

LEGISLATURE OF NEBRASKA
 ONE HUNDRED SECOND LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 390

Final Reading

Introduced by Ashford, 20; at the request of the Governor.

Read first time January 13, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to state agencies; to amend sections 29-2252,
 2 29-2255, 29-2261, 29-2521.02, 47-621, 47-622, 47-624,
 3 47-624.01, 47-627, 47-628, 47-629, 47-632, 47-634,
 4 81-8,239.01, 81-1403, 81-1404, 81-1423, 81-1425,
 5 83-1,102, 83-1,107.02, 83-4,126, 83-4,131, and 84-1410,
 6 Reissue Revised Statutes of Nebraska; sections
 7 29-2262.07, 81-1447, 81-1801, 81-1801.02, 81-1818, and
 8 81-1822, Revised Statutes Cumulative Supplement, 2010;
 9 sections 19, 20, 22, 23, and 240, Legislative Bill 374,
 10 One Hundred Second Legislature, First Session, 2011; and
 11 section 7, Legislative Bill 376, One Hundred Second
 12 Legislature, First Session, 2011; to eliminate the
 13 Community Corrections Council, the Probation and Parole
 14 Services Study Act, and sentencing guidelines; to create
 15 and provide duties for the Community Corrections Division
 16 of the Nebraska Commission on Law Enforcement and

1 Criminal Justice; to change provisions relating to the
2 Probation Program Cash Fund; to change powers, duties,
3 and provisions relating to the Nebraska Commission on Law
4 Enforcement and Criminal Justice, the Office of Violence
5 Prevention, the Jail Standards Board, and the Nebraska
6 Law Enforcement Training Center; to change and eliminate
7 provisions relating to the Nebraska Crime Victim's
8 Reparations Act and the Community Trust; to change
9 provisions relating to closed sessions of public bodies;
10 to eliminate obsolete provisions; to harmonize
11 provisions; to appropriate funds to aid in carrying out
12 the provisions of Legislative Bill 390, One Hundred
13 Second Legislature, First Session, 2011; to change
14 appropriations; to provide operative dates; to repeal the
15 original sections; to outright repeal sections 47-623,
16 47-625, 47-630, 47-631, 47-635, 47-636, 47-637, 47-638,
17 and 47-639, Reissue Revised Statutes of Nebraska; and to
18 declare an emergency.

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

1 Section 1. Section 29-2252, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 29-2252 The administrator shall:

4 (1) Supervise and administer the office;

5 (2) Establish and maintain policies, standards, and
6 procedures for the system, with the concurrence of the Supreme Court;

7 (3) Prescribe and furnish such forms for records and
8 reports for the system as shall be deemed necessary for uniformity,
9 efficiency, and statistical accuracy;

10 (4) Establish minimum qualifications for employment as a
11 probation officer in this state and establish and maintain such
12 additional qualifications as he or she deems appropriate for
13 appointment to the system. Qualifications for probation officers
14 shall be established in accordance with subsection (4) of section
15 29-2253. An ex-offender released from a penal complex or a county
16 jail may be appointed to a position of deputy probation or parole
17 officer. Such ex-offender shall maintain a record free of arrests,
18 except for minor traffic violations, for one year immediately
19 preceding his or her appointment;

20 (5) Establish and maintain advanced periodic inservice
21 training requirements for the system;

22 (6) Cooperate with all agencies, public or private, which
23 are concerned with treatment or welfare of persons on probation;

24 (7) Organize and conduct training programs for probation
25 officers;

1 (8) Collect, develop, and maintain statistical
2 information concerning probationers, probation practices, and the
3 operation of the system;

4 (9) Interpret the probation program to the public with a
5 view toward developing a broad base of public support;

6 (10) Conduct research for the purpose of evaluating and
7 improving the effectiveness of the system;

8 (11) Adopt and promulgate such rules and regulations as
9 may be necessary or proper for the operation of the office or system;

10 (12) Transmit a report during each even-numbered year to
11 the Supreme Court on the operation of the office for the preceding
12 two calendar years which shall include a historical analysis of
13 probation officer workload, including participation in non-probation-
14 based programs and services. The report shall be transmitted by the
15 Supreme Court to the Governor and the Clerk of the Legislature;

16 (13) Administer the payment by the state of all salaries,
17 travel, and actual and necessary expenses incident to the conduct and
18 maintenance of the office;

19 (14) ~~In consultation with the Community Corrections~~
20 ~~Council, use~~ Use the funds provided under section 29-2262.07 to
21 augment operational or personnel costs associated with the
22 development, implementation, and evaluation of enhanced probation-
23 based programs and non-probation-based programs and services in which
24 probation personnel or probation resources are utilized pursuant to
25 an interlocal agreement authorized by subdivision (16) of this

1 section and to purchase services to provide such programs aimed at
2 enhancing adult probationer or non-probation-based program
3 participant supervision in the community and treatment needs of
4 probationers and non-probation-based program participants. Enhanced
5 probation-based programs include, but are not limited to, specialized
6 units of supervision, related equipment purchases and training, and
7 programs developed by or through the council that address a
8 probationer's vocational, educational, mental health, behavioral, or
9 substance abuse treatment needs;

10 (15) Ensure that any risk or needs assessment instrument
11 utilized by the system be periodically validated;

12 (16) Have the authority to enter into interlocal
13 agreements in which probation resources or probation personnel may be
14 utilized in conjunction with or as part of non-probation-based
15 programs and services. Any such interlocal agreement shall comply
16 with section 29-2255; and

17 (17) Collaborate with the Community Corrections Division
18 of the Nebraska Commission on Law Enforcement and Criminal Justice
19 and the Office of Parole Administration to develop rules governing
20 the participation of parolees in community corrections programs
21 operated by the Office of Probation Administration; and

22 ~~(17)~~-(18) Exercise all powers and perform all duties
23 necessary and proper to carry out his or her responsibilities.

24 Each member of the Legislature shall receive a copy of
25 the report required by subdivision (12) of this section by making a

1 request for it to the administrator.

2 Sec. 2. Section 29-2255, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 29-2255 Any interlocal agreement authorized by
5 subdivision (16) of section 29-2252 shall require the political
6 subdivision party to the agreement to provide sufficient resources to
7 cover all costs associated with the participation of probation
8 personnel or use of probation resources other than costs covered by
9 funds provided pursuant to section 29-2262.07 or substance abuse
10 treatment costs covered by funds appropriated to the Community
11 Corrections Council for such purpose.

12 Sec. 3. Section 29-2261, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 29-2261 (1) Unless it is impractical to do so, when an
15 offender has been convicted of a felony other than murder in the
16 first degree, the court shall not impose sentence without first
17 ordering a presentence investigation of the offender and according
18 due consideration to a written report of such investigation. When an
19 offender has been convicted of murder in the first degree and (a) a
20 jury renders a verdict finding the existence of one or more
21 aggravating circumstances as provided in section 29-2520 or (b)(i)
22 the information contains a notice of aggravation as provided in
23 section 29-1603 and (ii) the offender waives his or her right to a
24 jury determination of the alleged aggravating circumstances, the
25 court shall not commence the sentencing determination proceeding as

1 provided in section 29-2521 without first ordering a presentence
2 investigation of the offender and according due consideration to a
3 written report of such investigation.

4 (2) A court may order a presentence investigation in any
5 case, except in cases in which an offender has been convicted of a
6 Class IIIA misdemeanor, a Class IV misdemeanor, a Class V
7 misdemeanor, a traffic infraction, or any corresponding city or
8 village ordinance.

9 (3) The presentence investigation and report shall
10 include, when available, an analysis of the circumstances attending
11 the commission of the crime, the offender's history of delinquency or
12 criminality, physical and mental condition, family situation and
13 background, economic status, education, occupation, and personal
14 habits, and any other matters that the probation officer deems
15 relevant or the court directs to be included. All local and state
16 police agencies and Department of Correctional Services adult
17 correctional facilities shall furnish to the probation officer copies
18 of such criminal records, in any such case referred to the probation
19 officer by the court of proper jurisdiction, as the probation officer
20 shall require without cost to the court or the probation officer.

