

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 479

Introduced by Wayne, 13.

Read first time January 17, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to administration of justice; to amend
2 sections 24-205, 24-227.01, 29-2249, 29-2250, 29-2251, 29-2253,
3 29-2257, 29-2258, 29-2259.01, 29-2259.02, 29-2262.07, 29-2269,
4 43-4316, 43-4319, 43-4320, 43-4321, 43-4324, 43-4326, 47-624,
5 47-624.01, 47-627, 47-629, 47-903, 47-908, 47-919, 71-961, and
6 83-1,113, Reissue Revised Statutes of Nebraska, and sections
7 25-2902, 28-322, 29-2246, 29-2252, 29-2259, 29-2261, 29-2935,
8 29-4019, 43-4318, 43-4323, 81-1401, 83-171, 83-174.03, 83-174.04,
9 83-174.05, 83-192, 83-198, 83-1,100, 83-1,100.02, 83-1,101,
10 83-1,102, 83-1,103.02, 83-1,103.03, 83-1,103.04, 83-1,107,
11 83-1,107.01, 83-1,107.02, 83-1,119, 83-1,125.01, 83-1,135, and
12 83-933, Revised Statutes Cumulative Supplement, 2022; to transfer
13 the Office of Probation Administration from the judicial branch to
14 the executive branch; to provide for appointment of a probation
15 administrator; to provide, change, and eliminate definitions; to
16 change provisions relating to membership of the Advisory Council on
17 Dispute Resolution, certain funds, reimbursement of counties, and
18 the Office of Inspector General of Nebraska Child Welfare Act; to
19 transfer the Division of Parole Supervision from the Board of Parole
20 to an independent agency; to rename the division the Parole
21 Supervision Agency; to provide for appointment of a Director of
22 Supervision and Services; to eliminate obsolete provisions; to
23 harmonize provisions; to provide operative dates; and to repeal the

- 1 original sections.
- 2 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-205, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 24-205 The Supreme Court Education Fund is created. The State Court
4 Administrator shall administer the fund. The fund shall consist of money
5 remitted pursuant to section 33-154. The fund shall only be used to aid
6 in supporting the mandatory training and education program for judges and
7 employees of the Supreme Court, Court of Appeals, district courts,
8 separate juvenile courts, and county courts, ~~and Nebraska Probation~~
9 ~~System~~ as enacted by rule of the Supreme Court.

10 ~~On July 1, 2014, or as soon thereafter as administratively possible,~~
11 ~~the State Treasurer shall transfer one hundred nine thousand three~~
12 ~~hundred eighty-three dollars from the Supreme Court Education Fund to the~~
13 ~~Nebraska Retirement Fund for Judges as an offset to the increase in the~~
14 ~~state's contribution to the Nebraska Judges Retirement System.~~

15 Any money in the Supreme Court Education Fund available for
16 investment shall be invested by the state investment officer pursuant to
17 the Nebraska Capital Expansion Act and the Nebraska State Funds
18 Investment Act.

19 Sec. 2. Section 24-227.01, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 24-227.01 The Supreme Court Automation Cash Fund is created. The
22 State Court Administrator shall administer the fund. The fund shall only
23 be used to support automation expenses of the Supreme Court, Court of
24 Appeals, district courts, separate juvenile courts, and county courts,
25 ~~and Nebraska Probation System~~ from the computer automation budget
26 program.

27 ~~On July 1, 2014, or as soon thereafter as administratively possible,~~
28 ~~the State Treasurer shall transfer six hundred thousand dollars from the~~
29 ~~Supreme Court Automation Cash Fund to the Nebraska Retirement Fund for~~
30 ~~Judges as an offset to the increase in the state's contribution to the~~
31 ~~Nebraska Judges Retirement System.~~

1 Any money in the Supreme Court Automation Cash Fund available for
2 investment shall be invested by the state investment officer pursuant to
3 the Nebraska Capital Expansion Act and the Nebraska State Funds
4 Investment Act.

5 Sec. 3. Section 25-2905, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 25-2905 The Advisory Council on Dispute Resolution is hereby
8 created. The council shall be comprised of individuals from a variety of
9 disciplines who are trained and knowledgeable in mediation, restorative
10 justice, and dispute resolution and selected to be representative of the
11 geographical and cultural diversity of the state and to reflect gender
12 fairness. The council shall consist of fifteen voting members. The
13 membership shall include a district court judge, county court judge, and
14 juvenile court judge and a representative from ~~the Office of Probation~~
15 ~~Administration~~, the Nebraska State Bar Association, and the Nebraska
16 County Attorneys Association. Nominations for the remaining members may
17 be solicited from such entities and from the Nebraska Mediation
18 Association, the Public Counsel, social workers, mental health
19 professionals, diversion program administrators, educators, law
20 enforcement entities, crime victim advocates, and former participants in
21 restorative justice programs and related fields. The council shall be
22 appointed by the Supreme Court or its designee. The Supreme Court or its
23 designee shall not be restricted to the solicited list of nominees in
24 making its appointments. One representative from the Office of Probation
25 Administration shall be appointed as a nonvoting member. Two nonvoting,
26 ex officio members shall be appointed by the council from among the
27 approved centers.

