

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1321

Introduced by Arch, 14; Aguilar, 35; Ballard, 21; Clements, 2; Jacobson, 42; Lowe, 37; Riepe, 12; Slama, 1; Vargas, 7.

Read first time January 17, 2024

Committee:

1 A BILL FOR AN ACT relating to the office of Public Counsel; to amend
2 sections 28-711, 43-4302, 43-4303, 43-4317, 43-4320, 43-4321,
3 43-4322, 43-4324, 43-4326, 43-4329, 43-4330, 47-901, 47-902, 47-903,
4 47-904, 47-905, 47-907, 47-908, 47-909, 47-910, 47-911, 47-912,
5 47-913, 47-914, 47-915, 47-916, 47-917, 47-918, 47-919, 47-920,
6 50-406.01, 50-407, 50-409, 73-401, 81-8,240, 81-8,248, and 83-178,
7 Reissue Revised Statutes of Nebraska, sections 28-712.01, 43-4301,
8 43-4318, 43-4323, 43-4325, 43-4327, 43-4328, 43-4331, 43-4332,
9 50-401.01, 81-8,241, 81-8,242, 81-8,243, 81-8,244, 81-8,245,
10 81-8,246, 81-8,247, 81-8,249, 81-8,250, 81-8,251, 81-8,252,
11 81-8,253, and 81-8,254, Revised Statutes Cumulative Supplement,
12 2022, and sections 43-2,108, 50-402, and 83-1,125.01, Revised
13 Statutes Supplement, 2023; to name the Office of Public Counsel Act;
14 to state legislative findings; to change provisions of the Office of
15 Inspector General of Nebraska Child Welfare Act and the Office of
16 Inspector General of the Nebraska Correctional System Act as
17 prescribed and change provisions relating to the powers, duties, and
18 terms of office of the Public Counsel, the Inspector General for
19 Child Welfare, and the Inspector General for the Nebraska
20 Correctional System; to change powers and duties of the Executive
21 Board of the Legislative Council and provisions relating to the
22 Legislative Council; to define, redefine, and eliminate terms; to

1 eliminate provisions relating to certain office powers and
2 procedures; to harmonize provisions; to provide a duty for the
3 Revisor of Statutes; to repeal the original sections; to outright
4 repeal sections 43-4304, 43-4304.01, 43-4304.02, 43-4305, 43-4306,
5 43-4306.01, 43-4307, 43-4307.01, 43-4308, 43-4309, 43-4310, 43-4311,
6 43-4312, 43-4313, 43-4314, 43-4315, 43-4316, 43-4319, and 47-906,
7 Reissue Revised Statutes of Nebraska; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 17 of this act, the Office of Inspector
2 General of Nebraska Child Welfare Act, and the Office of Inspector
3 General of the Nebraska Correctional System Act shall be known and may be
4 cited as the Office of Public Counsel Act.

5 Sec. 2. Section 81-8,240, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 ~~81-8,240~~ As used in the Office of Public Counsel Act sections
8 ~~81-8,240 to 81-8,254~~, unless the context otherwise requires:

9 (1) Administrative agency shall mean any department, board,
10 commission, or other governmental unit, any official, any employee of the
11 State of Nebraska acting or purporting to act by reason of connection
12 with the State of Nebraska, any corporation, partnership, business, firm,
13 governmental entity, or person who is providing health and human services
14 to individuals or service delivery, service coordination, or case
15 management under contract with the State of Nebraska and who is subject
16 to the jurisdiction of the office of Public Counsel as required by
17 section 73-401, any regional behavioral health authority, any community-
18 based behavioral health services provider that contracts with a regional
19 behavioral health authority, and any county or municipal correctional or
20 jail facility and employee thereof acting or purporting to act by reason
21 of connection with the county or municipal correctional or jail facility;
22 but shall not include (a) any court, (b) any member or employee of the
23 Legislature or the Legislative Council, (c) the Governor or his or her
24 personal staff, (d) any political subdivision or entity thereof except a
25 county or municipal correctional or jail facility or a regional
26 behavioral health authority, (e) any instrumentality formed pursuant to
27 an interstate compact and answerable to more than one state, or (f) any
28 entity of the federal government; and

29 (2) Administrative act shall include every action, rule, regulation,
30 order, omission, decision, recommendation, practice, or procedure of an
31 administrative agency.

1 Sec. 3. Section 81-8,241, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 ~~81-8,241~~ The office of Public Counsel is hereby established to
4 exercise the authority and perform the duties under the Office of Public
5 Counsel Act ~~provided by sections 81-8,240 to 81-8,254, the Office of~~
6 ~~Inspector General of Nebraska Child Welfare Act, and the Office of~~
7 ~~Inspector General of the Nebraska Correctional System Act.~~ The Public
8 Counsel shall be appointed by the Legislature, ~~with the vote of two-~~
9 ~~thirds of the members required for approval of such appointment from~~
10 ~~nominations submitted by the Executive Board of the Legislative Council~~
11 pursuant to section 50-401.01.

12 Sec. 4. Section 81-8,242, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 ~~81-8,242~~ The Public Counsel shall be a person well equipped to
15 analyze problems of law, administration, and public policy, ~~and during~~
16 ~~such person's term of office~~ shall not be actively involved in partisan
17 affairs. No person may serve as Public Counsel within two years of the
18 last day on which such person served as a member of the Legislature, ~~or~~
19 ~~while such person is a candidate for or holds any other state office, or~~
20 ~~while such person is engaged in any other occupation for reward or~~
21 ~~profit.~~

22 Sec. 5. Section 81-8,243, Revised Statutes Cumulative Supplement,
23 2022, is amended to read:

24 ~~81-8,243~~ The Public Counsel shall serve at the pleasure of the
25 Executive Board of the Legislative Council ~~for a term of six years,~~
26 ~~unless removed by vote of two thirds of the members of the Legislature~~
27 ~~upon their determining that the Public Counsel has become incapacitated~~
28 ~~or has been guilty of neglect of duty or misconduct.~~ If the office of
29 Public Counsel becomes vacant for any cause, the deputy public counsel
30 shall serve as acting public counsel until a successor Public Counsel is
31 ~~has been appointed for a full term.~~ The Public Counsel shall receive such

1 salary as is set by the executive board ~~Executive Board of the~~
2 ~~Legislative Council.~~

3 Sec. 6. Section 81-8,244, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 ~~81-8,244~~ (1)(a) The Public Counsel may select, appoint, and
6 compensate as the Public Counsel ~~he or she~~ sees fit, within the amount
7 available by appropriation, such assistants and employees as the Public
8 Counsel ~~he or she~~ deems necessary to discharge the responsibilities under
9 the Office of Public Counsel Act. The Public Counsel ~~sections 81-8,240 to~~
10 ~~81-8,254. He or she~~ shall appoint and designate one assistant to be a
11 deputy public counsel, one assistant to be a deputy public counsel for
12 corrections, one assistant to be a deputy public counsel for
13 institutions, and one assistant to be a deputy public counsel for welfare
14 services.

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

17 (c) The authority of the deputy public counsel for corrections shall
18 extend to all facilities and parts of facilities, offices, houses of
19 confinement, and institutions which are operated by the Department of
20 Correctional Services and all county or municipal correctional or jail
21 facilities.

22 (d) The authority of the deputy public counsel for institutions
23 shall extend to all mental health institutions and facilities operated by
24 the Department of Health and Human Services, to all veterans institutions
25 operated by the Department of Veterans' Affairs, and to all regional
26 behavioral health authorities that provide services and all community-
27 based behavioral health services providers that contract with a regional
28 behavioral health authority to provide services, for any individual who
29 was a patient within the prior twenty-four months of a state-owned and
30 state-operated regional center, and to all complaints pertaining to
31 administrative acts of the department, authority, or provider when those

1 acts are concerned with the rights and interests of individuals placed
2 within those institutions and facilities or receiving community-based
3 behavioral health services.

4 (e) The authority of the deputy public counsel for welfare services
5 shall extend to all complaints pertaining to administrative acts of
6 administrative agencies when those acts are concerned with the rights and
7 interests of individuals involved in the welfare services system of the
8 State of Nebraska.

9 (f) The Public Counsel may delegate to members of the staff any
10 authority or duty under the Office of Public Counsel Act sections
11 ~~81-8,240~~ to ~~81-8,254~~ except the power of delegation and the duty of
12 formally making recommendations to administrative agencies or reports to
13 the Governor or the Legislature.

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

19 (3) The Public Counsel shall appoint the Inspector General of the
20 Nebraska Correctional System as provided in section 42 of this act
21 ~~47-904~~. The Inspector General of the Nebraska Correctional System shall
22 have the powers and duties provided in the Office of Inspector General of
23 the Nebraska Correctional System Act.

24 Sec. 7. Section 81-8,245, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 ~~81-8,245~~ The Public Counsel shall have the power to:

27 (1) Investigate, on complaint or on the Public Counsel's ~~his or her~~
28 own motion, any administrative act of any administrative agency;

29 (2) Prescribe the methods by which complaints are to be made,
30 received, and acted upon; determine the scope and manner of
31 investigations to be made; and, subject to the requirements of the Office

1 ~~of Public Counsel Act sections 81-8,240 to 81-8,254~~, determine the form,
2 frequency, and distribution of the Public Counsel's ~~his or her~~
3 conclusions, recommendations, and proposals;

4 (3) Conduct inspections of the premises, or any parts of such
5 premises thereof, of any administrative agency or any property owned,
6 leased, or operated by any administrative agency as frequently as is
7 necessary, in the Public Counsel's ~~his or her~~ opinion, to carry out
8 duties prescribed under the Office of Public Counsel Act sections
9 ~~81-8,240 to 81-8,254~~;

10 (4) Request and receive from each administrative agency, and such
11 agency shall provide, the assistance and information the Public Counsel
12 ~~counsel~~ deems necessary for the discharge of the Public Counsel's ~~his or~~
13 ~~her~~ responsibilities; inspect and examine the records and documents of
14 all administrative agencies ~~notwithstanding any other provision of law~~;
15 and enter and inspect premises within any administrative agency's
16 control;

17 (5) Request the issuance of Issue a subpoena, enforceable by action
18 in an appropriate court, to compel any person to appear, give sworn
19 testimony, or produce documentary or other evidence deemed relevant to a
20 matter under the Public Counsel's ~~his or her~~ inquiry as provided in
21 section 17 of this act . ~~A person thus required to provide information~~
22 ~~shall be paid the same fees and travel allowances and shall be accorded~~
23 ~~the same privileges and immunities as are extended to witnesses in the~~
24 ~~district courts of this state and shall also be entitled to have counsel~~
25 ~~present while being questioned~~;

26 (6) Undertake, participate in, or cooperate with general studies or
27 inquiries, whether or not related to any particular administrative agency
28 or any particular administrative act, if the Public Counsel ~~he or she~~
29 believes that such general studies or inquiries ~~they~~ may assist the
30 Legislature in making ~~enhance knowledge about~~ or lead to improvements in
31 the functioning of administrative agencies;

1 (7) Make investigations, reports, and recommendations necessary to
2 carry out the Public Counsel's ~~his or her~~ duties under the State
3 Government Effectiveness Act;

4 (8) Carry out the Public Counsel's ~~his or her~~ duties under the
5 Office of Inspector General of Nebraska Child Welfare Act. If any of the
6 provisions of the Office of Public Counsel Act sections ~~81-8,240 to~~
7 ~~81-8,254~~ conflict with provisions of the Office of Inspector General of
8 Nebraska Child Welfare Act, the provisions of the Office of Inspector
9 General of Nebraska Child Welfare Act ~~such act~~ shall control;

10 (9) Carry out the Public Counsel's ~~his or her~~ duties under the
11 Office of Inspector General of the Nebraska Correctional System Act. If
12 any of the provisions of the Office of Public Counsel Act sections
13 ~~81-8,240 to 81-8,254~~ conflict with the provisions of the Office of
14 Inspector General of the Nebraska Correctional System Act, the provisions
15 of the Office of Inspector General of the Nebraska Correctional System
16 Act ~~such act~~ shall control;

17 (10) Investigate allegations of violation of subsection (2) of
18 section 84-908 by an administrative agency pursuant to a complaint made
19 to the Public Counsel's ~~his or her~~ office and make a determination as to
20 whether such administrative agency has violated such subsection. The
21 Public Counsel shall report the Public Counsel's ~~his or her~~ determination
22 in writing to the Governor, the Secretary of State, the Attorney General,
23 the Executive Board of the Legislative Council, and the director or chief
24 executive officer of the agency. The report to the executive board shall
25 be submitted electronically; and

26 (11) Investigate and address the complaint and case of:

27 (a) Any juvenile committed to the custody of a youth rehabilitation
28 and treatment center; and

29 (b) Any juvenile released from a youth rehabilitation and treatment
30 center for reentry into the community, while that juvenile is subject to
31 the Community and Family Reentry Process and a service or treatment

1 program in which the juvenile may be involved after the juvenile's ~~his or~~
2 ~~her~~ release from a youth rehabilitation and treatment center, whether
3 that service or program is administrated by the Office of Juvenile
4 Services or a private provider in the community. The Office of Juvenile
5 Services and private providers in the community shall cooperate with any
6 investigation conducted by the Public Counsel pursuant to this
7 subdivision and provide all documentation and information requested by
8 the Public Counsel in connection with such an investigation.

