

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 331

Introduced by Bolz, 29.

Read first time January 16, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to treatment and corrections; to amend section
2 83-901, Reissue Revised Statutes of Nebraska, and sections 83-1,107,
3 83-903, and 83-904, Revised Statutes Cumulative Supplement, 2018; to
4 require reports from the Board of Parole and the Office of Probation
5 Administration; to change provisions relating to release or reentry
6 plans and obtaining state identification cards or renewing motor
7 vehicle operator's licenses for inmates; to transfer responsibility
8 for the reentry program and the Vocational and Life Skills Program
9 from the Department of Correctional Services to the Board of Parole;
10 to state intent regarding appropriations; to require the Department
11 of Correctional Services and the Board of Parole to develop a plan
12 to transition responsibility for community corrections from the
13 department to the board; to require the Board of Parole to develop a
14 plan to transition responsibility for post-release supervision from
15 the Office of Probation Administration to the board; to harmonize
16 provisions; and to repeal the original sections.
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Beginning October 1, 2019, the Board of Parole shall
2 electronically submit quarterly reports to the Judiciary Committee of the
3 Legislature and the Appropriations Committee of the Legislature regarding
4 any reentry service center pilot programs being conducted by the Board of
5 Parole. The report shall include:

6 (a) Information regarding the Valley Hope residential substance
7 abuse pilot program, including rates of successful and unsuccessful
8 completion by participants and information on the long-term outcomes of
9 program participants;

10 (b) Information regarding parolees receiving financial assistance
11 for transitional housing, including how long parolees are receiving such
12 assistance or using such housing, success rates of parolees while in
13 transitional housing, and long-term outcomes for such parolees; and

14 (c) Information on the number of parolees who submit more than one
15 re-entry transition living plan to the board.

16 (2) The report shall redact all personal identifying information of
17 parolees.

18 Sec. 2. (1) Beginning October 1, 2019, the Office of Probation
19 Administration shall electronically submit quarterly reports to the
20 Judiciary Committee of the Legislature and the Appropriations Committee
21 of the Legislature regarding individuals serving sentences of post-
22 release supervision. The report shall include:

23 (a) The number of individuals:

24 (i) On post-release supervision;

25 (ii) Successfully discharged from post-release supervision;

26 (iii) Unsuccessfully discharged from post-release supervision;

27 (iv) Whose post-release supervision is revoked for technical
28 violations;

29 (v) Whose post-release supervision is revoked for law violations;

30 (vi) Who abscond and do not complete the conditions of their post-
31 release supervision;

- 1 (vii) Who are sent to jails to serve custodial sanctions; and
- 2 (viii) Whose post-release supervision has been revoked;
- 3 (b) The number of jail beds utilized for custodial sanctions and the
- 4 number of days such beds are utilized;
- 5 (c) The types of programming offered to individuals on post-release
- 6 supervision; and
- 7 (d) The risk scores of individuals on post-release supervision at
- 8 the time they began serving a sentence of imprisonment and upon discharge
- 9 from post-release supervision.

10 (2) The report shall redact all personal identifying information of
11 individuals on post-release supervision.

12 Sec. 3. Section 83-1,107, Revised Statutes Cumulative Supplement,
13 2018, is amended to read:

14 83-1,107 (1)(a) Within sixty days after initial classification and
15 assignment of any offender committed to the department, all available
16 information regarding such committed offender shall be reviewed and a
17 committed offender department-approved personalized program plan document
18 shall be drawn up. The document shall specifically describe the
19 department-approved personalized program plan and the specific goals the
20 department expects the committed offender to achieve. The document shall
21 also contain a realistic schedule for completion of the department-
22 approved personalized program plan. The department-approved personalized
23 program plan shall be developed with the active participation of the
24 committed offender. The department shall provide programs to allow
25 compliance by the committed offender with the department-approved
26 personalized program plan.