21 Such investigation shall also include:

22 (a) Any written statements submitted to the county
23 attorney by a victim; and

24 (b) Any written statements submitted to the probation
25 officer by a victim.

1 (4) If there are no written statements submitted to the
2 probation officer, he or she shall certify to the court that:

3 (a) He or she has attempted to contact the victim; and

4 (b) If he or she has contacted the victim, such officer
5 offered to accept the written statements of the victim or to reduce
6 such victim's oral statements to writing.

7 For purposes of subsections (3) and (4) of this section,
8 the term victim shall be as defined in section 29-119.

9 (5) Before imposing sentence, the court may order the
10 offender to submit to psychiatric observation and examination for a
11 period of not exceeding sixty days or such longer period as the court
12 determines to be necessary for that purpose. The offender may be
13 remanded for this purpose to any available clinic or mental hospital,
14 or the court may appoint a qualified psychiatrist to make the
15 examination. The report of the examination shall be submitted to the
16 court.

17 (6) Any presentence report or psychiatric examination
18 shall be privileged and shall not be disclosed directly or indirectly
19 to anyone other than a judge, probation officers to whom an
20 offender's file is duly transferred, the probation administrator or
21 his or her designee, or others entitled by law to receive such
22 information, including personnel and mental health professionals for
23 the Nebraska State Patrol specifically assigned to sex offender
24 registration and community notification for the sole purpose of using
25 such report or examination for assessing risk and for community

1 notification of registered sex offenders. For purposes of this
2 subsection, mental health professional means (a) a practicing
3 physician licensed to practice medicine in this state under the
4 Medicine and Surgery Practice Act, (b) a practicing psychologist
5 licensed to engage in the practice of psychology in this state as
6 provided in section 38-3111, or (c) a practicing mental health
7 professional licensed or certified in this state as provided in the
8 Mental Health Practice Act. The court may permit inspection of the
9 report or examination of parts thereof by the offender or his or her
10 attorney, or other person having a proper interest therein, whenever
11 the court finds it is in the best interest of a particular offender.
12 The court may allow fair opportunity for an offender to provide
13 additional information for the court's consideration.

14 (7) If an offender is sentenced to imprisonment, a copy
15 of the report of any presentence investigation or psychiatric
16 examination shall be transmitted immediately to the Department of
17 Correctional Services. Upon request, the Board of Parole or the
18 Office of Parole Administration may receive a copy of the report from
19 the department.

20 ~~(8) Notwithstanding subsection (6) of this section, the~~
21 ~~Nebraska Commission on Law Enforcement and Criminal Justice under the~~
22 ~~direction and supervision of the Chief Justice of the Supreme Court~~
23 ~~shall have access to presentence investigations and reports for the~~
24 ~~sole purpose of carrying out the study required under subdivision (7)~~
25 ~~of section 81-1425. The commission shall treat such information as~~

1 ~~confidential, and nothing identifying any individual shall be~~
2 ~~released by the commission.~~

3 ~~(9)-(8)~~ Notwithstanding subsection (6) of this section,
4 the Supreme Court or an agent of the Supreme Court acting under the
5 direction and supervision of the Chief Justice shall have access to
6 psychiatric examinations and presentence investigations and reports
7 for research purposes. The Supreme Court and its agent shall treat
8 such information as confidential, and nothing identifying any
9 individual shall be released.

10 Sec. 4. Section 29-2262.07, Revised Statutes Cumulative
11 Supplement, 2010, is amended to read:

12 29-2262.07 The Probation Program Cash Fund is created.
13 All funds collected pursuant to section 29-2262.06 shall be remitted
14 to the State Treasurer for credit to the fund. Except as otherwise
15 directed by the Supreme Court during the period from November 21,
16 2009, until June 30, 2011, the fund shall be utilized by the
17 administrator, ~~in consultation with the Community Corrections~~
18 ~~Council,~~ for the purposes stated in ~~subdivision (14)~~ subdivisions
19 (14) and (17) of section 29-2252, except that the State Treasurer
20 shall, on or before June 30, 2011, on such date as directed by the
21 budget administrator of the budget division of the Department of
22 Administrative Services, transfer the amount set forth in Laws 2009,
23 LB1, One Hundred First Legislature, First Special Session. Any money
24 in the fund available for investment shall be invested by the state
25 investment officer pursuant to the Nebraska Capital Expansion Act and

1 the Nebraska State Funds Investment Act.

2 On July 15, 2010, the State Treasurer shall transfer
3 three hundred fifty thousand dollars from the Probation Program Cash
4 Fund to the Violence Prevention Cash Fund. The Office of Violence
5 Prevention shall distribute such funds as soon as practicable after
6 July 15, 2010, to organizations or governmental entities that have
7 submitted violence prevention plans and that best meet the intent of
8 reducing street and gang violence and reducing homicides and injuries
9 caused by firearms.

10 Sec. 5. Section 29-2521.02, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 29-2521.02 ~~(1)~~—The Supreme Court shall within a
13 reasonable time after July 22, 1978, review and analyze all cases
14 involving criminal homicide committed on or after April 20, 1973.
15 Such review and analysis shall examine ~~(a)~~—(1) the facts including
16 mitigating and aggravating circumstances, ~~(b)~~—(2) the charges filed,
17 ~~(c)~~—(3) the crime for which defendant was convicted, and ~~(d)~~—(4) the
18 sentence imposed. Such review shall be updated as new criminal
19 homicide cases occur.

20 ~~(2) Following the transmittal of a report of the Nebraska~~
21 ~~Commission on Law Enforcement and Criminal Justice pursuant to~~
22 ~~subdivision (7) of section 81-1425 and subsequent reports updating~~
23 ~~such report, the Supreme Court may take judicial notice of such~~
24 ~~reports in undertaking the determinations required by sections~~
25 ~~29-2521.01 to 29-2521.04.~~

1 Sec. 6. Section 47-621, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 47-621 For purposes of the Community Corrections Act:

4 (1) Community correctional facility or program means a
5 community-based or community-oriented facility or program which (a)
6 is operated either by the state or by a contractor which may be a
7 unit of local government or a nongovernmental agency, (b) may be
8 designed to provide residential accommodations for adult offenders,
9 (c) provides programs and services to aid adult offenders in
10 obtaining and holding regular employment, enrolling in and
11 maintaining participation in academic courses, participating in
12 vocational training programs, utilizing the resources of the
13 community to meet their personal and family needs, obtaining mental
14 health, alcohol, and drug treatment, and participating in specialized
15 programs that exist within the community, and (d) offers community
16 supervision options, including, but not limited to, drug treatment,
17 mental health programs, and day reporting centers;

18 ~~(2) Council means the Community Corrections Council;~~

19 ~~(3) (2) Director means the executive director of the~~
20 ~~Community Corrections Council;~~ Nebraska Commission on Law Enforcement
21 and Criminal Justice;

22 (3) Division means the Community Corrections Division of
23 the Nebraska Commission on Law Enforcement and Criminal Justice;

24 (4) Nongovernmental agency means any person, private
25 nonprofit agency, corporation, association, labor organization, or

1 entity other than the state or a political subdivision of the state;
2 and

3 (5) Unit of local government means a county, city,
4 village, or entity established pursuant to the Interlocal Cooperation
5 Act or the Joint Public Agency Act.

6 Sec. 7. Section 47-622, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 47-622 The Legislature declares that the policy of the
9 State of Nebraska is that there shall be a coordinated effort to (1)
10 establish community correctional programs across the state in order
11 to divert adult felony offenders from the prison system and (2)
12 provide necessary supervision and services to adult felony offenders
13 with the goal of reducing the probability of criminal behavior while
14 maintaining public safety. To further such policy, the Community
15 ~~Corrections Council-Division~~ is created. ~~For administrative support~~
16 ~~and budgetary purposes only, the council shall be~~ within the Nebraska
17 Commission on Law Enforcement and Criminal Justice. The director
18 shall appoint and remove employees of the division and delegate
19 appropriate powers and duties to such employees.

