

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 686

Introduced by Lathrop, 12.

Read first time January 23, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Correctional System Overcrowding
2 Emergency Act; to amend section 83-961, Reissue Revised Statutes of
3 Nebraska, and section 83-962, Revised Statutes Cumulative
4 Supplement, 2018; to change and eliminate definitions; to change
5 provisions relating to declarations of correctional system
6 overcrowding emergencies; to provide a duty for the Governor; and to
7 repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-961, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 83-961 For purposes of the Correctional System Overcrowding
4 Emergency Act:

5 (1) Board means the Board of Parole;

6 (2) Committed offender has the definition found in section 83-170;

7 (3) Department means the Department of Correctional Services;

8 (4) Design capacity means the total designed bed space in facilities
9 operated by the department, as certified by the director;

10 (5) Director means the Director of Correctional Services;

11 ~~(6) Operational capacity means one hundred twenty five percent of~~
12 ~~design capacity;~~

13 ~~(6) (7) Population means the actual number of inmates assigned to~~
14 ~~facilities operated by the department and does not include inmates~~
15 ~~assigned to county-operated correctional institutions; and~~

16 ~~(7) (8) Violent offense means any one or more of the following~~
17 ~~crimes: Murder in the first degree, murder in the second degree,~~
18 ~~manslaughter, assault in the first degree, kidnapping, sexual assault in~~
19 ~~the first degree, or robbery.~~

20 Sec. 2. Section 83-962, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 83-962 (1)(a) ~~(1)~~ Until July 1, 2020, the Governor may declare a
23 correctional system overcrowding emergency whenever the director
24 certifies that the department's inmate population is over one hundred
25 forty percent of design capacity.

26 (b) Beginning July 1, 2020, and until December 31, 2020, a
27 correctional system overcrowding emergency shall exist whenever the
28 director certifies that the department's inmate population is over one
29 hundred forty percent of design capacity. The director shall so certify
30 within thirty days after the date on which the population first exceeds
31 one hundred forty percent of design capacity.

1 (c) Beginning January 1, 2021, and until June 30, 2021, a
2 correctional system overcrowding emergency shall exist whenever the
3 director certifies that the department's inmate population is over one
4 hundred thirty-five percent of design capacity. The director shall so
5 certify within thirty days after the date on which the population first
6 exceeds one hundred thirty-five percent of design capacity.

7 (d) Beginning July 1, 2021, and until December 31, 2021, a
8 correctional system overcrowding emergency shall exist whenever the
9 director certifies that the department's inmate population is over one
10 hundred thirty percent of design capacity. The director shall so certify
11 within thirty days after the date on which the population first exceeds
12 one hundred thirty percent of design capacity.

13 (e) Beginning January 1, 2022, a correctional system overcrowding
14 emergency shall exist whenever the director certifies that the
15 department's inmate population is over one hundred twenty-five percent of
16 design capacity. The director shall so certify within thirty days after
17 the date on which the population first exceeds one hundred twenty-five
18 percent of design capacity.

19 (2) During a correctional system overcrowding emergency, the
20 Governor shall take immediate action to reduce the prison population.

21 (3) ~~(2)~~ During a correctional system overcrowding emergency, the
22 board shall immediately consider or reconsider committed offenders
23 eligible for parole who have not been released on parole.

24 (4) ~~(3)~~ Upon such consideration or reconsideration, and for all
25 other consideration of committed offenders eligible for parole while the
26 correctional system overcrowding emergency is in effect, the board shall
27 order the release of each committed offender unless it is of the opinion
28 that such release should be deferred because:

29 (a) The board has determined that it is more likely than not that
30 the committed offender will not conform to the conditions of parole;

31 (b) The board has determined that release of the committed offender

1 would have a very significant and quantifiable effect on institutional
2 discipline; or

3 (c) The board has determined that there is a very substantial risk
4 that the committed offender will commit a violent act against a person.

5 (5) ~~(4)~~ In making the determination regarding the risk that a
6 committed offender will not conform to the conditions of parole, the
7 board shall take into account the factors set forth in subsection (2) of
8 section 83-1,114.

9 (6) ~~(5)~~ The board shall continue granting parole to offenders under
10 this section until the director certifies that the population is below
11 the percentage at which a correctional system overcrowding emergency
12 exists under subsection (1) of this section at operational capacity. The
13 director shall so certify within thirty days after the date on which the
14 population first falls below such percentage reaches operational
15 capacity.

16 Sec. 3. Original section 83-961, Reissue Revised Statutes of
17 Nebraska, and section 83-962, Revised Statutes Cumulative Supplement,
18 2018, are repealed.