

# **Neb. Rev. Stat. § 83-907 Report: Implementing the § 83-962 Parole Review Process**

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Submitted by:

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## Introduction

The Nebraska Department of Correctional Services (NDCS) and the Parole Board drafted this report to comply with Neb. Rev. Stat. §83-907. That section requires NDCS and the Parole Board to submit to the Legislature a proposed plan which describes the process of implementing the accelerated parole review process required by Neb. Rev. Stat. §83-962 if a correctional system overcrowding emergency is ever declared or determined to exist.

This report addresses the following issues, as required by §83-907:

1. The process by which the NDCS director shall certify that an overcrowding emergency exists
2. The process by which the department shall prepare and submit to the board a listing of parole-eligible inmates to be considered or reconsidered accelerated for parole
3. Any statutory changes required or funding necessary to accommodate such process
4. The process by which the board shall examine inmates during the accelerated parole review
5. A review of the analysis for granting parole pursuant to section §83-1,114 and whether this process and the factors set out in such section are sufficient or adequate for the accelerated parole review process required by section §83-962
6. A review of the process of supervising parolees released pursuant to the accelerated review process and the necessary means to ensure public safety
7. Any statutory changes required or resources necessary to accommodate the existence of an overcrowding emergency status and to facilitate the potential requisite gubernatorial declaration of such emergency

## Recent Efforts

Over the past three years, NDCS and the Parole Board have worked individually and collaboratively to increase the number of inmates prepared for parole, paroled and successful under supervision.

### **Parole Board has:**

- Improved the parole guidelines by implementing a risk assessment tool that generates a concrete risk rating
- Set inmates for parole hearings up to two years from parole eligibility
  - Initiating the parole process earlier provides inmates with the incentive to take advantage of programming and the time to complete it before parole eligibility
- Began providing certificates to inmates who complete programs in an effort to motivate them to continue working on their rehabilitation in preparation for parole
- Reviewed inmates with hearings set in the future to determine if they can be set for an earlier date
- Reviewed inmates who are set for reviews and setting them earlier when possible
- Brought in national experts to train and guide Board members in best practices to assist with motivational interviewing techniques and use of risk assessments

### **Parole Board, through its Division of Parole Supervision (DPS), has also:**

- Established Resource Centers in Lincoln and Omaha Regional Offices
- Implemented a new tool to assess parolees, prior to their release on parole, to identify what level of supervision (high, medium, or low) is required for each parolee
- Implemented an incentives and sanctions matrix, which has helped the Parole Board identify sanctions for parole violations that do not include sending the parolee back to prison

### **NDCS has:**

- Implemented a new risk assessment tool that assesses an inmate's risk to reoffend and any factors or needs that may mitigate that risk
- Increased cognitive behavioral programming resources to more effectively rehabilitate inmates with a history of criminal thinking patterns
  - This effort will also help increase the number of inmates ready for parole

- Implemented process improvements that have allowed NDCS to reduce the time between when an inmate arrives at intake and when he or she has been assessed for rehabilitation and programming needs
  - Knowing programming requirements earlier in the sentence allows for goal setting, leads to greater engagement, and helps prepare the inmate for parole
- Implemented programming enhancements; increasing the intensity of certain programs and making them accessible to more inmates
- Continued efforts to ensure the agency is always using the “right inmate, right bed, right time” approach
- Expanded mission-specific housing to more effectively address needs of special populations
- Increased community beds to support transitions to parole

## Implementing the § 83-962 Parole Review Process

### **(1) The process by which the Director of Correctional Services shall certify that an overcrowding emergency exists**

The Director is required to certify that the prison population is above 140 percent capacity or that it has reached 125 percent of design capacity within 30 days of such occurrence. The Act does not require any specific process by which the NDCS Director is to certify design capacity. To comply with this requirement, the Director or NDCS would provide notice of design capacity.

### **(2) The process by which the department shall prepare and submit to the board a listing of parole-eligible committed offenders to be considered or reconsidered accelerated for parole**

The current process for providing the Board a listing of parole-eligible committed offenders is sufficient to address an accelerated parole process. The Board has immediate access to NDCS' electronic data system, Nebraska Inmate Case Management System (NICaMS), which provides real time data regarding parole eligibility for all inmates in NDCS custody. The Board currently uses NICaMS to identify inmates who are eligible for parole reviews and hearings.

