

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 334

Introduced by Wayne, 13.

Read first time January 13, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to treatment and corrections; to amend
2 sections 28-912 and 81-8,240, Reissue Revised Statutes of Nebraska,
3 and sections 29-2261, 47-902, 47-903, 81-8,244, 83-1,100, 83-1,102,
4 83-1,107, 83-901, 83-903, and 83-904, Revised Statutes Cumulative
5 Supplement, 2020; to adopt the Community Work Release and Treatment
6 Centers Act; to provide powers and duties for the Board of Parole,
7 Office of Probation Administration, office of Inspector General of
8 the Nebraska Correctional System, the Public Counsel, the Division
9 of Parole Supervision, and the Department of Correctional Services;
10 to change provisions relating to escape from official detention; to
11 provide for access to presentence investigation reports and other
12 records; to transfer responsibility for certain programs and
13 services from the Department of Correctional Services to the Board
14 of Parole; to redefine terms; to eliminate obsolete provisions; to
15 harmonize provisions; to repeal the original sections; and to
16 outright repeal section 83-933, Revised Statutes Cumulative
17 Supplement, 2020.

18 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 13 of this act shall be known and may be
2 cited as the Community Work Release and Treatment Centers Act.

3 Sec. 2. (1) Studies have shown that post-prison outcomes tend to be
4 better for those inmates who participate in work release programs prior
5 to their discharge from custody. Specifically, findings indicate that
6 those inmates who participated in work release programs had a higher
7 likelihood of obtaining post-release employment within the first quarter
8 after their release, and also had a significantly lower rate of
9 recidivism than those inmates who did not participate in work release
10 programs prior to discharge from custody. In addition, studies indicate
11 that those inmates who participated in privately operated work release
12 programs were significantly more likely to become employed after their
13 release.

14 (2) In light of these findings, and in order to give the Board of
15 Parole additional options for the placement of offenders other than the
16 granting of a full parole, the Legislature deems it desirable:

17 (a) To increase the number of offenders in the Nebraska correctional
18 system who are exposed to work release prior to their discharge from
19 custody; and

20 (b) To do so in settings that also offer therapy, programming,
21 treatment, vocational training, and educational classes.

22 (3) To achieve these goals, it is the intent of the Community Work
23 Release and Treatment Centers Act to empower the Division of Parole
24 Supervision to contract with private providers to establish community
25 work release and treatment centers at various locations throughout the
26 State of Nebraska.

27 Sec. 3. For the purposes of the Community Work Release and
28 Treatment Centers Act:

29 (1) Board means the Board of Parole;

30 (2) Committed offender has the same meaning as in section 83-170;

31 (3) Community work release and treatment center or center means a

1 residential home, halfway house, or other facility operated by a private
2 provider and established pursuant to an agreement in writing with the
3 division for providing housing and supervision of committed offenders
4 placed in the center by the division for the purposes of work release and
5 for vocational training, education, programming, or behavioral health or
6 mental health treatment;

7 (4) Division means the Division of Parole Supervision;

8 (5) Individualized release plan means a detailed written plan
9 outlining a committed offender's future vocational goals, training,
10 employment, and needed treatment services following the offender's
11 release from a community work release and treatment center; and

12 (6) Private provider means a person, partnership, corporation,
13 association, joint venture, organization, or similar entity which, under
14 a contract with the division, has agreed to operate a community work
15 release and treatment center pursuant to the act.

16 Sec. 4. (1) The board has the power and authority to place parole-
17 eligible committed offenders at community work release and treatment
18 centers as provided for in the Community Work Release and Treatment
19 Centers Act.

20 (2) All offenders placed at community work release and treatment
21 centers pursuant to the act:

22 (a) Shall be under the continuing jurisdiction and authority of the
23 board as if they were selected for release on ordinary parole status as
24 provided for in section 83-192; and

25 (b) May be subsequently released by the board on ordinary parole
26 status as provided for in section 83-192.

27 Sec. 5. (1) The division is hereby authorized to exercise all
28 powers and perform all duties necessary and proper for carrying out its
29 responsibilities under the Community Work Release and Treatment Centers
30 Act.

31 (2) The division is authorized to use designated funds provided by

1 the Legislature to enter into agreements with private providers for the
2 development and operation of community work release and treatment centers
3 to be established at various locations throughout the state. Any such
4 agreement shall require a private provider to:

5 (a) Assist the committed offenders placed at the center to obtain
6 and maintain employment in the community;

7 (b) Provide vocational training, education, programming, and
8 treatment for issues related to the criminogenic needs of committed
9 offenders placed at the center; and

10 (c) Otherwise direct and supervise the activities and behavior of
11 committed offenders placed at the center as provided in the act.

12 (3) In an agreement under this section, the division may include
13 contractual requirements that obligate the private provider to offer to
14 committed offenders placed at the center:

15 (a) Specialized educational or vocational training; and

16 (b) Other programming that will address the mental health,
17 behavioral health, or substance abuse treatment needs of such committed
18 offenders.