9 Sec. 8. Section 81-8,246, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 ~~81-8,246~~ (1) In selecting matters for attention, the Public Counsel
12 shall particularly review an administrative act that might be:

13 (a) ~~(1)~~ Contrary to law or regulation;

14 (b) ~~(2)~~ Unreasonable, unfair, oppressive, or inconsistent with the
15 general course of an administrative agency's judgments;

16 (c) ~~(3)~~ Mistaken in law or arbitrary in ascertainments of fact;

17 (d) ~~(4)~~ Improper in motivation or based on irrelevant
18 considerations;

19 (e) ~~(5)~~ Unclear or inadequately explained when reasons should have
20 been revealed; or

21 (f) ~~(6)~~ Inefficiently performed.

22 (2) The Public Counsel may also work to strengthen procedures and
23 practices which lessen the risk that objectionable administrative acts
24 will occur.

25 Sec. 9. Section 81-8,247, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 ~~81-8,247~~ (1) The Public Counsel may receive a complaint from any
28 person concerning an administrative act. The Public Counsel shall conduct
29 a suitable investigation into the things complained of unless the Public
30 Counsel believes that:

31 (a) ~~(1)~~ The complainant has another remedy available which the

1 complainant could reasonably be expected to use;

2 **(b) (2)** The grievance pertains to a matter outside the Public
3 Counsel's power;

4 **(c) (3)** The complainant's interest is insufficiently related to the
5 subject matter;

6 **(d) (4)** The complaint is trivial, frivolous, vexatious, or not made
7 in good faith;

8 **(e) (5)** Other complaints are more worthy of attention;

9 **(f) (6)** The Public Counsel's resources are insufficient for adequate
10 investigation; or

11 **(g) (7)** The complaint has been too long delayed to justify present
12 examination of its merit.

13 **(2)** The Public Counsel's declining to investigate a complaint shall
14 not bar the Public Counsel from proceeding on the Public Counsel's own
15 motion to inquire into related problems. After completing consideration
16 of a complaint, whether or not it has been investigated, the Public
17 Counsel shall suitably inform the complainant and the administrative
18 agency involved.

19 Sec. 10. Section 81-8,248, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 ~~81-8,248~~ Before announcing a conclusion or recommendation that
22 expressly or impliedly criticizes an administrative agency or any person,
23 the Public Counsel shall consult with such ~~that~~ agency or person.

24 Sec. 11. Section 81-8,249, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 ~~81-8,249~~ (1) If, having considered a complaint and whatever material
27 the Public Counsel deems pertinent, the Public Counsel is of the opinion
28 that an administrative agency should (a) consider the matter further, (b)
29 modify or cancel an administrative act, (c) alter a regulation or ruling,
30 (d) explain more fully the administrative act in question, or (e) take
31 any other step, the Public Counsel shall make recommendations to the

1 administrative agency. ~~The If the Public Counsel so requests,~~ the agency
2 ~~may shall,~~ within the time specified, inform the Public Counsel about the
3 action taken on such recommendations or the reasons for not complying
4 with them.

5 (2) If the Public Counsel believes that an administrative action has
6 been dictated by a statute creating whose results that are unfair or
7 otherwise objectionable, the Public Counsel shall notify the Legislature
8 of the Public Counsel's ~~such~~ views concerning desirable statutory change.

9 Sec. 12. Section 81-8,250, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 ~~81-8,250~~ The Public Counsel may report conclusions and suggestions
12 by transmitting them to the Governor, the Legislature or any of its
13 committees, the press, and others who may be concerned. When publishing
14 an opinion adverse to an administrative agency, the Public Counsel shall
15 include any statement the administrative agency may have made to the
16 Public Counsel by way of explaining its past difficulties or its present
17 rejection of the Public Counsel's proposals.

18 Sec. 13. Section 81-8,251, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 ~~81-8,251~~ (1) In addition to whatever reports the Public Counsel he
21 ~~or she~~ may make from time to time, the Public Counsel shall on or about
22 February 15 of each year report to the Clerk of the Legislature and to
23 the Governor concerning the exercise of the Public Counsel's ~~his or her~~
24 functions during the preceding calendar year. The report submitted to the
25 Clerk of the Legislature shall be submitted electronically. In discussing
26 matters with which the Public Counsel ~~he or she~~ has dealt, the Public
27 Counsel need not identify those immediately concerned if to do so would
28 cause needless hardship. ~~If So far as~~ the annual report criticizes any
29 ~~may criticize~~ named agencies or officials, the report ~~it~~ must include
30 also include the their replies of the named agencies or officials to such
31 ~~the~~ criticism. Each member of the Legislature shall receive an electronic

1 copy of such report by making a request for it to the Public Counsel.

2 (2) On or before December 15 of each year, the Public Counsel shall
3 submit a report electronically to the Clerk of the Legislature as
4 required under section 83-104 regarding state institutions.

5 Sec. 14. Section 81-8,252, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 ~~81-8,252~~ If the Public Counsel has reason to believe that any public
8 officer or employee has acted in a manner warranting criminal or
9 disciplinary proceedings, the Public Counsel shall refer the matter to
10 the appropriate authorities.

11 Sec. 15. Section 81-8,253, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 ~~81-8,253~~ No proceeding, opinion, or expression of the Public Counsel
14 shall be reviewable in any court. Neither the Public Counsel nor any
15 member of the Public Counsel's staff shall be required to testify or
16 produce evidence in any judicial or administrative proceeding concerning
17 matters within the Public Counsel's official cognizance, except in a
18 proceeding brought to enforce the Office of Public Counsel Act sections
19 ~~81-8,240 to 81-8,254~~.

20 Sec. 16. Section 81-8,254, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 ~~81-8,254~~ A person who willfully obstructs or hinders the proper
23 exercise of the Public Counsel's functions, or who willfully misleads or
24 attempts to mislead the Public Counsel's inquiries, shall be guilty of a
25 Class II misdemeanor. No employee of the State of Nebraska, who files a
26 complaint pursuant to the Office of Public Counsel Act sections ~~81-8,240~~
27 ~~to 81-8,254,~~ shall be subject to any penalties, sanctions, or
28 restrictions in connection with such employee's employment because of
29 such complaint.

30 Sec. 17. (1) At the request of the Public Counsel, the Executive
31 Board of the Legislative Council, by a majority vote, may issue subpoenas

1 in connection with a specific inquiry or investigation undertaken
2 pursuant to the Office of Public Counsel Act to compel the production of
3 records and information and sworn testimony or other evidence deemed
4 relevant to such inquiry or investigation.

5 (2) When authorized to issue subpoenas under this section, the
6 executive board may require any person to provide the records or
7 information requested within thirty days after the request except as
8 provided for in the subpoena or to appear at a hearing on the date set in
9 the subpoena.

10 (3) Litigation to compel or quash compliance with the authority
11 exercised pursuant to this section shall be advanced on the trial docket
12 and heard and decided by the court as quickly as possible. The court
13 shall issue its decision no later than twenty days after the filing of
14 the application or petition or a motion to quash, whichever is filed
15 first. Either party may appeal to the Court of Appeals within ten days
16 after a decision is rendered.

17 (4) The district court of Lancaster County has jurisdiction over all
18 litigation arising under this section. In all such litigation, the
19 executive board shall provide for legal representation for the office.

20 (5) In case of disobedience on the part of any person to comply with
21 any subpoena issued pursuant to this section, the executive board shall
22 vote on whether to find the person in contempt or to find that the
23 failure to comply was not willful.

24 (6) If the executive board finds a person in contempt as provided in
25 subsection (5) of this section, the executive board may, by application
26 or petition to the district court of Lancaster County, request that the
27 court compel obedience by proceedings for contempt as in the case of
28 disobedience of the requirements of a subpoena issued from such court.
29 The application or petition shall be filed by the chairperson of the
30 executive board.

31 (7) A person required to provide information under this section

1 shall be paid the same fees and travel allowances and shall be accorded
2 the same privileges and immunities as are extended to witnesses in the
3 district courts of this state and shall also be entitled to have counsel
4 present while being questioned. Consistent with the Nebraska Rules of
5 Professional Conduct, counsel for the agency or department that is the
6 subject of an investigation shall not represent a witness. Any fees
7 associated with counsel present under this section shall not be the
8 responsibility of the office of Public Counsel or the Legislative
9 Council.

10 Sec. 18. Section 43-4301, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 ~~43-4301~~ Sections 18 to 37 of this act ~~43-4301 to 43-4332~~ shall be
13 known and may be cited as the Office of Inspector General of Nebraska
14 Child Welfare Act.

15 Sec. 19. The Legislature finds and declares that:

16 (1) It is within the inherent power of the Legislature to secure
17 needed information in order to legislate, hold hearings, and conduct
18 investigations of matters related to the operation of state government.
19 This power of inquiry is broad and indispensable;

20 (2) Article IV, section 23, of the Constitution of Nebraska
21 specifically provides that the Legislature may at any time require that
22 information be provided to it from the officers and employees of state
23 agencies relating to the condition, management, and expenses of their
24 respective offices; and

25 (3) In order to establish a full-time program of investigation and
26 oversight of the Nebraska child welfare system and assist in the
27 development of legislation related to the Nebraska child welfare system,
28 the Legislature created the office of Inspector General of Nebraska Child
29 Welfare.

30 Sec. 20. Section 43-4302, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 ~~43-4302~~ (1) It is the intent of the Legislature that the Office of
2 Inspector General of Nebraska Child Welfare 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 ~~(a)~~ ~~(b)~~ Assist in improving operations of the Nebraska child welfare
7 system;

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

15 ~~(c)~~ ~~(d)~~ Provide a process for investigation and review to determine
16 if 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 the Governor's

1 ~~his or her~~ administrative direction.