### **(3) Any statutory changes required or funding necessary to accommodate such process**

The occurrence of an overcrowding emergency under the Overcrowding Emergency Act may, but is not certain to, occur at some future date. NDCS and the Parole Board would address any need for legislative changes, additional funding, or other resources, due to the occurrence of an overcrowding emergency or not, at that time.

At this particular time, there are no statutory requirements or funding necessary to accommodate section §83-907(1) or (2). Should the need arise, requests will be submitted to the legislature for prompt consideration.

### **(4) The process by which the board shall examine committed offenders during the accelerated parole review**

The current process for reviewing parole-eligible inmates is to conduct a file or in-person review and, when appropriate, set inmates for public hearing. Notice of the hearing is published in advance.

Neb. Rev. Stat. §83-962 (2) states that during a correctional system-overcrowding emergency, the Board shall immediately consider or reconsider committed offenders eligible for parole who have not been released on parole.

The Board has already taken steps to reconsider parole for inmates who are past their parole eligibility date and is currently reconsidering inmates eligible for parole who have not had the opportunity to parole.

If necessary, the Board will conduct an increased number of reviews and hearings based upon the accelerated parole process. Board hearings may consist of three board members while board reviews may consist of two board members. The Board and NDCS will coordinate dates to schedule additional board reviews and board hearings.

**(5) A review of the analysis for granting parole pursuant to section §83-1,114 and whether this process and the factors set out in such section are sufficient or adequate for the accelerated parole review process required by section §83-962**

Currently, section §83-1,114(1) provides that the Board consider eligible inmates for release and order such release unless it is of the opinion that his or her release should be deferred because: (a) there is a substantial risk that he or she will not conform to the conditions of parole; (b) his or her release would depreciate the seriousness of his or her crime or promote disrespect of the law; (c) his or her release would have a substantially adverse effect on institutional discipline; or (d) his or her continued correctional treatment, medical care, or vocational or other training in the facility will substantially enhance his or her capacity to lead a law-abiding life when released at a later date.

The primary goal for the Board is public safety and a consideration of the factors listed above is consistent with this goal. The factors set forth in §83-1,114 are sufficient and adequate for the accelerated parole review process required by section §83-962.

**(6) A review of the process of supervising parolees released pursuant to the accelerated review process and the necessary means to ensure public safety**

The Board currently paroles all eligible inmates deemed appropriate. The accelerated parole review process and reconsideration of all parole eligible inmates may increase the number of parolees and, in particular, those with a higher risk to reoffend.

Under current standards and practices, the Division of Parole Supervision (DPS) supervises approximately 1,300 individuals. The current total caseload is composed of roughly one-third high risk and needs, one-third medium risk and needs, and one-third low-risk and needs. Over the course of the next two years, it is anticipated that in addition to an overall increase in total caseload, the caseload composition will lean more toward high-risk and high-needs individuals. If this scenario comes to fruition, it may require the addition of specialized officers and the provision of additional services and transitional housing.

Under current evidence-based practices, high risk and needs parole clients meet with their parole officer two times per month and, on average, participate in multiple programs (substance abuse treatment, life skills classes and cognitive restructuring). High risk and needs parole clients are supervised by specialized parole officers who carry a caseload of 30 at a given time.

In addition to increasing the number of officers, it will be necessary to adequately provision the need for services and transitional housing. Even with appropriate supervision level, treatment offerings, and housing options available, there are and will be those individuals who are unable to maintain their parole status for a host of reasons. These individuals will need to serve periods of custodial sanctions and/or may have their parole status revoked.

**(7) Any statutory changes required or resources necessary to accommodate the existence of an overcrowding emergency status and to facilitate the potential requisite gubernatorial declaration of such emergency**

At this time, no statutory changes are required to accommodate a possible overcrowding emergency status or gubernatorial declaration of such emergency that may or may not occur in the future. Any additional resources necessary to accommodate such status or declaration will be submitted to the Legislature for prompt consideration.