4312,
16 43-4313, 43-4314, 43-4315, 43-4316, 43-4319, and 47-906, Reissue
17 Revised Statutes of Nebraska.
18 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-711, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-711 (1) When any physician, any medical institution, any nurse,
4 any school employee, any social worker, the Inspector General appointed
5 under section 7 of this act ~~43-4317~~, or any other person has reasonable
6 cause to believe that a child has been subjected to child abuse or
7 neglect or observes such child being subjected to conditions or
8 circumstances which reasonably would result in child abuse or neglect, he
9 or she shall report such incident or cause a report of child abuse or
10 neglect to be made to the proper law enforcement agency or to the
11 department on the toll-free number established by subsection (2) of this
12 section. Such report may be made orally by telephone with the caller
13 giving his or her name and address, shall be followed by a written
14 report, and to the extent available shall contain the address and age of
15 the abused or neglected child, the address of the person or persons
16 having custody of the abused or neglected child, the nature and extent of
17 the child abuse or neglect or the conditions and circumstances which
18 would reasonably result in such child abuse or neglect, any evidence of
19 previous child abuse or neglect including the nature and extent, and any
20 other information which in the opinion of the person may be helpful in
21 establishing the cause of such child abuse or neglect and the identity of
22 the perpetrator or perpetrators. Law enforcement agencies receiving any
23 reports of child abuse or neglect under this subsection shall notify the
24 department pursuant to section 28-718 on the next working day by
25 telephone or mail.

26 (2) The department shall establish a statewide toll-free number to
27 be used by any person any hour of the day or night, any day of the week,
28 to make reports of child abuse or neglect. Reports of child abuse or
29 neglect not previously made to or by a law enforcement agency shall be
30 made immediately to such agency by the department.

31 Sec. 2. Section 28-712.01, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 28-712.01 (1)(a) The department may assign a report for alternative
3 response consistent with the Child Protection and Family Safety Act.

4 (b) No report involving any of the following shall be assigned to
5 alternative response but shall be immediately forwarded to law
6 enforcement or the county attorney:

7 (i) Murder in the first or second degree as defined in section
8 28-303 or 28-304 or manslaughter as defined in section 28-305;

9 (ii) Assault in the first, second, or third degree or assault by
10 strangulation or suffocation as defined in section 28-308, 28-309,
11 28-310, or 28-310.01;

12 (iii) Sexual abuse, including acts prohibited by section 28-319,
13 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03,
14 28-322.04, 28-322.05, 28-703, or 28-707;

15 (iv) Labor trafficking of a minor or sex trafficking of a minor as
16 defined in section 28-830;

17 (v) Neglect of a minor child that results in serious bodily injury
18 as defined in section 28-109, requires hospitalization of the child, or
19 results in an injury to the child that requires ongoing medical care,
20 behavioral health care, or physical or occupational therapy, including a
21 growth delay, which may be referred to as failure to thrive, that has
22 been diagnosed by a physician and is due to parental neglect;

23 (vi) Physical abuse to the head or torso of a child or physical
24 abuse that results in bodily injury;

25 (vii) An allegation that requires a forensic interview at a child
26 advocacy center or coordination with the child abuse and neglect
27 investigation team pursuant to section 28-728;

28 (viii) Out-of-home child abuse or neglect;

29 (ix) An allegation being investigated by a law enforcement agency at
30 the time of the assignment;

31 (x) A history of termination of parental rights;

1 (xi) Absence of a caretaker without having given an alternate
2 caregiver authority to make decisions and grant consents for necessary
3 care, treatment, and education of a child or without having made
4 provision to be contacted to make such decisions or grant such consents;

5 (xii) Domestic violence involving a caretaker in situations in which
6 the alleged perpetrator has access to the child or caretaker;

7 (xiii) A household member illegally manufactures methamphetamine or
8 opioids;

9 (xiv) A child has had contact with methamphetamine or other
10 nonprescribed opioids, including a positive drug screening or test; or

11 (xv) For a report involving an infant, a household member tests
12 positive for methamphetamine or nonprescribed opioids at the birth of
13 such infant.

14 (c) The department may adopt and promulgate rules and regulations to
15 (i) provide additional ineligibility criteria for assignment to
16 alternative response and (ii) establish additional criteria requiring
17 review by the Review, Evaluate, and Decide Team.

18 (d) A report that includes any of the following may be eligible for
19 alternative response but shall first be reviewed by the Review, Evaluate,
20 and Decide Team prior to assignment to alternative response:

21 (i) Domestic assault as defined in section 28-323 or domestic
22 violence in the family home;

23 (ii) Use of alcohol or controlled substances as defined in section
24 28-401 or 28-405 by a caregiver that impairs the caregiver's ability to
25 care and provide safety for the child; or

26 (iii) A family member residing in the home or a caregiver that has
27 been the subject of a report accepted for traditional response or
28 assigned to alternative response in the past six months.

29 (2) The Review, Evaluate, and Decide Team shall convene to review
30 reports pursuant to the department's rules, regulations, and policies, to
31 evaluate the information, and to determine assignment for alternative

1 response or traditional response. The team shall utilize consistent
2 criteria to review the severity of the allegation of child abuse or
3 neglect, access to the perpetrator, vulnerability of the child, family
4 history including previous reports, parental cooperation, parental or
5 caretaker protective factors, and other information as deemed necessary.
6 At the conclusion of the review, the report shall be assigned to either
7 traditional response or alternative response. Decisions of the team shall
8 be made by consensus. If the team cannot come to consensus, the report
9 shall be assigned for a traditional response.

10 (3) In the case of an alternative response, the department shall
11 complete a comprehensive assessment. The department shall transfer the
12 case being given alternative response to traditional response if the
13 department determines that a child is unsafe or if the concern for the
14 safety of the child is due to a temporary living arrangement. Upon
15 completion of the comprehensive assessment, if it is determined that the
16 child is safe, participation in services offered to the family receiving
17 an alternative response is voluntary, the case shall not be transferred
18 to traditional response based upon the family's failure to enroll or
19 participate in such services, and the subject of the report shall not be
20 entered into the central registry of child protection cases maintained
21 pursuant to section 28-718.

22 (4) The department shall, by the next working day after receipt of a
23 report of child abuse or neglect, enter into the tracking system of child
24 protection cases maintained pursuant to section 28-715 all reports of
25 child abuse or neglect received under this section that are opened for
26 alternative response and any action taken.

27 (5) The department shall make available to the appropriate
28 investigating law enforcement agency, child advocacy center, and county
29 attorney a copy of all reports relative to a case of suspected child
30 abuse or neglect. Aggregate, nonidentifying data regarding reports of
31 child abuse or neglect receiving an alternative response shall be made

1 available quarterly to requesting agencies outside the department. Such
2 alternative response data shall include, but not be limited to, the
3 nature of the initial child abuse or neglect report, the age of the child
4 or children, the nature of services offered, the location of the cases,
5 the number of cases per month, and the number of alternative response
6 cases that were transferred to traditional response. Other than the
7 office of Inspector General of Nebraska Child Welfare, the Public
8 Counsel, law enforcement agency personnel, child advocacy center
9 employees, and county attorneys, no other agency or individual shall be
10 provided specific, identifying reports of child abuse or neglect being
11 given alternative response. The office of Inspector General of Nebraska
12 Child Welfare shall have access to all reports relative to cases of
13 suspected child abuse or neglect subject to traditional response and
14 those subject to alternative response. The department and the office
15 shall develop procedures allowing for the Inspector General's review of
16 cases subject to alternative response. The Inspector General shall
17 include in the report pursuant to section 20 of this act ~~43-4331~~ a
18 summary of all cases reviewed pursuant to this subsection.

19 Sec. 3. Section 43-2,108, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 43-2,108 (1) The juvenile court judge shall keep a record of all
22 proceedings of the court in each case, including appearances, findings,
23 orders, decrees, and judgments, and any evidence which he or she feels it
24 is necessary and proper to record. The case file shall contain the
25 complaint or petition and subsequent pleadings. The case file may be
26 maintained as an electronic document through the court's electronic case
27 management system, on microfilm, or in a paper volume and disposed of
28 when determined by the State Records Administrator pursuant to the
29 Records Management Act.

30 (2) Except as provided in subsections (3) and (4) of this section,
31 the medical, psychological, psychiatric, and social welfare reports and

1 the records of juvenile probation officers as they relate to individual
2 proceedings in the juvenile court shall not be open to inspection,
3 without order of the court. Such records shall be made available to a
4 district court of this state or the District Court of the United States
5 on the order of a judge thereof for the confidential use of such judge or
6 his or her probation officer as to matters pending before such court but
7 shall not be made available to parties or their counsel; and such
8 district court records shall be made available to a county court or
9 separate juvenile court upon request of the county judge or separate
10 juvenile judge for the confidential use of such judge and his or her
11 probation officer as to matters pending before such court, but shall not
12 be made available by such judge to the parties or their counsel.

