

AMENDMENTS TO LB907

(Amendments to E & R amendments, ER228)

Introduced by Ashford

1 1. Strike sections 6, 11, 12, 13, 14, 15, 16, 18, and 22
2 and insert the following new sections:

3 Sec. 6. The Commission on Public Advocacy shall
4 periodically determine and identify designated legal profession
5 shortage areas within Nebraska. The board shall develop and
6 recommend to the commission legal profession shortage areas.
7 In making such recommendations, the board shall consider, after
8 consultation with other appropriate agencies concerned with legal
9 and rural services and with appropriate professional organizations,
10 factors including, but not limited to:

11 (1) The latest reliable statistical data available
12 regarding the number of attorneys practicing in an area and the
13 population served by such attorneys;

14 (2) Distances between client populations and attorney
15 locations;

16 (3) Particular local needs for legal services;

17 (4) Capacity of local attorneys providing services and
18 scope of practice being provided; and

19 (5) Past and future demographic trends in an area.

20 Sec. 11. (1) The Nebraska Justice Reinvestment Working
21 Group is created to work with the Council of State Governments
22 Justice Center and assist the center as the center utilizes its

1 process to study and provide potential legislative solutions for
2 prison overcrowding in Nebraska. The working group shall not have
3 authority to allocate funds or make policy decisions for state
4 agencies. The working group may assist the center by establishing
5 subcommittees consisting of other individuals or representatives of
6 other interested parties.

7 (2) Members of the Nebraska Justice Reinvestment Working
8 Group are:

9 (a) The chairperson of the Judiciary Committee of the
10 Legislature or his or her designee;

11 (b) The chairperson of the Appropriations Committee of
12 the Legislature or his or her designee;

13 (c) The Director of Correctional Services;

14 (d) The Parole Administrator;

15 (e) The probation administrator;

16 (f) The chairperson of the Board of Parole or his or her
17 designee;

18 (g) The State Court Administrator;

19 (h) The Director of Behavioral Health of the Division of
20 Behavioral Health of the Department of Health and Human Services;

21 (i) A representative of the office of Public Counsel
22 selected by the Public Counsel;

23 (j) One member of the Legislature selected by the
24 Executive Board of the Legislative Council;

25 (k) A representative of the office of the Governor
26 selected by the Governor;

27 (l) A district court judge selected by the Chief Justice;

1 and

2 (m) A county court judge selected by the Chief Justice.

3 (3) The Nebraska Justice Reinvestment Working Group shall
4 convene as soon as possible after the members are selected to
5 provide the Council of State Governments Justice Center with
6 assistance during utilization of the center's process. The working
7 group shall be co-chaired by the Director of Correctional Services
8 and a member of the Legislature. The Executive Board of the
9 Legislative Council shall select the legislative co-chair of the
10 working group. Each member of the working group who is not a
11 member of the Legislature may be reimbursed for necessary expenses
12 incurred in the performance of his or her duties as a member
13 of the working group as provided in sections 81-1174 to 81-1177
14 if consistent with the policies of the member's employer. Upon
15 delivery of the final report by the center pursuant to subsection
16 (5) of this section, the working group shall be dissolved and
17 discharged of any further duties.

18 (4) The Nebraska Justice Reinvestment Working Group shall
19 assist the Council of State Governments Justice Center during the
20 center's utilization of the center's process to study, identify
21 causes, and provide potential legislative solutions for prison
22 overcrowding in Nebraska. The working group shall provide technical
23 and informational support to the center. The center shall recommend
24 policies to reduce prison overcrowding with the goal of reducing
25 prison overcrowding within five years after the operative date
26 of this section to one hundred twenty-five percent. The study
27 shall include a broad range of issues related to prison inmate

1 overpopulation, including, but not limited to:

2 (a) Courts, specialty courts, and sentencing trends;

3 (b) Development of a process to determine the impact of

4 pending legislation on the criminal justice system;

5 (c) Analysis of the prison population and its growth;

6 (d) Reported crimes and arrests;

7 (e) Alternatives to incarceration;

8 (f) Effectiveness of all available offender programs

9 including prison programs and community-based programs;

10 (g) Reentry programming and transition;

11 (h) Prison programming;

12 (i) Community services;

13 (j) Probation and parole services;

14 (k) Prison admissions and length of stay; and

15 (l) Recidivism rates of offenders released from prison,

16 jail, parole, probation, and other community-based programs.

17 (5) The Council of State Governments Justice Center shall

18 make a final report that includes, but is not limited to, potential

19 legislative solutions for the problem of prison overcrowding and

20 an estimate of the cost savings for all policies recommended

21 by the center. The report shall be delivered to the Legislature

22 electronically.

