

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018
COMMITTEE STATEMENT
LB841

Hearing Date: Wednesday January 17, 2018
Committee On: Judiciary
Introducer: Pansing Brooks
One Liner: Provide duties relating to correctional overcrowding emergencies

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Baker, Chambers, Ebke, Halloran, Hansen, Krist, Morfeld,
Pansing Brooks

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

Senator Patty Pansing Brooks
Doug Koebernick
Kellee Moreno
Spike Eickholt

Representing:

Introducer
Inspector General for Corrections
self
ACLU of Nebraska

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 841 would require the Department of Correctional Services and the Board of Parole to submit a plan to the Legislature by December 1, 2018, that describes the process of implementing the accelerated parole review process that would be required in the event of a "correctional system overcrowding emergency" pursuant to the Correctional System Overcrowding Emergency Act.

Under the bill, the plan must include the process by which the certification by the Director of the Department of Correctional Services is made, the process by which the Department will submit the list of parole-eligible inmates to be considered or re-considered for parole, a list of any statutory changes required or funding necessary to address the accelerated parole review required by the Act, the process by which the Board of Parole will review inmates for parole, a review of the factors listed in the Act for determining whether to grant parole in the event of an overcrowding emergency, a review of the process for supervising any inmates granted parole in the response to an overcrowding emergency, and a review of any statutory changes or funding needed to respond to an overcrowding emergency.

Explanation of amendments:

The following is a brief summary of each of the bills included in AM 2092 to LB 841, including relevant amendments, and the effect of the changes made by the bill.

LB 841 Provide duties relating to correctional overcrowding emergencies

The introduced version of LB 841 was a bill that would require the Department to collaborate with Parole to develop policies and procedures that would operate in the event a correctional system overcrowding emergency is ever declared or is determined to exist.

LB 841 was introduced by Sen. Pansing Brooks, and was co-sponsored by Sen. Baker, Sen. Brewer, Sen. Ebke, Sen. Morfeld, and Sen. Schumacher. The bill as introduced was amended by the Judiciary Committee in AM 2092 to strike Section 1 of the introduced bill, which included certain legislative findings the Committee believed unnecessary to effectuate the more important policy provisions of the legislation.

LB 366 Change and eliminate provisions relating to parole administration

LB 366 would work to change the name of the Office of Parole Administration to the Division of Parole Supervision, and would place the Division within the Board of Parole. The change has been recommended to align with Parole's mission of continuing to research, understand and implement evidence-based practices and to utilize such approaches in supervision, services, and case management of parolees residing in the community so as to best maintain public safety, reduce recidivism, and address the needs of victims. For more information on Bill and its amendment, please see the Committee Statement on LB 366, as the bill was advanced to General File last year.

(See LB 366 Committee Statement to see list of verbal testifiers at bill hearing)

LB 692 Provide for a staffing analysis of the Department of Correctional Services

LB 692 as amended would ask the Department to complete a comprehensive analysis of its system-wide staffing needs and provide a report of such analysis to the Legislature by September 15, 2020, and would ask for a revised analysis at least every 6 years thereafter.

LB 692 was introduced by Sen. Blood. Public hearing was held on January 17, 2018. The Department testified in opposition to LB 692 at the public hearing, but the Judiciary Committee is hopeful that the amendments made in AM 2092 to LB 841 by the Committee in adjusting the dates for completion of the analysis will appropriately address the Department's concerns.

Verbal testimony at the hearing on LB 692:

Senator Carol Blood, Introducer

Doug Koebernick, Inspector General for Corrections - Proponent

Kellee Moreno, self - Proponent

Spike Eickholt, ACLU of Nebraska - Proponent

Scott Frakes, Nebr Dept of Correctional Services - Opponent

LB 816 Designate Nebraska State Patrol as agency to investigate criminal activity within Department of Correctional Services correctional facilities

LB 816 would transfer the authority to conduct criminal investigations relating to conduct occurring within facilities operated by the Department of Correctional Services from the Department to the Nebraska State Patrol. The bill would transfer employees employed by the Department as correctional investigators to the employment of the Nebraska State Patrol, and the funds appropriated to the Department for their employ would transfer to the State Patrol. The bill would further require that the superintendent of the State Patrol prepare and issue a report by July 1, 2019, as to whether the transferred positions should become sworn positions within the Patrol.

