

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 540

Introduced by Synowiecki, 7; Cornett, 45; Howard, 9; Kopplin,
3; Kruse, 13; Mines, 18; Pahls, 31; Pedersen, 39;
Preister, 5; Rogert, 16; Stuthman, 22

Read first time January 17, 2007

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to probation and parole; to adopt the Probation
- 2 and Parole Services Merger Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known and
2 may be cited as the Probation and Parole Services Merger Act.

3 Sec. 2. It is the intent of the Legislature that the
4 Probation and Parole Services Merger Act be construed as enabling
5 the rights set forth in Article II, section 1, of the Constitution
6 of Nebraska.

7 Sec. 3. The Legislature finds that:

8 (1) Nebraska's probation and parole services function
9 administratively under different branches of state government.
10 Probation services are currently under the judicial branch while
11 parole is a function of the Department of Correctional Services in
12 the executive branch;

13 (2) Probation and parole offender-based services share
14 many characteristics relative to: Community supervision of
15 offenders; risk assessment; enforcement of probation and parole
16 terms and conditions; offender accountability; initiation of
17 filings relating to probation and parole violations; providing
18 offender assistance; and appropriate referral for community-based
19 services, including, but not limited to, substance abuse and mental
20 health evaluation and treatment, housing assistance, and workforce
21 development;

22 (3) Laws 1971, LB 680, which statutorily established
23 probation service delivery in the judicial branch, provided the
24 authority for parole officers to supervise probationers;

25 (4) Laws 2003, LB 46, provided for the establishment

1 of community-based programs, services, and facilities for both
2 probationers and parolees. Access to and participation in program
3 services and facilities are shared by probationers and parolees.
4 Probation officers and parole officers are assigned supervision of
5 probationers and parolees that concurrently access and participate
6 in community-based programs and services;

7 (5) In 1995, 2000, 2004, and 2005, legislation was
8 introduced which sought to administratively merge the operations of
9 probation and parole services;

10 (6) An amendment to the Constitution of Nebraska was
11 approved at the statewide general election on November 7, 2006,
12 providing for a constitutional exemption to the separation
13 of powers doctrine relative to offender services conducted by
14 probation and parole officers. Adoption of the constitutional
15 amendment removes constitutional barriers to developing a uniform
16 and consistent system of probation and parole service delivery;

17 (7) State-sponsored services and resources that
18 substantively assist and are useful to offenders as they navigate
19 toward rehabilitation are all located in the executive branch.
20 These services and resources include, but are not limited to,
21 work force development, housing assistance, veterans' assistance,
22 public behavioral health, public medical assistance, child care
23 assistance, and temporary assistance to needy families;

24 (8) Administrative frameworks and oversight can be
25 duplicative when the underlying service mission is essentially

1 similar;

2 (9) It is appropriate for the Legislature to study the
3 effectiveness, efficiency, and responsiveness of Nebraska's current
4 administrative assignment of probation and parole service delivery;
5 and

6 (10) Fundamental reform of probation and parole service
7 delivery systems may be necessary in order to ensure an appropriate
8 level of consistent administrative oversight and efficiency and to
9 promote the utilization of best practice service delivery.

10 Sec. 4. Pursuant to adoption of the amendment to Article
11 II, section 1, of the Constitution of Nebraska, in 2006, the
12 Probation and Parole Services Merger Act is intended to provide an
13 adequate analysis and a plan for the state to achieve a probation
14 and parole service delivery model that ensures administrative
15 efficiency, promotes offender services that cohesively interfaces
16 with executive branch rehabilitative resources and services, and
17 provides enhanced public safety and victim services.

18 Sec. 5. (1) It is the intent of the Legislature to
19 provide for the development of a probation and parole merger plan
20 for the State of Nebraska and the enactment of necessary and
21 appropriate legislation to implement such plan.

22 (2) It is the intent of the Legislature that such plan
23 consider and address:

24 (a) Absence of a seamless continuum of offender services
25 in the current system;

1 (b) Lack of coordination with executive branch agencies
2 which provide state-sponsored services and resources that
3 substantively assist in offender rehabilitation;

4 (c) Comparative analysis of other state's probation and
5 parole service delivery infrastructures, including a comparison of
6 probation and parole officer salary structure; and

7 (d) Transition issues, including, but not limited
8 to, resource integration, employment classifications, employee
9 collective bargaining rights, and service delivery during
10 transition.

11 Sec. 6. The Governor and the chairperson of the Judiciary
12 Committee of the Legislature shall each designate one person who
13 shall be responsible to the Governor and the committee for the
14 development of a probation and parole merger plan for the State
15 of Nebraska. Such plan shall be developed in consultation with
16 the Governor, the committee, and the Policy Cabinet established in
17 section 81-3009. Monthly reports shall be provided to the Governor
18 and the committee during preparation of the plan. Such reports
19 shall be reviewed by the Probation and Parole Merger Commission
20 established in section 7 of this act and shall be available to
21 the public. Such plan shall be submitted to the Governor and the
22 Legislature no later than December 1, 2007, and shall include draft
23 legislation necessary to support such plan. The committee shall
24 conduct a public hearing on or before December 15, 2007, to receive
25 public input regarding the plan.

1 Sec. 7. (1) The Probation and Parole Merger Commission is
2 created. The commission shall have ten members as follows:

3 (a) Three members of the Legislature, appointed by the
4 chairperson of the Judiciary Committee of the Legislature;

5 (b) The probation administrator or a representative of
6 the Office of Probation Administration appointed by the probation
7 administrator;

8 (c) The Parole Administrator or a representative of
9 the Office of Parole Administration, appointed by the Parole
10 Administrator;

11 (d) One probation officer, appointed by the chairperson
12 of the Judiciary Committee of the Legislature;

13 (e) One parole officer, appointed by the chairperson of
14 the Judiciary Committee of the Legislature;

15 (f) The Chief Justice of the Nebraska Supreme Court or
16 his or her designee;

17 (g) The Director of Corrections or his or her designee;
18 and

19 (h) One member of the Policy Cabinet established under
20 section 81-3009, to be appointed by the Governor.

21 (2) The commission shall meet monthly with persons
22 designated by the Governor and the chairperson of the Judiciary
23 Committee under section 6 of this act and shall review monthly
24 reports submitted by such designees under such section. Minutes of
25 such meetings shall be available to the public and provided to the

1 Governor and members of the Judiciary Committee of the Legislature.

2 (3) The commission shall review the probation and parole
3 merger plan submitted under section 6 of this act and shall provide
4 recommendations relating to the plan to the Governor and the
5 Legislature on or before December 14, 2007.

6 (4) Members of the commission shall serve without
7 compensation but shall be reimbursed for their actual and necessary
8 expenses as provided in sections 81-1174 to 81-1177.

9 Sec. 8. The chairperson of the Judiciary Committee of the
10 Legislature, in consultation with the committee, may prepare and
11 introduce legislation in the One Hundredth Legislature, Second
12 Session, to implement the probation and parole merger plan
13 developed under section 6 of this act.

14 Sec. 9. The Probation and Parole Services Merger Act
15 terminates on January 1, 2008.