23 Sec. 12. (1) Except as otherwise provided in this

24 section, a public employer shall not ask an applicant for

25 employment to disclose, orally or in writing, information

26 concerning the applicant's criminal record or history, including

27 any inquiry on any employment application, until the public

1 employer has determined the applicant meets the minimum employment
2 qualifications.

3 (2) This section does not apply to any law enforcement
4 agency, to any position for which a public employer is required by
5 federal or state law to conduct a criminal history record check,
6 or to any position for which federal or state law specifically
7 disqualifies an applicant with a criminal background.

8 (3) (a) This section does not prevent a public employer
9 that is a school district or educational service unit from
10 requiring an applicant for employment to disclose an applicant's
11 criminal record or history relating to sexual or physical abuse.

12 (b) This section does not prevent a public employer
13 from preparing or delivering an employment application that
14 conspicuously states that a criminal history record information
15 check is required by federal law, state law, or the employer's
16 policy.

17 (c) This section does not prevent a public employer
18 from conducting a criminal history record check after the public
19 employer has determined that the applicant meets the minimum
20 employment qualifications.

21 (4) For purposes of this section:

22 (a) Law enforcement agency means an agency or department
23 of this state or of any political subdivision of this state which
24 is responsible for the prevention and detection of crime, the
25 enforcement of the penal, traffic, or highway laws of this state
26 or any political subdivision of this state, and the enforcement
27 of arrest warrants. Law enforcement agency includes, but is not

1 limited to, a police department, an office of the town marshal, an
2 office of the county sheriff, the Nebraska State Patrol, and any
3 department to which a deputy state sheriff is assigned as provided
4 in section 84-106; and

5 (b) Public employer means an agency or department of this
6 state or of any political subdivision of this state.

7 Sec. 13. The Department of Correctional Services, in
8 consultation with the Board of Parole, shall develop a reentry
9 program for individuals incarcerated in a department correctional
10 facility, individuals who have been discharged from a department
11 correctional facility within the prior eighteen months, and
12 parolees. The department shall hire a reentry program administrator
13 to develop and oversee the reentry program and additional staff as
14 needed to implement the reentry program. The purpose of the reentry
15 program is to facilitate a standard systemwide program of reentry
16 for individuals leaving correctional facilities or transitioning
17 off community supervision. The primary objectives of the reentry
18 program are to reduce recidivism, to identify, assess, and provide
19 treatment options for individuals with mental illness, to increase
20 public safety, and to improve the overall transition of the
21 individual from the criminal justice system into the community.

22 Sec. 14. (1) The Vocational and Life Skills Program
23 is created within the Department of Correctional Services,
24 in consultation with the Board of Parole. The program shall
25 provide funding to aid in the establishment and provision of
26 community-based vocational training and life skills training for
27 adults who are incarcerated, formerly incarcerated, or serving a

1 period of supervision on either probation or parole.

2 (2) The Vocational and Life Skills Programming Fund
3 is created. The fund shall consist of appropriations from the
4 Legislature, funds donated by nonprofit entities, funds from
5 the federal government, and funds from other sources. Thirty
6 percent of the fund shall be used for staffing the reentry
7 program created under section 13 of this act and to provide
8 treatment to individuals preparing for release from incarceration.
9 Seventy percent of the fund shall be used to provide grants
10 to community-based organizations, community colleges, federally
11 recognized or state recognized Indian tribes, or nonprofit
12 organizations that provide vocational and life skills programming
13 and services to adults and juveniles who are incarcerated, who
14 have been incarcerated within the prior eighteen months, or
15 who are serving a period of supervision on either probation or
16 parole. Programs, services, or training that results in meaningful
17 employment shall have priority for grants, and no money from the
18 fund shall be used for capital construction.

19 (3) The department shall adopt and promulgate rules and
20 regulations to carry out the Vocational and Life Skills Program.
21 The rules and regulations shall include, but not be limited to,
22 a plan for evaluating the effectiveness of programs, services,
23 and training that receive funding and a reporting process for
24 aid recipients. The reentry program administrator shall report
25 quarterly to the Governor and the Legislature beginning October 1,
26 2014, on the distribution and use of the aid distributed under the
27 Vocational and Life Skills Program, including how many individuals

1 received programming, the types of programming, the cost per
2 individual for each program, service, or training provided,
3 how many individuals successfully completed their programming,
4 and information on any funds that have not been used. The
5 report to the Legislature shall be submitted electronically. Any
6 funds not distributed to community-based organizations, community
7 colleges, federally recognized or state-recognized Indian tribes,
8 or nonprofit organizations under this subsection shall be retained
9 by the department to be distributed on a competitive basis under
10 the Vocational and Life Skills Program. These funds shall not be
11 expended by the department for any other purpose.