27 Programming may include, but is not limited to:

- 28 (i) Academic and vocational education, including teaching such
- 29 classes by qualified offenders;
- 30 (ii) Substance abuse treatment;
- 31 (iii) Mental health and psychiatric treatment, including criminal

1 personality programming;

2 (iv) Constructive, meaningful work programs; and

3 (v) Any other program deemed necessary and appropriate by the
4 department.

5 (b) A modification in the department-approved personalized program
6 plan may be made to account for the increased or decreased abilities of
7 the committed offender or the availability of any program. Any
8 modification shall be made only after notice is given to the committed
9 offender. The department may not impose disciplinary action upon any
10 committed offender solely because of the committed offender's failure to
11 comply with the department-approved personalized program plan, but such
12 failure may be considered by the board in its deliberations on whether or
13 not to grant parole to a committed offender.

14 (2)(a) The department shall reduce the term of a committed offender
15 by six months for each year of the offender's term and pro rata for any
16 part thereof which is less than a year.

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

25 (c) The total reductions under this subsection shall be credited
26 from the date of sentence, which shall include any term of confinement
27 prior to sentence and commitment as provided pursuant to section
28 83-1,106, and shall be deducted from the maximum term, to determine the
29 date when discharge from the custody of the state becomes mandatory.

30 (3) While the offender is in the custody of the department,
31 reductions of terms granted pursuant to subdivision (2)(a) of this

1 section may be forfeited, withheld, and restored by the chief executive
2 officer of the facility with the approval of the director after the
3 offender has been notified regarding the charges of misconduct.

4 (4) The department, in consultation with the Board of Parole, shall
5 ensure that a release or reentry plan is complete or near completion when
6 the offender has served at least eighty percent of his or her sentence.
7 For purposes of this subsection, release or reentry plan means a
8 comprehensive and individualized strategic plan to ensure an individual's
9 safe and effective transition or reentry into the community to which he
10 or she resides with the primary goal of reducing recidivism. At a
11 minimum, the release or reentry plan shall include, but not be limited
12 to, consideration of the individual's housing needs, medical or mental
13 health care needs, and transportation and job needs and shall address an
14 individual's barriers to successful release or reentry in order to
15 prevent recidivism. The release or reentry plan does not include an
16 individual's programming needs included in the individual's personalized
17 program plan for use inside the prison. However, the department shall
18 include in the release or reentry plan information regarding the
19 individual's progress on his or her personalized program plan for use
20 inside the prison.

21 (5)(a) The department shall make treatment programming available to
22 committed offenders as provided in section 83-1,110.01 and shall include
23 continuing participation in such programming as part of each offender's
24 department-approved parolee personalized program plan developed under
25 subsection (1) of this section.

26 (b) Any committed offender with a mental illness shall be provided
27 with the community standard of mental health care. The mental health care
28 shall utilize evidence-based therapy models that include an evaluation
29 component to track the effectiveness of interventions.

30 (c) Any committed offender with a mental illness shall be evaluated
31 before release to ensure that adequate monitoring and treatment of the

1 committed offender will take place or, if appropriate, that a commitment
2 proceeding under the Nebraska Mental Health Commitment Act or the Sex
3 Offender Commitment Act will take place.

4 (6)(a) Within thirty days after any committed offender has been
5 paroled, all available information regarding such parolee shall be
6 reviewed and a case plan document shall be drawn up and approved by the
7 Division of Parole Supervision. The document shall specifically describe
8 the approved case plan and the specific goals the division expects the
9 parolee to achieve. The document shall also contain a realistic schedule
10 for completion of the approved case plan. The approved case plan shall be
11 developed with the active participation of the parolee. During the term
12 of parole, the parolee shall comply with the approved case plan and the
13 division shall provide programs to allow compliance by the parolee with
14 the approved case plan.

15 Programming may include, but is not limited to:

- 16 (i) Academic and vocational education;
17 (ii) Substance abuse treatment;
18 (iii) Mental health and psychiatric treatment, including criminal
19 personality programming;
20 (iv) Constructive, meaningful work programs;
21 (v) Community service programs; and
22 (vi) Any other program deemed necessary and appropriate by the
23 division.