2 Sec. 21. 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 or administration of
9 a private agency or licensed child care facility or the executive
10 director;

11 (2) Child welfare system means public and private agencies and
12 parties that provide or effect services or supervision to child-welfare-
13 system-involved children and their families. Child welfare system does
14 not include the Office of Probation Administration;

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

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

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

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

21 (7) Inspector General means the Inspector General of Nebraska Child
22 Welfare appointed under section 22 of this act;

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

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

29 (10) Management means supervision of subordinate employees;

30 (11) Misfeasance means the improper performance of some act that a
31 person may lawfully do;

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

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

8 (14) Private agency means a child welfare agency that contracts with
9 the department or contracts to provide services to another child welfare
10 agency that contracts with the department;

11 (15) Record means any recording, in written, audio, electronic
12 transmission, or computer storage form, including, but not limited to, a
13 draft, memorandum, note, report, computer printout, notation, or message,
14 and includes, but is not limited to, medical records, mental health
15 records, case files, clinical records, financial records, and
16 administrative records; and

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

22 Sec. 22. Section 43-4317, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 ~~43-4317~~ (1) The office of Inspector General of Nebraska Child
25 Welfare is created within the office of Public Counsel for the purpose of
26 conducting investigations, audits, inspections, and other oversight
27 ~~reviews~~ of the Nebraska child welfare system for the Legislature. The
28 Inspector General shall be appointed by the Public Counsel with approval
29 from the chairperson of the Executive Board of the Legislative Council
30 and the chairperson of the Health and Human Services Committee of the
31 Legislature.

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

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

27 Sec. 23. Section 43-4318, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 ~~43-4318~~ (1) The office shall investigate:

30 (a) Allegations or incidents of possible misconduct, misfeasance,
31 malfeasance, or violations of statutes or of rules or regulations of:

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

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

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

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

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

23 (c) Death or serious injury in any case in which services are
24 provided by the department ~~or the juvenile services division~~ to a child
25 or his or her parents when the office upon review determines that the
26 death or serious injury did not occur by chance; and ~~or~~

27 (d) Death or serious injury in any case involving an investigation
28 under the Child Protection and Family Safety Act if the investigation
29 took place within the twelve months prior to the death or serious
30 injury , ~~which case has been open for one year or less and if the office~~
31 upon review determines the death or serious injury did not occur by

1 chance.

2 (2) The department, ~~the juvenile services division,~~ each juvenile
3 detention facility, and each staff secure juvenile facility shall report
4 to the office as soon as reasonably possible:

5 (a) All ~~all~~ cases of death or serious injury:

6 (i) Of ~~of~~ a child in a foster home, private agency, child care
7 facility or program, or other program or facility licensed by the
8 department or inspected through the commission;

9 (ii) In any case in which services are provided by the department to
10 a child or the child's parents; and

11 (iii) Involving an investigation under the Child Protection and
12 Family Safety Act if the investigation took place within the twelve
13 months prior to the death or serious injury and upon review determines
14 the death or serious injury did not occur by chance; and

15 (b) ~~All to the Inspector General as soon as reasonably possible~~
16 ~~after the department or the Office of Probation Administration learns of~~
17 ~~such death or serious injury and (b) all~~ allegations of sexual abuse of a
18 state ward, a juvenile on probation, juvenile in a detention facility,
19 and a juvenile in a residential child-caring agency. ~~For purposes of this~~
20 ~~subsection, serious injury means an injury or illness caused by suspected~~
21 ~~abuse, neglect, or maltreatment which leaves a child in critical or~~
22 ~~serious condition.~~

23 (3)(a) The Office of Juvenile Services shall report to the office of
24 Inspector General of Nebraska Child Welfare as soon as reasonably
25 possible after any of the following instances occur at a youth
26 rehabilitation and treatment center:

27 (i) An assault;

28 (ii) An escape or elopement;

29 (iii) An attempted suicide;

30 (iv) Self-harm by a juvenile;

31 (v) Property damage not caused by normal wear and tear;

1 (vi) The use of mechanical restraints on a juvenile;
2 (vii) A significant medical event suffered by a juvenile; and
3 (viii) Internally substantiated violations of 34 U.S.C. 30301 et
4 seq.

5 (b) The Office of Juvenile Services and the office of Inspector
6 General of Nebraska Child Welfare shall, if requested by either party,
7 work in collaboration to clarify the specific parameters to comply with
8 subdivision (3)(a) of this section.

9 (4) The department shall notify the office of Inspector General of
10 Nebraska Child Welfare of any leadership changes within the Office of
11 Juvenile Services and the youth rehabilitation and treatment centers.

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

18 (5) ~~(6)~~ Any investigation conducted by the Inspector General shall
19 be independent of and separate from an investigation pursuant to the
20 Child Protection and Family Safety Act. The Inspector General and his or
21 her staff are subject to the reporting requirements of the Child
22 Protection and Family Safety Act.

23 (6) ~~(7)~~ Notwithstanding the fact that a criminal investigation, a
24 criminal prosecution, or both are in progress, all law enforcement
25 agencies and prosecuting attorneys may ~~shall~~ cooperate with any
26 investigation conducted by the Inspector General and may ~~shall~~,
27 ~~immediately~~ upon request by the Inspector General, provide the Inspector
28 General with copies of all law enforcement reports which are relevant to
29 the Inspector General's investigation. All law enforcement reports which
30 have been provided to the Inspector General pursuant to this section are
31 not public records for purposes of sections 84-712 to 84-712.09 and shall

1 not be subject to discovery by any other person or entity. Except to the
2 extent that disclosure of information is otherwise provided for in the
3 Office of Inspector General of Nebraska Child Welfare Act, the Inspector
4 General shall maintain the confidentiality of all law enforcement reports
5 received pursuant to its request under this section. Law enforcement
6 agencies and prosecuting attorneys ~~may shall~~, when requested by the
7 Inspector General, collaborate with the Inspector General regarding all
8 other information relevant to the Inspector General's investigation. ~~The~~
9 ~~If the Inspector General in conjunction with the Public Counsel~~
10 ~~determines it appropriate, the Inspector General shall may~~, when
11 requested to do so by a law enforcement agency or prosecuting attorney,
12 suspend an investigation by the office until a criminal investigation or
13 prosecution is completed or has proceeded to a point that, in the
14 judgment of the Inspector General, reinstatement of the Inspector
15 General's investigation will not impede or infringe upon the criminal
16 investigation or prosecution. Under no circumstance shall the Inspector
17 General interview any minor who has already been interviewed by a law
18 enforcement agency, personnel of the Division of Children and Family
19 Services of the department, or staff of a child advocacy center in
20 connection with a relevant ongoing investigation of a law enforcement
21 agency.

22 (7) The office may conduct audits, inspections, investigations, and
23 other oversight as necessary to perform the duties of the office and to
24 carry out the purposes of the Office of Inspector General of Nebraska
25 Child Welfare Act.

26 (8) For purposes of this section, serious injury means an injury or
27 illness caused by suspected abuse, neglect, or maltreatment.

28 Sec. 24. Section 43-4320, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 ~~43-4320~~ (1) Complaints to the office may be made in writing. The
31 office shall also maintain a toll-free telephone line for complaints. A

1 complaint shall be evaluated to determine if it alleges possible
2 misconduct, misfeasance, malfeasance, or violation of a statute or of
3 rules and regulations pursuant to section 23 of this act 43-4318. All
4 complaints shall be evaluated to determine whether a full investigation
5 is warranted.

6 (2) The office shall not conduct a full investigation of a complaint
7 unless:

8 (a) The complaint alleges misconduct, misfeasance, malfeasance, or
9 violation of a statute or of rules and regulations pursuant to section 23
10 of this act 43-4318;

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

13 (c) The allegations can be independently verified through
14 investigation.

15 (3) After receipt of a complaint, the The Inspector General shall
16 determine within fourteen days after receipt of a complaint whether the
17 office ~~it~~ will conduct a full investigation. A complaint alleging facts
18 which, if verified, would provide a basis for discipline under the
19 Uniform Credentialing Act shall be referred to the appropriate
20 credentialing board under the act.

21 ~~(4) When a full investigation is opened on a private agency that~~
22 ~~contracts with the Office of Probation Administration, the Inspector~~
23 ~~General shall give notice of such investigation to the Office of~~
24 ~~Probation Administration.~~

25 Sec. 25. Section 43-4321, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 43-4321 (1) The office shall have access to all information and
28 personnel necessary to perform the duties of the office and to carry out
29 the Office of Inspector General of Nebraska Child Welfare Act.

30 (2) All employees of the department, the juvenile services division
31 as directed by the juvenile court or the Office of Probation

1 ~~Administration~~, or the commission, all foster parents, and all owners,
2 operators, managers, supervisors, and employees of private agencies,
3 licensed child care facilities, juvenile detention facilities, staff
4 secure juvenile facilities, and other providers of child welfare services
5 ~~or juvenile justice services~~ shall cooperate with the office. Cooperation
6 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 law, statute, rule, or regulation if done in good faith for purposes of
11 ~~an investigation under the Office of Inspector General of Nebraska Child~~
12 ~~Welfare Act;~~

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

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

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

22 (e) ~~(5)~~ Not requiring employees to gain supervisory approval prior
23 to filing a complaint with or providing records or information to the
24 office; and

25 (f) Not requiring employees to report filing a complaint with or
26 providing records or information to the office.

27 (3)(a) The department, the commission, or any other party to an
28 investigation by the office may object to the production or disclosure of
29 records and information in writing on the grounds that such records and
30 information are legally privileged, identifying the specific grounds for
31 such objection. Following such objection, the office and the department,

1 commission, or other party may negotiate terms of production or
2 disclosure pursuant to this section.

3 (b) In the event that satisfactory terms of production or disclosure
4 cannot be reached between the office and the department, commission, or
5 other party, the office may request the issuance of a subpoena pursuant
6 to section 27 of this act.

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

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

10 Sec. 26. Section 43-4322, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 ~~43-4322 Failure to cooperate with an investigation by the office may~~
13 ~~result in public disclosure of the failure to cooperate discipline or~~
14 ~~other sanctions.~~

15 Sec. 27. Section 43-4323, Revised Statutes Cumulative Supplement,
16 2022, is amended to read:

17 ~~43-4323~~ (1) At the request of the Inspector General, and after
18 receiving prior approval by a majority vote of the Executive Board of the
19 Legislative Council, the Health and Human Services Committee of the
20 Legislature may issue subpoenas in connection with a specific inquiry or
21 investigation undertaken pursuant to the Office of Inspector General of
22 Nebraska Child Welfare Act to compel the production of records and
23 information and sworn testimony or other evidence relevant to such
24 inquiry or investigation.

25 (2) When authorized to issue subpoenas under this section, the
26 committee may require any employees of the department or the commission,
27 any foster parents, or any owners, operators, managers, supervisors, and
28 employees of private agencies, licensed child care facilities, juvenile
29 detention facilities, staff secure juvenile facilities, and other
30 providers of child welfare services to provide the records or information
31 requested within thirty days after the request, except as otherwise

1 provided for in the subpoena, or to appear at a hearing on the date set
2 in the subpoena.

3 (3) Litigation to compel or quash compliance with the authority
4 exercised pursuant to this section shall be advanced on the trial docket
5 and heard and decided by the court as quickly as possible. The court
6 shall issue its decision no later than twenty days after the filing of
7 the application or petition or a motion to quash, whichever is filed
8 first. Either party may appeal to the Court of Appeals within ten days
9 after a decision is rendered.

10 (4) The district court of Lancaster County has jurisdiction over all
11 litigation arising under this section. In all such litigation, the
12 executive board shall provide for legal representation for the committee.

13 (5) In case of disobedience on the part of any employees of the
14 department or the commission, any foster parents, or any owners,
15 operators, managers, supervisors, and employees of private agencies,
16 licensed child care facilities, juvenile detention facilities, staff
17 secure juvenile facilities, and other providers of child welfare services
18 to comply with any subpoena issued pursuant to this section, the
19 committee shall vote on whether to find the person in contempt or to find
20 that the failure to comply was not willful.

21 (6) If the committee finds a person in contempt as provided in
22 subsection (5) of this section, the committee may, by application or
23 petition to the district court of Lancaster County, request that the
24 court compel obedience by proceedings for contempt as in the case of
25 disobedience of the requirements of a subpoena issued from such court.
26 The application or petition shall be filed by the chairperson of the
27 committee.