13 (3) As used in this section, confidential record information means
14 all docket records, other than the pleadings, orders, decrees, and
15 judgments; case files and records; reports and records of probation
16 officers; and information supplied to the court of jurisdiction in such
17 cases by any individual or any public or private institution, agency,
18 facility, or clinic, which is compiled by, produced by, and in the
19 possession of any court. In all cases under subdivision (3)(a) of section
20 43-247, access to all confidential record information in such cases shall
21 be granted only as follows: (a) The court of jurisdiction may, subject to
22 applicable federal and state regulations, disseminate such confidential
23 record information to any individual, or public or private agency,
24 institution, facility, or clinic which is providing services directly to
25 the juvenile and such juvenile's parents or guardian and his or her
26 immediate family who are the subject of such record information; (b) the
27 court of jurisdiction may disseminate such confidential record
28 information, with the consent of persons who are subjects of such
29 information, or by order of such court after showing of good cause, to
30 any law enforcement agency upon such agency's specific request for such
31 agency's exclusive use in the investigation of any protective service

1 case or investigation of allegations under subdivision (3)(a) of section
2 43-247, regarding the juvenile or such juvenile's immediate family, who
3 are the subject of such investigation; and (c) the court of jurisdiction
4 may disseminate such confidential record information to any court, which
5 has jurisdiction of the juvenile who is the subject of such information
6 upon such court's request.

7 (4) The court shall provide copies of predispositional reports and
8 evaluations of the juvenile to the juvenile's attorney and the county
9 attorney or city attorney prior to any hearing in which the report or
10 evaluation will be relied upon.

11 (5) In all cases under sections 43-246.01 and 43-247, the office of
12 Inspector General of Nebraska Child Welfare may submit a written request
13 to the probation administrator for access to the records of juvenile
14 probation officers in a specific case. Upon a juvenile court order, the
15 records shall be provided to the Inspector General within five days for
16 the exclusive use in an investigation pursuant to the Office of Inspector
17 General of Nebraska Child Welfare Act. Nothing in this subsection shall
18 prevent the notification of death or serious injury of a juvenile to the
19 Inspector General of Nebraska Child Welfare pursuant to section 8 of this
20 act 43-4318 as soon as reasonably possible after the Office of Probation
21 Administration learns of such death or serious injury.

22 (6) In all cases under sections 43-246.01 and 43-247, the juvenile
23 court shall disseminate confidential record information to the Foster
24 Care Review Office pursuant to the Foster Care Review Act.

25 (7) Nothing in subsections (3), (5), and (6) of this section shall
26 be construed to restrict the dissemination of confidential record
27 information between any individual or public or private agency,
28 institute, facility, or clinic, except any such confidential record
29 information disseminated by the court of jurisdiction pursuant to this
30 section shall be for the exclusive and private use of those to whom it
31 was released and shall not be disseminated further without order of such

1 court.

2 (8)(a) Any records concerning a juvenile court petition filed
3 pursuant to subdivision (3)(c) of section 43-247 shall remain
4 confidential except as may be provided otherwise by law. Such records
5 shall be accessible to (i) the juvenile except as provided in subdivision
6 (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's
7 parent or guardian, and (iv) persons authorized by an order of a judge or
8 court.

9 (b) Upon application by the county attorney or by the director of
10 the facility where the juvenile is placed and upon a showing of good
11 cause therefor, a judge of the juvenile court having jurisdiction over
12 the juvenile or of the county where the facility is located may order
13 that the records shall not be made available to the juvenile if, in the
14 judgment of the court, the availability of such records to the juvenile
15 will adversely affect the juvenile's mental state and the treatment
16 thereof.

17 (9) Nothing in subsection (3), (5), or (6) of this section shall be
18 construed to restrict the immediate dissemination of a current picture
19 and information about a child who is missing from a foster care or out-
20 of-home placement. Such dissemination by the Office of Probation
21 Administration shall be authorized by an order of a judge or court. Such
22 information shall be subject to state and federal confidentiality laws
23 and shall not include that the child is in the care, custody, or control
24 of the Department of Health and Human Services or under the supervision
25 of the Office of Probation Administration.

26 Sec. 4. Section 43-4301, Revised Statutes Cumulative Supplement,
27 2020, is amended to read:

28 ~~43-4301~~ Sections 4 to 22 of this act ~~43-4301 to 43-4332~~ shall be
29 known and may be cited as the Office of Inspector General of Nebraska
30 Child Welfare Act.

31 Sec. 5. Section 43-4302, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 ~~43-4302~~ (1) It is the intent of the Legislature to:

3 (a) Establish a full-time program of investigation and performance
4 review to provide increased accountability and oversight of the Nebraska
5 child welfare system;

6 (b) Assist in improving operations of the Nebraska child welfare
7 system;

8 (c) Provide an independent form of inquiry for concerns regarding
9 the actions of individuals and agencies responsible for the care and
10 protection of children and youth in the Nebraska child welfare system.
11 Confusion of the roles, responsibilities, and accountability structures
12 between individuals, private contractors, branches of government, and
13 agencies in the current system make it difficult to monitor and oversee
14 the Nebraska child welfare system; and

15 (d) Provide a process for investigation and review to determine if
16 individual complaints and issues of investigation and inquiry reveal a
17 problem in the child welfare system, not just individual cases, that
18 necessitates legislative action for improved policies and restructuring
19 of the child welfare system.

20 (2) It is not the intent of the Legislature in enacting the Office
21 of Inspector General of Nebraska Child Welfare Act to interfere with the
22 duties of the Legislative Auditor or the Legislative Fiscal Analyst or to
23 interfere with the statutorily defined investigative responsibilities or
24 prerogatives of any officer, agency, board, bureau, commission,
25 association, society, or institution of the executive branch of state
26 government, except that the act does not preclude an inquiry on the sole
27 basis that another agency has the same responsibility. The act shall not
28 be construed to interfere with or supplant the responsibilities or
29 prerogatives of the Governor to investigate, monitor, and report on the
30 activities of the agencies, boards, bureaus, commissions, associations,
31 societies, and institutions of the executive branch under his or her

1 administrative direction.

2 Sec. 6. Section 43-4303, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 ~~43-4303~~ For purposes of the Office of Inspector General of Nebraska
5 Child Welfare Act; ~~the definitions found in sections 43-4304 to 43-4316~~
6 ~~apply.~~

7 (1) Administrator means a person charged with administration of: A
8 program, an office, or a division of the department; a private agency; a
9 licensed child care facility; the probation administrator; or the
10 executive director of the commission;

11 (2) Child welfare system means public and private agencies and
12 parties that provide or effect services or supervision to system-involved
13 children and their families;

14 (3) Commission means the Nebraska Commission on Law Enforcement and
15 Criminal Justice;

16 (4) Department means the Department of Health and Human Services;

17 (5) Director means the chief executive officer of the department;

18 (6) Executive director means the executive director of the
19 commission;

20 (7) Inspector General means the Inspector General of Nebraska Child
21 Welfare appointed under section 7 of this act;

22 (8) Juvenile services division means the juvenile services division
23 of the Office of Probation Administration;

24 (9) Licensed child care facility means a facility or program
25 licensed under the Child Care Licensing Act, the Children's Residential
26 Facilities and Placing Licensure Act, or sections 71-1901 to 71-1906.01;

27 (10) Malfeasance means a wrongful act that the actor has no legal
28 right to do or any wrongful conduct that affects, interrupts, or
29 interferes with performance of an official duty;

30 (11) Management means supervision of subordinate employees;

31 (12) Misfeasance means the improper performance of some act that a

1 person may lawfully do;

2 (13) Obstruction means hindering an investigation, preventing an
3 investigation from progressing, stopping or delaying the progress of an
4 investigation, or making the progress of an investigation difficult or
5 slow;

6 (14) Office means the office of Inspector General of Nebraska Child
7 Welfare and includes the Inspector General and other employees of the
8 office;

9 (15) Private agency means a child welfare agency that contracts with
10 the department or the Office of Probation Administration or contracts to
11 provide services to another child welfare agency that contracts with the
12 department or the Office of Probation Administration;

13 (16) Record means any recording, in written, audio, electronic, or
14 computer storage form, including, but not limited to, drafts,
15 memorandums, notes, reports, computer printouts, notations, or messages,
16 medical records, mental health records, case files, clinical records,
17 financial records, and administrative records; and

18 (17) Responsible individual means: A foster parent; a relative
19 provider of foster care; or an employee of the department, the juvenile
20 services division, the commission, a foster home, a private agency, a
21 licensed child care facility, or another provider of child welfare
22 programs and services responsible for the care or custody of records,
23 documents, and files.