24 (b) A modification in the approved case plan may be made to account
25 for the increased or decreased abilities of the parolee or the
26 availability of any program. Any modification shall be made only after
27 notice is given to the parolee. Intentional failure to comply with the
28 approved case plan by any parolee as scheduled for any year, or pro rata
29 part thereof, shall cause disciplinary action to be taken by the division
30 resulting in the forfeiture of up to a maximum of three months' good time
31 for the scheduled year.

1 (7) While the offender is in the custody of the board, reductions of
2 terms granted pursuant to subdivision (2)(a) of this section may be
3 forfeited, withheld, and restored by the director upon the recommendation
4 of the board after the offender has been notified regarding the charges
5 of misconduct or breach of the conditions of parole.

6 (8) Good time or other reductions of sentence granted under the
7 provisions of any law prior to July 1, 1996, may be forfeited, withheld,
8 or restored in accordance with the terms of the Nebraska Treatment and
9 Corrections Act.

10 (9) Pursuant to rules and regulations adopted by the probation
11 administrator and the director, an individualized post-release
12 supervision plan shall be collaboratively prepared by the Office of
13 Probation Administration and the department and provided to the court to
14 prepare individuals under custody of the department for post-release
15 supervision. All records created during the period of incarceration shall
16 be shared with the Office of Probation Administration and considered in
17 preparation of the post-release supervision plan.

18 Sec. 4. Section 83-901, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 83-901 The purpose of sections 49-617, 68-621, 72-249, 72-1302 to
21 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01, 83-108,
22 83-108.04, 83-112, 83-135, 83-139, 83-140, 83-144, 83-145, 83-147 to
23 83-150, 83-153 to 83-156, 83-170 to 83-173, 83-186, 83-188, 83-443, and
24 83-901 to 83-916 and section 5 of this act is to establish an agency of
25 state government for the custody, study, care, discipline, training, and
26 treatment of persons in the correctional and detention institutions and
27 for the study, training, and treatment of persons under the supervision
28 of other correctional services of the state so that they may be prepared
29 for lawful community living. Correctional services shall be so
30 diversified in program and personnel as to facilitate individualization
31 of treatment.

1 Sec. 5. (1) Prior to the discharge of an individual from a facility
2 of the Department of Correctional Services, the department shall provide
3 such individual with an opportunity to obtain a state identification card
4 or renew a motor vehicle operator's license.

5 (2) The Board of Parole and Office of Probation Administration may
6 assist such individuals in obtaining state identification cards or
7 renewing motor vehicle operator's licenses. The department shall
8 cooperate with and facilitate the board's and office's involvement in
9 such matter.

10 Sec. 6. Section 83-903, Revised Statutes Cumulative Supplement,
11 2018, is amended to read:

12 83-903 (1) The Department of Correctional Services, in consultation
13 with the Board of Parole, shall develop a reentry program for individuals
14 incarcerated in a department correctional facility, individuals who have
15 been discharged from a department correctional facility within the prior
16 eighteen months, and parolees. The department shall hire a reentry
17 program administrator to develop and oversee the reentry program and
18 additional staff as needed to implement the reentry program.

19 (2) The purpose of the reentry program is to facilitate a standard
20 systemwide program of reentry for individuals leaving correctional
21 facilities or transitioning off community supervision. The primary
22 objectives of the reentry program are to reduce recidivism, to identify,
23 assess, and provide treatment options for individuals with mental
24 illness, to increase public safety, and to improve the overall transition
25 of the individual from the criminal justice system into the community.
26 ~~Prior to the discharge of an individual from a department correctional~~
27 ~~facility, the department shall provide such individual with an~~
28 ~~opportunity to obtain a state identification card or renew a motor~~
29 ~~vehicle operator's license.~~

30 (3) Beginning July 1, 2020, responsibility for further developing,
31 maintaining, and administering the reentry program shall be transferred

1 to the Board of Parole, which shall develop and administer the program in
2 consultation with the Department of Correctional Services.