28 ~~(7) The Inspector General may issue a subpoena, enforceable by~~
29 ~~action in an appropriate court, to compel any person to appear, give~~
30 ~~sworn testimony, or produce documentary or other evidence deemed relevant~~
31 ~~to a matter under his or her inquiry. A person thus required to provide~~

1 information under this section shall be paid the same fees and travel
2 allowances and shall be accorded the same privileges and immunities as
3 are extended to witnesses in the district courts of this state and shall
4 also be entitled to have counsel present while being questioned.
5 Consistent with the Nebraska Rules of Professional Conduct, counsel for
6 the agency or department that is the subject of an investigation shall
7 not represent a witness. Any fees associated with counsel present under
8 this section shall not be the responsibility of the office or the
9 Legislative Council of Inspector General of Nebraska Child Welfare.

10 Sec. 28. Section 43-4324, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 ~~43-4324~~ (1) A full investigation conducted by the office shall
13 consist of (a) access to, and retrieval of all, relevant records through
14 compliance with a request of the office, by voluntary production, or by
15 subpoena, (b) review of all relevant records, and (c) interviews of all
16 relevant persons ~~In conducting investigations, the office shall access~~
17 ~~all relevant records through subpoena, compliance with a request of the~~
18 ~~office, and voluntary production.~~

19 (2) The office may request or request the issuance of a subpoena for
20 any record necessary for the investigation from the department, ~~the~~
21 ~~juvenile services division as permitted by law,~~ the commission, a foster
22 parent, a licensed child care facility, a juvenile detention facility, a
23 staff secure juvenile facility, or a private agency that is pertinent to
24 an investigation. All case files, licensing files, medical records,
25 financial and administrative records, and records required to be
26 maintained pursuant to applicable licensing rules shall be produced for
27 review by the office in the course of an investigation.

28 (3) ~~(2)~~ Compliance with a request of the office includes:

29 (a) Production of all records requested;

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

1 (c) A continuing obligation to immediately forward to the office any
2 relevant records received, located, or generated after the date of the
3 request; -

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

6 (e) Not willfully interfering with or obstructing an investigation.

7 (4) (3) The office shall seek access in a manner that respects the
8 dignity and human rights of all persons involved, maintains the integrity
9 of the investigation, and does not unnecessarily disrupt child welfare
10 programs or services. When advance notice to a foster parent or to an
11 administrator or his or her designee is not provided, the office
12 investigator shall, upon arrival at the departmental office, ~~bureau, or~~
13 ~~division,~~ the private agency, the licensed child care facility, the
14 juvenile detention facility, the staff secure juvenile facility, or the
15 location of another provider of child welfare services, request that an
16 onsite employee notify the administrator or his or her designee of the
17 investigator's arrival.

18 (5) (4) When required by circumstances of an audit, inspection,
19 investigation, or other oversight require, the office may make an
20 unannounced visit to a foster home, a departmental office, ~~bureau, or~~
21 ~~division,~~ a licensed child care facility, a juvenile detention facility,
22 a staff secure juvenile facility, a private agency, or another provider
23 ~~to request records relevant to an investigation. The office may request~~
24 relevant records during such visit.

25 (6) (5) A responsible individual or an administrator may be asked to
26 sign a statement of record integrity and security when a record is
27 secured by request as the result of a visit by the office, stating:

28 (a) That the responsible individual or the administrator has made a
29 diligent search of the departmental office, bureau, division, private
30 agency, licensed child care facility, juvenile detention facility, staff
31 secure juvenile facility, or other provider's location to determine that

1 all appropriate records in existence at the time of the request were
2 produced;

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

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

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

11 ~~(7)~~ (6) The office shall permit a responsible individual, an
12 administrator, or an employee of a departmental office, ~~bureau,~~ or
13 ~~division,~~ a private agency, a licensed child care facility, a juvenile
14 detention facility, a staff secure juvenile facility, or another provider
15 to make photocopies of the original records within a reasonable time in
16 the presence of the office for purposes of creating a working record in a
17 manner that assures confidentiality.

18 ~~(8)~~ (7) The office shall present to the responsible individual or
19 the administrator or other employee of the departmental office, ~~bureau,~~
20 ~~or division,~~ private agency, licensed child care facility, juvenile
21 detention facility, staff secure juvenile facility, or other service
22 provider a copy of the request, stating the date and the titles of the
23 records received.

24 ~~(9)~~ (8) If an original record is provided during an investigation,
25 the office shall return the original record as soon as practical but no
26 later than ten business ~~working~~ days after the date of the compliance
27 request.

28 ~~(10)~~ (9) All investigations conducted by the office shall be
29 conducted in a manner designed to ensure the preservation of evidence for
30 possible use in a criminal prosecution.

31 Sec. 29. Section 43-4325, Revised Statutes Cumulative Supplement,

1 2022, is amended to read:

2 ~~43-4325~~ (1) Reports of investigations conducted by the office shall
3 not be distributed beyond the entity that is the subject of the report
4 without the consent of the Inspector General.

5 (2) Except when a report is provided to a guardian ad litem or an
6 attorney in the juvenile court pursuant to subsection (2) of section 31
7 of this act ~~43-4327~~, the office shall redact confidential information
8 before distributing a report of an investigation.

9 (3) The office may disclose confidential information to the
10 chairperson of the Executive Board of the Legislative Council and to the
11 chairperson of the Health and Human Services Committee of the Legislature
12 or the chairperson of the Judiciary Committee of the Legislature when
13 such disclosure is, in the judgment of the Public Counsel, desirable and
14 necessary to keep the Legislature chairperson informed of important
15 events, issues, and developments in the Nebraska child welfare system.

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

18 (b) Such report shall be released only:

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

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

24 (c) If there is disagreement about whether releasing the report
25 would be in the best interest of the public, the chairperson of the
26 Executive Board of the Legislative Council shall ~~may be asked to~~ make the
27 final decision.

28 (d) The chairperson of the Executive Board of the Legislative
29 Council, the chairperson of the Health and Human Services Committee of
30 the Legislature, and the chairperson of the Judiciary Committee of the
31 Legislature shall be notified prior to a report of an investigation being

1 publicly released under this section.

2 (5) (4) Records and documents, regardless of physical form, that are
3 obtained or produced by the office in the course of an investigation are
4 not public records for purposes of sections 84-712 to 84-712.09. Reports
5 of investigations conducted by the office are not public records for
6 purposes of sections 84-712 to 84-712.09.

7 (6) (5) The office may withhold the identity of sources of
8 information to protect from retaliation any person who files a complaint
9 or provides information in good faith pursuant to the Office of Inspector
10 General of Nebraska Child Welfare Act.

11 Sec. 30. Section 43-4326, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 ~~43-4326~~ (1) The department shall provide the Public Counsel and the
14 office Inspector General with ~~direct computer~~ access to ~~all computerized~~
15 records, reports, and documents maintained by the department in
16 connection with administration of the Nebraska child welfare system.

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

21 (3) Information shall be provided in the most efficient and timely
22 way, in a manner that is least burdensome to the department or agency,
23 and in a manner which maintains the confidentiality of the information.
24 This may include providing information through secure electronic access
25 to case files and secure access to information maintained electronically
26 in databases and case management systems. The juvenile services division,
27 as directed by the juvenile court or the Office of Probation
28 Administration, shall provide the Inspector General with direct computer
29 access to all computerized records, reports, and documents maintained by
30 the juvenile services division in connection with a specific case under
31 investigation.

1 Sec. 31. Section 43-4327, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 ~~43-4327~~ (1) The Inspector General's report of an investigation shall
4 be in writing ~~to the Public Counsel~~ and ~~may~~ shall contain
5 recommendations. The report may recommend systemic reform or case-
6 specific action, including a recommendation for discharge or discipline
7 of employees or for sanctions against a foster parent, private agency,
8 licensed child care facility, or other provider of child welfare services
9 or juvenile justice services. All recommendations to pursue discipline
10 shall be in writing and signed by the Inspector General. A report of an
11 investigation shall be presented to the Public Counsel, the chairperson
12 of the Health and Human Services Committee of the Legislature, the
13 chairperson of the Judiciary Committee of the Legislature, and the
14 chairperson of the Executive Board of the Legislative Council. The
15 Inspector General shall present the report of investigation to the
16 director, the probation administrator, or the executive director within
17 three business fifteen days after the report is presented to the Public
18 Counsel and the chairpersons.

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

29 (3) A report that identifies misconduct, misfeasance, malfeasance,
30 or violation of statute, rules, or regulations by an employee of the
31 department, ~~the juvenile services division,~~ the commission, a private

1 agency, a licensed child care facility, or another provider that is
2 relevant to providing appropriate supervision of an employee may be
3 shared with the employer of such employee. The employer ~~shall~~ may not
4 further distribute the report or any confidential information contained
5 in the report.

6 Sec. 32. Section 43-4328, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 ~~43-4328~~ (1) Within fifteen business days after a report is presented
9 to the director, ~~the probation administrator,~~ or the executive director
10 under section 31 of this act ~~43-4327,~~ the director or executive director
11 ~~may he or she shall~~ determine whether to accept, reject, or request ~~in~~
12 ~~writing~~ modification of the recommendations contained in the report. Any
13 ~~The written response shall be in writing and~~ may include corrections of
14 factual errors. The Inspector General, with input from the Public
15 Counsel, may consider any ~~the director's, probation administrator's, or~~
16 ~~executive director's~~ request for modifications but is not obligated to
17 accept such request. Such report shall become final (a) upon the decision
18 of the director, ~~the probation administrator,~~ or the executive director
19 to accept or reject the recommendations in the report, (b) within fifteen
20 business days after ~~or, if the director, the probation administrator, or~~
21 ~~the executive director requests modifications, within fifteen days after~~
22 ~~such request~~ or after the Inspector General incorporates such
23 modifications, whichever occurs earlier, or (c) fifteen days after the
24 report is presented to the director or the executive director if no
25 response is received by the Inspector General. If the Inspector General
26 does not accept a requested modification, the recommendation for which
27 such modification was requested shall be considered to be rejected by the
28 director or executive director.

29 (2) After the recommendations have been accepted, rejected, or
30 modified, the report shall be presented to the foster parent, private
31 agency, licensed child care facility, or other provider of child welfare

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

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

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

23 Sec. 33. Section 43-4329, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 ~~43-4329~~ No report or other work product of an investigation by the
26 Inspector General shall be reviewable in any court. Neither the Inspector
27 General nor any member of the Inspector General's ~~his or her~~ staff shall
28 be required to testify or produce evidence in any judicial or
29 administrative proceeding concerning matters within such person's ~~his or~~
30 ~~her~~ official cognizance except in a proceeding brought to enforce the
31 Office of Inspector General of Nebraska Child Welfare Act.

1 Sec. 34. Section 43-4330, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 ~~43-4330~~ The Office of Inspector General of Nebraska Child Welfare
4 Act does not require the Inspector General to investigate all complaints.
5 The Inspector General, with input from the Public Counsel, shall
6 prioritize and select investigations and inquiries that further the
7 intent of the act and assist in legislative oversight of the Nebraska
8 child welfare system ~~and juvenile justice system~~. If the Inspector
9 General determines that the office ~~he or she~~ will not investigate a
10 complaint, the Inspector General may recommend to the parties alternative
11 means of resolution of the issues in the complaint.

12 Sec. 35. Section 43-4331, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 ~~43-4331~~ On or before September 15 of each year, the Inspector
15 General shall provide to ~~the Health and Human Services Committee of the~~
16 ~~Legislature, the Judiciary Committee of the Legislature, the Supreme~~
17 ~~Court,~~ and the Governor a report that includes a summary of reports and
18 investigations made under the Office of Inspector General of Nebraska
19 Child Welfare Act for the preceding year. The report to the Legislature
20 ~~summary provided to the committees shall be submitted provided~~
21 electronically and filed with the Clerk of the Legislature. The report
22 ~~summaries~~ shall detail recommendations and the status of implementation
23 of recommendations and may also include recommendations to the
24 Legislature committees regarding issues discovered through investigation,
25 audits, inspections, and reviews by the office that will (1) increase
26 accountability and legislative oversight of the Nebraska child welfare
27 system, (2) improve operations of the department, ~~the juvenile services~~
28 ~~division,~~ the commission, and the Nebraska child welfare system, or (3)
29 deter and identify fraud, abuse, and illegal acts. The report ~~Such~~
30 ~~summary~~ shall include summaries of alternative response cases under
31 alternative response implemented in accordance with sections 28-710.01,

1 28-712, and 28-712.01 reviewed by the Inspector General. The report
2 ~~summaries~~ shall not contain any confidential or identifying information
3 concerning the subjects of the reports and investigations.