19 (4) An agreement under this section shall require the community work
20 release and treatment center to establish programs, rules, and
21 enforcement systems:

22 (a) Regarding the behavior of committed offenders;

23 (b) To ensure that committed offenders seek and retain continuous
24 employment;

25 (c) For the treatment of committed offenders for substance abuse;

26 (d) To ensure that committed offenders only leave the center for
27 purposes of work or for other specified and approved activities,
28 including, but not limited to, job interviews, medical appointments,
29 treatment, and outings to visit family;

30 (e) To ensure that committed offenders consistently participate in
31 all necessary therapy, programming, treatment, vocational training, and

1 educational classes; and

2 (f) To ensure that committed offenders maintain their scheduled work
3 hours.

4 Sec. 6. The division shall set standards for the appropriate
5 staffing levels of community work release and treatment centers. The
6 division shall require each center to:

7 (1) Be under the supervision and control of a designated center
8 director approved by the division;

9 (2) Be adequately staffed twenty-four hours per day, including on
10 weekends and holidays; and

11 (3) Assign an individual counselor to each committed offender
12 assigned to the center.

13 Sec. 7. The division shall require each community work release and
14 treatment center to establish an individualized release plan for each
15 committed offender assigned to the center. If a committed offender is
16 released from a center, the offender shall be subject to parole
17 conditions set by the board and under the supervision of a district
18 parole officer assigned by the division pursuant to section 83-1,104. The
19 individualized release plan shall be developed in coordination with the
20 assigned district parole officer. The staff of a center shall assist the
21 division in making reasonable advance preparations for the release of
22 such committed offenders.

23 Sec. 8. (1) The division shall set requirements for the maintenance
24 of the individual records of committed offenders assigned to a community
25 work release and treatment center.

26 (2) The division shall require each community work release and
27 treatment center to make periodic reports to the division on the
28 performance of each committed offender assigned to the center.

29 Sec. 9. The division shall establish an internal system for
30 assessing the achievements of community work release and treatment
31 centers and the effectiveness of the Community Work Release and Treatment

1 Centers Act as a whole. The division shall develop and maintain
2 measurable goals and objectives for such assessment.

3 Sec. 10. The division shall designate a parole officer to monitor
4 the performance of each committed offender who is assigned to a community
5 work release and treatment center. The designated parole officer shall be
6 required to periodically report to the division on the progress of the
7 committed offender.

8 Sec. 11. The division shall develop an internal program to conduct
9 annual reviews of the performance of each community work release and
10 treatment center. A senior staff person of the division shall visit each
11 center at least twice each year.

12 Sec. 12. (1) A committed offender assigned to a community work
13 release and treatment center shall obey the center's rules of behavior
14 and shall consistently maintain such offender's scheduled work hours.

15 (2) An intentional failure of a committed offender to return to the
16 assigned center at the scheduled time following work or at the end of
17 temporary leave granted for a specific purpose or limited period or any
18 other intentional failure of a committed offender to remain within the
19 extended limits of such offender's confinement shall be deemed an escape
20 from custody punishable as provided for in section 28-912.

21 (3) The intentional failure of a committed offender to abide by the
22 rules of such offender's assigned center may result in internal
23 disciplinary sanction, termination of the committed offender's parole and
24 placement with the center, and the immediate return of such offender to
25 the custody of the Department of Correctional Services.

26 (4) No committed offender who is employed in the community under the
27 Community Work Release and Treatment Centers Act or otherwise released
28 from custody shall, while working in such employment in the community,
29 going to or from such employment, or during the time of such release, be
30 deemed to be an agent, employee, or servant of the State of Nebraska.

31 Sec. 13. The division shall allow a community work release and

1 treatment center to have access to all of the records, documents, and
2 reports in the custody of the division, including presentencing reports,
3 that relate to those committed offenders who are assigned to the center.

4 A center shall maintain the confidentiality of presentencing reports as
5 provided in section 29-2261.

6 Sec. 14. (1) Beginning October 1, 2021, the Board of Parole shall
7 electronically submit quarterly reports to the Judiciary Committee of the
8 Legislature and the Appropriations Committee of the Legislature regarding
9 any reentry service center pilot programs being conducted by the Board of
10 Parole. The report shall include:

11 (a) Information regarding the Valley Hope residential substance
12 abuse pilot program, including rates of successful and unsuccessful
13 completion by participants and information on the long-term outcomes of
14 program participants;

15 (b) Information regarding parolees receiving financial assistance
16 for transitional housing, including how long parolees are receiving such
17 assistance or using such housing, success rates of parolees while in
18 transitional housing, and long-term outcomes for such parolees; and

19 (c) Information on the number of parolees who submit more than one
20 reentry transition living plan to the board.

21 (2) The report shall redact all personal identifying information of
22 parolees.

23 Sec. 15. (1) Beginning October 1, 2021, the Office of Probation
24 Administration shall electronically submit quarterly reports to the
25 Judiciary Committee of the Legislature and the Appropriations Committee
26 of the Legislature regarding individuals serving sentences of post-
27 release supervision. The report shall include:

28 (a) The number of individuals:

29 (i) On post-release supervision;

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

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

1 (iv) Whose post-release supervision is revoked for technical
2 violations;

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

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

6 (vii) Who are sent to jails to serve custodial sanctions; and

7 (viii) Whose post-release supervision has been revoked;

8 (b) The number of jail beds utilized for custodial sanctions and the
9 number of days such beds are utilized;

10 (c) The types of programming offered to individuals on post-release
11 supervision; and

12 (d) The risk scores of individuals on post-release supervision at
13 the time they began serving a sentence of imprisonment and upon discharge
14 from post-release supervision.