20 Sec. 8. Section 47-624, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 47-624 The ~~council~~ division shall:

23 (1) Develop standards for eligible community correctional
24 facilities and programs in which offenders can participate, taking
25 into consideration the following factors:

- 1 (a) Qualifications of staff;
- 2 (b) Suitability of programs;
- 3 (c) Offender needs;
- 4 (d) Probation population;
- 5 (e) Parole population; and
- 6 (f) Other applicable criminal justice data;
- 7 (2) Develop and implement a plan to establish statewide
- 8 operation and use of a continuum of community correctional facilities
- 9 and programs;
- 10 (3) Develop, in consultation with the probation
- 11 administrator and the Parole Administrator, standards for the use of
- 12 community correctional facilities and programs by the Nebraska
- 13 Probation System and the parole system;
- 14 (4) Collaborate with the Office of Probation
- 15 Administration, the Office of Parole Administration, and the
- 16 Department of Correctional Services on the development of additional
- 17 reporting centers as set forth in section 47-624.01;
- 18 (5) Analyze and mandate the consistent use of offender
- 19 risk assessment tools;
- 20 (6) Educate the courts, the Board of Parole, criminal
- 21 justice system stakeholders, and the general public about the
- 22 availability and use of community correctional facilities and
- 23 programs;
- 24 (7) Enter into contracts, if necessary, for carrying out
- 25 the purposes of the Community Corrections Act;

1 (8) In order to ensure adequate funding for substance
2 abuse treatment programs for probationers, consult with the probation
3 administrator ~~as provided in section 29-2262.07~~ and develop or assist
4 with the development of programs as provided in subdivision (14) of
5 section 29-2252;

6 (9) In order to ensure adequate funding for substance
7 abuse treatment programs for parolees, consult with the Office of
8 Parole Administration ~~as provided in section 83-1,107.02~~ and develop
9 or assist with the development of programs as provided in subdivision
10 (8) of section 83-1,102;

11 ~~(10) If necessary to perform the duties of the council,
12 hire, contract for, or otherwise obtain the services of consultants,
13 researchers, aides, and other necessary support staff;~~

14 ~~(11)~~ (10) Study substance abuse and mental health
15 treatment services in and related to the criminal justice system,
16 recommend improvements, and evaluate the implementation of
17 improvements;

18 ~~(12)~~ (11) Research and evaluate existing community
19 corrections facilities and programs, within the limits of available
20 funding;

21 ~~(13)~~ (12) Develop standardized definitions of outcome
22 measures for community corrections facilities and programs,
23 including, but not limited to, recidivism, employment, and substance
24 abuse;

25 ~~(14)~~ (13) Report annually to the Legislature and the

1 Governor on the development and performance of community corrections
2 facilities and programs. The report shall include the following:

3 (a) A description of community corrections facilities and
4 programs, endorsed by the ~~council,~~ division, currently serving
5 offenders in Nebraska, which includes the following information:

6 (i) The target population and geographic area served by
7 each facility or program, eligibility requirements, and the total
8 number of offenders utilizing the facility or program over the past
9 year;

10 (ii) Services provided to offenders at the facility or in
11 the program;

12 (iii) The costs of operating the facility or program and
13 the cost per offender; and

14 (iv) The funding sources for the facility or program;

15 (b) The progress made in expanding community corrections
16 facilities and programs statewide and an analysis of the need for
17 additional community corrections services;

18 (c) An analysis of the impact community corrections
19 facilities and programs have on the number of offenders incarcerated
20 within the Department of Correctional Services; and

21 (d) The recidivism rates and outcome data for
22 probationers, parolees, and problem-solving-court clients
23 participating in community corrections programs;

24 ~~(15)~~ (14) Grant funds to entities including local
25 governmental agencies, nonprofit organizations, and behavioral health

1 services which will support the intent of the act; ~~and~~

2 (15) Administer contracts entered into by the division
3 with community correctional facilities or programs;

4 (16) Establish and administer grants, projects, and
5 programs for the operation of the division; and

6 ~~(16)-(17)~~ Perform such other duties as may be necessary
7 to carry out the policy of the state established in the act.

8 Sec. 9. Section 47-624.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 47-624.01 (1)~~(a)~~ The ~~council~~division shall collaborate
11 with the Office of Probation Administration, the Office of Parole
12 Administration, and the Department of Correctional Services in
13 developing a plan for the implementation and funding of reporting
14 centers in Nebraska.

15 ~~(b)-(2)~~ The plan shall include recommended locations for
16 at least one reporting center in each district court judicial
17 district that currently lacks such a center and shall prioritize the
18 recommendations for additional reporting centers based upon need.

19 ~~(c)-(3)~~ The plan shall also identify and prioritize the
20 need for expansion of reporting centers in those district court
21 judicial districts which currently have a reporting center but have
22 an unmet need for additional reporting center services due to
23 capacity, distance, or demographic factors.

24 ~~(2) The council shall submit the reporting center~~
25 ~~expansion plan to the chairperson of the Sentencing and Recidivism~~

1 ~~Task Force, as created in Legislative Resolution 171, One Hundred~~
2 ~~First Legislature, First Session, 2009, by December 1, 2010. The plan~~
3 ~~shall be implemented as state funding allows until each district~~
4 ~~court judicial district has at least one reporting center.~~

5 Sec. 10. Section 47-627, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 47-627 ~~The executive director of the Nebraska Commission~~
8 ~~on Law Enforcement and Criminal Justice~~ director shall develop and
9 maintain a uniform crime data analysis system in Nebraska which shall
10 include, but need not be limited to, the number of offenses, arrests,
11 charges, probation admissions, probation violations, probation
12 discharges, admissions to and discharges from the Department of
13 Correctional Services, parole reviews, parole hearings, releases on
14 parole, parole violations, and parole discharges. The data shall be
15 categorized by statutory crime. The data shall be collected from the
16 Board of Parole, the State Court Administrator, the Department of
17 Correctional Services, the Office of Parole Administration, the
18 Office of Probation Administration, the Nebraska State Patrol,
19 counties, local law enforcement, and any other entity associated with
20 criminal justice. ~~The council, the director, division~~ and the Supreme
21 Court shall have access to such data to implement the Community
22 Corrections Act, ~~and to develop guidelines pursuant to section~~
23 ~~47-630.~~

24 Sec. 11. Section 47-628, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 47-628 (1) A sentencing judge may sentence an offender to
2 probation conditioned upon community correctional programming.
3 ~~pursuant to section 47-630 and the guidelines developed by the~~
4 ~~Supreme Court.~~

5 (2) A sentence to a community correctional program or
6 facility shall be imposed as a condition of probation pursuant to the
7 Nebraska Probation Administration Act. The court may modify the
8 sentence of an offender serving a sentence in a community
9 correctional program in the same manner as if the offender had been
10 placed on probation.

11 (3) The Office of Probation Administration shall utilize
12 community correctional facilities and programs as appropriate.

13 Sec. 12. Section 47-629, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 47-629 (1) The Board of Parole may parole an offender to
16 a community correctional facility or program pursuant to guidelines
17 developed by the ~~council~~ division.

18 (2) The Department of Correctional Services and the
19 Office of Parole Administration shall utilize community correctional
20 facilities and programs as appropriate.

21 Sec. 13. Section 47-632, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 47-632 (1) The Community Corrections Uniform Data
24 Analysis Cash Fund is created. Except as provided in subsection (2)
25 of this section, the fund shall be ~~established for administrative~~

1 ~~purposes only~~ within the Nebraska Commission on Law Enforcement and
2 Criminal Justice, shall be administered by the ~~executive director of~~
3 ~~the Community Corrections Council, division~~, and shall only be used
4 to support operations costs and analysis relating to the
5 implementation and coordination of the uniform analysis of crime data
6 pursuant to the Community Corrections Act, including associated
7 information technology projects., ~~as specifically approved by the~~
8 ~~executive director of the Community Corrections Council.~~ The fund
9 shall consist of money collected pursuant to section 47-633.

10 (2) Transfers may be made from the fund to the General
11 Fund at the direction of the Legislature.

12 (3) Any money in the Community Corrections Uniform Data
13 Analysis Cash Fund available for investment shall be invested by the
14 state investment officer pursuant to the Nebraska Capital Expansion
15 Act and the Nebraska State Funds Investment Act.