4 Sec. 36. Section 43-4332, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 ~~43-4332~~ Any person who has authority to recommend, approve, direct,
7 or otherwise take or affect personnel action shall not, with respect to
8 such authority:

9 (1) Take personnel action against an employee because of the
10 disclosure of information by the employee to the office which the
11 employee reasonably believes evidences wrongdoing under the Office of
12 Inspector General of Nebraska Child Welfare Act;

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

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

19 Sec. 37. If the Inspector General has reason to believe that any
20 public officer or employee has acted in a manner that warrants criminal
21 or disciplinary action or proceedings, the Inspector General shall refer
22 the matter to the appropriate authorities.

23 Sec. 38. Section 47-901, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 ~~47-901~~ Sections 38 to 58 of this act ~~47-901 to 47-920~~ shall be known
26 and may be cited as the Office of Inspector General of the Nebraska
27 Correctional System Act.

28 Sec. 39. The Legislature finds and declares that:

29 (1) It is within the inherent power of the Legislature to secure
30 needed information in order to legislate, hold hearings, and conduct
31 investigations of matters related to the operation of state government.

1 This power of inquiry is broad and indispensable;

2 (2) Article IV, section 19, of the Constitution of Nebraska
3 specifically provides that the general management, control, and
4 government of all state reformatory and penal institutions shall be
5 vested as determined by the Legislature;

6 (3) Article IV, section 23, of the Constitution of Nebraska
7 specifically provides that the Legislature may at any time require that
8 information be provided to it from the officers and employees of state
9 agencies relating to the condition, management, and expenses of their
10 respective offices; and

11 (4) In order to establish a full-time program of investigation and
12 oversight of the Nebraska correctional system and assist in the
13 development of legislation related to the Nebraska correctional system,
14 the Legislature created the office of Inspector General of the Nebraska
15 Correctional System.

16 Sec. 40. Section 47-902, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 ~~47-902~~ (1) It is the intent of the Legislature that the office of
19 Inspector General of the Nebraska Correctional System to:

20 ~~(a) Establish a full-time program of investigation and performance~~
21 ~~review to provide increased accountability and oversight of the Nebraska~~
22 ~~correctional system;~~

23 (a) (b) Assist in improving operations of the department and the
24 Nebraska correctional system;

25 (b) (c) Provide an independent form of inquiry for concerns
26 regarding the actions of individuals and agencies responsible for the
27 supervision and release of persons in the Nebraska correctional system. A
28 lack of responsibility and accountability ~~between individuals and private~~
29 agencies in the current system makes ~~make~~ it difficult for the
30 Legislature to monitor and oversee the Nebraska correctional system; and

31 (c) (d) Provide a process for investigation and review in order to

1 improve policies and procedures of the correctional system.

2 (2) It is not the intent of the Legislature in enacting the Office
3 of Inspector General of the Nebraska Correctional System Act to interfere
4 with the duties of the Legislative Auditor or the Legislative Fiscal
5 Analyst or to interfere with the statutorily defined investigative
6 responsibilities or prerogatives of any officer, agency, board, bureau,
7 commission, association, society, or institution of the executive branch
8 of state government, except that the act does not preclude an inquiry on
9 the sole basis that another agency has the same responsibility. The act
10 shall not be construed to interfere with or supplant the responsibilities
11 or prerogatives of the Governor to investigate, monitor, and report on
12 the activities of the agencies, boards, bureaus, commissions,
13 associations, societies, and institutions of the executive branch under
14 the Governor's ~~his or her~~ administrative direction.

15 Sec. 41. Section 47-903, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 ~~47-903~~ For purposes of the Office of Inspector General of the
18 Nebraska Correctional System Act, the following definitions apply:

19 (1) Administrator means a person charged with administration of (a)
20 a program, or an office, or a division of the department, (b) the
21 division, or (c) administration of a private agency;

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

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

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

26 (5) Inspector General means the Inspector General of the Nebraska
27 Correctional System appointed under section 42 of this act ~~47-904;~~

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

31 (7) Management means supervision of subordinate employees;

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

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

7 (10) Office means the office of Inspector General of the Nebraska
8 Correctional System and includes the Inspector General and other
9 employees of the office;

10 (11) Parole director means the director of the division;

11 (12) ~~(11)~~ Private agency means an entity that contracts with the
12 department or division or contracts to provide services to another entity
13 that contracts with the department or division; and

14 (13) ~~(12)~~ Record means any recording in written, audio, electronic
15 transmission, or computer storage form, including, but not limited to, a
16 draft, memorandum, note, report, computer printout, notation, or message,
17 and includes, but is not limited to, medical record records, mental
18 health record records, case file files, clinical record records,
19 financial record records, and administrative record records.

20 Sec. 42. Section 47-904, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 ~~47-904~~ (1) The office of Inspector General of the Nebraska
23 Correctional System is created within the office of Public Counsel for
24 the purpose of conducting investigations, audits, inspections, and other
25 oversight reviews of the Nebraska correctional system for the
26 Legislature. The Inspector General shall be appointed by the Public
27 Counsel with approval from the chairperson of the Executive Board of the
28 Legislative Council and the chairperson of the Judiciary Committee of the
29 Legislature.

30 ~~(2) The Inspector General shall be appointed for a term of five~~
31 ~~years and may be reappointed.~~ The Inspector General shall be selected

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

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

25 Sec. 43. Section 47-905, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 ~~47-905~~ (1) The office shall investigate:

28 (a) Allegations or incidents of possible misconduct, misfeasance,
29 malfeasance, or violations of statutes or of rules or regulations of the
30 department or division by an employee of or a person under contract with
31 the department or division or a private agency; and

1 (b) Death or serious injury of individuals committed to the custody
2 of the department or under the supervision of the division in private
3 agencies, department correctional facilities, and other programs and
4 facilities licensed by or under contract with the department. The
5 department or division shall report all such cases of death or serious
6 injury of a person in a private agency, department correctional facility
7 or program, or other program or facility licensed by the department to
8 the Inspector General as soon as reasonably possible after the department
9 or division learns of such death or serious injury. The department or
10 division shall also report all cases of the death or serious injury of an
11 employee when acting in his or her capacity as an employee of the
12 department or division as soon as reasonably possible after the
13 department or division learns of such death or serious injury. The
14 department or division shall also report all cases when an employee is
15 hospitalized in response to an injury received when acting in such
16 person's ~~his or her~~ capacity as an employee of the department or division
17 as soon as reasonably possible after the department or division learns of
18 such hospitalization. For purposes of this subdivision, serious injury
19 means an injury which requires urgent and immediate medical treatment and
20 restricts the injured person's usual activity.

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

24 (3) Notwithstanding the fact that a criminal investigation, a
25 criminal prosecution, or both are in progress, all law enforcement
26 agencies and prosecuting attorneys may ~~shall~~ cooperate with any
27 investigation conducted by the Inspector General and may ~~shall~~,
28 ~~immediately~~ upon request by the Inspector General, provide the Inspector
29 General with copies of all law enforcement reports which are relevant to
30 the Inspector General's investigation. All law enforcement reports which
31 have been provided to the Inspector General pursuant to this section are

1 not public records for purposes of sections 84-712 to 84-712.09 and shall
2 not be subject to discovery by any other person or entity. Except to the
3 extent that disclosure of information is otherwise provided for in the
4 Office of Inspector General of the Nebraska Correctional System Act, the
5 Inspector General shall maintain the confidentiality of all law
6 enforcement reports received pursuant to its request under this section.
7 Law enforcement agencies and prosecuting attorneys ~~may shall~~, when
8 requested by the Inspector General, collaborate with the Inspector
9 General regarding all other information relevant to the Inspector
10 General's investigation. ~~The If the Inspector General in conjunction with~~
11 ~~the Public Counsel determines it appropriate, the Inspector General shall~~
12 ~~may~~, when requested to do so by a law enforcement agency or prosecuting
13 attorney, suspend an investigation by the office until a criminal
14 investigation or prosecution is completed or has proceeded to a point
15 that, in the judgment of the Inspector General, reinstatement of the
16 Inspector General's investigation will not impede or infringe upon the
17 criminal investigation or prosecution.

18 (4) The office may conduct audits, inspections, investigations, and
19 other oversight as necessary to perform the duties of the office and to
20 carry out the purposes of the Office of Inspector General of the Nebraska
21 Correctional System Act.

22 Sec. 44. Section 47-907, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 ~~47-907~~ (1) Complaints to the office may be made in writing. A
25 complaint shall be evaluated to determine if it alleges possible
26 misconduct, misfeasance, malfeasance, or violation of a statute or of
27 rules and regulations of the department or division by an employee of or
28 a person under contract with the department or division or a private
29 agency. All complaints shall be evaluated to determine whether a full
30 investigation is warranted.

31 (2) The office shall not conduct a full investigation of a complaint

1 unless:

2 (a) The complaint alleges misconduct, misfeasance, malfeasance, or
3 violation of a statute or of rules and regulations of the department or
4 division;

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

7 (c) The allegations can be independently verified through
8 investigation.

9 (3) After receipt of a complaint, the The Inspector General shall
10 determine ~~within fourteen days after receipt of a complaint~~ whether the
11 office will conduct a full investigation.

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

15 Sec. 45. Section 47-908, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 ~~47-908~~ (1) The office shall have access to all information and
18 personnel necessary to perform the duties of the office and to carry out
19 the Office of Inspector General of the Nebraska Correctional System Act.

20 (2) All employees of the department, all employees of the division
21 ~~Division of Parole Supervision~~, and all owners, operators, managers,
22 supervisors, and employees of private agencies shall cooperate with the
23 office. Cooperation includes, but is not limited to, the following:

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

30 (b) ~~(2)~~ Fair and honest disclosure of records and information
31 reasonably requested by the office pursuant to ~~in the course of an~~

1 ~~investigation under the act;~~

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

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; and~~

11 ~~(f) Not requiring employees to report filing a complaint with or~~
12 ~~providing records or information to the office.~~

13 ~~(3)(a) The department, the division, the commission, or any other~~
14 ~~party to an investigation by the office may object to the production or~~
15 ~~disclosure of records and information in writing on the grounds that such~~
16 ~~records and information are legally privileged, identifying the specific~~
17 ~~grounds for such objection. Following such objection, the office and the~~
18 ~~department, division, commission, or other party may negotiate terms of~~
19 ~~production or disclosure pursuant to this section.~~

20 ~~(b) In the event that satisfactory terms of production or disclosure~~
21 ~~cannot be reached between the office and the department, division, or~~
22 ~~other party, the office may request the issuance of a subpoena pursuant~~
23 ~~to section 47 of this act.~~

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

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

27 Sec. 46. Section 47-909, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 ~~47-909~~ Failure to cooperate with an investigation by the office may
30 result in public disclosure of the failure to cooperate discipline or
31 other sanctions.

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

3 47-910 (1) At the request of the Inspector General, and after
4 receiving prior approval by a majority vote of the Executive Board of the
5 Legislative Council, the Judiciary Committee of the Legislature may issue
6 subpoenas in connection with a specific inquiry or investigation
7 undertaken pursuant to the Office of Inspector General of the Nebraska
8 Correctional System Act to compel the production of records and
9 information and sworn testimony or other evidence relevant to such
10 inquiry or investigation.