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

17 Sec. 16. Section 28-912, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 28-912 (1) A person commits escape if he or she unlawfully removes
20 himself or herself from official detention or fails to return to official
21 detention following temporary leave granted for a specific purpose or
22 limited period. Official detention means arrest, detention in or
23 transportation to any facility for custody of persons under charge or
24 conviction of crime or contempt or for persons alleged or found to be
25 delinquent, detention for extradition or deportation, or any other
26 detention for law enforcement purposes. Official detention also includes
27 assignment of a committed offender to a community work release and
28 treatment center as provided in section 12 of this act, but does not
29 include any other supervision of probation or parole or constraint
30 incidental to release on bail.

31 (2) A public servant concerned in detention commits an offense if he

1 or she knowingly permits an escape. Any person who knowingly causes or
2 facilitates an escape commits a Class IV felony.

3 (3) Irregularity in bringing about or maintaining detention, or lack
4 of jurisdiction of the committing or detaining authority shall not be a
5 defense to prosecution under this section if the escape is from a prison
6 or other custodial facility or from detention pursuant to commitment by
7 official proceedings. In the case of other detentions, irregularity or
8 lack of jurisdiction shall be a defense only if:

9 (a) The escape involved no substantial risk of harm to the person or
10 property of anyone other than the detainee; and

11 (b) The detaining authority did not act in good faith under color of
12 law.

13 (4) Except as provided in subsections (5) and (6) of this section,
14 escape is a Class IV felony.

15 (5) Escape is a Class III felony when:

16 (a) The detainee was under arrest for or detained on a felony charge
17 or following conviction for the commission of an offense; or

18 (b) A public servant concerned in detention of persons convicted of
19 crime purposely facilitates or permits an escape from a detention
20 facility or from transportation thereto.

21 (6) Escape is a Class IIA felony when the actor employs force,
22 threat, deadly weapon, or other dangerous instrumentality to effect the
23 escape.

24 Sec. 17. Section 29-2261, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 29-2261 (1) Unless it is impractical to do so, when an offender has
27 been convicted of a felony other than murder in the first degree, the
28 court shall not impose sentence without first ordering a presentence
29 investigation of the offender and according due consideration to a
30 written report of such investigation. When an offender has been convicted
31 of murder in the first degree and (a) a jury renders a verdict finding

1 the existence of one or more aggravating circumstances as provided in
2 section 29-2520 or (b)(i) the information contains a notice of
3 aggravation as provided in section 29-1603 and (ii) the offender waives
4 his or her right to a jury determination of the alleged aggravating
5 circumstances, the court shall not commence the sentencing determination
6 proceeding as provided in section 29-2521 without first ordering a
7 presentence investigation of the offender and according due consideration
8 to a written report of such investigation.

9 (2) A court may order a presentence investigation in any case,
10 except in cases in which an offender has been convicted of a Class IIIA
11 misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic
12 infraction, or any corresponding city or village ordinance.

13 (3) The presentence investigation and report shall include, when
14 available, an analysis of the circumstances attending the commission of
15 the crime, the offender's history of delinquency or criminality, physical
16 and mental condition, family situation and background, economic status,
17 education, occupation, and personal habits, and any other matters that
18 the probation officer deems relevant or the court directs to be included.
19 All local and state police agencies and Department of Correctional
20 Services adult correctional facilities shall furnish to the probation
21 officer copies of such criminal records, in any such case referred to the
22 probation officer by the court of proper jurisdiction, as the probation
23 officer shall require without cost to the court or the probation officer.

24 Such investigation shall also include:

25 (a) Any written statements submitted to the county attorney by a
26 victim; and

27 (b) Any written statements submitted to the probation officer by a
28 victim.

29 (4) If there are no written statements submitted to the probation
30 officer, he or she shall certify to the court that:

31 (a) He or she has attempted to contact the victim; and

1 (b) If he or she has contacted the victim, such officer offered to
2 accept the written statements of the victim or to reduce such victim's
3 oral statements to writing.

4 For purposes of subsections (3) and (4) of this section, the term
5 victim shall be as defined in section 29-119.

6 (5) Before imposing sentence, the court may order the offender to
7 submit to psychiatric observation and examination for a period of not
8 exceeding sixty days or such longer period as the court determines to be
9 necessary for that purpose. The offender may be remanded for this purpose
10 to any available clinic or mental hospital, or the court may appoint a
11 qualified psychiatrist to make the examination. The report of the
12 examination shall be submitted to the court.

