

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 313

Introduced by Christensen, 44.

Read first time January 17, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to prisons; to amend sections 29-2262, 83-4,142,
2 and 83-4,143, Revised Statutes Cumulative Supplement,
3 2012; to change provisions relating to incarceration work
4 camps; to harmonize provisions; to repeal the original
5 sections; and to outright repeal sections 83-4,144,
6 83-4,145, and 83-4,146, Reissue Revised Statutes of
7 Nebraska.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2262, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 29-2262 (1) When a court sentences an offender to
4 probation, it shall attach such reasonable conditions as it deems
5 necessary or likely to insure that the offender will lead a law-
6 abiding life. No offender shall be sentenced to probation if he or
7 she is deemed to be a habitual criminal pursuant to section 29-2221.

8 (2) The court may, as a condition of a sentence of
9 probation, require the offender:

10 (a) To refrain from unlawful conduct;

11 (b) To be confined periodically in the county jail or to
12 return to custody after specified hours but not to exceed (i) for
13 misdemeanors, the lesser of ninety days or the maximum jail term
14 provided by law for the offense and (ii) for felonies, one hundred
15 eighty days;

16 (c) To meet his or her family responsibilities;

17 (d) To devote himself or herself to a specific employment
18 or occupation;

19 (e) To undergo medical or psychiatric treatment and to
20 enter and remain in a specified institution for such purpose;

21 (f) To pursue a prescribed secular course of study or
22 vocational training;

23 (g) To attend or reside in a facility established for the
24 instruction, recreation, or residence of persons on probation;

25 (h) To refrain from frequenting unlawful or disreputable

1 places or consorting with disreputable persons;

2 (i) To possess no firearm or other dangerous weapon if
3 convicted of a felony, or if convicted of any other offense, to
4 possess no firearm or other dangerous weapon unless granted written
5 permission by the court;

6 (j) To remain within the jurisdiction of the court and to
7 notify the court or the probation officer of any change in his or her
8 address or his or her employment and to agree to waive extradition if
9 found in another jurisdiction;

10 (k) To report as directed to the court or a probation
11 officer and to permit the officer to visit his or her home;

12 (l) To pay a fine in one or more payments as ordered;

13 (m) To pay for tests to determine the presence of drugs
14 or alcohol, psychological evaluations, offender assessment screens,
15 and rehabilitative services required in the identification,
16 evaluation, and treatment of offenders if such offender has the
17 financial ability to pay for such services;

18 (n) To perform community service as outlined in sections
19 29-2277 to 29-2279 under the direction of his or her probation
20 officer;

21 (o) To be monitored by an electronic surveillance device
22 or system and to pay the cost of such device or system if the
23 offender has the financial ability;

24 (p) To participate in a community correctional facility
25 or program as provided in the Community Corrections Act;

1 ~~(q) To successfully complete an incarceration work camp~~
2 ~~program as determined by the Department of Correctional Services;~~

3 ~~(r)~~—(q) To satisfy any other conditions reasonably
4 related to the rehabilitation of the offender;

5 ~~(s)~~—(r) To make restitution as described in sections
6 29-2280 and 29-2281; or

7 ~~(t)~~—(s) To pay for all costs imposed by the court,
8 including court costs and the fees imposed pursuant to section
9 29-2262.06.

10 (3) In all cases in which the offender is guilty of
11 violating section 28-416, a condition of probation shall be mandatory
12 treatment and counseling as provided by such section.

13 (4) In all cases in which the offender is guilty of a
14 crime covered by the DNA Identification Information Act, a condition
15 of probation shall be the collecting of a DNA sample pursuant to the
16 act and the paying of all costs associated with the collection of the
17 DNA sample prior to release from probation.

18 Sec. 2. Section 83-4,142, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 83-4,142 The Department of Correctional Services shall
21 develop and implement an incarceration work camp for placement of
22 felony offenders as ~~a condition of a sentence of intensive~~
23 ~~supervision probation, as a transitional phase prior to release on~~
24 ~~parole, or as~~ assigned by the Director of Correctional Services
25 pursuant to subsection (2) of section 83-176. As part of the

1 incarceration work camp, an intensive residential drug treatment
2 program may be developed and implemented for felony offenders.

