

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 406

Introduced by Pedersen, 39

Read first time January 16, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Treatment and Corrections
2 Act; to amend section 83-170, Reissue Revised Statutes
3 of Nebraska, and sections 83-192 and 83-1,115, Revised
4 Statutes Cumulative Supplement, 2006; to provide for
5 presumptive parole release dates and objective parole
6 guidelines; to harmonize provisions; and to repeal the
7 original sections.

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

1 Section 1. Section 83-170, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-170 ~~As used in~~ For purposes of the Nebraska Treatment
4 and Corrections Act, unless the context otherwise requires:

5 (1) Administrator ~~shall mean~~ means the Parole
6 Administrator;

7 (2) Board ~~shall mean~~ means the Board of Parole;

8 (3) Committed offender ~~shall mean~~ means any person who,
9 under any provision of law, is sentenced or committed to a facility
10 operated by the department or is sentenced or committed to the
11 department other than a person adjudged to be as described in
12 subdivision (1), (2), (3)(b), or (4) of section 43-247 by a
13 juvenile court;

14 (4) Department ~~shall mean~~ means the Department of
15 Correctional Services;

16 (5) Director ~~shall mean~~ means the Director of
17 Correctional Services;

18 (6) Facility ~~shall mean~~ means any prison, reformatory,
19 training school, reception center, community guidance center, group
20 home, or other institution operated by the department;

21 (7) Good time ~~shall mean~~ means any reduction of sentence
22 granted pursuant to sections 83-1,107 and 83-1,108;

23 (8) Maximum term ~~shall mean~~ means the maximum sentence
24 provided by law or the maximum sentence imposed by a court,
25 whichever is shorter;

1 (9) Minimum term ~~shall mean~~ means the minimum sentence
2 provided by law or the minimum sentence imposed by a court,
3 whichever is longer;

4 (10) Pardon authority ~~shall mean~~ means the power to remit
5 fines and forfeitures and to grant respites, reprieves, pardons, or
6 commutations;

7 (11) Parole term ~~shall mean~~ means the time from release
8 on parole to the completion of the maximum term, reduced by good
9 time; ~~and~~

10 (12) Person committed to the department ~~shall mean~~
11 means any person sentenced or committed to a facility within
12 the department; ~~and -~~

13 (13) Presumptive parole release date means the
14 presumptive parole release date set by the board pursuant to
15 section 83-192.

16 Sec. 2. Section 83-192, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 83-192 (1) The Board of Parole shall:

19 (a) Determine the time of release on parole of committed
20 offenders eligible for such release;

21 (b) Fix the conditions of parole, revoke parole, issue
22 or authorize the issuance of warrants for the arrest of parole
23 violators, and impose other sanctions short of revocation for
24 violation of conditions of parole;

25 (c) Determine the time of discharge from parole;

1 (d) Visit and inspect any facility, state or local, for
2 the detention of persons charged with or convicted of an offense
3 and for the safekeeping of such other persons as may be remanded to
4 such facility in accordance with law;

5 (e) Within two years after July 1, 2006, implement
6 the utilization of a validated risk and needs assessment in
7 coordination with the Department of Correctional Services and the
8 Office of Parole Administration. The assessment shall be prepared
9 and completed by the department or the office for use by the board
10 in determining release on parole;

11 (f) Review the record of every committed offender as
12 follows:

13 (i) If a committed offender has a parole eligibility date
14 within five years of his or her date of incarceration, his or her
15 record shall be reviewed annually;

16 (ii) If a committed offender has a parole eligibility
17 date which is more than five but not more than ten years from his
18 or her date of incarceration, his or her record shall be reviewed
19 during the first year of incarceration, and when he or she is
20 within three years of his or her earliest parole eligibility date,
21 his or her record shall be reviewed annually;

22 (iii) If a committed offender has a parole eligibility
23 date which is more than ten but not more than thirty years from his
24 or her date of incarceration, his or her record shall be reviewed
25 during the first year of incarceration, every five years thereafter

1 until he or she is within five years of his or her earliest parole
2 eligibility date, and annually thereafter;

3 (iv) If a committed offender has a parole eligibility
4 date which is more than thirty years from his or her date of
5 incarceration, his or her record shall be reviewed during his or
6 her first, tenth, and twentieth year of incarceration, and when
7 he or she is within five years of his or her earliest parole
8 eligibility date, his or her record shall be reviewed annually; and

