

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 379

Introduced by Nelson, 6; Kolowski, 31; Krist, 10.

Read first time January 18, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to committed persons; to amend section 83-173.01,
2 Reissue Revised Statutes of Nebraska, and sections 83-184
3 and 83-1,107, Revised Statutes Cumulative Supplement,
4 2012; to change provisions relating to certain notices of
5 furlough; to change furlough and reduction of sentence
6 provisions for certain offenses; and to repeal the
7 original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-173.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-173.01 Two weeks prior to releasing a person convicted
4 of a Class IA felony or sexual assault in the first degree on
5 furlough, the ~~Director of Correctional Services~~ director shall
6 deliver a copy of the release authorization to at least one local law
7 enforcement agency in the jurisdiction in which such person is
8 authorized to temporarily reside. If such person is to be released
9 into a city of the metropolitan class or city of the primary class,
10 the chief of police of such city shall be notified.

11 Sec. 2. Section 83-184, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 83-184 (1) When the conduct, behavior, mental attitude,
14 and conditions indicate that a person committed to the department and
15 the general society of the state will be benefited, and there is
16 reason to believe that the best interests of the people of the state
17 and the person committed to the department will be served thereby, in
18 that order, and upon the recommendation of the board in the case of
19 each committed offender, the director may authorize such person,
20 under prescribed conditions, to:

21 (a) ~~Visit~~ Except as provided in subsection (6) of this
22 section, visit a specifically designated place or places and return
23 to the same or another facility. An extension of limits may be
24 granted to permit a visit to a dying relative, attendance at the
25 funeral of a relative, the obtaining of medical services, or the

1 contacting of prospective employers, or for any other reason
2 consistent with the public interest; or

3 (b) Work at paid employment or participate in a training
4 program in the community on a voluntary basis whenever:

5 (i) Such paid employment will not result in the
6 displacement of employed workers, or be applied in skills, crafts, or
7 trades in which there is a surplus of available gainful labor in the
8 locality, or impair existing contracts for services; and

9 (ii) The rates of pay and other conditions of employment
10 will not be less than those paid or provided for work of similar
11 nature in the locality in which the work is to be performed.

12 (2) The wages earned by a person authorized to work at
13 paid employment in the community under the provisions of this section
14 shall be credited by the chief executive officer of the facility to
15 such person's wage fund. The director shall authorize the chief
16 executive officer to withhold up to five percent of such person's net
17 wages. The funds withheld pursuant to this subsection shall be
18 remitted to the State Treasurer for credit as provided in subsection
19 (2) of section 33-157.

20 (3) A person authorized to work at paid employment in the
21 community under the provisions of this section may be required to
22 pay, and the director is authorized to collect, such costs incident
23 to the person's confinement as the director deems appropriate and
24 reasonable. Collections shall be deposited in the state treasury as
25 miscellaneous receipts.

1 (4) The willful failure of a person to remain within the
2 extended limits of his or her confinement or to return within the
3 time prescribed to a facility designated by the director may be
4 deemed an escape from custody punishable as provided in section
5 28-912.

6 (5) No person employed in the community under the
7 provisions of this section or otherwise released shall, while working
8 in such employment in the community or going to or from such
9 employment or during the time of such release, be deemed to be an
10 agent, employee, or servant of the state.

11 (6) Any person committed to the department shall not be
12 eligible for furlough if he or she has been (a) deemed to be a
13 habitual criminal under section 29-2221, (b) convicted of use of a
14 deadly weapon to commit a felony under section 28-1205, or (c)
15 convicted of possession of a deadly weapon by a prohibited person
16 under section 28-1206.

17 Sec. 3. Section 83-1,107, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 83-1,107 (1)(a) Within sixty days after initial
20 classification and assignment of any offender committed to the
21 department, all available information regarding such committed
22 offender shall be reviewed and a committed offender department-
23 approved personalized program plan document shall be drawn up. The
24 document shall specifically describe the department-approved
25 personalized program plan and the specific goals the department

1 expects the committed offender to achieve. The document shall also
2 contain a realistic schedule for completion of the department-
3 approved personalized program plan. The department-approved
4 personalized program plan shall be fully explained to the committed
5 offender. The department shall provide programs to allow compliance
6 by the committed offender with the department-approved personalized
7 program plan.

8 Programming may include, but ~~is~~ not be limited to:

9 (i) Academic and vocational education, including teaching
10 such classes by qualified offenders;

11 (ii) Substance abuse treatment;

12 (iii) Mental health and psychiatric treatment, including
13 criminal personality programming;

14 (iv) Constructive, meaningful work programs; and

15 (v) Any other program deemed necessary and appropriate by
16 the department.

