

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB1130

Hearing Date: February 14, 2008

Committee On: Judiciary

Introducer(s): (Synowiecki)

Title: Provide for the merger of adult probation and parole services

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

5 Yes	Senators Ashford, Lathrop, McDonald, Pedersen, Schimek
0 No	
3 Absent	Senators Chambers, McGill, Pirsch
0 Present, not voting	

Proponents:

Senator Synowiecki
Chief Justice Heavican
Bob Houston
Larry Dix

Representing:

Introducer
Nebraska Supreme Court
Director of Corrections
NACO

Opponents:

Richard Chisolm
Kathryn Liebers
Tim Perry

Representing:

Citizens of Rural Nebraska
Self
Self

Neutral:
Simera Reynolds

Representing:
Director of MADD

Summary of purpose and/or change: LB 1130 would combine the administration of probation and parole. The bill creates the Office of Adult Probation and Parole Administration under the Department of Correctional Services as of July 1, 2009. There is also created the Office of Court Services under the Supreme Court for purposes of pre-sentence investigations.

Under the provisions of this bill, the Director of the Department of Correctional Services, with the consent of the Board of Parole, would appoint an Adult Probation and Parole Administrator, who has the authority to divide the state into probation and parole districts and to appoint district probation and parole officers and deputies. The Administrator would also be responsible for adult probation investigations, for the direct supervision of persons placed on probation, and for nonprobation-based programs and services authorized by inter-local agreements.

The Adult Probation and Parole Administrator, in consultation with the Community Corrections Council, shall direct the funding authorized by probation and parole fees to be used to augment operational or personnel costs associated with the development, implementation, and evaluation of enhanced parole and probation-based programs and services and purchase services to provide such programs aimed at enhancing adult parole and probation and non-probation based programs in the community. These services shall include specialized units of supervision, related equipment purchases and training, and programs developed by or through the Council that address a parolee or probationer's vocational, educational, mental health, behavioral or substance abuse treatment needs. The bill provides that no person employed as a probation or parole officer or support staff within the Probation or Parole Administration on the operative date of this section shall incur a loss of income due to this Act.

The Supreme Court shall appoint a Court Services Administrator for the Office of Court Services who shall maintain policy and procedure for the court services system with the concurrence of the Supreme Court. The Administrator shall also be responsible for juvenile intake services, for adult presentence investigations, for juvenile predisposition investigations, for the direct supervision of juveniles placed on probation, and for adult and juvenile non-probation based services.

LB 1130 creates the Probation and Parole Advisory Board consisting of:

- The Chief Justice of the Supreme Court or his or her designee
- One county court judge, appointed by the Chief Justice
- One district court judge, appointed by the Chief Justice
- The Director of Correctional Services
- The Court Services Administrator
- The Adult Probation and Parole Administrator

The advisory board shall meet at least twice each year and may meet more often upon the call of the Chief Justice. The advisory board shall monitor the operation, professionalism, and success of the Office of Adult Probation and Parole Services and its employees and ensure open lines of communication between the Department of Correctional Services and the Judiciary. All decisions regarding the budget and allocation of resources of the office shall remain with the Director of Correctional Services.

LB 1130 would also create the following Funds:

- The Office of Adult Probation and Parole Services Automation Cash Fund is created. The administrator shall administer the fund. The fund shall only be used to support automation expenses of the office.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

- The Office of Adult Probation and Parole Services Education Fund is created. The fund shall consist of money remitted pursuant to sections 24-205 and 33-154 and shall be used to support mandatory training and education for employees of the office. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

LB 1130 would also transfer from existing cash funds and create the following new cash funds:

- The Probation and Parole Cash Fund. Seventy-five percent of the funds collected pursuant to subdivisions (2) (m) and (2) (o) of section 29-2262 shall be remitted to the State Treasurer for credit to the fund. Expenditures from the fund shall include, but not be limited to, supplementing any state funds necessary to support the costs of the services for which the funds were collected. On the operative date of this section, seventy-five percent of the money in the Probation Cash Fund shall be transferred to the Probation and Parole Cash Fund and twenty-five percent of the money in the Probation Cash Fund on such date shall be transferred to the Court Services Cash Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.
- The State Probation and Parole Contractual Services Cash Fund is created. On the operative date of this section, any money in the State Probation Contractual Services Cash Fund shall be transferred to the Court Services Contractual Services Cash Fund. The fund shall consist only of payments received by the state office pursuant to contractual agreements with local political subdivisions for services provided by the office. The fund shall only be used to pay for services provided by the office to local political subdivisions which enter into contractual agreements with the office. The fund shall be administered by the probation administrator. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The intent of LB 1130 is to combine probation and parole services under one administrative organization in order to provide a more efficient, economical and seamless delivery of community-based services for persons sentenced by the courts to probation or by the Board of Parole to parole supervision within the State of Nebraska.