24 Sec. 7. Section 43-4317, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 ~~43-4317~~ (1) The office of Inspector General of Nebraska Child
27 Welfare is created within the office of Public Counsel for the purpose of
28 conducting investigations, audits, inspections, and other reviews of the
29 Nebraska child welfare system. The Inspector General shall be appointed
30 by the Public Counsel with approval from the chairperson of the Executive
31 Board of the Legislative Council and the chairperson of the Health and

1 Human Services Committee of the Legislature.

2 (2) The Inspector General shall be appointed for a term of five
3 years and may be reappointed. The Inspector General shall be selected
4 without regard to political affiliation and on the basis of integrity,
5 capability for strong leadership, and demonstrated ability in accounting,
6 auditing, financial analysis, law, management analysis, public
7 administration, investigation, or criminal justice administration or
8 other closely related fields. No former or current executive or manager
9 of the department may be appointed Inspector General within five years
10 after such former or current executive's or manager's period of service
11 with the department. Not later than two years after the date of
12 appointment, the Inspector General shall obtain certification as a
13 Certified Inspector General by the Association of Inspectors General, its
14 successor, or another nationally recognized organization that provides
15 and sponsors educational programs and establishes professional
16 qualifications, certifications, and licensing for inspectors general.
17 During his or her employment, the Inspector General shall not be actively
18 involved in partisan affairs.

19 (3) The Inspector General shall employ such investigators and
20 support staff as he or she deems necessary to carry out the duties of the
21 office within the amount available by appropriation through the office of
22 Public Counsel for the office of Inspector General of Nebraska Child
23 Welfare. The Inspector General shall be subject to the control and
24 supervision of the Public Counsel, except that removal of the Inspector
25 General shall require approval of the chairperson of the Executive Board
26 of the Legislative Council and the chairperson of the Health and Human
27 Services Committee of the Legislature.

28 Sec. 8. Section 43-4318, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 ~~43-4318~~ (1) The office shall investigate:

31 (a) Allegations or incidents of possible misconduct, misfeasance,

1 malfeasance, or violations of statutes or of rules or regulations of:

2 (i) The department by an employee of or person under contract with
3 the department, a private agency, a licensed child care facility, a
4 foster parent, or any other provider of child welfare services or which
5 may provide a basis for discipline pursuant to the Uniform Credentialing
6 Act;

7 (ii) Subject to subsection (6) ~~(5)~~ of this section, the juvenile
8 services division by an employee of or person under contract with the
9 juvenile services division, a private agency, a licensed facility, a
10 foster parent, or any other provider of juvenile justice services;

11 (iii) The commission by an employee of or person under contract with
12 the commission related to programs and services supported by the Nebraska
13 County Juvenile Services Plan Act, the Community-based Juvenile Services
14 Aid Program, juvenile pretrial diversion programs, or inspections of
15 juvenile facilities; and

16 (iv) A juvenile detention facility and staff secure juvenile
17 facility by an employee of or person under contract with such facilities;

18 (b) Death or serious injury in foster homes, private agencies, child
19 care facilities, juvenile detention facilities, staff secure juvenile
20 facilities, and other programs and facilities licensed by or under
21 contract with the department or the juvenile services division when the
22 office, upon review, determines the death or serious injury did not occur
23 by chance; and

24 (c) Death or serious injury in any case in which services are
25 provided by the department or the juvenile services division to a child
26 or his or her parents or any case involving an investigation under the
27 Child Protection and Family Safety Act, which case has been open for one
28 year or less and upon review determines the death or serious injury did
29 not occur by chance.

30 (2) The department, the juvenile services division, each juvenile
31 detention facility, and each staff secure juvenile facility shall report

1 to the office (a) all cases of death or serious injury of a child in a
2 foster home, private agency, child care facility or program, or other
3 program or facility licensed by the department or inspected through the
4 commission to the Inspector General as soon as reasonably possible after
5 the department or the Office of Probation Administration learns of such
6 death or serious injury and (b) all allegations of sexual abuse of a
7 child in any case in which services are provided by the department to the
8 child or the child's parents or any case involving an investigation under
9 the Child Protection and Family Safety Act, which case has been open for
10 one year or less ~~state ward~~, a juvenile on probation, a juvenile in a
11 detention facility, and a juvenile in a residential child-caring agency.

12 (3) For purposes of this section ~~subsection~~, serious injury means an
13 injury or illness caused by suspected abuse, neglect, or maltreatment
14 which leaves a child in critical or serious condition.

15 (4)(a) ~~(3)(a)~~ The Office of Juvenile Services shall report to the
16 office of Inspector General of Nebraska Child Welfare as soon as
17 reasonably possible after any of the following instances occur at a youth
18 rehabilitation and treatment center:

- 19 (i) An assault;
20 (ii) An escape or elopement;
21 (iii) An attempted suicide;
22 (iv) Self-harm by a juvenile;
23 (v) Property damage not caused by normal wear and tear;
24 (vi) The use of mechanical restraints on a juvenile;
25 (vii) A significant medical event suffered by a juvenile; and
26 (viii) Internally substantiated violations of 34 U.S.C. 30301 et
27 seq.

28 (b) The Office of Juvenile Services and the office of Inspector
29 General of Nebraska Child Welfare shall, if requested by either party,
30 work in collaboration to clarify the specific parameters to comply with
31 subdivision (4)(a) ~~(3)(a)~~ of this section.

1 (5) ~~(4)~~ The department shall notify the office of Inspector General
2 of Nebraska Child Welfare of any leadership changes within the Office of
3 Juvenile Services and the youth rehabilitation and treatment centers.

4 (6) ~~(5)~~ With respect to any investigation conducted by the Inspector
5 General pursuant to subdivision (1)(a) of this section that involves
6 possible misconduct by an employee of the juvenile services division, the
7 Inspector General shall immediately notify the probation administrator
8 and provide the information pertaining to potential personnel matters to
9 the Office of Probation Administration.

10 (7) ~~(6)~~ Any investigation conducted by the Inspector General shall
11 be independent of and separate from an investigation pursuant to the
12 Child Protection and Family Safety Act. The Inspector General and his or
13 her staff are subject to the reporting requirements of the Child
14 Protection and Family Safety Act.

15 (8) ~~(7)~~ Notwithstanding the fact that a criminal investigation, a
16 criminal prosecution, or both are in progress, all law enforcement
17 agencies and prosecuting attorneys shall cooperate with any investigation
18 conducted by the Inspector General and shall, immediately upon request by
19 the Inspector General, provide the Inspector General with copies of all
20 law enforcement reports which are relevant to the Inspector General's
21 investigation. All law enforcement reports which have been provided to
22 the Inspector General pursuant to this section are not public records for
23 purposes of sections 84-712 to 84-712.09 and shall not be subject to
24 discovery by any other person or entity. Except to the extent that
25 disclosure of information is otherwise provided for in the Office of
26 Inspector General of Nebraska Child Welfare Act, the Inspector General
27 shall maintain the confidentiality of all law enforcement reports
28 received pursuant to its request under this section. Law enforcement
29 agencies and prosecuting attorneys shall, when requested by the Inspector
30 General, collaborate with the Inspector General regarding all other
31 information relevant to the Inspector General's investigation. If the

1 Inspector General in conjunction with the Public Counsel determines it
2 appropriate, the Inspector General may, when requested to do so by a law
3 enforcement agency or prosecuting attorney, suspend an investigation by
4 the office until a criminal investigation or prosecution is completed or
5 has proceeded to a point that, in the judgment of the Inspector General,
6 reinstatement of the Inspector General's investigation will not impede or
7 infringe upon the criminal investigation or prosecution. Under no
8 circumstance shall the Inspector General interview any minor who has
9 already been interviewed by a law enforcement agency, personnel of the
10 Division of Children and Family Services of the department, or staff of a
11 child advocacy center in connection with a relevant ongoing investigation
12 of a law enforcement agency.

13 (9) The office may conduct other investigations, audits,
14 inspections, and reviews as necessary to perform the duties of the office
15 and fulfill the purposes of the Office of Inspector General of Nebraska
16 Child Welfare Act.

17 Sec. 9. Section 43-4320, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 ~~43-4320~~ (1) Complaints to the office may be made in writing. The
20 office shall also maintain a toll-free telephone line for complaints. A
21 complaint shall be evaluated to determine if it alleges possible
22 misconduct, misfeasance, malfeasance, or violation of a statute or of
23 rules and regulations pursuant to section 8 of this act ~~43-4318~~. All
24 complaints shall be evaluated to determine whether a full investigation
25 is warranted.