13 (6)(a) Any presentence report, substance abuse evaluation, or
14 psychiatric examination shall be privileged and shall not be disclosed
15 directly or indirectly to anyone other than a judge; probation officers
16 to whom an offender's file is duly transferred; the probation
17 administrator or his or her designee; alcohol and drug counselors, mental
18 health practitioners, psychiatrists, and psychologists licensed or
19 certified under the Uniform Credentialing Act to conduct substance abuse
20 evaluations and treatment; or others entitled by law to receive such
21 information, including personnel and mental health professionals for the
22 Nebraska State Patrol specifically assigned to sex offender registration
23 and community notification for the sole purpose of using such report,
24 evaluation, or examination for assessing risk and for community
25 notification of registered sex offenders.

26 (b) For purposes of this subsection, mental health professional
27 means (i) a practicing physician licensed to practice medicine in this
28 state under the Medicine and Surgery Practice Act, (ii) a practicing
29 psychologist licensed to engage in the practice of psychology in this
30 state as provided in section 38-3111 or as provided under similar
31 provisions of the Psychology Interjurisdictional Compact, or (iii) a

1 practicing mental health professional licensed or certified in this state
2 as provided in the Mental Health Practice Act.

3 (7) The court shall permit inspection of the presentence report,
4 substance abuse evaluation, or psychiatric examination or parts of the
5 report, evaluation, or examination, as determined by the court, by the
6 prosecuting attorney and defense counsel. Beginning July 1, 2016, such
7 inspection shall be by electronic access only unless the court determines
8 such access is not available to the prosecuting attorney or defense
9 counsel. The State Court Administrator shall determine and develop the
10 means of electronic access to such presentence reports, evaluations, and
11 examinations. Upon application by the prosecuting attorney or defense
12 counsel, the court may order that addresses, telephone numbers, and other
13 contact information for victims or witnesses named in the report,
14 evaluation, or examination be redacted upon a showing by a preponderance
15 of the evidence that such redaction is warranted in the interests of
16 public safety. The court may permit inspection of the presentence report,
17 substance abuse evaluation, or psychiatric examination or examination of
18 parts of the report, evaluation, or examination by any other person
19 having a proper interest therein whenever the court finds it is in the
20 best interest of a particular offender. The court may allow fair
21 opportunity for an offender to provide additional information for the
22 court's consideration.

23 (8) If an offender is sentenced to imprisonment, a copy of the
24 report of any presentence investigation, substance abuse evaluation, or
25 psychiatric examination shall be transmitted immediately to the
26 Department of Correctional Services. Upon request, the Board of Parole or
27 the Division of Parole Supervision may receive a copy of the report from
28 the department. The division may allow access to the report to community
29 work release and treatment centers as provided in section 13 of this act.

30 (9) Notwithstanding subsections (6) and (7) of this section, the
31 Supreme Court or an agent of the Supreme Court acting under the direction

1 and supervision of the Chief Justice shall have access to psychiatric
2 examinations, substance abuse evaluations, and presentence investigations
3 and reports for research purposes. The Supreme Court and its agent shall
4 treat such information as confidential, and nothing identifying any
5 individual shall be released.

6 Sec. 18. Section 47-902, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 47-902 (1) It is the intent of the Legislature to:

9 (a) Establish a full-time program of investigation and performance
10 review to provide increased accountability and oversight of the Nebraska
11 correctional system, including programs and services under the Community
12 Work Release and Treatment Centers Act;

13 (b) Assist in improving operations of the department and the
14 Nebraska correctional system;

15 (c) Provide an independent form of inquiry for concerns regarding
16 the actions of individuals and agencies responsible for the supervision
17 and release of persons in the Nebraska correctional system. A lack of
18 responsibility and accountability between individuals and private
19 agencies in the current system make it difficult to monitor and oversee
20 the Nebraska correctional system; and

21 (d) Provide a process for investigation and review in order to
22 improve policies and procedures of the correctional system.

23 (2) It is not the intent of the Legislature in enacting the Office
24 of Inspector General of the Nebraska Correctional System Act to interfere
25 with the duties of the Legislative Auditor or the Legislative Fiscal
26 Analyst or to interfere with the statutorily defined investigative
27 responsibilities or prerogatives of any officer, agency, board, bureau,
28 commission, association, society, or institution of the executive branch
29 of state government, except that the act does not preclude an inquiry on
30 the sole basis that another agency has the same responsibility. The act
31 shall not be construed to interfere with or supplant the responsibilities

1 or prerogatives of the Governor to investigate, monitor, and report on
2 the activities of the agencies, boards, bureaus, commissions,
3 associations, societies, and institutions of the executive branch under
4 his or her administrative direction.

5 Sec. 19. Section 47-903, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 47-903 For purposes of the Office of Inspector General of the
8 Nebraska Correctional System Act, the following definitions apply:

9 (1) Administrator means a person charged with administration of a
10 program, an office, or a division of the department or administration of
11 a private agency;

12 (2) Department means the Department of Correctional Services;

13 (3) Director means the Director of Correctional Services;

14 (4) Division of Parole Supervision means the division created
15 pursuant to section 83-1,100;

16 (5) Inspector General means the Inspector General of the Nebraska
17 Correctional System appointed under section 47-904;

18 (6) Malfeasance means a wrongful act that the actor has no legal
19 right to do or any wrongful conduct that affects, interrupts, or
20 interferes with performance of an official duty;

21 (7) Management means supervision of subordinate employees;