12 Sec. 15. Section 83-1,102, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 83-1,102 The Parole Administrator shall:

15 (1) Supervise and administer the Office of Parole
16 Administration;

17 (2) Establish and maintain policies, standards, and
18 procedures for the field parole service and the community
19 supervision of sex offenders pursuant to section 83-174.03;

20 (3) Divide the state into parole districts and appoint
21 district parole officers, deputy parole officers, if required, and
22 such other employees as may be required to carry out adequate
23 parole supervision of all parolees, ~~adequate probation supervision~~
24 ~~of probationers as ordered by district judges,~~ prescribe their
25 powers and duties, and obtain office quarters for staff in each
26 district as may be necessary;

27 (4) Cooperate with the Board of Parole, the courts, the

1 Community Corrections Division of the Nebraska Commission on Law
2 Enforcement and Criminal Justice, and all other agencies, public
3 and private, which are concerned with the treatment or welfare of
4 persons on parole;

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

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

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

17 (8) Use the funds provided under section 83-1,107.02
18 to augment operational or personnel costs associated with
19 the development, implementation, and evaluation of enhanced
20 parole-based programs and purchase services to provide such
21 programs aimed at enhancing adult parolee supervision in
22 the community and treatment needs of parolees. Such enhanced
23 parole-based programs include, but are not limited to, specialized
24 units of supervision, related equipment purchases and training, and
25 programs that address a parolee's vocational, educational, mental
26 health, behavioral, or substance abuse treatment needs;

27 (9) Ensure that any risk or needs assessment instrument

1 utilized by the system be periodically validated; and

2 (10) Report annually to the Governor and electronically
3 to the Legislature beginning January 1, 2015, the number of parole
4 revocations and the number of technical violations of parole; and

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

7 Sec. 16. Section 83-1,104, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 83-1,104 A district parole officer shall:

10 (1) Make investigations, prior to a committed offender's
11 release on parole, in cooperation with institutional caseworkers
12 and the Board of Parole to determine the adequacy of parole plans
13 and make reasonable advance preparation for release on parole;

14 (2) ~~Assist parolees or probationers~~ a committed offender
15 who requests assistance prior to release or a parolee to comply
16 with the conditions of parole or probation and to make a
17 successful adjustment in the community, including facilitating
18 the transitional needs of housing and employment, access to and
19 participation in job training services in the community, access to
20 mental health services, assisting with applications for health care
21 coverage or ensuring that the committed offender or parolee knows
22 how to apply for and obtain health care coverage, and assisting
23 with enrollment in the medical assistance program established
24 pursuant to the Medical Assistance Act, if eligible, to ensure that
25 the committed offender or parolee has access to such program close
26 to the time of release or soon thereafter;

27 (3) ~~Supervise parolees or probationers~~ by keeping

1 informed of their conduct and condition, utilizing global
2 positioning systems and other monitoring technology as needed
3 during the period of supervision;

4 (4) Make such reports as required by the Parole
5 Administrator or district judge to determine the effectiveness of
6 the parole system or the progress of an individual parolee; ~~or~~
7 ~~probationer;~~

8 (5) Cooperate with social welfare agencies;

9 (6) Observe the work of any deputy parole officer under
10 his or her supervision from time to time;

11 (7) Inform the Parole Administrator when, in his or
12 her opinion, any eligible parolee's conduct and attitude warrant
13 his or her discharge from supervision, or when any parolee's ~~or~~
14 ~~probationer's~~ violation of the conditions of parole ~~or probation~~
15 is of sufficient seriousness to require action by the Board of
16 Parole or district judge and whenever necessary exercise the power
17 of arrest as provided in section 83-1,119;

18 (8) Delegate in his or her discretion any of the above
19 responsibilities to a deputy parole officer if provided for his or
20 her district; and

21 (9) Exercise all powers and perform all duties necessary
22 and proper in carrying out his or her responsibilities.

23 Sec. 18. Section 83-1,119, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 83-1,119 (1) For purposes of this section:

26 (a) Administrative sanction means additional parole
27 requirements imposed upon a parolee by his or her parole officer,

1 with the full knowledge and consent of the parolee, designed to
2 hold the parolee accountable for substance abuse or technical
3 violations of conditions of parole, including, but not limited to:

4 (i) Counseling or reprimand by the adult parole
5 administration of the department;

6 (ii) Increased supervision contact requirements;

7 (iii) Increased substance abuse testing;

8 (iv) Referral for substance abuse or mental health
9 evaluation or other specialized assessment, counseling, or
10 treatment;

11 (v) Imposition of a designated curfew for a period to be
12 determined by the adult parole administration; and