11 (2) When authorized to issue subpoenas under this section, the
12 committee may require any employees of the department or the division or
13 any owners, operators, managers, supervisors, and employees of private
14 agencies to provide the records or information requested within thirty
15 days after the request, except as otherwise provided for in the subpoena,
16 or to appear at a hearing on the date set in the subpoena.

17 (3) Litigation to compel or quash compliance with the authority
18 exercised pursuant to this section shall be advanced on the trial docket
19 and heard and decided by the court as quickly as possible. The court
20 shall issue its decision no later than twenty days after the filing of
21 the application or petition or a motion to quash, whichever is filed
22 first. Either party may appeal to the Court of Appeals within ten days
23 after a decision is rendered.

24 (4) The district court of Lancaster County has jurisdiction over all
25 litigation arising under this section. In all such litigation, the
26 executive board shall provide for legal representation for the committee.

27 (5) In case of disobedience on the part of any employees of the
28 department or the division or any owners, operators, managers,
29 supervisors, and employees of private agencies to comply with any
30 subpoena issued pursuant to this section, the committee shall vote on
31 whether to find the person in contempt or to find that the failure to

1 comply was not willful.

2 (6) If the committee finds a person in contempt as provided in
3 subsection (5) of this section, the committee may, by application or
4 petition to the district court of Lancaster County, request that the
5 court compel obedience by proceedings for contempt as in the case of
6 disobedience of the requirements of a subpoena issued from such court.
7 The application or petition shall be filed by the chairperson of the
8 committee.

9 ~~(7) The Inspector General may issue a subpoena, enforceable by~~
10 ~~action in an appropriate court, to compel any person to appear, give~~
11 ~~sworn testimony, or produce documentary or other evidence deemed relevant~~
12 ~~to a matter under his or her inquiry. A person thus required to provide~~
13 ~~information under this section shall be paid the same fees and travel~~
14 ~~allowances and shall be accorded the same privileges and immunities as~~
15 ~~are extended to witnesses in the district courts of this state and shall~~
16 ~~also be entitled to have counsel present while being questioned.~~
17 Consistent with the Nebraska Rules of Professional Conduct, counsel for
18 the agency or department that is the subject of an investigation shall
19 not represent a witness. Any fees associated with counsel present under
20 this section shall not be the responsibility of the office or the
21 Legislative Council.

22 Sec. 48. Section 47-911, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 ~~47-911~~ (1) A full investigation conducted by the office shall
25 consist of (a) access to and retrieval of all relevant records through
26 compliance with a request of the office, by voluntary production, or by
27 subpoena, (b) review of all relevant records, and (c) interviews of all
28 relevant persons ~~In conducting investigations, the office shall access~~
29 ~~all relevant records through subpoena, compliance with a request by the~~
30 ~~office, and voluntary production. The office may request or~~ request the
31 issuance of a subpoena for any record necessary for the investigation

1 from the department, the division, or a private agency that is pertinent
2 to an investigation. All case files, licensing files, medical records,
3 financial and administrative records, and records required to be
4 maintained pursuant to applicable licensing rules shall be produced for
5 review by the office in the course of an investigation.

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

7 (a) Production of all records requested;

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

10 (c) A continuing obligation to immediately forward to the office any
11 relevant records received, located, or generated after the date of the
12 request; ~~-~~

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

15 (e) Not willfully interfering with or obstructing an investigation.

16 (3) The office shall seek access in a manner that respects the
17 dignity and human rights of all persons involved, maintains the integrity
18 of the investigation, and does not unnecessarily disrupt department or
19 division programs or services. ~~When advance notice to an administrator or~~
20 ~~his or her designee is not provided, the office investigator shall, upon~~
21 ~~arrival at the departmental office, bureau, or division or private~~
22 ~~agency, request that an onsite employee notify the administrator or his~~
23 ~~or her designee of the investigator's arrival.~~

24 (4) When circumstances of an audit, inspection, investigation, or
25 review require, the office may make an announced or unannounced visit to
26 a departmental office, ~~bureau, or division~~, a department correctional
27 facility, a parole office, or a private agency ~~to request records~~
28 ~~relevant to an investigation. The office may request relevant records~~
29 during such visit.

30 (5) A responsible individual or an administrator may be asked to
31 sign a statement of record integrity and security when a record is

1 secured by request as the result of a visit by the office, stating:

2 (a) That the responsible individual or the administrator has made a
3 diligent search of the departmental office, bureau, division, private
4 agency, or department correctional facility, parole office, or private
5 agency to determine that all appropriate records in existence at the time
6 of the request were produced;

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

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

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

15 (6) The office shall permit a responsible individual, an
16 administrator, or an employee of a departmental office, ~~bureau, or~~
17 ~~division, a private agency, or~~ a department correctional facility, a
18 parole office, or a private agency to make photocopies of the original
19 records within a reasonable time in the presence of the office for
20 purposes of creating a working record in a manner that assures
21 confidentiality.

22 (7) The office shall present to the responsible individual or the
23 administrator or other employee of the departmental office, ~~bureau, or~~
24 ~~division, private agency, or~~ department correctional facility, parole
25 office, or private agency a copy of the request, stating the date and the
26 titles of the records received.

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

30 (9) All investigations conducted by the office shall be conducted in
31 a manner designed to ensure the preservation of evidence for possible use

1 in a criminal prosecution.

2 Sec. 49. Section 47-912, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 ~~47-912~~ (1) Reports of investigations conducted by the office shall
5 not be distributed beyond the entity that is the subject of the report
6 without the consent of the Inspector General.

7 (2) The office shall redact confidential information before
8 distributing a report of an investigation.

9 (3) The office may disclose confidential information to the
10 chairperson of the Executive Board of the Legislative Council and to the
11 chairperson of the Judiciary Committee of the Legislature when such
12 disclosure is, in the judgment of the Public Counsel, desirable to keep
13 the Legislature chairperson informed of important events, issues, and
14 developments in the Nebraska correctional system.

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

17 (b) Such report shall be released only:

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

20 (ii) If a determination is made by the Inspector General with the
21 chairpersons ~~chairperson~~ that doing so would be in the best interest of
22 the public.

23 (c) If there is disagreement about whether releasing the report
24 would be in the best interest of the public, the chairperson of the
25 Executive Board of the Legislative Council shall ~~may be asked to~~ make the
26 final decision.

27 (d) The chairperson of the Executive Board of the Legislative
28 Council and the chairperson of the Judiciary Committee of the Legislature
29 shall be notified prior to a report of an investigation being publicly
30 released under this section.

31 (5) ~~(4)~~ Records and documents, regardless of physical form, that are

1 obtained or produced by the office in the course of an investigation are
2 not public records for purposes of sections 84-712 to 84-712.09. Reports
3 of investigations conducted by the office are not public records for
4 purposes of sections 84-712 to 84-712.09.

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

9 Sec. 50. Section 47-913, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 ~~47-913~~ The department shall provide the Public Counsel and the
12 ~~office Inspector General~~ with ~~direct computer~~ access to all computerized
13 records, reports, and documents maintained by the department in
14 connection with administration of the Nebraska correctional system. The ~~7~~
15 ~~except that~~ the Public Counsel's and Inspector General's access to an
16 inmate's medical or mental health records shall be subject to the
17 inmate's consent unless an inmate death is being investigated pursuant to
18 subdivision (1)(b) of section 43 of this act.

19 Sec. 51. Section 47-914, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 ~~47-914~~ (1) The Inspector General's report of an investigation shall
22 be in writing ~~to the Public Counsel~~ and ~~may~~ shall contain
23 recommendations. The report may recommend systemic reform or case-
24 specific action, including a recommendation for discharge or discipline
25 of employees or for sanctions against a private agency. All
26 recommendations to pursue discipline shall be in writing and signed by
27 the Inspector General. A report of an investigation shall be presented to
28 the Public Counsel, the chairperson of the Judiciary Committee of the
29 Legislature, and the chairperson of the Executive Board of the
30 Legislative Council. The Inspector General shall present the report of
31 investigation to the director or parole director within three business

1 ~~fifteen~~ days after the report is presented to the Public Counsel and the
2 chairpersons.

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

7 (3) A report that identifies misconduct, misfeasance, malfeasance,
8 violation of statute, or violation of rules and regulations by an
9 employee of the department, the division, or a private agency that is
10 relevant to providing appropriate supervision of an employee may be
11 shared with the employer of such employee. The employer shall ~~may~~ not
12 further distribute the report or any confidential information contained
13 in the report.

14 Sec. 52. Section 47-915, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 ~~47-915~~ (1) Within fifteen business days after a report is presented
17 to the director or parole director under section 51 of this act ~~47-914~~,
18 the director or parole director may he or she shall determine whether to
19 accept, reject, or request ~~in writing~~ modification of the recommendations
20 contained in the report. Any response shall be in writing and may include
21 corrections of factual errors. The Inspector General, with input from the
22 Public Counsel, may consider any ~~the director's~~ request for modifications
23 but is not obligated to accept such request. Such report shall become
24 final (a) upon the decision of the director or parole director to accept
25 or reject the recommendations in the report, (b) within fifteen business
26 days after or, if the director or parole director requests modifications,
27 within fifteen days after such request or after the Inspector General
28 incorporates such modifications, whichever occurs earlier, or (c) fifteen
29 days after the report is presented to the director or parole director if
30 no response is made. If the Inspector General does not accept a requested
31 modification, the recommendation for which such modification was

1 requested shall be considered to be rejected by the director or parole
2 director.

3 (2) Within fifteen business days after the report is presented to
4 the director or parole director, the report shall be presented to the
5 private agency or other provider of correctional or parole services that
6 is the subject of the report and to persons involved in the
7 implementation of the recommendations in the report. Within fifteen
8 business ~~forty-five~~ days after receipt of the report, the private agency
9 or other provider may submit a written response to the office to correct
10 any factual errors in the report. The Inspector General, with input from
11 the 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 private
19 agency or other provider may request that its written response, or
20 portions of the response, be appended to the report or corrected report.

21 Sec. 53. Section 47-916, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 ~~47-916~~ No report or other work product of an investigation by the
24 Inspector General shall be reviewable in any court. Neither the Inspector
25 General nor any member of the Inspector General's ~~his or her~~ staff shall
26 be required to testify or produce evidence in any judicial or
27 administrative proceeding concerning matters within such person's ~~his or~~
28 ~~her~~ official cognizance except in a proceeding brought to enforce the
29 Office of Inspector General of the Nebraska Correctional System Act.

30 Sec. 54. Section 47-917, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 ~~47-917~~ The Office of Inspector General of the Nebraska Correctional
2 System Act does not require the Inspector General to investigate all
3 complaints. The Inspector General, with input from the Public Counsel,
4 shall prioritize and select investigations and inquiries that further the
5 intent of the act and assist in legislative oversight of the Nebraska
6 correctional system. If the Inspector General determines that the office
7 ~~he or she~~ will not investigate a complaint, the Inspector General may
8 recommend to the parties alternative means of resolution of the issues in
9 the complaint.

10 Sec. 55. Section 47-918, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 ~~47-918~~ On or before September 15 of each year, the Inspector General
13 shall provide to ~~each member of the Judiciary Committee of the~~
14 Legislature and ~~the Governor~~ a report that includes ~~and the Clerk of~~
15 ~~the Legislature~~ a summary of reports and investigations made under the
16 Office of Inspector General of the Nebraska Correctional System Act for
17 the preceding year. The report to the Legislature ~~summary provided to the~~
18 ~~Clerk of the Legislature~~ shall be submitted ~~provided~~ electronically and
19 filed with the Clerk of the Legislature. The report summaries shall
20 include findings and recommendations and an update on the status of
21 recommendations made in prior reports ~~summaries~~, if any. The findings and
22 recommendations may address issues discovered through investigations,
23 audits, inspections, and reviews by the office that will (1) increase
24 accountability and legislative oversight of the Nebraska correctional
25 system, (2) improve operations of the department, the division, and the
26 Nebraska correctional system, (3) deter and identify fraud, abuse, and
27 illegal acts, and (4) identify inconsistencies between statutory
28 requirements and requirements for accreditation. The report summaries
29 shall not contain any confidential or identifying information concerning
30 the subjects of the reports and investigations.