26 (2) The office shall not conduct a full investigation of a complaint
27 unless:

28 (a) The complaint alleges misconduct, misfeasance, malfeasance, or
29 violation of a statute or of rules and regulations pursuant to section 8
30 of this act ~~43-4318~~;

31 (b) The complaint is against a person within the jurisdiction of the

1 office; and

2 (c) The allegations can be independently verified through
3 investigation.

4 (3) The Inspector General shall determine within thirty fourteen
5 days after receipt of a complaint whether it will conduct a full
6 investigation. A complaint alleging facts which, if verified, would
7 provide a basis for discipline under the Uniform Credentialing Act shall
8 be referred to the appropriate credentialing board under the act.

9 (4) When a full investigation is opened on a private agency that
10 contracts with the Office of Probation Administration, the Inspector
11 General shall give notice of such investigation to the Office of
12 Probation Administration.

13 Sec. 10. Section 43-4321, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 ~~43-4321~~ (1) The office shall have access to all information and
16 personnel necessary to perform the duties of the office.

17 (2) All employees of the department, the juvenile services division
18 as directed by the juvenile court or the Office of Probation
19 Administration, or the commission, all foster parents, and all owners,
20 operators, managers, supervisors, and employees of private agencies,
21 licensed child care facilities, juvenile detention facilities, staff
22 secure juvenile facilities, and other providers of child welfare services
23 or juvenile justice services shall cooperate with the office. Cooperation
24 includes, but is not limited to, the following:

25 (a) ~~(1)~~ Provision of full access to and production of records and
26 information. Providing access to and producing records and information
27 for the office is not a violation of confidentiality provisions under any
28 law, statute, rule, or regulation if done in good faith for ~~purposes of~~
29 an investigation under the Office of Inspector General of Nebraska Child
30 Welfare Act;

31 (b) ~~(2)~~ Fair and honest disclosure of records and information

1 reasonably requested by the office ~~in the course of an investigation~~
2 under the act;

3 (c) (3) Encouraging employees to fully comply with reasonable
4 requests of the office ~~in the course of an investigation~~ under the act;

5 (d) (4) Prohibition of retaliation by owners, operators, or managers
6 against employees for providing records or information or filing or
7 otherwise making a complaint to the office; and

8 (e) (5) Not requiring employees to gain supervisory approval prior
9 to filing a complaint with or providing records or information to the
10 office nor requiring the employee to report to the department, juvenile
11 services division, or private agency of the filing of a complaint with
12 the office. ÷

13 ~~(6) Provision of complete and truthful answers to questions posed by~~
14 ~~the office in the course of an investigation; and~~

15 ~~(7) Not willfully interfering with or obstructing the investigation.~~

16 Sec. 11. Section 43-4323, Revised Statutes Cumulative Supplement,
17 2020, is amended to read:

18 ~~43-4323~~ The Inspector General may issue a subpoena, enforceable by
19 action in an appropriate court, to compel any person to appear, give
20 sworn testimony, or produce documentary or other evidence deemed relevant
21 to a matter under his or her inquiry. A person thus required to provide
22 information shall be paid the same fees and travel allowances and shall
23 be accorded the same privileges and immunities as are extended to
24 witnesses in the district courts of this state and shall also be entitled
25 to have personal counsel present while being questioned. Any fees
26 associated with personal counsel present under this section shall not be
27 the responsibility of the office of Inspector General of Nebraska Child
28 Welfare.

29 Sec. 12. Section 43-4324, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 ~~43-4324~~ (1) A full investigation conducted by the office shall

1 consist of access to and retrieval of all relevant records through
2 subpoena, compliance with a request of the office or voluntary
3 production, review of all relevant records, and interviews of all
4 relevant persons In conducting investigations, the office shall access
5 ~~all relevant records through subpoena, compliance with a request of the~~
6 ~~office, and voluntary production.~~ The office may request or subpoena any
7 record necessary for the investigation from the department, the juvenile
8 services division as permitted by law, the commission, a foster parent, a
9 licensed child care facility, a juvenile detention facility, a staff
10 secure juvenile facility, or a private agency that is pertinent to an
11 investigation. All case files, licensing files, medical records,
12 financial and administrative records, and records required to be
13 maintained pursuant to applicable licensing rules shall be produced for
14 review by the office in the course of an investigation.

15 (2) For a request for confidential record information pursuant to
16 section 43-2,108, involving death or serious injury, the office may
17 submit a written request to the probation administrator. The record
18 information shall be provided to the office within five business days.

19 (3) ~~(2)~~ Compliance with a request of the office includes:

20 (a) Production of all records requested;

21 (b) A diligent search to ensure that all appropriate records are
22 included; ~~and~~

23 (c) A continuing obligation to immediately forward to the office any
24 relevant records received, located, or generated after the date of the
25 request; ~~and~~

26 (d) Provision of complete and truthful answers to questions posed by
27 the office in the course of an investigation; and

28 (e) Not willfully interfering with or obstructing the investigation.

29 ~~(4)~~ ~~(3)~~ The office shall seek access in a manner that respects the
30 dignity and human rights of all persons involved, maintains the integrity
31 of the investigation, and does not unnecessarily disrupt child welfare

1 programs or services. When advance notice to a foster parent or to an
2 administrator or his or her designee is not provided, the office
3 investigator shall, upon arrival at the departmental office, bureau, or
4 division, the private agency, the licensed child care facility, the
5 juvenile detention facility, the staff secure juvenile facility, or the
6 location of another provider of child welfare services, request that an
7 onsite employee notify the administrator or his or her designee of the
8 investigator's arrival.

9 (5) ~~(4)~~ When required by circumstances of an investigation, audit,
10 inspection, or other review require, the office may make an announced or
11 unannounced visit to a foster home, a departmental office, bureau, or
12 division, a licensed child care facility, a juvenile detention facility,
13 a staff secure juvenile facility, a private agency, or another provider
14 ~~to request records relevant to an investigation. The office may request~~
15 records relevant to an investigation during an unannounced visit.

16 (6) ~~(5)~~ A responsible individual or an administrator may be asked to
17 sign a statement of record integrity and security when a record is
18 secured by request as the result of a visit by the office, stating:

19 (a) That the responsible individual or the administrator has made a
20 diligent search of the office, bureau, division, private agency, licensed
21 child care facility, juvenile detention facility, staff secure juvenile
22 facility, or other provider's location to determine that all appropriate
23 records in existence at the time of the request were produced;

24 (b) That the responsible individual or the administrator agrees to
25 immediately forward to the office any relevant records received, located,
26 or generated after the visit;

27 (c) The persons who have had access to the records since they were
28 secured; and

29 (d) Whether, to the best of the knowledge of the responsible
30 individual or the administrator, any records were removed from or added
31 to the record since it was secured.

1 (7) (6) The office shall permit a responsible individual, an
2 administrator, or an employee of a departmental office, bureau, or
3 division, a private agency, a licensed child care facility, a juvenile
4 detention facility, a staff secure juvenile facility, or another provider
5 to make photocopies of the original records within a reasonable time in
6 the presence of the office for purposes of creating a working record in a
7 manner that assures confidentiality.

8 (8) (7) The office shall present to the responsible individual or
9 the administrator or other employee of the departmental office, bureau,
10 or division, private agency, licensed child care facility, juvenile
11 detention facility, staff secure juvenile facility, or other service
12 provider a copy of the request, stating the date and the titles of the
13 records received.

14 (9) (8) If an original record is provided during an investigation,
15 the office shall return the original record as soon as practical but no
16 later than ten working days after the date of the compliance request.

17 (10) (9) All investigations conducted by the office shall be
18 conducted in a manner designed to ensure the preservation of evidence for
19 possible use in a criminal prosecution.

20 Sec. 13. Section 43-4322, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 ~~43-4322~~ Failure to cooperate with an investigation by the office may
23 result in public disclosure of the failure to cooperate ~~discipline or~~
24 ~~other sanctions.~~

25 Sec. 14. Section 43-4326, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 ~~43-4326~~ (1) The department shall provide the office of the Public
28 Counsel and the office of Inspector General with direct computer access
29 to all computerized records, reports, and documents maintained by the
30 department in connection with administration of the Nebraska child
31 welfare system.

1 (2) The commission shall provide the office of Inspector General
2 with direct computer access to all computerized records, reports, and
3 documents maintained in connection with administration of juvenile
4 justice services.

5 (3) The juvenile services division, as directed by the juvenile
6 court or the Office of Probation Administration, shall provide the office
7 of Inspector General with direct computer access to all computerized
8 records, reports, and documents maintained by the juvenile services
9 division in connection with a specific case under investigation.