22 (8) Misfeasance means the improper performance of some act that a
23 person may lawfully do;

24 (9) Obstruction means hindering an investigation, preventing an
25 investigation from progressing, stopping or delaying the progress of an
26 investigation, or making the progress of an investigation difficult or
27 slow;

28 (10) Office means the office of Inspector General of the Nebraska
29 Correctional System and includes the Inspector General and other
30 employees of the office;

31 (11) Private agency means:

1 (a) ~~An an~~ entity that contracts with the department or contracts to
2 provide services to another entity that contracts with the department;
3 and

4 (b) A community work release and treatment center as defined in
5 section 3 of this act; and

6 (12) Record means any recording in written, audio, electronic
7 transmission, or computer storage form, including, but not limited to, a
8 draft, memorandum, note, report, computer printout, notation, or message,
9 and includes, but is not limited to, medical records, mental health
10 records, case files, clinical records, financial records, and
11 administrative records.

12 Sec. 20. Section 81-8,240, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-8,240 As used in sections 81-8,240 to 81-8,254, unless the
15 context otherwise requires:

16 (1) Administrative agency shall mean any department, board,
17 commission, or other governmental unit, any official, any employee of the
18 State of Nebraska acting or purporting to act by reason of connection
19 with the State of Nebraska, any corporation, partnership, business, firm,
20 governmental entity, or person who is providing health and human services
21 to individuals or service delivery, service coordination, or case
22 management under contract with the State of Nebraska and who is subject
23 to the jurisdiction of the office of Public Counsel as required by
24 section 73-401, any regional behavioral health authority, any community-
25 based behavioral health services provider that contracts with a regional
26 behavioral health authority, any community work release and treatment
27 center as defined in section 3 of this act, and any county or municipal
28 correctional or jail facility and employee thereof acting or purporting
29 to act by reason of connection with the county or municipal correctional
30 or jail facility; but shall not include (a) any court, (b) any member or
31 employee of the Legislature or the Legislative Council, (c) the Governor

1 or his or her personal staff, (d) any political subdivision or entity
2 thereof except a county or municipal correctional or jail facility or a
3 regional behavioral health authority, (e) any instrumentality formed
4 pursuant to an interstate compact and answerable to more than one state,
5 or (f) any entity of the federal government; and

6 (2) Administrative act shall include every action, rule, regulation,
7 order, omission, decision, recommendation, practice, or procedure of an
8 administrative agency.

9 Sec. 21. Section 81-8,244, Revised Statutes Cumulative Supplement,
10 2020, is amended to read:

11 81-8,244 (1)(a) The Public Counsel may select, appoint, and
12 compensate as he or she sees fit, within the amount available by
13 appropriation, such assistants and employees as he or she deems necessary
14 to discharge the responsibilities under sections 81-8,240 to 81-8,254. He
15 or she shall appoint and designate one assistant to be a deputy public
16 counsel, one assistant to be a deputy public counsel for corrections, one
17 assistant to be a deputy public counsel for institutions, and one
18 assistant to be a deputy public counsel for welfare services.

19 (b) Such deputy public counsels shall be subject to the control and
20 supervision of the Public Counsel.

21 (c) The authority of the deputy public counsel for corrections shall
22 extend to all facilities and parts of facilities, offices, houses of
23 confinement, and institutions which are operated by the Department of
24 Correctional Services, ~~and~~ all county or municipal correctional or jail
25 facilities, and community work release and treatment centers as defined
26 in section 3 of this act.

27 (d) The authority of the deputy public counsel for institutions
28 shall extend to all mental health institutions and facilities operated by
29 the Department of Health and Human Services, to all veterans institutions
30 operated by the Department of Veterans' Affairs, and to all regional
31 behavioral health authorities that provide services and all community-

1 based behavioral health services providers that contract with a regional
2 behavioral health authority to provide services, for any individual who
3 was a patient within the prior twenty-four months of a state-owned and
4 state-operated regional center, and to all complaints pertaining to
5 administrative acts of the department, authority, or provider when those
6 acts are concerned with the rights and interests of individuals placed
7 within those institutions and facilities or receiving community-based
8 behavioral health services.

9 (e) The authority of the deputy public counsel for welfare services
10 shall extend to all complaints pertaining to administrative acts of
11 administrative agencies when those acts are concerned with the rights and
12 interests of individuals involved in the welfare services system of the
13 State of Nebraska.

14 (f) The Public Counsel may delegate to members of the staff any
15 authority or duty under sections 81-8,240 to 81-8,254 except the power of
16 delegation and the duty of formally making recommendations to
17 administrative agencies or reports to the Governor or the Legislature.

18 (2) The Public Counsel shall appoint the Inspector General of
19 Nebraska Child Welfare as provided in section 43-4317. The Inspector
20 General of Nebraska Child Welfare shall have the powers and duties
21 provided in the Office of Inspector General of Nebraska Child Welfare
22 Act.

23 (3) The Public Counsel shall appoint the Inspector General of the
24 Nebraska Correctional System as provided in section 47-904. The Inspector
25 General of the Nebraska Correctional System shall have the powers and
26 duties provided in the Office of Inspector General of the Nebraska
27 Correctional System Act.