16 Sec. 14. Section 47-634, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 47-634 For a local entity to receive funds under the
19 Community Corrections Act, the ~~council~~division shall ensure there is
20 a local advisory committee made up of a broad base of community
21 members concerned with the justice system. Submission of a detailed
22 plan including a budget, program standards, and policies as developed
23 by the local advisory committee ~~will~~shall be required as set forth
24 by the ~~council~~division. Such funds shall be used for the
25 implementation of the recommendations of the ~~council~~division, the

1 expansion of sentencing options, the education of the public, the
2 provision of supplemental community-based corrections programs, and
3 the promotion of coordination between state and county community-
4 based corrections programs.

5 Sec. 15. Section 81-8,239.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-8,239.01 (1) For purposes of sections 81-8,239.01 to
8 81-8,239.08 and 81-8,239.11, unless the context otherwise requires,
9 the definition of state agencies found in section 81-8,210 shall
10 apply, except that such term shall not include the Board of Regents
11 of the University of Nebraska.

12 (2) There is hereby established a division within the
13 Department of Administrative Services to be known as the risk
14 management and state claims division. The division shall be headed by
15 the Risk Manager who shall be appointed by the Director of
16 Administrative Services. The division shall be responsible for the
17 Risk Management Program, which program is hereby created. The program
18 shall consist of the systematic identification of exposures to risk
19 of loss as provided in sections 11-201 to 11-203, 13-911, 25-2165,
20 43-1320, 44-1615, 44-1616, 48-194, 48-197, 48-1,103, 48-1,104,
21 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225, 81-8,226, 81-8,233,
22 81-8,239.01 to 81-8,239.08, 81-8,239.11, ~~and 81-8,300, and 81-1801.02~~
23 and shall include the appropriate methods for dealing with such
24 exposures in relation to the state budget pursuant to such sections.
25 Such program shall be administered by the Risk Manager and shall

1 include the operations of the State Claims Board and other operations
2 provided in such sections.

3 (3) Under the Risk Management Program, the Risk Manager
4 shall have the authority and responsibility to:

5 (a) Employ any personnel necessary to administer the Risk
6 Management Program;

7 (b) Develop and maintain loss and exposure data on all
8 state property and liability risks;

9 (c) Develop and recommend risk reduction or elimination
10 programs for the state and its agencies and establish, implement, and
11 monitor a statewide safety program;

12 (d) Determine which risk exposures shall be insured and
13 which risk exposures shall be self-insured or assumed by the state;

14 (e) Establish standards for the purchase of necessary
15 insurance coverage or risk management services at the lowest costs,
16 consistent with good underwriting practices and sound risk management
17 techniques;

18 (f) Be the exclusive negotiating and contracting agency
19 to purchase insurance or risk management services and, after
20 consultation with the state agency for which the insurance or
21 services are purchased, enter into such contracts on behalf of the
22 state and its agencies, officials, and employees to the extent deemed
23 necessary and in the best interest of the state, and authorize
24 payment for such purchase out of the appropriate funds created by
25 section 81-8,239.02;

1 (g) Determine whether the state suffered a loss for which
2 self-insured property loss funds have been created and authorize and
3 administer payments for such loss from the State Self-Insured
4 Property Fund for the purpose of replacing or rebuilding state
5 property;

6 (h) Perform all duties assigned to the Risk Manager under
7 the Nebraska Workers' Compensation Act and sections 11-201 to 11-203,
8 81-8,239.05, 81-8,239.07, 81-8,239.11, and 84-1601 to 84-1615;

9 (i) Approve the use of risk management pools by any
10 department, agency, board, bureau, commission, or council of the
11 State of Nebraska; and

12 (j) Recommend to the Legislature such legislation as may
13 be necessary to carry out the purposes of the Risk Management Program
14 and make appropriation requests for the administration of the program
15 and the funding of the separate funds administered by the Risk
16 Manager.

17 (4) No official or employee of any entity created
18 pursuant to the Interlocal Cooperation Act or the Joint Public Agency
19 Act shall be considered a state official or employee for purposes of
20 sections 81-8,239.01 to 81-8,239.06.

21 Sec. 16. Section 81-1403, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-1403 Subject to review and approval by the commission,
24 the council shall:

25 (1) Adopt and promulgate rules and regulations for law

1 enforcement pre-certification, certification, continuing education,
2 and training requirements. Such rules and regulations may include the
3 authority to impose a fine on any individual, political subdivision,
4 or agency who or which violates such rules and regulations. The fine
5 for each separate violation of any rule or regulation shall not
6 exceed either (a) a one-time maximum fine of five hundred dollars or
7 (b) a maximum fine of one hundred dollars per day until the
8 individual, political subdivision, or agency complies with such rules
9 or regulations. All fines collected pursuant to this subdivision
10 shall be remitted to the State Treasurer for ~~credit to the permanent~~
11 ~~school fund;~~ distribution in accordance with Article VII, section 5,
12 of the Constitution of Nebraska;

13 (2) Adopt and promulgate rules and regulations for the
14 operation of the training center;

15 (3) Recommend to the executive director of the commission
16 the names of persons to be appointed to the position of director of
17 the training center; ~~delegate appropriate powers and duties to and~~
18 ~~provide direct supervision of the director, and when warranted~~
19 ~~recommend to the commission that the director be removed for cause;~~

20 (4) Establish requirements for satisfactory completion of
21 pre-certification programs, certification programs, and advanced
22 training programs;

23 (5) Issue certificates or diplomas attesting satisfactory
24 completion of pre-certification programs, certification programs, and
25 advanced training programs;

1 (6) Revoke or suspend such certificates or diplomas
2 according to rules and regulations established by the council for
3 reasons which shall include, but not be limited to, (a) incompetence,
4 (b) neglect of duty, (c) physical, mental, or emotional incapacity,
5 and (d) final conviction of or pleading guilty or nolo contendere to
6 a felony. The rules and regulations shall provide for revocation of a
7 certificate holder's certificate without a hearing upon his or her
8 final conviction of or pleading guilty or nolo contendere to a
9 felony. For purposes of this subdivision, felony means a crime
10 punishable by imprisonment for a term of more than one year or a
11 crime committed outside of Nebraska which would be punishable by
12 imprisonment for a term of more than one year if committed in
13 Nebraska. The rules and regulations shall include a procedure for
14 hearing appeals of any person who feels that the revocation or
15 suspension of his or her certificate or diploma was in error;

16 (7) Set the tuition and fees for the training center and
17 all officers of other training academies not employed by that
18 training academy's agency. The tuition and fees set for the training
19 center pursuant to this subdivision shall be adjusted annually
20 pursuant to the training center budget approved by the Legislature.
21 All other tuition and fees shall be set in order to cover the costs
22 of administering sections 81-1401 to 81-1414. All tuition and fees
23 shall be remitted to the State Treasurer for credit to the Nebraska
24 Law Enforcement Training Center Cash Fund;

25 (8) Annually certify any training academies providing a

1 basic course of law enforcement training which complies with the
2 qualifications and standards promulgated by the council and offering
3 training that meets or exceeds training that is offered by the
4 training center. The council shall set the maximum and minimum
5 applicant enrollment figures for training academies training non-
6 agency officers;

7 (9) Extend the programs of the training center throughout
8 the state on a regional basis;

9 (10) Establish the qualifications and standards and
10 provide the training required by section 81-1439; and

11 (11) Do all things necessary to carry out the purpose of
12 the training center, except that functional authority for budget and
13 personnel matters shall remain with the commission.

14 Any administrative fine imposed under this section shall
15 constitute a debt to the State of Nebraska which may be collected by
16 lien foreclosure or sued for and recovered in any proper form of
17 action by the office of the Attorney General in the name of the State
18 of Nebraska in the district court of the county where the final
19 agency action was taken. All fines imposed by the council shall be
20 remitted to the State Treasurer for ~~credit to the permanent school~~
21 ~~fund.~~ distribution in accordance with Article VII, section 5, of the
22 Constitution of Nebraska.