10 Sec. 15. Section 43-4327, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 ~~43-4327~~ (1) The Inspector General's report of an investigation shall
13 be in writing to the Public Counsel and may ~~shall~~ contain
14 recommendations. The report may recommend systemic reform or case-
15 specific action, including a recommendation for discharge or discipline
16 of employees or for sanctions against a foster parent, private agency,
17 licensed child care facility, or other provider of child welfare services
18 or juvenile justice services. All recommendations to pursue discipline
19 shall be in writing and signed by the Inspector General. A report of an
20 investigation shall be presented to the director, the probation
21 administrator, or the executive director within fifteen days after the
22 report is presented to the Public Counsel.

23 (2) Any person receiving a report under this section shall not
24 further distribute the report or any confidential information contained
25 in the report beyond the entity that is the subject of the report. The
26 Inspector General, upon notifying the Public Counsel and the director,
27 the probation administrator, or the executive director, may distribute
28 the report, to the extent that it is relevant to a child's welfare, to
29 the guardian ad litem and attorneys in the juvenile court in which a case
30 is pending involving the child or family who is the subject of the
31 report. The report shall not be distributed beyond the parties except

1 through the appropriate court procedures to the judge.

2 (3) A report that identifies misconduct, misfeasance, malfeasance,
3 or violation of statute, rules, or regulations by an employee of the
4 department, the juvenile services division, the commission, a private
5 agency, a licensed child care facility, or another provider that is
6 relevant to providing appropriate supervision of an employee may be
7 shared with the employer of such employee. The employer may not further
8 distribute the report or any confidential information contained in the
9 report.

10 Sec. 16. Section 43-4328, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 ~~43-4328~~ (1) Within fifteen business days after a report is presented
13 to the director, the probation administrator, or the executive director
14 under section 15 of this act ~~43-4327~~, he or she shall determine whether
15 to accept, reject, or request ~~in writing~~ modification of the
16 recommendations contained in the report. The ~~written~~ response shall be in
17 writing and may include corrections of factual errors. The Inspector
18 General, with input from the Public Counsel, may consider the director's,
19 probation administrator's, or executive director's request for
20 modifications but is not obligated to accept such request. Such report
21 shall become final upon (a) the decision of the director, the probation
22 administrator, or the executive director to accept or reject the
23 recommendations in the report or (b) within fifteen days after ~~if the~~
24 ~~director, the probation administrator, or the executive director requests~~
25 ~~modifications, within fifteen days after such request or after the~~
26 ~~Inspector General incorporates such modifications, whichever occurs~~
27 ~~earlier. If the Inspector General does not accept the requested~~
28 modification, the recommendation for which a modification was requested
29 shall be considered to be rejected by the director, probation
30 administrator, or the executive director.

31 (2) After the recommendations have been accepted, rejected, or

1 modified, the report shall be presented to the foster parent, private
2 agency, licensed child care facility, or other provider of child welfare
3 services or juvenile justice services that is the subject of the report
4 and to persons involved in the implementation of the recommendations in
5 the report. Within fifteen business ~~thirty~~ days after receipt of the
6 report, the foster parent, private agency, licensed child care facility,
7 or other provider may submit a written response to the office to correct
8 any factual errors in the report and shall determine whether to accept,
9 reject, or request in writing modification of the recommendations
10 contained in the report. The Inspector General, with input from the
11 Public Counsel, shall consider all materials submitted under this
12 subsection to determine whether a corrected report shall be issued. If
13 the Inspector General determines that a corrected report is necessary,
14 the corrected report shall be issued within fifteen business days after
15 receipt of the written response.

16 (3) If the Inspector General does not issue a corrected report
17 pursuant to subsection (2) of this section, or if the corrected report
18 does not address all issues raised in the written response, the foster
19 parent, private agency, licensed child care facility, or other provider
20 may request that its written response, or portions of the response, be
21 appended to the report or corrected report.

22 (4) A report which raises issues related to credentialing under the
23 Uniform Credentialing Act shall be submitted to the appropriate
24 credentialing board under the act.

25 Sec. 17. Section 43-4325, Revised Statutes Cumulative Supplement,
26 2020, is amended to read:

27 ~~43-4325~~ (1) Reports of investigations conducted by the office shall
28 not be distributed beyond the entity that is the subject of the report
29 without the consent of the Inspector General.

30 (2) Except when a report is provided to a guardian ad litem or an
31 attorney in the juvenile court pursuant to subsection (2) of section 15

1 of this act 43-4327, the office shall redact confidential information
2 before distributing a report of an investigation.

3 (3) The office may disclose confidential information to the
4 chairperson of the Health and Human Services Committee of the Legislature
5 or the chairperson of the Judiciary Committee of the Legislature when
6 such disclosure is, in the judgment of the Public Counsel, desirable to
7 keep the chairperson informed of important events, issues, and
8 developments in the Nebraska child welfare system.

9 (4)(a) ~~(3)(a)~~ A summarized final report based on an investigation
10 may be publicly released in order to bring awareness to systemic issues.

11 (b) Such report shall be released only:

12 (i) After a disclosure is made to the appropriate chairperson or
13 chairpersons pursuant to subsection (3) ~~(2)~~ of this section; and

14 (ii) If a determination is made by the Inspector General with the
15 appropriate chairperson that doing so would be in the best interest of
16 the public.

17 (c) If there is disagreement about whether releasing the report
18 would be in the best interest of the public, the chairperson of the
19 Executive Board of the Legislative Council may be asked to make the final
20 decision.

21 (5) ~~(4)~~ Records and documents, regardless of physical form, that are
22 obtained or produced by the office in the course of an investigation are
23 not public records for purposes of sections 84-712 to 84-712.09. Reports
24 of investigations conducted by the office are not public records for
25 purposes of sections 84-712 to 84-712.09.

26 (6) ~~(5)~~ The office may withhold the identity of sources of
27 information to protect from retaliation any person who files a complaint
28 or provides information in good faith pursuant to the Office of Inspector
29 General of Nebraska Child Welfare Act.

30 Sec. 18. Section 43-4329, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 ~~43-4329~~ No report or other work product of an investigation by the
2 Inspector General shall be reviewable in any court. Neither the Inspector
3 General nor any member of his or her staff shall be required to testify
4 or produce evidence in any judicial or administrative proceeding
5 concerning matters within his or her official cognizance except in a
6 proceeding brought to enforce the Office of Inspector General of Nebraska
7 Child Welfare Act.

8 Sec. 19. Section 43-4330, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 ~~43-4330~~ The Office of Inspector General of Nebraska Child Welfare
11 Act does not require the Inspector General to investigate all complaints.
12 The Inspector General, with input from the Public Counsel, shall
13 prioritize and select investigations and inquiries that further the
14 intent of the act and assist in legislative oversight of the Nebraska
15 child welfare system and juvenile justice system. If the Inspector
16 General determines that he or she will not investigate a complaint, the
17 Inspector General may recommend to the parties alternative means of
18 resolution of the issues in the complaint.

19 Sec. 20. Section 43-4331, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 ~~43-4331~~ On or before September 15 of each year, the Inspector
22 General shall provide to the Health and Human Services Committee of the
23 Legislature, the Judiciary Committee of the Legislature, the Supreme
24 Court, and the Governor a summary of reports and investigations made
25 under the Office of Inspector General of Nebraska Child Welfare Act for
26 the preceding year. The summary provided to the committees shall be
27 provided electronically. The summaries shall detail recommendations and
28 the status of implementation of recommendations and may also include
29 recommendations to the committees regarding issues discovered through
30 investigation, audits, inspections, and reviews by the office that will
31 increase accountability and legislative oversight of the Nebraska child

1 welfare system, improve operations of the department, the juvenile
2 services division, the commission, and the Nebraska child welfare system,
3 or deter and identify fraud, abuse, and illegal acts. Such summary shall
4 include summaries of alternative response cases under alternative
5 response implemented in accordance with sections 28-710.01, 28-712, and
6 28-712.01 reviewed by the Inspector General. The summaries shall not
7 contain any confidential or identifying information concerning the
8 subjects of the reports and investigations.

9 Sec. 21. Section 43-4332, Revised Statutes Cumulative Supplement,
10 2020, is amended to read:

11 ~~43-4332~~ Any person who has authority to recommend, approve, direct,
12 or otherwise take or affect personnel action shall not, with respect to
13 such authority:

14 (1) Take personnel action against an employee because of the
15 disclosure of information by the employee to the office which the
16 employee reasonably believes evidences wrongdoing under the Office of
17 Inspector General of Nebraska Child Welfare Act;

18 (2) Take personnel action against an employee as a reprisal for the
19 submission of an allegation of wrongdoing under the act to the office by
20 such employee; or

21 (3) Take personnel action against an employee as a reprisal for
22 providing information or testimony pursuant to an investigation by the
23 office.