3 Sec. 7. Section 83-904, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 83-904 (1) The Vocational and Life Skills Program is created within
6 the Department of Correctional Services, in consultation with the Board
7 of Parole. The program shall provide funding to aid in the establishment
8 and provision of community-based vocational training and life skills
9 training for adults who are incarcerated, formerly incarcerated, or
10 serving a period of supervision on either probation or parole. Beginning
11 July 1, 2020, responsibility for further developing, maintaining, and
12 administering the reentry program shall be transferred to the Board of
13 Parole, which shall develop and administer the program in consultation
14 with the Department of Correctional Services.

15 (2)(a) (2) The Vocational and Life Skills Programming Fund is
16 created. The fund shall consist of appropriations from the Legislature,
17 funds donated by nonprofit entities, funds from the federal government,
18 and funds from other sources. Up to thirty percent of the fund may be
19 used for staffing the reentry program created under section 83-903 and to
20 provide treatment to individuals preparing for release from
21 incarceration. At least seventy percent of the fund shall be used to
22 provide grants to community-based organizations, community colleges,
23 federally recognized or state-recognized Indian tribes, or nonprofit
24 organizations that provide vocational and life skills programming and
25 services to adults and juveniles who are incarcerated, who have been
26 incarcerated within the prior eighteen months, or who are serving a
27 period of supervision on either probation or parole.

28 (b)(i) Until July 1, 2020:

29 (A) The department, in awarding grants, shall give priority to
30 programs, services, or training that results in meaningful employment;
31 and , and no money from the fund shall be used for capital construction.

1 (B) Any funds not distributed to community-based organizations,
2 community colleges, federally recognized or state-recognized Indian
3 tribes, or nonprofit organizations shall be retained by the department to
4 be distributed on a competitive basis under the Vocational and Life
5 Skills Program. These funds shall not be expended by the department for
6 any other purpose.

7 (ii) Beginning July 1, 2020:

8 (A) The board, in awarding grants, shall give priority to programs,
9 services, or training that results in meaningful employment;

10 (B) Any funds not distributed to community-based organizations,
11 community colleges, federally recognized or state-recognized Indian
12 tribes, or nonprofit organizations shall be retained by the board to be
13 distributed on a competitive basis under the Vocational and Life Skills
14 Program. These funds shall not be expended by the board for any other
15 purpose; and

16 (c) No money in the fund shall be used for capital construction.

17 (d) Any money in the fund available for investment shall be invested
18 by the state investment officer pursuant to the Nebraska Capital
19 Expansion Act and the Nebraska State Funds Investment Act. Investment
20 earnings from investment of money in the fund shall be credited to the
21 fund.

22 (3) The department, in consultation with the Board of Parole, shall
23 adopt and promulgate rules and regulations to carry out the Vocational
24 and Life Skills Program. The rules and regulations shall include, but not
25 be limited to, a plan for evaluating the effectiveness of programs,
26 services, and training that receive funding and a reporting process for
27 aid recipients. Beginning July 1, 2020, responsibility for adopting and
28 promulgating such rules and regulations shall be transferred to the
29 board, which shall adopt and promulgate such rules and regulations in
30 consultation with the Department of Correctional Services.

31 (4) The reentry program administrator shall report quarterly to the

1 Governor and the Clerk of the Legislature beginning October 1, 2014, on
2 the distribution and use of the aid distributed under the Vocational and
3 Life Skills Program, including how many individuals received programming,
4 the types of programming, the cost per individual for each program,
5 service, or training provided, how many individuals successfully
6 completed their programming, and information on any funds that have not
7 been used. The report to the Clerk of the Legislature shall be submitted
8 electronically. ~~Any funds not distributed to community-based~~
9 ~~organizations, community colleges, federally recognized or state-~~
10 ~~recognized Indian tribes, or nonprofit organizations under this~~
11 ~~subsection shall be retained by the department to be distributed on a~~
12 ~~competitive basis under the Vocational and Life Skills Program. These~~
13 ~~funds shall not be expended by the department for any other purpose.~~

14 Sec. 8. (1) On or before October 1, 2019, the Board of Parole, in
15 consultation with the Department of Correctional Services, shall develop
16 a plan to facilitate the transfer of the duties and functions of the
17 department transferred to the board pursuant to sections 83-903 and
18 83-904.