23 Sec. 17. Section 81-1404, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-1404 The director of the Nebraska Law Enforcement

1 Training Center shall devote full time to the duties of the office
2 and shall not engage in any other business or profession or hold any
3 other state public office. The director shall be responsible to the
4 ~~executive director of the commission through the council~~ for the
5 operation of the training center and the conducting of training
6 programs. The director of the training center shall:

7 (1) Appoint and remove for cause such employees as may be
8 necessary for the operation of the training center and delegate
9 appropriate powers and duties to them;

10 (2) Conduct research for the purpose of evaluating and
11 improving the effectiveness of law enforcement training programs;

12 (3) Consult with the council on all matters pertaining to
13 training schools and training academies;

14 (4) Supervise the administration of the pre-certification
15 competency test;

16 (5) Ensure that all council rules and regulations with
17 respect to law enforcement pre-certification, certification,
18 continuing education, and training requirements are implemented and
19 followed, and in that capacity, act as the director of standards for
20 the council;

21 (6) Advise the council concerning the operation of the
22 training center, the requirements, as set by the council, for all
23 training schools and training academies, and the formulation of
24 training policies and regulations; and

25 (7) Issue diplomas to students who successfully complete

1 the prescribed basic course of study.

2 Sec. 18. Section 81-1423, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 81-1423 The commission shall have authority to:

5 (1) Adopt and promulgate rules and regulations for its
6 organization and internal management and rules and regulations
7 governing the exercise of its powers and the fulfillment of its
8 purposes under sections 81-1415 to 81-1426;

9 (2) Delegate to one or more of its members such powers
10 and duties as it may deem proper;

11 (3) Coordinate and jointly pursue its activities with the
12 Governor's Policy Research Office;

13 (4) Appoint and abolish such advisory committees as may
14 be necessary for the performance of its functions and delegate
15 appropriate powers and duties to them;

16 (5) Plan improvements in the administration of criminal
17 justice and promote their implementation;

18 (6) Make or encourage studies of any aspect of the
19 administration of criminal justice;

20 (7) Conduct research and stimulate research by public and
21 private agencies which shall be designed to improve the
22 administration of criminal justice;

23 (8) Coordinate activities relating to the administration
24 of criminal justice among agencies of state and local government;

25 (9) Cooperate with the federal and other state

1 authorities concerning the administration of criminal justice;

2 (10) Accept and administer loans, grants, and donations
3 from the United States, its agencies, the State of Nebraska, its
4 agencies, and other sources, public and private, for carrying out any
5 of its functions, except that no communications equipment shall be
6 acquired and no approval for acquisition of communications equipment
7 shall be granted without receiving the written approval of the
8 Director of Communications of the office of Chief Information
9 Officer;

10 (11) Enter into contracts, leases, and agreements
11 necessary, convenient, or desirable for carrying out its purposes and
12 the powers granted under sections 81-1415 to 81-1426 with agencies of
13 state or local government, corporations, or persons;

14 (12) Acquire, hold, and dispose of personal property in
15 the exercise of its powers;

16 (13) Conduct random annual audits of criminal justice
17 agencies to verify the accuracy and completeness of criminal history
18 record information maintained by such agencies and to determine
19 compliance with laws and regulations dealing with the dissemination,
20 security, and privacy of criminal history information;

21 (14) Do all things necessary to carry out its purposes
22 and for the exercise of the powers granted in sections 81-1415 to
23 81-1426, except that no activities or transfers or expenditures of
24 funds available to the commission shall be inconsistent with
25 legislative policy as reflected in substantive legislation,

1 legislative intent legislation, or appropriations legislation;

2 (15) Exercise budgetary and administrative control over
3 the Crime Victim's Reparations Committee and the Jail Standards
4 Board; and

5 ~~(16) Appoint and remove for cause the director of the~~
6 ~~Nebraska Law Enforcement Training Center;~~

7 ~~(17) Provide budgetary and administrative support to the~~
8 ~~Community Corrections Council; and~~

9 ~~(18)~~(16) Do all things necessary to carry out sections
10 81-1843 to 81-1851.

11 Sec. 19. Section 81-1425, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-1425 The executive director of the commission shall:

14 (1) Supervise and be responsible for the administration
15 of the policies established by the commission;

16 (2) Establish a Jail Standards subdivision and a
17 Community Corrections Division within the commission and establish,
18 consolidate, or abolish any ~~other~~ administrative subdivision within
19 the commission and appoint and remove for cause the heads thereof,
20 and delegate appropriate powers and duties to them;

21 (3) Establish and administer projects and programs for
22 the operation of the commission;

23 (4) Appoint and remove employees of the commission and
24 delegate appropriate powers and duties to them;

25 (5) Make rules and regulations for the management and the

1 administration of policies of the commission and the conduct of
2 employees under his or her jurisdiction;

3 (6) Collect, develop, maintain, and analyze statistical
4 information, records, and reports as the commission may determine
5 relevant to its functions, including, but not limited to, the
6 statistical information set forth in section 47-627;

7 ~~(7) Prior to August 1, 2001, review and analyze all cases~~
8 ~~involving criminal homicide committed on or after April 20, 1973. The~~
9 ~~review and analysis shall examine (a) the facts, including mitigating~~
10 ~~and aggravating circumstances, (b) to the extent such can be~~
11 ~~ascertained, the race, gender, religious preference, and economic~~
12 ~~status of the defendant and of the victim, (c) the charges filed, (d)~~
13 ~~the result of the judicial proceeding in each case, and (e) the~~
14 ~~sentence imposed. Upon the completion of such review, the report of~~
15 ~~such shall be transmitted to the Governor, the Clerk of the~~
16 ~~Legislature, and the Chief Justice of the Supreme Court. The review~~
17 ~~and analysis shall be updated as new cases of criminal homicide~~
18 ~~occur. The commission shall update such report annually to the~~
19 ~~parties named in this subdivision;~~

20 ~~(8)-(7)~~ Transmit monthly to the commission a report of
21 the operations of the commission for the preceding calendar month;

22 ~~(9)-(8)~~ Execute and carry out the provisions of all
23 contracts, leases, and agreements authorized by the commission with
24 agencies of federal, state, or local government, corporations, or
25 persons;

1 ~~(10)~~(9) Perform such additional duties as may be
2 assigned to him or her by the commission, by the chairperson of the
3 commission, or by law; ~~and~~

4 (10) Appoint and remove for cause the director of the
5 Nebraska Law Enforcement Training Center;

6 (11) Appoint and remove for cause the director of the
7 Office of Violence Prevention; and

8 ~~(11)~~(12) Exercise all powers and perform all duties
9 necessary and proper in carrying out his or her responsibilities.

10 Sec. 20. Section 81-1447, Revised Statutes Cumulative
11 Supplement, 2010, is amended to read:

12 81-1447 (1) There is established within the Nebraska
13 Commission on Law Enforcement and Criminal Justice the Office of
14 Violence Prevention. The office shall consist of a director,
15 appointed by the Governor. ~~executive director of the Nebraska~~
16 Commission on Law Enforcement and Criminal Justice, and other
17 necessary support staff. There also is established an advisory
18 council to the Office of Violence Prevention. The members of the
19 advisory council shall be appointed by the Governor and serve at his
20 or her discretion. The advisory council shall consist of six members
21 and, of those members, each congressional district, as such districts
22 existed on May 28, 2009, shall have at least one member on the
23 council. The Governor shall consider appointing members representing
24 the following areas, if practicable: Two members representing local
25 government; two members representing law enforcement; one member

1 representing community advocacy; and one member representing
2 education with some expertise in law enforcement and juvenile crime.

3 (2) Members of the advisory council shall serve for terms
4 of four years. A member may be reappointed at the expiration of his
5 or her term. Any vacancy occurring other than by expiration of a term
6 shall be filled for the remainder of the unexpired term in the same
7 manner as the original appointment.