24 Sec. 22. If the Inspector General has reason to believe that any
25 public officer or employee has acted in a manner warranting criminal or
26 disciplinary proceedings, the Inspector General shall refer the matter to
27 the appropriate authorities.

28 Sec. 23. Section 47-901, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 47-901 Sections 47-901 to 47-920 and section 40 of this act shall be
31 known and may be cited as the Office of Inspector General of the Nebraska

1 Correctional System Act.

2 Sec. 24. Section 47-902, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 47-902 (1) It is the intent of the Legislature to:

5 (a) Establish a full-time program of investigation and performance
6 review to provide increased accountability and oversight of the Nebraska
7 correctional system;

8 (b) Assist in improving operations of the department and the
9 Nebraska correctional system;

10 (c) Provide an independent form of inquiry for concerns regarding
11 the actions of individuals and agencies responsible for the supervision
12 and release of persons in the Nebraska correctional system. A lack of
13 responsibility and accountability ~~between individuals and private~~
14 ~~agencies~~ in the current system make it difficult to monitor and oversee
15 the Nebraska correctional system; and

16 (d) Provide a process for investigation and review in order to
17 improve policies and procedures of the correctional system.

18 (2) It is not the intent of the Legislature in enacting the Office
19 of Inspector General of the Nebraska Correctional System Act to interfere
20 with the duties of the Legislative Auditor or the Legislative Fiscal
21 Analyst or to interfere with the statutorily defined investigative
22 responsibilities or prerogatives of any officer, agency, board, bureau,
23 commission, association, society, or institution of the executive branch
24 of state government, except that the act does not preclude an inquiry on
25 the sole basis that another agency has the same responsibility. The act
26 shall not be construed to interfere with or supplant the responsibilities
27 or prerogatives of the Governor to investigate, monitor, and report on
28 the activities of the agencies, boards, bureaus, commissions,
29 associations, societies, and institutions of the executive branch under
30 his or her administrative direction.

31 Sec. 25. Section 47-903, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 47-903 For purposes of the Office of Inspector General of the
3 Nebraska Correctional System Act, the following definitions apply:

4 (1) Administrator means a person charged with administration of: A a
5 program, an office, or a division of the department or the Division of
6 Parole Supervision; or administration of a private agency;

7 (2) Department means the Department of Correctional Services;

8 (3) Director means the Director of Correctional Services;

9 (4) Division means the Division of Parole Supervision ~~means the~~
10 ~~division~~ created pursuant to section 83-1,100;

11 (5) Inspector General means the Inspector General of the Nebraska
12 Correctional System appointed under section 47-904;

13 (6) Malfeasance means a wrongful act that the actor has no legal
14 right to do or any wrongful conduct that affects, interrupts, or
15 interferes with performance of an official duty;

16 (7) Management means supervision of subordinate employees;

17 (8) Misfeasance means the improper performance of some act that a
18 person may lawfully do;

19 (9) Nebraska correctional system means the Department of
20 Correctional Services and the Division of Parole Supervision;

21 (10) (9) Obstruction means hindering an investigation, preventing an
22 investigation from progressing, stopping or delaying the progress of an
23 investigation, or making the progress of an investigation difficult or
24 slow;

25 (11) (10) Office means the office of Inspector General of the
26 Nebraska Correctional System and includes the Inspector General and other
27 employees of the office;

28 (12) Parole director means the director of the division;

29 (13) (11) Private agency means an entity that contracts with the
30 department or division or contracts to provide services to another entity
31 that contracts with the department or division; and

1 (14) ~~(12)~~ Record means any recording in written, audio, electronic
2 transmission, or computer storage form, including, but not limited to, a
3 draft, memorandum, note, report, computer printout, notation, or message,
4 and includes, but is not limited to, medical records, mental health
5 records, case files, clinical records, financial records, and
6 administrative records.

7 Sec. 26. Section 47-904, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 47-904 (1) The office of Inspector General of the Nebraska
10 Correctional System is created within the office of Public Counsel for
11 the purpose of conducting investigations, audits, inspections, and other
12 reviews of the Nebraska correctional system. The Inspector General shall
13 be appointed by the Public Counsel with approval from the chairperson of
14 the Executive Board of the Legislative Council and the chairperson of the
15 Judiciary Committee of the Legislature.

16 (2) The Inspector General shall be appointed for a term of five
17 years and may be reappointed. The Inspector General shall be selected
18 without regard to political affiliation and on the basis of integrity,
19 capability for strong leadership, and demonstrated ability in accounting,
20 auditing, financial analysis, law, management, public administration,
21 investigation, or criminal justice administration or other closely
22 related fields. No former or current executive or manager of the
23 department or division shall be appointed Inspector General within five
24 years after such former or current executive's or manager's period of
25 service with the department or division. Not later than two years after
26 the date of appointment, the Inspector General shall obtain certification
27 as a Certified Inspector General by the Association of Inspectors
28 General, its successor, or another nationally recognized organization
29 that provides and sponsors educational programs and establishes
30 professional qualifications, certifications, and licensing for inspectors
31 general. During his or her employment, the Inspector General shall not be

1 actively involved in partisan affairs.

2 (3) The Inspector General shall employ such investigators and
3 support staff as he or she deems necessary to carry out the duties of the
4 office within the amount available by appropriation through the office of
5 Public Counsel for the office of Inspector General of the Nebraska
6 Correctional System. The Inspector General shall be subject to the
7 control and supervision of the Public Counsel, except that removal of the
8 Inspector General shall require approval of the chairperson of the
9 Executive Board of the Legislative Council and the chairperson of the
10 Judiciary Committee of the Legislature.

11 Sec. 27. Section 47-905, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 47-905 (1) The office shall investigate:

14 (a) Allegations or incidents of possible misconduct, misfeasance,
15 malfeasance, or violations of statutes or of rules or regulations of the
16 department or division by an employee of or a person under contract with
17 the department or division or a private agency; and

18 (b) Death or serious injury in private agencies, department or
19 division, correctional facilities, and other programs and facilities
20 licensed by or under contract with the department or division. The
21 department or division shall report all cases of death or serious injury
22 of a person in a private agency, department or division correctional
23 facility or program, or other program or facility licensed by the
24 department or division to the Inspector General as soon as reasonably
25 possible after the department or division learns of such death or serious
26 injury. The department or division shall also report all cases of the
27 death or serious injury of an employee when acting in his or her capacity
28 as an employee of the department or division as soon as reasonably
29 possible after the department or division learns of such death or serious
30 injury. The department or division shall also report all cases when an
31 employee is hospitalized in response to an injury received when acting in

1 his or her capacity as an employee of the department or division as soon
2 as reasonably possible after the department or division learns of such
3 hospitalization. For purposes of this subdivision, serious injury means
4 an injury which requires urgent and immediate medical treatment and
5 restricts the injured person's usual activity.

6 (2) Any investigation conducted by the Inspector General shall be
7 independent of and separate from an investigation pursuant to sections
8 23-1821 to 23-1823.

9 (3) Notwithstanding the fact that a criminal investigation, a
10 criminal prosecution, or both are in progress, all law enforcement
11 agencies and prosecuting attorneys shall cooperate with any investigation
12 conducted by the Inspector General and shall, immediately upon request by
13 the Inspector General, provide the Inspector General with copies of all
14 law enforcement reports which are relevant to the Inspector General's
15 investigation. All law enforcement reports which have been provided to
16 the Inspector General pursuant to this section are not public records for
17 purposes of sections 84-712 to 84-712.09 and shall not be subject to
18 discovery by any other person or entity. Except to the extent that
19 disclosure of information is otherwise provided for in the Office of
20 Inspector General of the Nebraska Correctional System Act, the Inspector
21 General shall maintain the confidentiality of all law enforcement reports
22 received pursuant to its request under this section. Law enforcement
23 agencies and prosecuting attorneys shall, when requested by the Inspector
24 General, collaborate with the Inspector General regarding all other
25 information relevant to the Inspector General's investigation. If the
26 Inspector General in conjunction with the Public Counsel determines it
27 appropriate, the Inspector General may, when requested to do so by a law
28 enforcement agency or prosecuting attorney, suspend an investigation by
29 the office until a criminal investigation or prosecution is completed or
30 has proceeded to a point that, in the judgment of the Inspector General,
31 reinstatement of the Inspector General's investigation will not impede or

1 infringe upon the criminal investigation or prosecution.

2 (4) The office may conduct other investigations, audits,
3 inspections, and reviews as necessary to perform the duties of the office
4 and fulfill the purposes of the Office of Inspector General of the
5 Nebraska Correctional System Act.