31 Sec. 56. Section 47-919, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 ~~47-919~~ (1) ~~The division Division of Parole Supervision~~ shall
3 provide the Public Counsel and the ~~office~~ Inspector General with ~~direct~~
4 ~~computer~~ access to ~~all computerized~~ records, reports, and documents
5 maintained in connection with administration of the Nebraska parole
6 system. ~~The access of the , except that access for the~~ Public Counsel and
7 the ~~office~~ Inspector General to a parolee's medical or mental health
8 records shall be subject to the parolee's consent unless a parolee's
9 death is being investigated pursuant to subdivision (1)(b) of section 43
10 of this act.

11 (2) Information shall be provided in the most efficient and timely
12 way, in a manner that is least burdensome to the department or agency,
13 and in a manner which maintains the confidentiality of the information.
14 This may include providing information through secure electronic access
15 to case files and secure access to information maintained electronically
16 in databases and case management systems.

17 Sec. 57. Section 47-920, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 ~~47-920~~ Any person who has authority to recommend, approve, direct,
20 or otherwise take or affect personnel action shall not, with respect to
21 such authority:

22 (1) Take personnel action against an employee because of the
23 disclosure of information by the employee to the office which the
24 employee reasonably believes evidences wrongdoing under the Office of
25 Inspector General of the Nebraska Correctional System Act;

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

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

1 Sec. 58. If the Inspector General has reason to believe that any
2 public officer or employee has acted in a manner that warrants criminal
3 or disciplinary action or proceedings, the Inspector General shall refer
4 the matter to the appropriate authorities.

5 Sec. 59. Section 28-711, Reissue Revised Statutes of Nebraska, is
6 amended to read:

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

30 (2) The department shall establish a statewide toll-free number to
31 be used by any person any hour of the day or night, any day of the week,

1 to make reports of child abuse or neglect. Reports of child abuse or
2 neglect not previously made to or by a law enforcement agency shall be
3 made immediately to such agency by the department.

4 Sec. 60. Section 28-712.01, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 28-712.01 (1)(a) The department may assign a report for alternative
7 response consistent with the Child Protection and Family Safety Act.

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

11 (i) Murder in the first or second degree as defined in section
12 28-303 or 28-304 or manslaughter as defined in section 28-305;

13 (ii) Assault in the first, second, or third degree or assault by
14 strangulation or suffocation as defined in section 28-308, 28-309,
15 28-310, or 28-310.01;

16 (iii) Sexual abuse, including acts prohibited by section 28-319,
17 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03,
18 28-322.04, 28-322.05, 28-703, or 28-707;

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

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

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

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

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

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

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

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

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

11 (xiii) A household member illegally manufactures methamphetamine or
12 opioids;

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

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

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

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

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

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

30 (iii) A family member residing in the home or a caregiver that has
31 been the subject of a report accepted for traditional response or

1 assigned to alternative response in the past six months.

2 (2) The Review, Evaluate, and Decide Team shall convene to review
3 reports pursuant to the department's rules, regulations, and policies, to
4 evaluate the information, and to determine assignment for alternative
5 response or traditional response. The team shall utilize consistent
6 criteria to review the severity of the allegation of child abuse or
7 neglect, access to the perpetrator, vulnerability of the child, family
8 history including previous reports, parental cooperation, parental or
9 caretaker protective factors, and other information as deemed necessary.
10 At the conclusion of the review, the report shall be assigned to either
11 traditional response or alternative response. Decisions of the team shall
12 be made by consensus. If the team cannot come to consensus, the report
13 shall be assigned for a traditional response.

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

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

31 (5) The department shall make available to the appropriate

1 investigating law enforcement agency, child advocacy center, and county
2 attorney a copy of all reports relative to a case of suspected child
3 abuse or neglect. Aggregate, nonidentifying data regarding reports of
4 child abuse or neglect receiving an alternative response shall be made
5 available quarterly to requesting agencies outside the department. Such
6 alternative response data shall include, but not be limited to, the
7 nature of the initial child abuse or neglect report, the age of the child
8 or children, the nature of services offered, the location of the cases,
9 the number of cases per month, and the number of alternative response
10 cases that were transferred to traditional response. Other than the
11 office of Inspector General of Nebraska Child Welfare, the Public
12 Counsel, law enforcement agency personnel, child advocacy center
13 employees, and county attorneys, no other agency or individual shall be
14 provided specific, identifying reports of child abuse or neglect being
15 given alternative response. The office of Inspector General of Nebraska
16 Child Welfare shall have access to all reports relative to cases of
17 suspected child abuse or neglect subject to traditional response and
18 those subject to alternative response. The department and the office
19 shall develop procedures allowing for the Inspector General's review of
20 cases subject to alternative response. The Inspector General shall
21 include in the report pursuant to section 35 of this act ~~43-4331~~ a
22 summary of all cases reviewed pursuant to this subsection.

23 Sec. 61. Section 43-2,108, Revised Statutes Supplement, 2023, is
24 amended to read:

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

1 when determined by the State Records Administrator pursuant to the
2 Records Management Act.

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

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

1 information, with the consent of persons who are subjects of such
2 information, or by order of such court after showing of good cause, to
3 any law enforcement agency upon such agency's specific request for such
4 agency's exclusive use in the investigation of any protective service
5 case or investigation of allegations under subdivision (3)(a) of section
6 43-247, regarding the juvenile or such juvenile's immediate family, who
7 are the subject of such investigation; and (c) the court of jurisdiction
8 may disseminate such confidential record information to any court, which
9 has jurisdiction of the juvenile who is the subject of such information
10 upon such court's request.

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

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

26 (5) ~~(6)~~ In all cases under sections 43-246.01 and 43-247, the
27 juvenile court shall disseminate confidential record information to the
28 Foster Care Review Office pursuant to the Foster Care Review Act.

29 (6) ~~(7)~~ Nothing in subsections (3), ~~(5)~~, and (5) ~~(6)~~ of this section
30 shall be construed to restrict the dissemination of confidential record
31 information between any individual or public or private agency,

1 institute, facility, or clinic, except any such confidential record
2 information disseminated by the court of jurisdiction pursuant to this
3 section shall be for the exclusive and private use of those to whom it
4 was released and shall not be disseminated further without order of such
5 court.

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

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

21 (8) ~~(9)~~ Nothing in subsection (3), ~~(5)~~, or (5) ~~(6)~~ of this section
22 shall be construed to restrict the immediate dissemination of a current
23 picture and information about a child who is missing from a foster care
24 or out-of-home placement. Such dissemination by the Office of Probation
25 Administration shall be authorized by an order of a judge or court. Such
26 information shall be subject to state and federal confidentiality laws
27 and shall not include that the child is in the care, custody, or control
28 of the Department of Health and Human Services or under the supervision
29 of the Office of Probation Administration.

30 (9) ~~(10)~~ Any juvenile court order that places a juvenile on
31 electronic monitoring shall also state whether the data from such

1 electronic monitoring device shall be made available to a law enforcement
2 agency immediately upon request by such agency. For any juvenile subject
3 to the supervision of a probation officer, the name of the juvenile, the
4 name of the juvenile's probation officer, and any terms of probation
5 included in a juvenile court order otherwise open to inspection shall be
6 provided to the Nebraska Commission on Law Enforcement and Criminal
7 Justice which shall provide access to such information to law enforcement
8 agencies through the state's criminal justice information system.

9 Sec. 62. Section 50-401.01, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 50-401.01 (1) The Legislative Council shall have an executive board,
12 to be known as the Executive Board of the Legislative Council, which
13 shall consist of a chairperson, a vice-chairperson, and six members of
14 the Legislature, to be chosen by the Legislature at the commencement of
15 each regular session of the Legislature when the speaker is chosen, and
16 the Speaker of the Legislature. The Legislature at large shall elect two
17 of its members from legislative districts Nos. 1, 17, 30, 32 to 35, 37,
18 38, 40 to 44, 47, and 48, two from legislative districts Nos. 2, 3, 15,
19 16, 19, 21 to 29, 45, and 46, and two from legislative districts Nos. 4
20 to 14, 18, 20, 31, 36, 39, and 49. The Chairperson of the Committee on
21 Appropriations shall serve as a nonvoting ex officio member of the
22 executive board whenever the board is considering fiscal administration.

23 (2) The executive board shall:

24 (a) Supervise all services and service personnel of the Legislature
25 and may employ and fix compensation and other terms of employment for
26 such personnel as may be needed to carry out the intent and activities of
27 the Legislature or of the board, unless otherwise directed by the
28 Legislature, including the adoption of policies by the executive board
29 which permit (i) the purchasing of an annuity for an employee who retires
30 or (ii) the crediting of amounts to an employee's deferred compensation
31 account under section 84-1504. The payments to or on behalf of an

1 employee may be staggered to comply with other law; and

2 (b) Appoint persons to fill the positions of Legislative Fiscal
3 Analyst, Director of Research, Revisor of Statutes, ~~and~~ Legislative
4 Auditor, and Public Counsel. The persons appointed to these positions
5 shall have training and experience as determined by the executive board
6 and shall serve at the pleasure of the executive board. The Legislative
7 Performance Audit Committee shall recommend the person to be appointed
8 Legislative Auditor. Their respective salaries shall be set by the
9 executive board.

10 (3) Notwithstanding any other provision of law, the executive board
11 may contract to obtain legal, auditing, accounting, actuarial, or other
12 professional services or advice for or on behalf of the executive board,
13 the Legislative Council, the Legislature, or any member of the
14 Legislature. The providers of such services or advice shall meet or
15 exceed the minimum professional standards or requirements established or
16 specified by their respective professional organizations or licensing
17 entities or by federal law. Such contracts, the deliberations of the
18 executive board with respect to such contracts, and the work product
19 resulting from such contracts shall not be subject to review or approval
20 by any other entity of state government.

21 Sec. 63. Section 50-402, Revised Statutes Supplement, 2023, is
22 amended to read:

23 50-402 The Legislative Council shall occupy and maintain offices in
24 the State Capitol.

25 It shall be the duty of the council:

26 (1) To collect information concerning the government and general
27 welfare of the state;

28 (2) To examine the effects of previously enacted statutes and
29 recommend amendments thereto;

30 (3) To deal with important issues of public policy and questions of
31 statewide interest;

1 (4) To prepare a legislative program in the form of bills or
2 otherwise as in its opinion the welfare of the state may require, to be
3 presented at the next session of the Legislature;

4 (5) To study federal aid to the state and its political subdivisions
5 and advise the Legislature of money, land, or buildings available from
6 the federal government, matching funds necessary, grants and aids, and
7 what new legislation will be needed;

8 (6) To establish and maintain a complete and efficient bill drafting
9 service for the purpose of aiding and assisting members of the
10 Legislature and the executive departments of the state in the preparation
11 of bills, resolutions, and measures and in drafting the same in proper
12 form, and for this purpose there shall be assigned to the council for
13 such work, rooms in the State Capitol conveniently situated in reference
14 to the legislative chamber;

15 (7) To provide, through the Revisor of Statutes, for the publication
16 of supplements and replacement volumes of the statutes of Nebraska;

17 (8) To provide, through the Public Counsel, the office of Inspector
18 General for Nebraska Child Welfare, the office of Inspector General for
19 the Nebraska Correctional System, and any other offices or divisions
20 established within the Legislative Council, for both short-term and full-
21 time oversight of matters related to the operation of state government;

22 (9) ~~(8)~~ To provide, through the Executive Board of the Legislative
23 Council, for the development and maintenance of a publicly accessible,
24 indexed, digital Internet archive of closed-captioned video coverage of
25 the Legislature as provided in section 50-117; and

26 (10) ~~(9)~~ To set up subcommittees within the executive board to carry
27 out functions such as investigation of any area which the council ~~it~~ may
28 decide is in the public interest with power to employ such additional
29 personnel as may be needed to carry out the intent and activities of the
30 executive board or the Legislature.