8 Sec. 21. Section 81-1801, Revised Statutes Cumulative
9 Supplement, 2010, is amended to read:

10 81-1801 For purposes of the Nebraska Crime Victim's
11 Reparations Act, unless the context otherwise requires:

12 (1) Commission shall mean the Nebraska Commission on Law
13 Enforcement and Criminal Justice;

14 (2) Committee shall mean the Crime Victim's Reparations
15 Committee;

16 (3) Dependent shall mean a relative of a deceased victim
17 who was dependent upon the victim's income at the time of death,
18 including a child of a victim born after a victim's death;

19 (4) Executive director shall mean the executive director
20 of the commission;

21 (5) Personal injury shall mean actual bodily harm;

22 (6) Relative shall mean spouse, parent, grandparent,
23 stepparent, natural born child, stepchild, adopted child, grandchild,
24 brother, sister, half brother, half sister, or spouse's parent; and

25 (7) Victim shall mean a person who is injured or killed

1 as a result of conduct specified in section 81-1818, ~~or as a result~~
2 ~~of a natural disaster.~~

3 Sec. 22. Section 81-1801.02, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 81-1801.02 (1) A nonprofit organization, to be known as
6 the Community Trust, may be created. After a tragedy, the Community
7 Trust shall accept contributions from the public, manage such funds,
8 and make distributions to help individuals, families, and communities
9 in Nebraska ~~who~~ that have suffered from a tragedy of violence or
10 natural disaster. The committee shall oversee the Community Trust.
11 The committee shall require at least annual reports from the
12 Community Trust.

13 (2) The Community Trust shall be a qualified organization
14 under section 501(c)(3) of the Internal Revenue Code thereby enabling
15 contributions to the Community Trust to be tax deductible for the
16 donor if the donor itemizes deductions for income tax purposes and
17 distributions to be tax-free to the extent allowed under applicable
18 sections of the Internal Revenue Code.

19 (3) The Community Trust shall be governed by a board of
20 directors. A director may be represented by the Attorney General in
21 the same manner as a state officer or employee under sections
22 81-8,239.05 and 81-8,239.06 in any civil action that arises as a
23 result of any alleged act or omission occurring in the course and
24 scope of the director's duties. A director shall also be indemnified
25 for liability in the same manner as a state officer or employee under

1 section 81-8,239.05.

2 (4) The Community Trust shall create a separate fund for
3 each tragedy and shall begin accepting contributions immediately
4 after a tragedy. A report of distributions shall be made within two
5 weeks after the distribution, and contributions shall be acknowledged
6 within two weeks. The Community Trust shall report the distributions
7 made for each tragedy to the committee, and the Community Trust shall
8 acknowledge all contributions as soon as reasonably possible after
9 receipt.

10 (5) The Community Trust may use up to ten percent of the
11 contributions received for administrative costs of the Community
12 Trust.

13 ~~(3)-(6)~~ The procedures for applications, hearings, and
14 compensation orders for victims shall follow the procedures in the
15 Nebraska Crime Victim's Reparations Act, as applicable, unless the
16 board of directors of the Community Trust creates an alternative
17 procedure. In any alternative procedure, the Community Trust shall
18 establish procedures for receiving contributions and making
19 distributions from the Community Trust. The board of directors shall
20 establish a distribution committee for the tragedy within one week
21 after the tragedy, establish eligible recipient criteria and eligible
22 uses of the fund, begin initial distribution of the fund within three
23 weeks after the tragedy, make subsequent distributions within three
24 months after the tragedy, and complete all distributions within six
25 months as soon as reasonably possible after the tragedy.

1 (7) In the event that the Community Trust receives
2 contributions for a tragedy and the volume and size of claims, along
3 with the amount of contributions, make it impractical for the
4 Community Trust to follow its normal procedures for the distribution
5 of the funds, the board of directors, at its sole discretion, may
6 elect to forward such funds, in their entirety, to another nonprofit
7 organization that is also serving individuals who are affected by the
8 tragedy. In such case, the Community Trust shall designate such
9 contributions to be for the specific individuals who are affected by
10 the tragedy.

11 Sec. 23. Section 81-1818, Revised Statutes Cumulative
12 Supplement, 2010, is amended to read:

13 81-1818 The committee or hearing officer may order+ ~~(1)~~
14 ~~The~~ the payment of compensation from the Victim's Compensation Fund
15 ~~or a distribution from the Community Trust~~ for personal injury or
16 death which resulted from:

17 ~~(a)~~ (1) An attempt on the part of the applicant to
18 prevent the commission of crime, to apprehend a suspected criminal,
19 to aid or attempt to aid a police officer in the performance of his
20 or her duties, or to aid a victim of a crime; or

21 ~~(b)~~ (2) The commission or attempt on the part of one
22 other than the applicant of an unlawful criminal act committed or
23 attempted in the State of Nebraska. ~~;~~ ~~or~~

24 ~~(2)~~ ~~A distribution from the Community Trust for loss~~
25 ~~resulting from a natural disaster.~~

1 Sec. 24. Section 81-1822, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 81-1822 No compensation shall be awarded from the
4 Victim's Compensation Fund:

5 (1) If the victim aided or abetted the offender in the
6 commission of the unlawful act;

7 (2) If the offender will receive economic benefit or
8 unjust enrichment from the compensation;

9 (3) If the victim violated a criminal law of the state,
10 which violation caused or contributed to his or her injuries or
11 death;

12 (4) If the victim is injured as a result of the operation
13 of a motor vehicle, boat, or airplane (a) unless the vehicle was used
14 in a deliberate attempt to injure or kill the victim, (b) unless the
15 operator is charged with a violation of section 60-6,196 or 60-6,197
16 or a city or village ordinance enacted in conformance with either of
17 such sections, or (c) unless any chemical test of the operator's
18 breath or blood indicates an alcohol concentration equal to or in
19 excess of the limits prescribed in section 60-6,196; or

20 (5) If the victim incurs an economic loss which does not
21 exceed ten percent of his or her net financial resources. For
22 purposes of this subdivision, a victim's net financial resources
23 shall not include the present value of future earnings and shall be
24 determined by the committee by deducting from the victim's total
25 financial resources:

- 1 (a) One year's earnings;
- 2 (b) The victim's equity in his or her home, not exceeding
- 3 thirty thousand dollars;
- 4 (c) One motor vehicle; and
- 5 (d) Any other property which would be exempt from
- 6 execution under section 25-1552 or 40-101.

7 Nothing in this section shall limit payments to a victim

8 by an offender which are made as full or partial restitution of the

9 victim's actual pecuniary loss. ~~Subdivision (5) of this section shall~~

10 ~~not apply to distributions from the Community Trust.~~

11 Sec. 25. Section 83-1,102, Reissue Revised Statutes of

12 Nebraska, is amended to read:

13 83-1,102 The Parole Administrator shall:

- 14 (1) Supervise and administer the Office of Parole
- 15 Administration;
- 16 (2) Establish and maintain policies, standards, and
- 17 procedures for the field parole service and the community supervision
- 18 of sex offenders pursuant to section 83-174.03;
- 19 (3) Divide the state into parole districts and appoint
- 20 district parole officers, deputy parole officers, if required, and
- 21 such other employees as may be required to carry out adequate parole
- 22 supervision of all parolees, adequate probation supervision of
- 23 probationers as ordered by district judges, prescribe their powers
- 24 and duties, and obtain office quarters for staff in each district as
- 25 may be necessary;

1 (4) Cooperate with the Board of Parole, the courts, the
2 Community Corrections ~~Council~~, Division of the Nebraska Commission on
3 Law Enforcement and Criminal Justice, and all other agencies, public
4 and private, which are concerned with the treatment or welfare of
5 persons on parole;

6 (5) Provide the Board of Parole and district judges with
7 any record of a parolee or probationer which it may require;

8 (6) Make recommendations to the Board of Parole or
9 district judge in cases of violation of the conditions of parole or
10 probation, issue warrants for the arrest of parole or probation
11 violators when so instructed by the board or district judge, notify
12 the Director of Correctional Services of determinations made by the
13 board, and upon instruction of the board, issue certificates of
14 parole and of parole revocation to the facilities and certificates of
15 discharge from parole to parolees;

16 (7) Organize and conduct training programs for the
17 district parole officers and other employees;

18 (8) ~~In consultation with the Community Corrections~~
19 ~~Council, use~~ Use the funds provided under section 83-1,107.02 to
20 augment operational or personnel costs associated with the
21 development, implementation, and evaluation of enhanced parole-based
22 programs and purchase services to provide such programs aimed at
23 enhancing adult parolee supervision in the community and treatment
24 needs of parolees. Such enhanced parole-based programs include, but
25 are not limited to, specialized units of supervision, related

1 equipment purchases and training, and programs developed by or
2 through the council that address a parolee's vocational, educational,
3 mental health, behavioral, or substance abuse treatment needs;

4 (9) Ensure that any risk or needs assessment instrument
5 utilized by the system be periodically validated; and

6 (10) Exercise all powers and perform all duties necessary
7 and proper in carrying out his or her responsibilities.