28 Sec. 22. Section 83-1,100, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 83-1,100 (1) There is hereby created the Division of Parole
31 Supervision within the Board of Parole. The employees of the division

1 shall consist of the Director of Supervision and Services, the field
2 parole service officers, and all other division staff. The division shall
3 be responsible for the following:

4 (a) The administration of parole services in the community,
5 including administration of the Community Work Release and Treatment
6 Centers Act;

7 (b) The maintenance of all records and files associated with the
8 Board of Parole;

9 (c) The daily supervision and training of staff members of the
10 division, including training regarding evidence-based practices in
11 supervision pursuant to section 83-1,100.02; and

12 (d) The assessment, evaluation, and supervision of individuals who
13 are subject to parole supervision, including lifetime community
14 supervision pursuant to section 83-174.03.

15 (2) Parole officers shall be compensated with salaries substantially
16 equal to other state employees who have similar responsibilities,
17 including employees of the Office of Probation Administration. This
18 subsection shall apply only to field parole service officers and support
19 staff and shall not apply to the Director of Supervision and Services or
20 any other management-level position.

21 (3) This section does not prohibit the division from maintaining
22 daily records and files associated with the Board of Pardons.

23 Sec. 23. Section 83-1,102, Revised Statutes Cumulative Supplement,
24 2020, is amended to read:

25 83-1,102 The Director of Supervision and Services shall:

26 (1) Supervise and administer the Division of Parole Supervision;

27 (2) Establish and maintain policies, standards, and procedures for
28 the field parole service and the community supervision of sex offenders
29 pursuant to section 83-174.03;

30 (3) Divide the state into parole districts and appoint district
31 parole officers and such other employees as may be required to carry out

1 adequate parole supervision of all parolees, prescribe their powers and
2 duties, and obtain division offices for staff in each district as may be
3 necessary;

4 (4) Cooperate with the Board of Parole, the courts, the Community
5 Corrections Division of the Nebraska Commission on Law Enforcement and
6 Criminal Justice, and all other agencies, public and private, which are
7 concerned with the treatment or welfare of persons on parole;

8 (5) Provide the Board of Parole and district judges with any record
9 of a parolee which the board or such judges may require;

10 (6) Make recommendations to the Board of Parole or district judge in
11 cases of violation of the conditions of parole, issue warrants for the
12 arrest of parole violators when so instructed by the board or district
13 judge, notify the Director of Correctional Services of determinations
14 made by the board, and upon instruction of the board, issue certificates
15 of parole and of parole revocation to the facilities and certificates of
16 discharge from parole to parolees;

17 (7) Organize and conduct training programs for the district parole
18 officers and other employees;

19 (8) Use the funds provided under section 83-1,107.02 to augment
20 operational or personnel costs associated with the development,
21 implementation, and evaluation of enhanced parole-based programs and
22 purchase services to provide such programs aimed at enhancing adult
23 parolee supervision in the community and treatment needs of parolees.
24 Such enhanced parole-based programs include, but are not limited to,
25 specialized units of supervision, related equipment purchases and
26 training, and programs that address a parolee's vocational, educational,
27 mental health, behavioral, or substance abuse treatment needs, including
28 evidence-based peer and family support programs;

29 (9) Subject to supervision of the board, be responsible for
30 implementation and administration of the Interstate Compact for Adult
31 Offender Supervision as it affects parolees and supervision of parolees

1 either paroled in Nebraska and supervised in another state or paroled in
2 another state and supervised in Nebraska pursuant to the compact;

3 ~~(10)~~ (9) Ensure that any risk or needs assessment instrument
4 utilized by the system be periodically validated;

5 ~~(11)~~ (10) Report annually to the Governor and electronically to the
6 Clerk of the Legislature beginning January 1, 2015, the number of parole
7 revocations and the number of technical violations of parole; and

8 ~~(12)~~ (11) Exercise all powers and perform all duties necessary and
9 proper in carrying out his or her responsibilities.

10 Sec. 24. Section 83-1,107, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 83-1,107 (1)(a) Within sixty days after initial classification and
13 assignment of any offender committed to the department, all available
14 information regarding such committed offender shall be reviewed and a
15 committed offender department-approved personalized program plan document
16 shall be drawn up. The document shall specifically describe the
17 department-approved personalized program plan and the specific goals the
18 department expects the committed offender to achieve. The document shall
19 also contain a realistic schedule for completion of the department-
20 approved personalized program plan. The department-approved personalized
21 program plan shall be developed with the active participation of the
22 committed offender. The department shall provide programs to allow
23 compliance by the committed offender with the department-approved
24 personalized program plan.

25 Programming may include, but is not limited to:

26 (i) Academic and vocational education, including teaching such
27 classes by qualified offenders;

28 (ii) Substance abuse treatment;

29 (iii) Mental health and psychiatric treatment, including criminal
30 personality programming;

31 (iv) Constructive, meaningful work programs; and

1 (v) Any other program deemed necessary and appropriate by the
2 department.