17 (b) A modification in the department-approved
18 personalized program plan may be made to account for the increased or
19 decreased abilities of the committed offender or the availability of
20 any program. Any modification shall be made only after notice is
21 given to the committed offender. The department may not impose
22 disciplinary action upon any committed offender solely because of the
23 committed offender's failure to comply with the department-approved
24 personalized program plan, but such failure may be considered by the
25 board in its deliberations on whether or not to grant parole to a

1 committed offender.

2 (2)(a) The department shall reduce the term of a
3 committed offender by six months for each year of the offender's term
4 and pro rata for any part thereof which is less than a year, except
5 that any person committed to the department shall not be eligible for
6 such reduction of term if he or she has been (i) deemed to be a
7 habitual criminal under section 29-2221, (ii) convicted of use of a
8 deadly weapon to commit a felony under section 28-1205, or (iii)
9 convicted of possession of a deadly weapon by a prohibited person
10 under section 28-1206.

11 (b) In addition to reductions granted in subdivision (2)
12 (a) of this section, the department shall reduce the term of a
13 committed offender by three days on the first day of each month
14 following a twelve-month period of incarceration within the
15 department during which the offender has not been found guilty of (i)
16 a Class I or Class II offense or (ii) more than three Class III
17 offenses under the department's disciplinary code. Reductions earned
18 under this subdivision shall not be subject to forfeit or withholding
19 by the department.

20 (c) The total reductions under this subsection shall be
21 credited from the date of sentence, which shall include any term of
22 confinement prior to sentence and commitment as provided pursuant to
23 section 83-1,106, and shall be deducted from the maximum term, to
24 determine the date when discharge from the custody of the state
25 becomes mandatory.

1 (3) While the offender is in the custody of the
2 department, reductions of terms granted pursuant to subdivision (2)
3 (a) of this section may be forfeited, withheld, and restored by the
4 chief executive officer of the facility with the approval of the
5 director after the offender has been notified regarding the charges
6 of misconduct.

7 (4) The department shall make treatment programming
8 available to committed offenders as provided in section 83-1,110.01
9 and shall include continuing participation in such programming as
10 part of each offender's parolee personalized program plan.

11 (5)(a) Within thirty days after any committed offender
12 has been paroled, all available information regarding such parolee
13 shall be reviewed and a parolee personalized program plan document
14 shall be drawn up and approved by the Office of Parole
15 Administration. The document shall specifically describe the approved
16 personalized program plan and the specific goals the office expects
17 the parolee to achieve. The document shall also contain a realistic
18 schedule for completion of the approved personalized program plan.
19 The approved personalized program plan shall be fully explained to
20 the parolee. During the term of parole, the parolee shall comply with
21 the approved personalized program plan and the office shall provide
22 programs to allow compliance by the parolee with the approved
23 personalized program plan.

24 Programming may include, but is not limited to:

25 (i) Academic and vocational education;

1 (ii) Substance abuse treatment;
2 (iii) Mental health and psychiatric treatment, including
3 criminal personality programming;
4 (iv) Constructive, meaningful work programs;
5 (v) Community service programs; and
6 (vi) Any other program deemed necessary and appropriate
7 by the office.

8 (b) A modification in the approved personalized program
9 plan may be made to account for the increased or decreased abilities
10 of the parolee or the availability of any program. Any modification
11 shall be made only after notice is given to the parolee. Intentional
12 failure to comply with the approved personalized program plan by any
13 parolee as scheduled for any year, or pro rata part thereof, shall
14 cause disciplinary action to be taken by the office resulting in the
15 forfeiture of up to a maximum of three months' good time for the
16 scheduled year.

17 (6) While the offender is in the custody of the board,
18 reductions of terms granted pursuant to subdivision (2)(a) of this
19 section may be forfeited, withheld, and restored by the administrator
20 with the approval of the director after the offender has been
21 notified regarding the charges of misconduct or breach of the
22 conditions of parole. In addition, the board may recommend such
23 forfeitures of good time to the director.

24 (7) Good time or other reductions of sentence granted
25 under the provisions of any law prior to July 1, 1996, may be

1 forfeited, withheld, or restored in accordance with the terms of the
2 Nebraska Treatment and Corrections Act.

3 Sec. 4. Original section 83-173.01, Reissue Revised
4 Statutes of Nebraska, and sections 83-184 and 83-1,107, Revised
5 Statutes Cumulative Supplement, 2012, are repealed.