Explanation of amendments, if any: AM 2330 TO LB 1130

AM 2330 would amend and harmonize LB 1130 in the Following ways:

Section 2. Definitions:

- (1) Chief community corrections officer means the community corrections officer in charge of a community corrections district;
- (2) Committed offender has the definition found in section 83-170;
- (3) Community corrections officer means an employee of the department who supervises probationers and parolees;
- (4) Court means a district court, county court, or juvenile court as defined in section 43-245;
- (5) Department means the Department of Community Corrections;
- (6) Director means the Director of Community Corrections;
- (7) Parole means release by decision of the Board of Parole from incarceration in an adult correctional facility;
- (8) Parolee means a person on parole;
- (9) Probation and parole officer means an employee of the department who supervises probationers and parolees;

(10) Probationer has the definition found in 29-2246.

Section 3. Provides that the Adult Probation and Parole Services would now be called, The Department of Community Corrections. (Under green copy of the bill, this agency was the Office of Adult Probation and Parole Services)

Section 4. Provides that the Chief Executive Officer of the Department of Community Corrections will be called the Director of Community Corrections. The Director shall be appointed to the position by the Governor, after consulting the Probation and Parole Advisory Board, and approved by a majority of the Legislature. (Under green copy this person was called the Probation and Parole Administrator and was hired by the Director of the Department of Corrections.)

Section 11. Subsection (4) of this section is amended to provide that, "each county shall provide office space equivalent to the office space available to probation and parole officers on the operative date of this section."

Section 20. Provides that the Chairperson of the Board of Parole shall:

- (a) Supervise the administration and operation of the board;
- (b) Serve in an advisory capacity to the Director of Community Corrections in administering parole services;
- (c) Interpret the parole program to the public with a view toward developing a broad base of public support;
- (d) Conduct research for the purpose of evaluating and improving the effectiveness of the parole system;
- (e) Recommend parole legislation to the Governor;
- (f) Adopt and promulgate rules and regulations for the administration and operation of the board;
- (g) Serve in an advisory capacity to the director with respect to matters relating to employees of the department; and
- (h) Exercise all other powers and perform all other duties necessary and proper in carrying out his or her responsibilities as chairperson.

Section 21. Creation of the Probation Parole Advisory Board, Duties for the Advisory Board.

Members to include:

1. Chief Justice or his/her designee shall serve as the Chairperson of the Board
2. One county court judge, appointed by the Chief Justice
3. One district court judge, appointed by the Chief Justice
4. The Director of Correctional Services
5. The Chairperson of the Board of Parole
6. The Court Services Administrator
7. The Director of Community Corrections

The advisory board shall meet at least twice each year and may meet more often upon call of the Chief Justice. The advisory board shall meet at least once each month prior to the appointment of the Director of Community Corrections under section 4 of the Act. As noted above, once the Director is appointed he/she will join the Advisory Board. Also provides that the Chairperson of the Judiciary Committee will consult with the Advisory Board to determine if additional legislation needs to be introduced during the 101st legislative session to help provide a seamless transition from the Departments of Probation and Parole to the Department of Community Corrections.

Section 56. Changes section 56 by clearly identifying that the Department of Community Corrections shall establish and enforce the standards regarding adult intensive supervision probation and that the Office of Court Services shall establish and enforce the standards regarding juvenile intensive supervision probation.

Creates the following New Cash Funds:

Department of Community Corrections Automation Cash Fund, Department of Community Corrections Education Fund, and provides for investment by the State Investment Officer. (Section 12.)

Creation of the Department of Community Corrections Cash Fund and instructions for investment of remaining funds. (Section 13.)

Creation of the Community Corrections Contractual Services Cash Fund and instructions for investment. (Section 14.)

Creation of the Court Services Cash Fund (Section 44.)

Creation of the Court Services Contractual Services Cash Fund (Section 45.)

Creation of the Court Services Program Cash Fund (Section 46.)

Senator Brad Ashford, Chairperson