6 Sec. 28. Section 47-907, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 47-907 (1) Complaints to the office may be made in writing. A
9 complaint shall be evaluated to determine if it alleges possible
10 misconduct, misfeasance, malfeasance, or violation of a statute or of
11 rules and regulations of the department or division by an employee of or
12 a person under contract with the department or division or a private
13 agency. All complaints shall be evaluated to determine whether a full
14 investigation is warranted.

15 (2) The office shall not conduct a full investigation of a complaint
16 unless:

17 (a) The complaint alleges misconduct, misfeasance, malfeasance, or
18 violation of a statute or of rules and regulations of the department or
19 division;

20 (b) The complaint is against a person within the jurisdiction of the
21 office; and

22 (c) The allegations can be independently verified through
23 investigation.

24 (3) The Inspector General shall determine within thirty ~~fourteen~~
25 days after receipt of a complaint whether the office will conduct a full
26 investigation.

27 (4) When a full investigation is opened on a private agency that
28 contracts with the department or division, the Inspector General shall
29 give notice of such investigation to the department or division.

30 Sec. 29. Section 47-908, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 47-908 (1) The office shall have access to all information and
2 personnel necessary to perform the duties of the office.

3 (2) All employees of the department, all employees of the division
4 Division of Parole Supervision, and all owners, operators, managers,
5 supervisors, and employees of private agencies shall cooperate with the
6 office. Cooperation includes, but is not limited to, the following:

7 (a) ~~(1)~~ Provision of full access to and production of records and
8 information. Providing access to and producing records and information
9 for the office is not a violation of confidentiality provisions under any
10 statute, rule, or regulation if done in good faith ~~for purposes of an~~
11 investigation under the Office of Inspector General of the Nebraska
12 Correctional System Act;

13 (b) ~~(2)~~ Fair and honest disclosure of records and information
14 reasonably requested by the office ~~in the course of an investigation~~
15 under the act;

16 (c) ~~(3)~~ Encouraging employees to fully comply with reasonable
17 requests of the office in the course of an investigation under the act;

18 (d) ~~(4)~~ Prohibition of retaliation by owners, operators, or managers
19 against employees for providing records or information or filing or
20 otherwise making a complaint to the office; and

21 (e) ~~(5)~~ Not requiring employees to gain supervisory approval prior
22 to filing a complaint with or providing records or information to the
23 office, nor requiring the employee to report to the department or
24 division of the filing of a complaint with the office. ÷

25 ~~(6) Provision of complete and truthful answers to questions posed by~~
26 ~~the office in the course of an investigation; and~~

27 ~~(7) Not willfully interfering with or obstructing the investigation.~~

28 Sec. 30. Section 47-909, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 47-909 Failure to cooperate with ~~an investigation~~ by the office may
31 result in public disclosure of the failure to cooperate discipline or

1 ~~other sanctions.~~

2 Sec. 31. Section 47-910, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 47-910 The Inspector General may issue a subpoena, enforceable by
5 action in an appropriate court, to compel any person to appear, give
6 sworn testimony, or produce documentary or other evidence deemed relevant
7 to a matter under his or her inquiry. A person thus required to provide
8 information shall be paid the same fees and travel allowances and shall
9 be accorded the same privileges and immunities as are extended to
10 witnesses in the district courts of this state and shall also be entitled
11 to have personal counsel present while being questioned.

12 Sec. 32. Section 47-911, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 47-911 (1) A full investigation conducted by the office shall
15 consist of: Access to and retrieval of all relevant records through
16 subpoena, compliance with a request of the office, or voluntary
17 production; review of all relevant records; and interviews of all
18 relevant persons ~~In conducting investigations, the office shall access~~
19 ~~all relevant records through subpoena, compliance with a request by the~~
20 ~~office, and voluntary production.~~ The office may request or subpoena any
21 record necessary for the investigation from the department, the division,
22 or a private agency that is pertinent to an investigation. All case
23 files, licensing files, medical records, financial and administrative
24 records, and records required to be maintained pursuant to applicable
25 licensing rules shall be produced for review by the office in the course
26 of an investigation.

27 (2) Compliance with a request of the office includes:

28 (a) Production of all records requested;

29 (b) A diligent search to ensure that all appropriate records are
30 included; ~~and~~

31 (c) A continuing obligation to immediately forward to the office any

1 relevant records received, located, or generated after the date of the
2 request; -

3 (d) Provision of complete and truthful answers to questions posed by
4 the office in the course of an investigation; and

5 (e) Not willfully interfering with or obstructing the investigation.

6 (3) The office shall seek access in a manner that respects the
7 dignity and human rights of all persons involved, maintains the integrity
8 of the investigation, and does not unnecessarily disrupt department or
9 division programs or services. When advance notice to an administrator or
10 his or her designee is not provided, the office investigator shall, upon
11 arrival at the departmental office, bureau, or division or private
12 agency, request that an onsite employee notify the administrator or his
13 or her designee of the investigator's arrival.

14 (4) When circumstances of an investigation require, the office may
15 make an announced or unannounced visit to a departmental office, bureau,
16 or division, a department correctional facility, a parole office, or a
17 private agency to request records relevant to an investigation.

18 (5) A responsible individual or an administrator may be asked to
19 sign a statement of record integrity and security when a record is
20 secured by request as the result of a visit by the office, stating:

21 (a) That the responsible individual or the administrator has made a
22 diligent search of the office, bureau, division, private agency, or
23 department correctional facility to determine that all appropriate
24 records in existence at the time of the request were produced;

25 (b) That the responsible individual or the administrator agrees to
26 immediately forward to the office any relevant records received, located,
27 or generated after the visit;

28 (c) The persons who have had access to the records since they were
29 secured; and

30 (d) Whether, to the best of the knowledge of the responsible
31 individual or the administrator, any records were removed from or added

1 to the record since it was secured.

2 (6) The office shall permit a responsible individual, an
3 administrator, or an employee of a departmental office, bureau, or
4 division, a private agency, or a department correctional facility to make
5 photocopies of the original records within a reasonable time in the
6 presence of the office for purposes of creating a working record in a
7 manner that assures confidentiality.

8 (7) The office shall present to the responsible individual or the
9 administrator or other employee of the departmental office, bureau, or
10 division, private agency, or department correctional facility a copy of
11 the request, stating the date and the titles of the records received.

12 (8) If an original record is provided during an investigation, the
13 office shall return the original record as soon as practical but no later
14 than ten working days after the date of the compliance request.

15 (9) All investigations conducted by the office shall be conducted in
16 a manner designed to ensure the preservation of evidence for possible use
17 in a criminal prosecution.

18 Sec. 33. Section 47-912, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 47-912 (1) Reports of investigations conducted by the office shall
21 not be distributed beyond the entity that is the subject of the report
22 without the consent of the Inspector General.

23 (2) The office may ~~shall~~ redact confidential information before
24 distributing a report of an investigation.

25 (3) The office may disclose confidential information to the
26 chairperson of the Judiciary Committee of the Legislature when such
27 disclosure is, in the judgment of the Public Counsel, desirable to keep
28 the chairperson informed of important events, issues, and developments in
29 the Nebraska correctional system.

30 (4)(a) ~~(3)(a)~~ A summarized final report based on an investigation
31 may be publicly released in order to bring awareness to systemic issues.

1 (b) Such report shall be released only:

2 (i) After a disclosure is made to the chairperson pursuant to
3 subsection (3) ~~(2)~~ of this section; and

4 (ii) If a determination is made by the Inspector General with the
5 chairperson that doing so would be in the best interest of the public.

6 (c) If there is disagreement about whether releasing the report
7 would be in the best interest of the public, the chairperson of the
8 Executive Board of the Legislative Council may be asked to make the final
9 decision.

10 (5) ~~(4)~~ Records and documents, regardless of physical form, that are
11 obtained or produced by the office in the course of an investigation are
12 not public records for purposes of sections 84-712 to 84-712.09. Reports
13 of investigations conducted by the office are not public records for
14 purposes of sections 84-712 to 84-712.09.

15 (6) ~~(5)~~ The office may withhold the identity of sources of
16 information to protect from retaliation any person who files a complaint
17 or provides information in good faith pursuant to the Office of Inspector
18 General of the Nebraska Correctional System Act.

19 Sec. 34. Section 47-913, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 47-913 The department shall provide the office of Public Counsel and
22 the office of Inspector General with direct computer access to all
23 computerized records, reports, and documents maintained by the department
24 in connection with administration of the Nebraska correctional system,
25 except that the Public Counsel's and Inspector General's access to an
26 inmate's medical or mental health records shall be subject to the
27 inmate's consent.