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

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

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

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

28 (3) While the offender is in the custody of the department,
29 reductions of terms granted pursuant to subdivision (2)(a) of this
30 section may be forfeited, withheld, and restored by the chief executive
31 officer of the facility with the approval of the director after the

1 offender has been notified regarding the charges of misconduct.

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

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

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

28 (c) Any committed offender with a mental illness shall be evaluated
29 before release to ensure that adequate monitoring and treatment of the
30 committed offender will take place or, if appropriate, that a commitment
31 proceeding under the Nebraska Mental Health Commitment Act or the Sex

1 Offender Commitment Act will take place.

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

13 Programming may include, but is not limited to:

14 (i) Academic and vocational education;

15 (ii) Substance abuse treatment;

16 (iii) Mental health and psychiatric treatment, including criminal
17 personality programming;

18 (iv) Constructive, meaningful work programs;

19 (v) Community service programs; and

20 (vi) Any other program deemed necessary and appropriate by the
21 division.

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

30 (7) While the offender is in the custody of the board, reductions of
31 terms granted pursuant to subdivision (2)(a) of this section may be

1 forfeited, withheld, and restored by the director upon the recommendation
2 of the board after the offender has been notified regarding the charges
3 of misconduct or breach of the conditions of parole.

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

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

16 Sec. 25. Section 83-901, Revised Statutes Cumulative Supplement,
17 2020, is amended to read:

18 83-901 The purpose of sections 49-617, 68-621, 72-249, 72-1302 to
19 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01, 83-108, 83-112,
20 83-135, 83-139, 83-140, 83-144, 83-145, 83-147 to 83-150, 83-153 to
21 83-156, 83-170 to 83-173, 83-186, 83-188, 83-443, and 83-901 to 83-916
22 and section 26 of this act is to establish an agency of state government
23 for the custody, study, care, discipline, training, and treatment of
24 persons in the correctional and detention institutions and for the study,
25 training, and treatment of persons under the supervision of other
26 correctional services of the state so that they may be prepared for
27 lawful community living. Correctional services shall be so diversified in
28 program and personnel as to facilitate individualization of treatment.

29 Sec. 26. (1) Prior to the discharge of an individual from a
30 facility of the Department of Correctional Services, the department shall
31 provide such individual with an opportunity to obtain a state

1 identification card or renew a motor vehicle operator's license.

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

7 Sec. 27. Section 83-903, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 83-903 (1) The Department of Correctional Services, in consultation
10 with the Board of Parole, shall develop a reentry program for individuals
11 incarcerated in a department correctional facility, individuals who have
12 been discharged from a department correctional facility within the prior
13 eighteen months, and parolees. The department shall hire a reentry
14 program administrator to develop and oversee the reentry program and
15 additional staff as needed to implement the reentry program.

16 (2) The purpose of the reentry program is to facilitate a standard
17 systemwide program of reentry for individuals leaving correctional
18 facilities or transitioning off community supervision. The primary
19 objectives of the reentry program are to reduce recidivism, to identify,
20 assess, and provide treatment options for individuals with mental
21 illness, to increase public safety, and to improve the overall transition
22 of the individual from the criminal justice system into the community.

23 (3) Beginning July 1, 2022, responsibility for further developing,
24 maintaining, and administering the reentry program shall be transferred
25 to the Board of Parole, which shall develop and administer the program in
26 consultation with the Department of Correctional Services ~~Prior to the~~
27 ~~discharge of an individual from a department correctional facility, the~~
28 ~~department shall provide such individual with an opportunity to obtain a~~
29 ~~state identification card or renew a motor vehicle operator's license.~~

30 Sec. 28. Section 83-904, Revised Statutes Cumulative Supplement,
31 2020, is amended to read:

1 83-904 (1) The Vocational and Life Skills Program is created within
2 the Department of Correctional Services, in consultation with the Board
3 of Parole. The program shall provide funding to aid in the establishment
4 and provision of community-based vocational training and life skills
5 training for adults who are incarcerated, formerly incarcerated, or
6 serving a period of supervision on either probation or parole. Beginning
7 July 1, 2022, responsibility for further developing, maintaining, and
8 administering the reentry program shall be transferred to the Board of
9 Parole, which shall develop and administer the program in consultation
10 with the Department of Correctional Services.

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

24 (b)(i) Until July 1, 2022:

25 (A) The department, in awarding grants, shall give priority to
26 programs, services, or training that results in meaningful employment; ~~7~~
27 ~~and no money from the fund shall be used for capital construction.~~

28 (B) Any funds not distributed to community-based organizations,
29 community colleges, federally recognized or state-recognized Indian
30 tribes, or nonprofit organizations shall be retained by the department to
31 be distributed on a competitive basis under the Vocational and Life

1 Skills Program. These funds shall not be expended by the department for
2 any other purpose.

3 (ii) Beginning July 1, 2022:

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

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

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

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

18 (3) The department, in consultation with the Board of Parole, shall
19 adopt and promulgate rules and regulations to carry out the Vocational
20 and Life Skills Program. The rules and regulations shall include, but not
21 be limited to, a plan for evaluating the effectiveness of programs,
22 services, and training that receive funding and a reporting process for
23 aid recipients. Beginning July 1, 2022, responsibility for adopting and
24 promulgating such rules and regulations shall be transferred to the
25 board, which shall adopt and promulgate such rules and regulations in
26 consultation with the Department of Correctional Services.