9 (v) If a committed offender is serving a minimum life
10 sentence, his or her record shall be reviewed during the first
11 year of incarceration and every ten years thereafter until such
12 time as the sentence is commuted. If such sentence is commuted, the
13 committed offender's record shall be reviewed annually when he or
14 she is within five years of his or her earliest parole eligibility
15 date; ~~and~~

16 (vi) The Such review shall include the circumstances of
17 the offense, the presentence investigation report, the committed
18 offender's previous social history and criminal record, his or
19 her conduct, employment, and attitude during commitment, and the
20 reports of such physical and mental examinations as have been
21 made. The board shall meet with such committed offender and counsel
22 him or her concerning his or her progress and prospects for
23 future parole. The review schedule shall be based on court-imposed
24 sentences or statutory minimum sentences, whichever are greater.
25 Nothing in such schedule shall prohibit the board from reviewing a

1 committed offender's case at any time;

2 (vii) At the time of the first review pursuant to
3 this section, the board shall set a presumptive parole release
4 date for the committed offender based upon objective parole
5 guidelines adopted by the board pursuant to this section and
6 upon an evaluation of the information described in section 83-1,115
7 relating to the committed offender. The purpose of the presumptive
8 parole release date is to give the committed offender an idea of
9 the tentative date when his or her release on parole is likely, and
10 setting of a presumptive parole release date is not a commitment
11 by the board or the department to release a committed offender on
12 parole on such date; and

13 (viii) At the time of any subsequent review pursuant
14 to this section, the original presumptive parole release date
15 may be changed by the board only if such change is based upon
16 documentation of conduct by the committed offender which is
17 relevant to the objective parole guidelines and which occurred
18 after the board set the original presumptive parole release date;

19 (g) Appoint and remove all employees of the board as
20 prescribed by the State Personnel System and delegate appropriate
21 powers and duties to them; and

22 (h) Develop and publish objective parole guidelines to be
23 utilized by the board in evaluating committed offenders and setting
24 presumptive parole release dates. Such guidelines shall include the
25 considerations described in section 83-1,114 and such other factors

1 as the board deems appropriate; and

2 ~~(h)~~ (i) Exercise all powers and perform all duties
3 necessary and proper in carrying out its responsibilities ~~of the~~
4 ~~board~~ under the Nebraska Treatment and Corrections Act.

5 (2) The chairperson of the board shall:

6 (a) Supervise the administration and operation of the
7 board;

8 (b) Serve in an advisory capacity to the director in
9 administering parole services within any facility and in the
10 community;

11 (c) Interpret the parole program to the public with a
12 view toward developing a broad base of public support;

13 (d) Conduct research for the purpose of evaluating and
14 improving the effectiveness of the parole system;

15 (e) Recommend parole legislation to the Governor;

16 (f) Adopt and promulgate rules and regulations for the
17 administration and operation of the board; and

18 (g) Exercise all other powers and perform all other
19 duties necessary and proper in carrying out his or her
20 responsibilities as chairperson.

21 (3) The provisions of this section shall not prohibit a
22 committed offender from requesting that the board review his or her
23 record, except that the board shall not be required to review a
24 committed offender's record more than once a year.

25 Sec. 3. Section 83-1,115, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 83-1,115 ~~Before~~ In setting a committed offender's
3 presumptive parole release date and before making a determination
4 regarding a committed offender's release on parole, the Board of
5 Parole shall consider the following:

6 (1) A report prepared by the institutional caseworkers
7 relating to his or her personality, social history, and adjustment
8 to authority, and including any recommendations which the staff of
9 the facility may make;

10 (2) All official reports of his or her prior criminal
11 record, including reports and records of earlier probation and
12 parole experiences;

13 (3) The presentence investigation report;

14 (4) Recommendations regarding his or her parole made at
15 the time of sentencing by the sentencing judge;

16 (5) The reports of any physical, mental, and psychiatric
17 examinations of the offender;

18 (6) Any relevant information which may be submitted by
19 the offender, his or her attorney, the victim of his or her crime,
20 or other persons;

21 (7) The risk and needs assessment completed pursuant to
22 section 83-192; and

23 (8) Such other relevant information concerning the
24 offender as may be reasonably available.

25 Sec. 4. Original section 83-170, Reissue Revised Statutes

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1 of Nebraska, and sections 83-192 and 83-1,115, Revised Statutes
2 Cumulative Supplement, 2006, are repealed.