28 Sec. 35. Section 47-914, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 47-914 (1) The Inspector General's report of an investigation shall
31 be in writing to the Public Counsel and may ~~shall~~ contain

1 recommendations. The report may recommend systemic reform or case-
2 specific action, including a recommendation for discharge or discipline
3 of employees or for sanctions against a private agency. All
4 recommendations to pursue discipline shall be in writing and signed by
5 the Inspector General. A report of an investigation shall be presented to
6 the director or parole director after the Inspector General has received
7 the report, along with any specific input from the Public Counsel, within
8 fifteen business days after the report is presented to the Public
9 Counsel.

10 (2) Any person receiving a report under this section shall not
11 further distribute the report or any confidential information contained
12 in the report. The report shall not be distributed beyond the parties
13 except through the appropriate court procedures to the judge.

14 (3) A report that identifies misconduct, misfeasance, malfeasance,
15 violation of statute, or violation of rules and regulations by an
16 employee of the department, the division, or a private agency that is
17 relevant to providing appropriate supervision of an employee may be
18 shared with the employer of such employee. The employer may not further
19 distribute the report or any confidential information contained in the
20 report.

21 Sec. 36. Section 47-915, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 47-915 (1) Within fifteen business days after a report is presented
24 to the director or parole director under section 47-914, he or she shall
25 determine whether to accept, reject, or request in writing modification
26 of the recommendations contained in the report. The Inspector General,
27 with input from the Public Counsel, may consider the director's or parole
28 director's request for modifications but is not obligated to accept such
29 request. Such report shall become final upon the decision of the director
30 or parole director to accept or reject any ~~the~~ recommendations in the
31 report or, if the director or parole director requests modifications,

1 ~~within fifteen days after such request~~ or after the Inspector General
2 responds to ~~incorporates~~ such modifications, whichever occurs earlier. If
3 the Inspector General does not accept the requested modification, the
4 recommendation for which a modification was requested shall be considered
5 to be rejected by the director or parole director.

6 (2) Within fifteen business days after the report is presented to
7 the director or parole director, the report shall be presented to the
8 private agency or other provider of correctional or parole services that
9 is the subject of the report and to persons involved in the
10 implementation of the recommendations in the report. Within fifteen
11 business ~~forty-five~~ days after receipt of the report, the private agency
12 or other provider may submit a written response to the office to correct
13 any factual errors in the report. The Inspector General, with input from
14 the Public Counsel, shall consider all materials submitted under this
15 subsection to determine whether a corrected report shall be issued. If
16 the Inspector General determines that a corrected report is necessary,
17 the corrected report shall be issued within fifteen business days after
18 receipt of the written response.

19 (3) If the Inspector General does not issue a corrected report
20 pursuant to subsection (2) of this section or if the corrected report
21 does not address all issues raised in the written response, the private
22 agency or other provider may request that its written response, or
23 portions of the response, be appended to the report or corrected report.

24 Sec. 37. Section 47-918, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 47-918 On or before September 15 of each year, the Inspector General
27 shall provide to each member of the Judiciary Committee of the
28 Legislature, the Governor, and the Clerk of the Legislature a report
29 which summarizes ~~summary of~~ reports and investigations made under the
30 Office of Inspector General of the Nebraska Correctional System Act for
31 the preceding year. The report ~~summary~~ provided to the Clerk of the

1 Legislature shall be provided electronically. The report summaries shall
2 include recommendations and an update on the status of recommendations
3 made in prior reports summaries, if any. The recommendations may address
4 issues discovered through investigations, audits, inspections, and
5 reviews by the office that will (1) increase accountability and
6 legislative oversight of the Nebraska correctional system, (2) improve
7 operations of the department and the Nebraska correctional system, (3)
8 deter and identify fraud, abuse, and illegal acts, and (4) identify
9 inconsistencies between statutory requirements and requirements for
10 accreditation. The reports summaries shall not contain any confidential
11 or identifying information concerning the subjects of the reports and
12 investigations.

13 Sec. 38. Section 47-919, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 47-919 The Division of Parole Supervision shall provide the office
16 of Public Counsel and the office of Inspector General with direct
17 computer access to all computerized records, reports, and documents
18 maintained in connection with administration of the Nebraska parole
19 system, except that access for the office of Public Counsel and the
20 office of Inspector General to a parolee's medical or mental health
21 records shall be subject to the parolee's consent.

22 Sec. 39. Section 47-920, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 47-920 Any person who has authority to recommend, approve, direct,
25 or otherwise take or affect personnel action shall not, with respect to
26 such authority:

27 (1) Take personnel action against an employee because of the
28 disclosure of information by the employee to the office which the
29 employee reasonably believes evidences wrongdoing under the Office of
30 Inspector General of the Nebraska Correctional System Act;

31 (2) Take personnel action against an employee as a reprisal for the

1 submission of an allegation of wrongdoing under the act to the office by
2 such employee; or

3 (3) Take personnel action against an employee as a reprisal for
4 providing information or testimony pursuant to actions initiated and
5 undertaken an investigation by the office.

6 Sec. 40. If the Inspector General has reason to believe that any
7 public officer or employee has acted in a manner warranting criminal or
8 disciplinary proceedings, the Inspector General shall refer the matter to
9 the appropriate authorities.

10 Sec. 41. Section 81-8,244, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 81-8,244 (1)(a) The Public Counsel may select, appoint, and
13 compensate as he or she sees fit, within the amount available by
14 appropriation, such assistants and employees as he or she deems necessary
15 to discharge the responsibilities under sections 81-8,240 to 81-8,254. He
16 or she shall appoint and designate one assistant to be a deputy public
17 counsel, one assistant to be a deputy public counsel for corrections, one
18 assistant to be a deputy public counsel for institutions, and one
19 assistant to be a deputy public counsel for welfare services.

20 (b) Such deputy public counsels shall be subject to the control and
21 supervision of the Public Counsel.

22 (c) The authority of the deputy public counsel for corrections shall
23 extend to all facilities and parts of facilities, offices, houses of
24 confinement, and institutions which are operated by the Department of
25 Correctional Services and all county or municipal correctional or jail
26 facilities.

27 (d) The authority of the deputy public counsel for institutions
28 shall extend to all mental health institutions and facilities operated by
29 the Department of Health and Human Services, to all veterans institutions
30 operated by the Department of Veterans' Affairs, and to all regional
31 behavioral health authorities that provide services and all community-

1 based behavioral health services providers that contract with a regional
2 behavioral health authority to provide services, for any individual who
3 was a patient within the prior twenty-four months of a state-owned and
4 state-operated regional center, and to all complaints pertaining to
5 administrative acts of the department, authority, or provider when those
6 acts are concerned with the rights and interests of individuals placed
7 within those institutions and facilities or receiving community-based
8 behavioral health services.

9 (e) The authority of the deputy public counsel for welfare services
10 shall extend to all complaints pertaining to administrative acts of
11 administrative agencies when those acts are concerned with the rights and
12 interests of individuals involved in the welfare services system of the
13 State of Nebraska.

14 (f) The Public Counsel may delegate to members of the staff any
15 authority or duty under sections 81-8,240 to 81-8,254 except the power of
16 delegation and the duty of formally making recommendations to
17 administrative agencies or reports to the Governor or the Legislature.

18 (2) The Public Counsel shall appoint the Inspector General of
19 Nebraska Child Welfare as provided in section 7 of this act ~~43-4317~~. The
20 Inspector General of Nebraska Child Welfare shall have the powers and
21 duties provided in the Office of Inspector General of Nebraska Child
22 Welfare Act.

23 (3) The Public Counsel shall appoint the Inspector General of the
24 Nebraska Correctional System as provided in section 47-904. The Inspector
25 General of the Nebraska Correctional System shall have the powers and
26 duties provided in the Office of Inspector General of the Nebraska
27 Correctional System Act.

28 Sec. 42. Original sections 28-711, 43-4302, 43-4303, 43-4317,
29 43-4320, 43-4321, 43-4322, 43-4324, 43-4326, 43-4329, 43-4330, 47-901,
30 47-902, 47-903, 47-904, 47-905, 47-907, 47-908, 47-909, 47-910, 47-911,
31 47-912, 47-913, 47-914, 47-915, 47-918, 47-919, and 47-920, Reissue

1 Revised Statutes of Nebraska, and sections 28-712.01, 43-2,108, 43-4301,
2 43-4318, 43-4323, 43-4325, 43-4327, 43-4328, 43-4331, 43-4332, and
3 81-8,244, Revised Statutes Cumulative Supplement, 2020, are repealed.

4 Sec. 43. The following sections are outright repealed: Sections
5 43-4304, 43-4304.01, 43-4304.02, 43-4305, 43-4306, 43-4306.01, 43-4307,
6 43-4307.01, 43-4308, 43-4309, 43-4310, 43-4311, 43-4312, 43-4313,
7 43-4314, 43-4315, 43-4316, 43-4319, and 47-906, Reissue Revised Statutes
8 of Nebraska.