8 Sec. 26. Section 83-1,107.02, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 83-1,107.02 The Parole Program Cash Fund is created. All
11 funds collected pursuant to section 83-1,107.01 shall be remitted to
12 the State Treasurer for credit to the fund. The fund shall be
13 utilized by the Office of Parole Administration, ~~in consultation with~~
14 ~~the Community Corrections Council,~~ for the purposes stated in
15 subdivision (8) of section 83-1,102. Any money in the fund available
16 for investment shall be invested by the state investment officer
17 pursuant to the Nebraska Capital Expansion Act and the Nebraska State
18 Funds Investment Act.

19 Sec. 27. Section 83-4,126, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 83-4,126 ~~The~~ (1) Except as provided in subsection (2) of
22 this section, the Jail Standards Board shall have the authority and
23 responsibility:

24 ~~(1)~~ (a) To develop minimum standards for the
25 construction, maintenance, and operation of criminal detention

1 facilities;

2 ~~(2)-(b)~~ To perform such other duties as may be necessary
3 to carry out the policy of the state regarding such criminal
4 detention facilities and juvenile detention facilities as stated in
5 sections 83-4,124 to 83-4,134; and

6 ~~(3)-(c)~~ Consistent with the purposes and objectives of
7 the Juvenile Services Act, to develop standards for juvenile
8 detention facilities, including, but not limited to, standards for
9 physical facilities, care, programs, and disciplinary procedures, and
10 to develop guidelines pertaining to the operation of such facilities.

11 (2) The Jail Standards Board shall not have authority
12 over or responsibility for correctional facilities that are
13 accredited by a nationally recognized correctional association. A
14 correctional facility that is accredited by a nationally recognized
15 correctional association shall show proof of accreditation annually
16 to the Jail Standards Board. For purposes of this subsection,
17 nationally recognized correctional association includes, but is not
18 limited to, the American Correctional Association or its successor.

19 Sec. 28. Section 83-4,131, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 83-4,131 Personnel of the Nebraska Commission on Law
22 Enforcement and Criminal Justice shall visit and inspect each
23 criminal detention facility and juvenile detention facility in the
24 state, except correctional facilities accredited by a nationally
25 recognized correctional association pursuant to subsection (2) of

1 section 83-4,126, for the purpose of determining the conditions of
2 confinement, the treatment of persons confined in the facilities, and
3 whether such facilities comply with the minimum standards established
4 by the Jail Standards Board. A written report of each inspection
5 shall be made within thirty days following such inspection to the
6 appropriate governing body responsible for the criminal detention
7 facility or juvenile detention facility involved. The report shall
8 specify those areas in which the facility does not comply with the
9 required minimum standards.

10 Sec. 29. Section 84-1410, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 84-1410 (1) Any public body may hold a closed session by
13 the affirmative vote of a majority of its voting members if a closed
14 session is clearly necessary for the protection of the public
15 interest or for the prevention of needless injury to the reputation
16 of an individual and if such individual has not requested a public
17 meeting. The subject matter and the reason necessitating the closed
18 session shall be identified in the motion to close. Closed sessions
19 may be held for, but shall not be limited to, such reasons as:

20 (a) Strategy sessions with respect to collective
21 bargaining, real estate purchases, pending litigation, or litigation
22 which is imminent as evidenced by communication of a claim or threat
23 of litigation to or by the public body;

24 (b) Discussion regarding deployment of security personnel
25 or devices;

1 (c) Investigative proceedings regarding allegations of
2 criminal misconduct; ~~or~~

3 (d) Evaluation of the job performance of a person when
4 necessary to prevent needless injury to the reputation of a person
5 and if such person has not requested a public meeting; or -

6 (e) For the Community Trust created under section
7 81-1801.02, discussion regarding the amounts to be paid to
8 individuals who have suffered from a tragedy of violence or natural
9 disaster.

10 Nothing in this section shall permit a closed meeting for
11 discussion of the appointment or election of a new member to any
12 public body.

13 (2) The vote to hold a closed session shall be taken in
14 open session. The entire motion, the vote of each member on the
15 question of holding a closed session, and the time when the closed
16 session commenced and concluded shall be recorded in the minutes. If
17 the motion to close passes, then the presiding officer immediately
18 prior to the closed session shall restate on the record the
19 limitation of the subject matter of the closed session. The public
20 body holding such a closed session shall restrict its consideration
21 of matters during the closed portions to only those purposes set
22 forth in the motion to close as the reason for the closed session.
23 The meeting shall be reconvened in open session before any formal
24 action may be taken. For purposes of this section, formal action
25 shall mean a collective decision or a collective commitment or

1 promise to make a decision on any question, motion, proposal,
2 resolution, order, or ordinance or formation of a position or policy
3 but shall not include negotiating guidance given by members of the
4 public body to legal counsel or other negotiators in closed sessions
5 authorized under subdivision (1)(a) of this section.

6 (3) Any member of any public body shall have the right to
7 challenge the continuation of a closed session if the member
8 determines that the session has exceeded the reason stated in the
9 original motion to hold a closed session or if the member contends
10 that the closed session is neither clearly necessary for (a) the
11 protection of the public interest or (b) the prevention of needless
12 injury to the reputation of an individual. Such challenge shall be
13 overruled only by a majority vote of the members of the public body.
14 Such challenge and its disposition shall be recorded in the minutes.

15 (4) Nothing in this section shall be construed to require
16 that any meeting be closed to the public. No person or public body
17 shall fail to invite a portion of its members to a meeting, and no
18 public body shall designate itself a subcommittee of the whole body
19 for the purpose of circumventing the Open Meetings Act. No closed
20 session, informal meeting, chance meeting, social gathering, email,
21 fax, or other electronic communication shall be used for the purpose
22 of circumventing the requirements of the act.

23 (5) The act does not apply to chance meetings or to
24 attendance at or travel to conventions or workshops of members of a
25 public body at which there is no meeting of the body then

1 intentionally convened, if there is no vote or other action taken
 2 regarding any matter over which the public body has supervision,
 3 control, jurisdiction, or advisory power.

4 Sec. 30. Section 19, Legislative Bill 374, One Hundred
 5 Second Legislature, First Session, 2011, is amended to read:

6 Sec. 19. AGENCY NO. 5 – SUPREME COURT
 7 Program No. 52 - Operations

	FY2011-12	FY2012-13
9 GENERAL FUND	26,990,554	27,400,012
10 CASH FUND est.	2,340,144	2,347,925
11 FEDERAL FUND est.	766,455	769,107
12 PROGRAM TOTAL	30,097,153	30,517,044
13 SALARY LIMIT	19,140,180	19,522,984

14 The Department of Administrative Services shall monitor
 15 the appropriations and expenditures for this program according to the
 16 following program classifications:

- 17 No. 34 - Court Administration
- 18 No. 40 - State Law Library
- 19 No. 396 - County Court System
- 20 No. 399 - District Court Reporters
- 21 No. 405 - Court of Appeals

22 The unexpended General Fund appropriation balance
 23 existing on June 30, 2011, is hereby reappropriated.

24 The budget division of the Department of Administrative

1 Services shall administratively transfer General Fund appropriations
2 among Programs 52, and 67, ~~and 435~~ within Agency 5, upon written
3 certification by the State Court Administrator that the Supreme Court
4 has determined that such transfer is necessary for the efficient
5 functioning of statewide court operations and the proper
6 administration of justice. The Salary Limit for Agency 5, Programs
7 52, and 67, ~~and 435~~, may be administratively increased for any
8 transfers made to Programs 52, and 67, ~~and 435~~ pursuant to this
9 section.