27 (4) The reentry program administrator shall report quarterly to the
28 Governor and the Clerk of the Legislature beginning October 1, 2014, on
29 the distribution and use of the aid distributed under the Vocational and
30 Life Skills Program, including how many individuals received programming,
31 the types of programming, the cost per individual for each program,

1 service, or training provided, how many individuals successfully
2 completed their programming, and information on any funds that have not
3 been used. The report to the Clerk of the Legislature shall be submitted
4 electronically. ~~Any funds not distributed to community-based~~
5 ~~organizations, community colleges, federally recognized or state-~~
6 ~~recognized Indian tribes, or nonprofit organizations under this~~
7 ~~subsection shall be retained by the department to be distributed on a~~
8 ~~competitive basis under the Vocational and Life Skills Program. These~~
9 ~~funds shall not be expended by the department for any other purpose.~~

10 Sec. 29. (1) On or before October 1, 2021, the Board of Parole, in
11 consultation with the Department of Correctional Services, shall develop
12 a plan to facilitate the transfer of the duties and functions of the
13 department transferred to the board pursuant to sections 83-903 and
14 83-904.

15 (2) On July 1, 2022, all items of personal property, including
16 computers, office furniture and fixtures, books, documents, and records
17 of the department pertaining to the duties and functions transferred to
18 the board pursuant to this section shall become the property of the
19 board.

20 (3) Beginning July 1, 2022, whenever the department is referred to
21 or designated by any contract or other document in connection with the
22 duties and functions transferred to the board pursuant to this section,
23 such reference or designation shall apply to the board. All contracts
24 entered into by the department prior to July 1, 2022, in connection with
25 the duties and functions transferred to the board are hereby recognized,
26 with the board succeeding to all rights and obligations under such
27 contracts.

28 (4) All rules and regulations of the department adopted prior to
29 July 1, 2022, in connection with the duties and functions transferred to
30 the board pursuant to this section shall continue to be effective until
31 revised, amended, repealed, or nullified pursuant to law.

1 (5) No suit, action, or other proceeding, judicial or
2 administrative, lawfully commenced prior to July 1, 2022, or which could
3 have been commenced prior to that date, by or against the department, or
4 any employee thereof in such employee's official capacity or in relation
5 to the discharge of his or her official duties, shall abate by reason of
6 the transfer of duties and functions from the department to the board.

7 (6) Beginning July 1, 2022, positions of employment in the
8 department related to the duties and functions transferred pursuant to
9 this section, including the reentry program administrator, are
10 transferred to the board. The affected employees shall retain their
11 rights under the state personnel system or pertinent bargaining
12 agreement, and their service shall be deemed continuous. This section
13 does not grant employees any new rights or benefits not otherwise
14 provided by law or bargaining agreement or preclude the board from
15 exercising any of the prerogatives of management set forth in section
16 81-1311 or as otherwise provided by law. This section is not an amendment
17 to or substitute for the provisions of any existing bargaining
18 agreements.

19 (7) It is the intent of the Legislature that any appropriation and
20 salary limit for fiscal year 2022-23 provided in any legislative bill
21 enacted by the One Hundred Seventh Legislature, First Session, to Agency
22 No. 46, Department of Correctional Services, in the following program
23 classifications, shall be null and void, and any such amounts shall be
24 appropriated to Agency No. 15, Board of Parole: Program No. 214,
25 Vocational and Life Skills.

26 Sec. 30. (1) The Board of Parole shall develop a comprehensive plan
27 to transition responsibility for community corrections from the
28 Department of Correctional Services to the board. The plan shall have an
29 implementation start date of July 1, 2023. The plan shall identify
30 timelines and infrastructure needs. The department shall cooperate with
31 the board in developing the plan. The board may hire a consultant or

1 consultants to facilitate development of the plan.

2 (2) The Board of Parole shall electronically submit the
3 comprehensive plan to the Judiciary Committee of the Legislature on or
4 before October 1, 2022.

5 Sec. 31. (1) The Board of Parole shall develop a comprehensive plan
6 to transition responsibility for post-release supervision from the
7 judicial branch and the Office of Probation Administration to the board.
8 The plan shall have an implementation start date of July 1, 2024. The
9 plan shall identify timelines and infrastructure needs. The Office of
10 Probation Administration and State Court Administrator shall cooperate
11 with the board in developing the plan. The board may hire a consultant or
12 consultants to facilitate development of the plan.

13 (2) The Board of Parole shall electronically submit the
14 comprehensive plan to the Judiciary Committee of the Legislature on or
15 before October 1, 2023.

16 Sec. 32. Original sections 28-912 and 81-8,240, Reissue Revised
17 Statutes of Nebraska, and sections 29-2261, 47-902, 47-903, 81-8,244,
18 83-1,100, 83-1,102, 83-1,107, 83-901, 83-903, and 83-904, Revised
19 Statutes Cumulative Supplement, 2020, are repealed.

20 Sec. 33. The following section is outright repealed: Section
21 83-933, Revised Statutes Cumulative Supplement, 2020.