LB 816 was amended by the Judiciary Committee in AM 2092 to LB 841 to address a couple of technical concerns raised by law enforcement. Specifically, the amendment made by the Committee would require the Department to inform the Nebraska State Patrol in the event an assault is committed in a correctional facility against an officer, emergency responder, certain employees, or a health care professional. The State Patrol would then be required to respond to the incident and to arrest the person alleged to have committed the offense if probable cause exists. The person alleged to have committed the offense would then be transported from the correctional facility to the county correctional facility in the county that will have jurisdiction over the assault. In the event the person alleged to have committed the assault is currently serving a sentence for a Class I or Class IA felony, the person would not be removed from the correctional facility.

LB 816 was introduced by Sen. Chambers. Public hearing on LB 816 was conducted on February 1, 2018. No opposition testimony was heard, nor were any letters in opposition received. Because the bill simply works to transfer employees from one department to another, the fiscal impact of the bill is expected to be minimal.

(See LB 816 Committee Statement to see list of verbal testifiers at bill hearing)

LB 852 Provide for medical release of and additional rehabilitative options for committed offenders and allow the use of certain funds for peer and family support programs

LB 852 as amended would make a couple of adjustments to current provisions regarding the ability for the Department and Parole to manage inmates who need certain programming or treatment or who suffer from terminal illness during incarceration.

First, the bill as amended would adjust provisions of statute that currently allow the Department and Parole to allow an inmate to leave a facility for work release, and would allow them authority to allow an inmate, under certain conditions, to leave a facility to participate in substance abuse evaluations or treatment, attend rehabilitative programming or treatment, seek residency or employment, or participate in structured programming and return to the facility.

LB 852 as amended would also make adjustments to the current process in statute for granting medical parole for an inmate diagnosed with a terminal illness. A terminal illness is defined under the bill as an incurable and irreversible illness that will, within the reasonable medical judgment of a qualified medical professional, result in death within six months. The bill would have the medical director of the Department complete or facilitate completion of an application for medical parole upon an inmate being diagnosed with a terminal illness if the inmate is otherwise parole eligible. If the inmate is not otherwise parole eligible, the medical director would complete or facilitate the completion of an application for commutation of sentence by the Board of Pardons and an application for medical parole. The Board of Parole would then consider an inmate who is not otherwise parole eligible for medical parole in the event the Board of Pardons decides to commute the inmate's sentence and therefore render him or her eligible for parole.

LB 852 was sponsored by Sen. Bolz. A public hearing was held on the bill on February 1, 2018.

Verbal testimony at the hearing on LB LB 852 -
Senator Kate Bolz, Introducer
Jerall Moreland, Ombudsmans Office - Proponent
Doug Koebernick, Inspector General for Corrections - Proponent
Spike Eickholt, ACLU of Nebraska - Proponent
Donna McPherson, self - Proponent
John Krejci, Nebraskans for Peace - Proponent
Julie Micek, Board of Parole - Neutral

LB 853 Authorize certain Department of Correctional Services contracts

The Department currently utilizes, and has for a number of years utilized, contracts with counties across the state to house inmates in county jail facilities on a temporary basis. LB 853 provides statutory authority for the Department to continue this practice and places some parameters on the inmates eligible for placement in county jails.

LB 853 was introduced by Sen. Bolz and hearing was held on February 1, 2018.