13 (vi) Travel restrictions to stay within his or her county
14 of residence or employment unless otherwise permitted by the adult
15 parole administration;

16 (b) Substance abuse violation means a parolee's
17 activities or behaviors associated with the use of chemical
18 substances or related treatment services resulting in a violation
19 of an original condition of parole, including:

20 (i) Positive breath test for the consumption of alcohol
21 if the parolee is required to refrain from alcohol consumption;

22 (ii) Positive urinalysis for the illegal use of drugs;

23 (iii) Failure to report for alcohol testing or drug
24 testing; and

25 (iv) Failure to appear for or complete substance abuse
26 or mental health treatment evaluations or inpatient or outpatient
27 treatment; and

1 (c) Technical violation means a parolee's activities or
2 behaviors which create the opportunity for re-offending or diminish
3 the effectiveness of parole supervision resulting in a violation of
4 an original condition of parole, including, but not limited to:

5 (i) Moving traffic violations;

6 (ii) Failure to report to his or her parole officer;

7 (iii) Leaving the jurisdiction of the court or leaving
8 the state without the permission of the court or the Board of
9 Parole;

10 (iv) Failure to work regularly or attend training or
11 school;

12 (v) Failure to notify his or her parole officer of change
13 of address or employment;

14 (vi) Frequenting places where controlled substances are
15 illegally sold, used, distributed, or administered; and

16 (vii) Failure to pay fines, court costs, restitution, or
17 any fees imposed pursuant to section 83-1,107.01 as directed.

18 (2) Whenever a parole officer has reasonable cause to
19 believe that a parolee has committed or is about to commit a
20 substance abuse violation or technical violation while on parole,
21 but that the parolee will not attempt to leave the jurisdiction
22 and will not place lives or property in danger, the parole officer
23 shall either:

24 (a) Impose one or more administrative sanctions. The
25 decision to impose administrative sanctions in lieu of formal
26 revocation proceedings rests with the adult parole administration
27 and shall be based upon the parolee's risk level, the severity

1 of the violation, and the parolee's response to the violation.
2 If administrative sanctions are to be imposed, the parolee shall
3 acknowledge in writing the nature of the violation and agree upon
4 the administrative sanction. The parolee has the right to decline
5 to acknowledge the violation. If he or she declines to acknowledge
6 the violation, the parole officer shall take action pursuant to
7 subdivision (2)(b) of this section. A copy of the report shall be
8 submitted to the Board of Parole; or

9 (b) Submit a written report to the Board of Parole,
10 outlining the nature of the parole violation, and request that
11 formal revocation proceedings be instituted against the parolee.

12 ~~(1)~~ (3) Whenever a parole officer has reasonable cause
13 to believe that a parolee has violated or is about to violate a
14 condition of parole but by a violation that is not a substance
15 abuse violation or a technical violation and the parole officer
16 has reasonable cause to believe that the parolee will not attempt
17 to leave the jurisdiction and will not place lives or property in
18 danger, the parole officer shall submit a written report to the
19 Board of Parole which may, on the basis of such report and such
20 further investigation as it may deem appropriate:

21 (a) Dismiss the charge of violation;

22 (b) Determine whether the parolee violated the conditions
23 of his or her parole;

24 (c) Revoke his or her parole in accordance with the
25 Nebraska Treatment and Corrections Act; or

26 (d) Issue a warrant for the arrest of the parolee.

27 ~~(2)~~ (4) Whenever a parole officer has reasonable cause

1 to believe that a parolee has violated or is about to violate a
2 condition of parole and that the parolee will attempt to leave the
3 jurisdiction or will place lives or property in danger, the parole
4 officer shall arrest the parolee without a warrant and call on any
5 peace officer to assist him or her in doing so.

6 ~~(3)~~ (5) Whenever a parolee is arrested with or without
7 a warrant, he or she shall be detained in a local jail or other
8 detention facility. Immediately after such arrest and detention,
9 the parole officer shall notify the Board of Parole and submit
10 a written report of the reason for such arrest. A complete
11 investigation shall be made by the parole administration and
12 submitted to the parole board. After prompt consideration of such
13 written report, the board shall order the parolee's release from
14 detention or continued confinement to await a final decision on the
15 revocation of parole.

16 (6) The Board of Parole shall adopt and promulgate rules
17 and regulations to carry out this section.

18 2. On page 3, line 1, after the comma insert "at
19 least one of whom intends to work for a tax-exempt charitable
20 organization primarily doing public legal service and at least
21 one of whom is from or intends to practice in a designated legal
22 profession shortage area,".

23 3. Renumber the remaining section and correct internal
24 references accordingly.