3 It is the intent of the Legislature that the
4 incarceration work camp serve to reduce prison overcrowding and to
5 make prison bed space available for violent offenders. It is the
6 further intent of the Legislature that the incarceration work camp
7 serve the interests of society by addressing the criminogenic needs
8 of certain designated offenders and by deterring such offenders from
9 engaging in further criminal activity. To accomplish these goals, the
10 incarceration work camp shall provide regimented, structured,
11 disciplined programming, including all of the following: Work
12 programs; vocational training; behavior management and modification;
13 money management; substance abuse awareness, counseling, and
14 treatment; and education, programming needs, and aftercare planning,
15 which will increase the offender's abilities to lead a law-abiding,
16 productive, and fulfilling life as a contributing member of a free
17 society.

18 Sec. 3. Section 83-4,143, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 83-4,143 ~~(1)~~—It is the intent of the Legislature that the
21 court target the felony offender ~~(a)~~—who is eligible and by virtue of
22 his or her criminogenic needs is suitable to be sentenced to
23 ~~intensive supervision probation with placement placed~~ at the
24 incarceration work camp, ~~(b)~~ for whom the court finds that other
25 conditions of a sentence of intensive supervision probation, in and

1 ~~of themselves, are not suitable, and (c) who, without the existence~~
2 ~~of an incarceration work camp, would, in all likelihood, be sentenced~~
3 ~~to prison.~~

4 ~~(2) When the court is of the opinion that imprisonment is~~
5 ~~appropriate, but that a brief and intensive period of regimented,~~
6 ~~structured, and disciplined programming within a secure facility may~~
7 ~~better serve the interests of society, the court may place an~~
8 ~~offender in an incarceration work camp for a period not to exceed one~~
9 ~~hundred eighty days as a condition of a sentence of intensive~~
10 ~~supervision probation. The court may consider such placement if the~~
11 ~~offender (a) is a male or female offender convicted of a felony~~
12 ~~offense in a district court, (b) is medically and mentally fit to~~
13 ~~participate, with allowances given for reasonable accommodation as~~
14 ~~determined by medical and mental health professionals, and (c) has~~
15 ~~not previously been incarcerated for a violent felony crime.~~
16 ~~Offenders convicted of a crime under sections 28-319 to 28-322.04 or~~
17 ~~of any capital crime are not eligible to be placed in an~~
18 ~~incarceration work camp.~~

19 ~~(3) It is also the intent of the Legislature that the~~
20 ~~Board of Parole may recommend placement of felony offenders at the~~
21 ~~incarceration work camp. The offenders recommended by the board shall~~
22 ~~be offenders currently housed at other Department of Correctional~~
23 ~~Services adult correctional facilities and shall complete the~~
24 ~~incarceration work camp programming prior to release on parole.~~

25 ~~(4) When the Board of Parole is of the opinion that a~~

1 ~~felony offender currently incarcerated in a Department of~~
2 ~~Correctional Services adult correctional facility may benefit from a~~
3 ~~brief and intensive period of regimented, structured, and disciplined~~
4 ~~programming immediately prior to release on parole, the board may~~
5 ~~direct placement of such an offender in an incarceration work camp~~
6 ~~for a period not to exceed one hundred eighty days as a condition of~~
7 ~~release on parole. The board may consider such placement if the~~
8 ~~felony offender (a) is medically and mentally fit to participate,~~
9 ~~with allowances given for reasonable accommodation as determined by~~
10 ~~medical and mental health professionals, and (b) has not previously~~
11 ~~been incarcerated for a violent felony crime. Offenders convicted of~~
12 ~~a crime under sections 28-319 to 28-322.04 or of any capital crime~~
13 ~~are not eligible to be placed in an incarceration work camp.~~

14 ~~(5) The Director of Correctional Services may assign a~~
15 ~~felony offender to an incarceration work camp if he or she believes~~
16 ~~it is in the best interests of the felony offender and of society,~~
17 ~~except that offenders convicted of a crime under sections 28-319 to~~
18 ~~28-321 or of any capital crime are not eligible to be assigned to an~~
19 ~~incarceration work camp pursuant to this subsection.~~

20 Sec. 4. Original sections 29-2262, 83-4,142, and
21 83-4,143, Revised Statutes Cumulative Supplement, 2012, are repealed.

22 Sec. 5. The following sections are outright repealed:
23 Sections 83-4,144, 83-4,145, and 83-4,146, Reissue Revised Statutes
24 of Nebraska.