Verbal testimony at the hearing on LB 853 -
Senator Kate Bolz, Introducer
Elaine Menzel, Nebraska Association of County Officials - Proponent
Jerall Moreland, Ombudsmans Office - Proponent
Doug Koebernick, Inspector General for Corrections - Proponent

LB 868 Change parole provisions relating to deferment and structured programming

LB 868 would require the Board of Parole to provide both the Department of Correctional Services and an inmate with notice that the inmate has been deferred parole within ten days of making such a determination. The bill would require the Board to include in the notice the reasons for deferring parole, including any recommended programming or treatment that the inmate should complete to enhance his or her likelihood of release on later consideration by the Board. The Department would have thirty days from the receipt of the notice to provide any recommended treatment or programming to the inmate. If the inmate refuses the programming or treatment, the Department would get such refusal in writing and provide a copy to the Inspector General for Corrections. The Department would also submit an annual report to the Inspector General detailing the inmates deferred parole, the treatment or programming provided as recommended by the Board of Parole, and the reasons why the inmate did not receive the recommended programming or treatment.

LB 868 was introduced by Sen. Pansing Brooks, and was co-sponsored by Sen. Ebke, Sen. Krist, and Sen. Morfeld. A public hearing on LB 868 was conducted on February 1, 2018, and had no opposition testimony or opposition letters submitted.

Verbal testimony at the hearing on LB 868 -
Senator Patty Pansing Brooks, Introducer
Spike Eickholt, ACLU of Nebraska - Proponent
Doug Koebernick, Inspector General for Corrections - Proponent
Jason Witmer, self - Proponent
Marge Schlitt, self - Proponent

LB 932 Provide discharge planning duties for the medical director of the Department of Correctional Services

LB 932 would require the Medical Director for the Department of Correctional Services to establish a protocol to determine whether an inmate soon to be released should be prescribed and dispensed a medication-assisted treatment that could assist in reducing or eliminating the inmate's use of opiates upon release.

LB 932 was introduced by Sen. Howard, and was co-sponsored by Sen. Keuhn and Sen. Lindstrom. The bill was heard by the Judiciary Committee on February 1, 2018, and received no opposition testimony or letters in opposition. The bill will have no fiscal impact on the state.

Verbal testimony at the hearing on LB 932 -
Senator Sarah Howard, Introducer
Doug Koebernick, Inspector General for Corrections - Proponent

LB 1118 Create the Coordinated Reentry Council

LB 1118 would create the Coordinated Reentry Council and place it within the Nebraska Commission on Law Enforcement and Criminal Justice. The Council would be created for the purpose of furthering the state's efforts to establish a comprehensive and successful system of correction reentry programs throughout the state, and to include an array of interests in the establishment and growth of this system. The Council would be comprised of the executive director of the Commission, the Director of Correctional Services, the Chair of the Board of Parole, the Parole Administrator, the Director of Behavioral Health of the Division of Behavioral Health of the Department of Health and Human Services, and eight members appointed by the Governor and approved by the Legislature, including an executive director of a state community college association, a business owner who employs formerly incarcerated individuals on a regular basis, two individuals who were formerly incarcerated, one mental health and substance abuse professional, one social worker, a researcher in the field of criminal justice in a university or college in Nebraska, and one full-time officer or employee of a law enforcement agency. The probation administrator, two members of the Legislature, and two judges would serve as non-voting members of the Council.

The Council would meet at least three times per year and would be tasked with advising the Department of Correctional Services on the utilization of vocational and life skills funds, developing and implementing a plan to establish the statewide operation and use of a continuum of reentry programs, reviewing effort by individuals and organizations that provide reentry services in Nebraska, reviewing best practices regarding reentry policies and programs in other states, and making recommendations to the Legislature and the Governor regarding reentry policies and programs.

LB 1118 was introduced by Sen. Krist. A public hearing on the bill was held on February 14, 2018. The Crime Commission did estimate a minimal cost for the establishment of the Commission in an amount of five thousand dollars per year, but the Legislative Fiscal Office believes that no additional appropriation would be required.

Verbal testimony at the hearing on LB 1118 -

Senator Bob Krist, Introducer

Doug Koebernick, Inspector General for Corrections - Proponent

Ki-Raka Atwater, Re-Entry Alliance of Nebraska - Proponent

Jason Witmer, Mental Health Association - Proponent

Laura Ebke, Chairperson