10 There is included in the appropriation to this program
11 for FY2011-12 \$270,000 Cash Funds for dispute resolution state aid,
12 which shall only be used for such purpose except as otherwise
13 directed by the Supreme Court. There is included in the appropriation
14 to this program for FY2012-13 \$270,000 Cash Funds for dispute
15 resolution state aid, which shall only be used for such purpose
16 except as otherwise directed by the Supreme Court.

17 There is included in the appropriation to this program
18 for FY2011-12 \$450,000 Cash Funds for parenting plan mediation for
19 indigent and lower-income persons involved in Parenting Act cases, as
20 state aid, which shall only be used for such purpose except as
21 otherwise directed by the Supreme Court. There is included in the
22 appropriation to this program for FY2012-13 \$450,000 Cash Funds for
23 parenting plan mediation for indigent and lower-income persons
24 involved in Parenting Act cases, as state aid, which shall only be
25 used for such purpose except as otherwise directed by the Supreme

1 Court.

2 Cash Fund expenditures for this program shall not be
 3 limited to the amounts shown.

4 Sec. 31. Section 20, Legislative Bill 374, One Hundred
 5 Second Legislature, First Session, 2011, is amended to read:

6 Sec. 20. AGENCY NO. 5 – SUPREME COURT
 7 Program No. 67 - Probation Services

	FY2011-12	FY2012-13
9 GENERAL FUND	20,438,228	20,755,789
10 CASH FUND est.	947,332	947,332
11 FEDERAL FUND est.	208,798	208,798
12 PROGRAM TOTAL	21,594,358	21,911,919
13 SALARY LIMIT	14,696,308	14,990,235

14 The Department of Administrative Services shall monitor
 15 the appropriations and expenditures for this program according to the
 16 following program classifications:

17 No. 397 - Statewide Probation

18 No. 398 - Intensive Supervision Probation

19 The unexpended General Fund appropriation balance
 20 existing on June 30, 2011, is hereby reappropriated.

21 The budget division of the Department of Administrative
 22 Services shall administratively transfer General Fund appropriations
 23 among Programs 52, and 67, ~~and 435~~ within Agency 5, upon written
 24 certification by the State Court Administrator that the Supreme Court

1 has determined that such transfer is necessary for the efficient
 2 functioning of statewide court operations and the proper
 3 administration of justice. The Salary Limit for Agency 5, Programs
 4 52, and 67, ~~and 435~~, may be administratively increased for any
 5 transfers made to Programs 52, and 67, ~~and 435~~ pursuant to this
 6 section.

7 Cash Fund expenditures for this program shall not be
 8 limited to the amounts shown.

9 Sec. 32. Section 22, Legislative Bill 374, One Hundred
 10 Second Legislature, First Session, 2011, is amended to read:

11 Sec. 22. AGENCY NO. 5 - SUPREME COURT

12 Program No. 420 - State Specialized Court Operations

	FY2011-12	FY2012-13
13		
14	<u>2,060,526</u>	<u>2,060,521</u>
15	<u>168,965</u>	<u>190,215</u>
16	2,229,491	2,250,736
17	PROGRAM TOTAL	2,250,736
18	SALARY LIMIT	1,048,022

19 The supervision and management of the State Specialized
 20 Courts shall be under the direct jurisdiction of the Supreme Court
 21 and the State Court Administrator. Any contractual funds received
 22 from the Community Corrections program, under the Nebraska Commission
 23 on Law Enforcement and Criminal Justice, to support the cost of
 24 operating the State Specialized Courts shall only be credited and

1 expended directly from the Probation Program Cash Fund.

2 Cash Fund expenditures for this program shall not be
3 limited to the amounts shown.

4 Sec. 33. Section 23, Legislative Bill 374, One Hundred
5 Second Legislature, First Session, 2011, is amended to read:

6 Sec. 23. AGENCY NO. 5 – SUPREME COURT

7 Program No. 435 - Probation Community Corrections

	FY2011-12	FY2012-13
8		
9	959,073	973,559
10	CASH FUND est. 8,333,836	8,353,812
11	<u>GENERAL FUND 4,071,208</u>	<u>4,085,694</u>
12	<u>CASH FUND est. 5,221,701</u>	<u>5,241,677</u>
13	PROGRAM TOTAL 9,292,909	9,327,371
14	SALARY LIMIT 1,673,312	1,706,778

15 The unexpended General Fund appropriation balance
16 existing on June 30, 2011, is hereby reappropriated.

17 Cash Fund expenditures for this program shall not be
18 limited to the amounts shown.

19 Sec. 34. Section 240, Legislative Bill 374, One Hundred
20 Second Legislature, First Session, 2011, is amended to read:

21 Sec. 240. AGENCY NO. 78 – NEBRASKA COMMISSION ON LAW
22 ENFORCEMENT AND CRIMINAL JUSTICE

23 Program No. 220 - Community Corrections Council Office

	FY2011-12	FY2012-13
24		

1	GENERAL FUND	5,484,959	5,488,959
2	<u>GENERAL FUND</u>	<u>281,298</u>	<u>285,298</u>
3	CASH FUND	405,917	406,951
4	PROGRAM TOTAL	5,890,876	5,895,910
5	<u>PROGRAM TOTAL</u>	<u>687,215</u>	<u>692,249</u>
6	SALARY LIMIT	218,643	223,016

7 The unexpended General Fund appropriation balance
8 existing on June 30, 2011, is hereby reappropriated.

9 Sec. 35. Section 7, Legislative Bill 376, One Hundred
10 Second Legislature, First Session, 2011, is amended to read:

11 Sec. 7. AGENCY NO. 5 – SUPREME COURT
12 Program No. 5 - Retired Judges' Salaries

13		FY2011-12	FY2012-13
14	GENERAL FUND	47,436	47,436
15	PROGRAM TOTAL	47,436	47,436
16	SALARY LIMIT	44,832	44,832

17 The unexpended General Fund appropriation balance
18 existing on June 30, 2011, is hereby reappropriated.

19 The unexpended General Fund appropriation balance
20 existing on June 30, 2012, is hereby reappropriated.

21 The budget division of the Department of Administrative
22 Services shall administratively transfer General Fund appropriations
23 among Programs 3, 4, 5, 6, 7, 52, and 67, ~~and 435~~ within Agency 5,
24 upon written certification by the State Court Administrator that the

1 Nebraska Supreme Court has determined that such transfer is necessary
2 for the efficient functioning of statewide court operations and the
3 proper administration of justice. The Salary Limit for Agency 5,
4 Programs 5, 52, and 67,~~and 435,~~ may be administratively increased
5 for any transfers made to Programs 5, 52, and 67,~~and 435~~ pursuant to
6 this section.

7 Sec. 36. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
8 13, 14, 16, 17, 18, 19, 20, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35,
9 38, and 39 of this act become operative on July 1, 2011. The other
10 sections of this act becomes operative on their effective date.

11 Sec. 37. Original sections 81-8,239.01 and 84-1410,
12 Reissue Revised Statutes of Nebraska, and sections 81-1801,
13 81-1801.02, 81-1818, and 81-1822, Revised Statutes Cumulative
14 Supplement, 2010, are repealed.

15 Sec. 38. Original sections 29-2252, 29-2255, 29-2261,
16 29-2521.02, 47-621, 47-622, 47-624, 47-624.01, 47-627, 47-628,
17 47-629, 47-632, 47-634, 81-1403, 81-1404, 81-1423, 81-1425, 83-1,102,
18 83-1,107.02, 83-4,126, and 83-4,131, Reissue Revised Statutes of
19 Nebraska; sections 29-2262.07 and 81-1447, Revised Statutes
20 Cumulative Supplement, 2010; sections 19, 20, 22, 23, and 240,
21 Legislative Bill 374, One Hundred Second Legislature, First Session,
22 2011; and section 7, Legislative Bill 376, One Hundred Second
23 Legislature, First Session, 2011, are repealed.

24 Sec. 39. The following sections are outright repealed:
25 Sections 47-623, 47-625, 47-630, 47-631, 47-635, 47-636, 47-637,

1 47-638, and 47-639, Reissue Revised Statutes of Nebraska.

2 Sec. 40. Since an emergency exists, this act takes effect

3 when passed and approved according to law.