19 (2) On July 1, 2020, all items of personal property, including
20 computers, office furniture and fixtures, books, documents, and records
21 of the department pertaining to the duties and functions transferred to
22 the board pursuant to this section shall become the property of the
23 board.

24 (3) Beginning July 1, 2020, whenever the department is referred to
25 or designated by any contract or other document in connection with the
26 duties and functions transferred to the board pursuant to this section,
27 such reference or designation shall apply to the board. All contracts
28 entered into by the department prior to July 1, 2020, in connection with
29 the duties and functions transferred to the board are hereby recognized,
30 with the board succeeding to all rights and obligations under such
31 contracts.

1 (4) All rules and regulations of the department adopted prior to
2 July 1, 2020, in connection with the duties and functions transferred to
3 the board pursuant to this section shall continue to be effective until
4 revised, amended, repealed, or nullified pursuant to law.

5 (5) No suit, action, or other proceeding, judicial or
6 administrative, lawfully commenced prior to July 1, 2020, or which could
7 have been commenced prior to that date, by or against the department, or
8 any employee thereof in such employee's official capacity or in relation
9 to the discharge of his or her official duties, shall abate by reason of
10 the transfer of duties and functions from the department to the board.

11 (6) Beginning July 1, 2020, positions of employment in the
12 department related to the duties and functions transferred pursuant to
13 this section, including the reentry program administrator, are
14 transferred to the board. The affected employees shall retain their
15 rights under the state personnel system or pertinent bargaining
16 agreement, and their service shall be deemed continuous. This section
17 does not grant employees any new rights or benefits not otherwise
18 provided by law or bargaining agreement or preclude the board from
19 exercising any of the prerogatives of management set forth in section
20 81-1311 or as otherwise provided by law. This section is not an amendment
21 to or substitute for the provisions of any existing bargaining
22 agreements.

23 (7) It is the intent of the Legislature that any appropriation and
24 salary limit for fiscal year 2020-21 provided in any legislative bill
25 enacted by the One Hundred Sixth Legislature, First Session, to Agency
26 No. 46, Department of Correctional Services, in the following program
27 classifications, shall be null and void, and any such amounts shall be
28 appropriated to Agency No. 15, Board of Parole: Program No. 214,
29 Vocational and Life Skills.

30 Sec. 9. (1) The Board of Parole shall develop a comprehensive plan
31 to transition responsibility for community corrections from the

1 Department of Correctional Services to the board. The plan shall have an
2 implementation start date of July 1, 2021. The plan shall identify
3 timelines and infrastructure needs. The department shall cooperate with
4 the board in developing the plan. The board may hire a consultant or
5 consultants to facilitate development of the plan.

6 (2) The Board of Parole shall electronically submit the
7 comprehensive plan to the Judiciary Committee of the Legislature on or
8 before October 1, 2020.

9 Sec. 10. (1) The Board of Parole shall develop a comprehensive plan
10 to transition responsibility for post-release supervision from the
11 judicial branch and the Office of Probation Administration to the board.
12 The plan shall have an implementation start date of July 1, 2022. The
13 plan shall identify timelines and infrastructure needs. The Office of
14 Probation Administration and State Court Administrator shall cooperate
15 with the board in developing the plan. The board may hire a consultant or
16 consultants to facilitate development of the plan.

17 (2) The Board of Parole shall electronically submit the
18 comprehensive plan to the Judiciary Committee of the Legislature on or
19 before October 1, 2021.

20 Sec. 11. Original section 83-901, Reissue Revised Statutes of
21 Nebraska, and sections 83-1,107, 83-903, and 83-904, Revised Statutes
22 Cumulative Supplement, 2018, are repealed.