

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 868**

Introduced by Pansing Brooks, 28; Ebke, 32; Krist, 10; Morfeld, 46.

Read first time January 05, 2018

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act;
- 2 to amend section 83-1,114, Reissue Revised Statutes of Nebraska, and
- 3 section 83-182.01, Revised Statutes Cumulative Supplement, 2016; to
- 4 change provisions relating to structured programming and deferral of
- 5 parole as prescribed; to harmonize provisions; and to repeal the
- 6 original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-182.01, Revised Statutes Cumulative  
2 Supplement, 2016, is amended to read:

3 83-182.01 (1) Structured programming shall be planned for all adult  
4 persons committed to the department. The structured programming shall  
5 include any of the following: Work programs, vocational training,  
6 behavior management and modification, money management, and substance  
7 abuse awareness, counseling, or treatment. Programs and treatment  
8 services shall address:

9 (a) Behavioral impairments, severe emotional disturbances, and other  
10 mental health or psychiatric disorders;

11 (b) Drug and alcohol use and addiction;

12 (c) Health and medical needs;

13 (d) Education and related services;

14 (e) Counseling services for persons committed to the department who  
15 have been physically or sexually abused;

16 (f) Work ethic and structured work programs;

17 (g) The development and enhancement of job acquisition skills and  
18 job performance skills; and

19 (h) Cognitive behavioral intervention.

20 Structured programming may also include classes and activities  
21 organized by inmate self-betterment clubs, cultural clubs, and other  
22 inmate-led or volunteer-led groups.

23 (2) The goal of such structured programming is to provide the skills  
24 necessary for the person committed to the department to successfully  
25 return to his or her home or community or to a suitable alternative  
26 community upon his or her release from the adult correctional facility.  
27 The Legislature recognizes that many inmate self-betterment clubs and  
28 cultural clubs help achieve this goal by providing constructive  
29 opportunities for personal growth.

30 (3) If a person committed to the department refuses to participate  
31 in the structured programming described in subsection (1) of this

1 section, he or she shall be subject to disciplinary action, except that a  
2 person committed to the department who refuses to participate in  
3 structured programming consisting of classes and activities organized by  
4 inmate self-betterment clubs, cultural clubs, or other inmate-led or  
5 volunteer-led groups shall not be subject to disciplinary action.

6 (4) Any person committed to the department who is qualified by  
7 reason of education, training, or experience to teach academic or  
8 vocational classes may be given the opportunity to teach such classes to  
9 committed offenders as part of the structured programming described in  
10 this section.

11 (5) The department shall evaluate the quality of programs funded by  
12 the department. The evaluation shall focus on whether program  
13 participation reduces recidivism. Subject to the availability of funding,  
14 the department may contract with an independent contractor or academic  
15 institution for each program evaluation. Each program evaluation shall be  
16 standardized and shall include a site visit, interviews with key staff,  
17 interviews with offenders, group observation, if applicable, and review  
18 of materials used for the program. The evaluation shall include adherence  
19 to concepts that are linked with program effectiveness, such as program  
20 procedures, staff qualifications, and fidelity to the program model of  
21 delivering offender assessment and treatment. Each program evaluation  
22 shall also include feedback to the department concerning program  
23 strengths and weaknesses and recommendations for better adherence to  
24 evidence-based programming.

25 (6) Within thirty days after receiving written notice as required by  
26 subsection (3) of section 83-1,114 from the board, deferring a committed  
27 offender for release on parole, the department shall provide any  
28 recommended treatment or programming recommended by the board. If the  
29 committed offender denies or refuses to participate in any treatment or  
30 programming, the department shall obtain a written statement from the  
31 committed offender in which the committed offender expresses his or her

1 refusal to participate and any reasons relevant to his or her decision  
2 and shall provide the written statement to the Office of Inspector  
3 General of the Nebraska Correctional System. An annual report shall also  
4 be provided by the department to the office regarding any committed  
5 offender deferred by parole with information on programming received,  
6 programming rejected, programming denied, and the reasons why programming  
7 was not received or was denied.

8       Sec. 2. Section 83-1,114, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10       83-1,114 (1) Whenever the board ~~Board of Parole~~ considers the  
11 release of a committed offender who is eligible for release on parole, it  
12 shall order his or her release unless it is of the opinion that his or  
13 her release should be deferred because:

14       (a) There is a substantial risk that he or she will not conform to  
15 the conditions of parole;

16       (b) His or her release would depreciate the seriousness of his or  
17 her crime or promote disrespect for law;

18       (c) His or her release would have a substantially adverse effect on  
19 institutional discipline; or

20       (d) His or her continued correctional treatment, medical care, or  
21 vocational or other training in the facility will substantially enhance  
22 his or her capacity to lead a law-abiding life when released at a later  
23 date.

24       (2) In making its determination regarding a committed offender's  
25 release on parole, the board ~~Board of Parole~~ shall take into account each  
26 of the following factors:

27       (a) The offender's personality, including his or her maturity,  
28 stability, and sense of responsibility and any apparent development in  
29 his or her personality which may promote or hinder his or her conformity  
30 to law;

31       (b) The adequacy of the offender's parole plan;

1 (c) The offender's ability and readiness to assume obligations and  
2 undertake responsibilities;

3 (d) The offender's intelligence and training;

4 (e) The offender's family status and whether he or she has relatives  
5 who display an interest in him or her or whether he or she has other  
6 close and constructive associations in the community;

7 (f) The offender's employment history, his or her occupational  
8 skills, and the stability of his or her past employment;

9 (g) The type of residence, neighborhood, or community in which the  
10 offender plans to live;

11 (h) The offender's past use of narcotics or past habitual and  
12 excessive use of alcohol;

13 (i) The offender's mental or physical makeup, including any  
14 disability or handicap which may affect his or her conformity to law;

15 (j) The offender's prior criminal record, including the nature and  
16 circumstances, recency, and frequency of previous offenses;

17 (k) The offender's attitude toward law and authority;

18 (l) The offender's conduct in the facility, including particularly  
19 whether he or she has taken advantage of the opportunities for self-  
20 improvement, whether he or she has been punished for misconduct within  
21 six months prior to his or her hearing or reconsideration for parole  
22 release, whether any reductions of term have been forfeited, and whether  
23 such reductions have been restored at the time of hearing or  
24 reconsideration;

25 (m) The offender's behavior and attitude during any previous  
26 experience of probation or parole and the recency of such experience;

27 (n) The risk and needs assessment completed pursuant to section  
28 83-192; and

29 (o) Any other factors the board determines to be relevant.

30 (3) If the board determines that the release of a committed offender  
31 should be deferred, the board shall inform the department within ten

1 business days after such deferment. Such notice shall be in writing and  
2 shall state the reasons for the deferment. The board shall also describe  
3 or recommend any programming or treatment in which the committed offender  
4 should participate or that the committed offender should complete in  
5 order to enhance his or her likelihood of release upon later  
6 consideration by the board. A copy of such notice shall be provided to  
7 the committed offender at the time it is served to the department.

8       Sec. 3.   Original section 83-1,114, Reissue Revised Statutes of  
9 Nebraska, and section 83-182.01, Revised Statutes Cumulative Supplement,  
10 2016, are repealed.