31 Sec. 64. Section 50-406.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 50-406.01 (1)(a) If a member of the Legislature or the Public
3 Counsel presents a newly constituted Legislature with a subpoena issued
4 pursuant to section 50-406 or section 17, 27, or 47 of this act during a
5 previous legislative biennium and such subpoena is still pending:

6 (i) The Executive Board of the Legislative Council shall vote to
7 determine whether to renew the subpoena; and

8 (ii) If the subpoena was issued by a standing committee, such
9 committee shall also vote to determine whether to renew the subpoena.

10 (b) The vote or votes required in subdivision (1)(a) of this section
11 shall be taken no later than ten days after the day the regular session
12 of the Legislature commences as provided in Article III, section 10, of
13 the Constitution of Nebraska.

14 (c) If a majority of the members of the Executive Board of the
15 Legislative Council and, if applicable, of the committee, are in favor of
16 renewing the subpoena, the subpoena is renewed and relates back to its
17 previous issuance and such subpoena shall be considered to have been in
18 full force and effect for such entire period.

19 (2) The Legislature has the constitutional authority to determine
20 the rules of its proceedings. The question of the referencing of an
21 investigation or inquiry is not justiciable and cannot be challenged or
22 invalidated in a judicial proceeding.

23 Sec. 65. Section 50-407, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 50-407 (1) In case of disobedience on the part of any person,
26 including a representative of a state agency or political subdivision, to
27 comply with any subpoena issued pursuant to section 50-406 or in case of
28 the refusal of any witness to testify on any matters regarding which the
29 witness may be lawfully interrogated, the Legislative Council or the
30 standing committee or special legislative investigative or oversight
31 committee which issued the subpoena shall, at the hearing at which the

1 person was subpoenaed to appear, ~~hold a vote on whether to find the~~
2 person in contempt or unless the council or committee votes to find that
3 the failure to comply or refusal to testify was not willful.

4 (2) If the council or committee finds a person in contempt as
5 provided in subsection (1) of this section, the council or committee may,
6 by application or petition to the district court of Lancaster County,
7 request the court to compel obedience by proceedings for contempt as in
8 the case of disobedience of the requirements of a subpoena issued from
9 such court or a refusal to testify therein. The application or petition
10 shall be filed by the chairperson of the Executive Board of the
11 Legislative Council, and in the case of a standing or special legislative
12 investigative or oversight committee, such filing shall be joined by the
13 chairperson of such committee.

14 (3) If a witness who has been subpoenaed pursuant to section 50-406
15 or section 17, 27, or 47 of this act refuses to testify before the
16 council or a committee on the basis of the privilege against self-
17 incrimination, a court order may be requested pursuant to sections
18 29-2011.02 and 29-2011.03. In the case of a proceeding before the
19 Legislative Council, the request shall be filed by the chairperson of the
20 Executive Board of the Legislative Council. In the case of a proceeding
21 before a standing committee or special legislative investigative or
22 oversight committee, the request shall be filed by the chairperson of
23 such committee.

24 Sec. 66. Section 50-409, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 50-409 Each officer, board, commission, or department of state
27 government or any local government shall make such studies for and
28 furnish information to the Legislative Council, including any office or
29 division established within the Legislative Council, council as the
30 council ~~it~~ may require and as can be made within the limits of its
31 appropriation. Requests for information made under this section shall not

1 be subject to the procedures for public record requests provided in
2 sections 84-712 to 84-712.09.

3 Sec. 67. Section 73-401, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 73-401 Except for long-term care facilities subject to the
6 jurisdiction of the state long-term care ombudsman pursuant to the Long-
7 Term Care Ombudsman Act, the contracting agency shall ensure that any
8 contract which a state agency enters into or renews which agrees that a
9 corporation, partnership, business, firm, governmental entity, or person
10 shall provide health and human services to individuals or service
11 delivery, service coordination, or case management on behalf of the State
12 of Nebraska shall contain a clause requiring the corporation,
13 partnership, business, firm, governmental entity, or person to submit to
14 the jurisdiction of the Public Counsel pursuant to the Office of Public
15 Counsel Act ~~under sections 81-8,240 to 81-8,254~~ with respect to the
16 provision of services under the contract.

17 Sec. 68. Section 83-178, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 83-178 (1) The director shall establish and maintain, in accordance
20 with the regulations of the department, an individual file for each
21 person committed to the department. Each individual file shall include,
22 when available and appropriate, the following information on such person:

- 23 (a) Such person's ~~His or her~~ admission summary;
- 24 (b) Such person's ~~His or her~~ presentence investigation report;
- 25 (c) Such person's ~~His or her~~ classification report and
26 recommendation;
- 27 (d) Official records of such person's ~~his or her~~ conviction and
28 commitment as well as any earlier criminal records;
- 29 (e) Progress reports and admission-orientation reports;
- 30 (f) Reports of any disciplinary infractions and of their
31 disposition;

1 (g) Such person's ~~His or her~~ parole plan; and

2 (h) Other pertinent data concerning such person's ~~his or her~~
3 background, conduct, associations, and family relationships.

4 (2) Any decision concerning the classification, reclassification,
5 transfer to another facility, preparole preparation, or parole release of
6 a person committed to the department shall be made only after such
7 person's ~~his or her~~ file has been reviewed. The content of the file shall
8 be confidential and shall not be subject to public inspection except by
9 court order for good cause shown and shall not be accessible to any
10 person committed to the department. An inmate may obtain access to the
11 inmate's ~~his or her~~ medical records by request to the provider pursuant
12 to sections 71-8401 to 71-8407 notwithstanding the fact that such medical
13 records may be a part of the inmate's ~~his or her~~ individual department
14 file. The department retains the authority to withhold mental health and
15 psychological records of the inmate when appropriate.

16 (3) The program of each person committed to the department shall be
17 reviewed at regular intervals and recommendations shall be made to the
18 chief executive officer concerning changes in such person's program of
19 treatment, training, employment, care, and custody as are considered
20 necessary or desirable.

21 (4) The chief executive officer of the facility shall have final
22 authority to determine matters of treatment classification within such
23 officer's ~~his or her~~ facility and to recommend to the director the
24 transfer of any person committed to the department who is in such
25 officer's ~~his or her~~ custody.

26 (5) The director may at any time order a person committed to the
27 department to undergo further examination and study for additional
28 recommendations concerning such person's ~~his or her~~ classification,
29 custodial control, and rehabilitative treatment.

30 (6) Nothing in this section shall be construed to limit in any
31 manner the authority of the Public Counsel to inspect and examine the

1 records and documents of the department pursuant to the Office of Public
2 Counsel Act sections ~~81-8,240~~ to ~~81-8,254~~, except that the Public
3 Counsel's access to an inmate's medical or mental health records shall be
4 subject to the inmate's consent unless an inmate's death is being
5 investigated by the office of Public Counsel. The office of Public
6 Counsel shall not disclose an inmate's medical or mental health records
7 to anyone else, including any person committed to the department, except
8 as authorized by law.

9 Sec. 69. Section 83-1,125.01, Revised Statutes Supplement, 2023, is
10 amended to read:

11 83-1,125.01 (1) The Board of Parole and the Division of Parole
12 Supervision may maintain an individual file for each person who is under
13 the jurisdiction of the Board of Parole. Such file may be maintained
14 electronically and shall include, when available and appropriate, the
15 following information on such person:

- 16 (a) Admission summary;
- 17 (b) Presentence investigation report;
- 18 (c) Classification reports and recommendations;
- 19 (d) Official records of conviction and commitment along with any
20 earlier criminal records;
- 21 (e) Progress reports and admission-orientation reports;
- 22 (f) Reports of any disciplinary infractions and their disposition;
- 23 (g) Risk and needs assessments;
- 24 (h) Parole plan and parole placement and investigation worksheets;
- 25 (i) Decision guideline scores;
- 26 (j) Parole case plan;
- 27 (k) Parole progress reports and contact notes;
- 28 (l) Arrest and violation reports, including disposition;
- 29 (m) Parole proceedings orders and notices;
- 30 (n) Other documents related to parole supervision;
- 31 (o) Correspondence; and

1 (p) Other pertinent data concerning his or her background, conduct,
2 associations, and family relationships.

3 (2) Any decision concerning release on or revocation of parole or
4 imposition of sanctions shall be made only after the individual file has
5 been reviewed. The contents of the individual file shall be confidential
6 unless disclosed in connection with a public hearing and shall not be
7 subject to public inspection except by court order for good cause shown.
8 The contents of the file shall not be accessible to any person under the
9 jurisdiction of the Board of Parole. A person under the jurisdiction of
10 the board may obtain access to his or her medical records by request to
11 the provider pursuant to sections 71-8401 to 71-8407 notwithstanding the
12 fact that such medical records may be a part of his or her parole file.
13 The board and the Division of Parole Supervision have the authority to
14 withhold decision guideline scores, risk and needs assessment scores, and
15 mental health and psychological records of a person under the
16 jurisdiction of the board when appropriate.

17 (3) Nothing in this section limits in any manner the authority of
18 the Public Counsel to inspect and examine the records and documents of
19 the board and the Division of Parole Supervision pursuant to the Office
20 of Public Counsel Act ~~sections 81-8,240 to 81-8,254~~, except that the
21 Public Counsel's access to the medical or mental health records of a
22 person under the jurisdiction of the board shall be subject to his or her
23 consent. The office of Public Counsel shall not disclose the medical or
24 mental health records of a person under the jurisdiction of the board to
25 anyone else, including any other person under the jurisdiction of the
26 board, except as authorized by law.

27 (4) For any person under the jurisdiction of the Board of Parole,
28 the board shall provide such person's (a) name, (b) parole officer, and
29 (c) conditions of parole to the Nebraska Commission on Law Enforcement
30 and Criminal Justice which shall provide access to such information to
31 law enforcement agencies through the state's criminal justice information

1 system.

2 Sec. 70. The Revisor of Statutes shall assign sections 1 to 58 of
3 this act to Chapter 50.

4 Sec. 71. Original sections 28-711, 43-4302, 43-4303, 43-4317,
5 43-4320, 43-4321, 43-4322, 43-4324, 43-4326, 43-4329, 43-4330, 47-901,
6 47-902, 47-903, 47-904, 47-905, 47-907, 47-908, 47-909, 47-910, 47-911,
7 47-912, 47-913, 47-914, 47-915, 47-916, 47-917, 47-918, 47-919, 47-920,
8 50-406.01, 50-407, 50-409, 73-401, 81-8,240, 81-8,248, and 83-178,
9 Reissue Revised Statutes of Nebraska, sections 28-712.01, 43-4301,
10 43-4318, 43-4323, 43-4325, 43-4327, 43-4328, 43-4331, 43-4332, 50-401.01,
11 81-8,241, 81-8,242, 81-8,243, 81-8,244, 81-8,245, 81-8,246, 81-8,247,
12 81-8,249, 81-8,250, 81-8,251, 81-8,252, 81-8,253, and 81-8,254, Revised
13 Statutes Cumulative Supplement, 2022, and sections 43-2,108, 50-402, and
14 83-1,125.01, Revised Statutes Supplement, 2023, are repealed.

15 Sec. 72. The following sections are outright repealed: Sections
16 43-4304, 43-4304.01, 43-4304.02, 43-4305, 43-4306, 43-4306.01, 43-4307,
17 43-4307.01, 43-4308, 43-4309, 43-4310, 43-4311, 43-4312, 43-4313,
18 43-4314, 43-4315, 43-4316, 43-4319, and 47-906, Reissue Revised Statutes
19 of Nebraska.

20 Sec. 73. Since an emergency exists, this act takes effect when
21 passed and approved according to law.