28 Sec. 4. Section 28-322, Revised Statutes Cumulative Supplement,
29 2022, is amended to read:

30 28-322 For purposes of sections 28-322 to 28-322.03:

31 (1) Inmate or parolee means any individual confined in a facility

1 operated by the Department of Correctional Services or a city or county
2 correctional or jail facility or under parole supervision; and

3 (2) Person means (a) an individual employed by the Department of
4 Correctional Services or by the ~~Division of Parole Supervision Agency~~,
5 including any individual working in central administration of the
6 department, any individual working under contract with the department,
7 and any individual, other than an inmate's spouse, to whom the department
8 has authorized or delegated control over an inmate or an inmate's
9 activities, (b) an individual employed by a city or county correctional
10 or jail facility, including any individual working in central
11 administration of the city or county correctional or jail facility, any
12 individual working under contract with the city or county correctional or
13 jail facility, and any individual, other than an inmate's spouse, to whom
14 the city or county correctional or jail facility has authorized or
15 delegated control over an inmate or an inmate's activities, and (c) an
16 individual employed by the Office of Probation Administration who
17 performs official duties within any facility operated by the Department
18 of Correctional Services or a city or county correctional or jail
19 facility.

20 Sec. 5. Section 29-2246, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 29-2246 For purposes of the Nebraska Probation Administration Act
23 and ~~sections 43-2,123.01 and 83-1,102 to 83-1,104~~, unless the context
24 otherwise requires:

25 (1) Administrator means the probation administrator;

26 (2) {1} Association means the Nebraska District Court Judges
27 Association;

28 (3) Chief probation officer means the probation officer in charge of
29 a probation district;

30 (4) {2} Court means a district court, county court, or juvenile
31 court as defined in section 43-245;

1 (5) Juvenile intake probation officer means an employee of the
2 system who is called upon by a peace officer in accordance with section
3 43-250 to make a decision regarding the furtherance of a juvenile's
4 detention;

5 (6) Juvenile probation officer means any probation officer who
6 supervises probationers of a separate juvenile court;

7 (7) Non-probation-based program or service means a program or
8 service established within the district, county, or juvenile courts and
9 provided to individuals not sentenced to probation who have been charged
10 with or convicted of a crime for the purpose of diverting the individual
11 from incarceration or to provide treatment for issues related to the
12 individual's criminogenic needs. Non-probation-based programs or services
13 include, but are not limited to, problem solving courts established
14 pursuant to section 24-1302 and the treatment of problems relating to
15 substance abuse, mental health, sex offenses, or domestic violence;

16 (8) ~~(3)~~ Office means the Office of Probation Administration;

17 (9) Post-release supervision means the portion of a split sentence
18 following a period of incarceration under which a person found guilty of
19 a crime upon verdict or plea is released by a court subject to conditions
20 imposed by the court and subject to supervision by the office;

21 (10) ~~(4)~~ Probation means a sentence under which a person found
22 guilty of a crime upon verdict or plea or adjudicated delinquent or in
23 need of special supervision is released by a court subject to conditions
24 imposed by the court and subject to supervision. Probation includes post-
25 release supervision and supervision ordered by a court pursuant to a
26 deferred judgment under section 29-2292;

27 ~~(5) Probationer means a person sentenced to probation or post-~~
28 ~~release supervision;~~

29 (11) ~~(6)~~ Probation officer means an employee of the system who
30 supervises probationers and conducts presentence, predisposition, or
31 other investigations as may be required by law or directed by a court in

1 which he or she is serving or performs such other duties as authorized
2 pursuant to section 29-2258, except unpaid volunteers from the community;

3 ~~(12) Probationer means a person sentenced to probation or post-~~
4 ~~release supervision; and~~

5 ~~(7) Juvenile probation officer means any probation officer who~~
6 ~~supervises probationers of a separate juvenile court;~~

7 ~~(8) Juvenile intake probation officer means an employee of the~~
8 ~~system who is called upon by a law enforcement officer in accordance with~~
9 ~~section 43-250 to make a decision regarding the furtherance of a~~
10 ~~juvenile's detention;~~

11 ~~(9) Chief probation officer means the probation officer in charge of~~
12 ~~a probation district;~~

13 ~~(13) (10) System means the Nebraska Probation System. ;~~

14 ~~(11) Administrator means the probation administrator;~~

15 ~~(12) Non-probation-based program or service means a program or~~
16 ~~service established within the district, county, or juvenile courts and~~
17 ~~provided to individuals not sentenced to probation who have been charged~~
18 ~~with or convicted of a crime for the purpose of diverting the individual~~
19 ~~from incarceration or to provide treatment for issues related to the~~
20 ~~individual's criminogenic needs. Non-probation-based programs or services~~
21 ~~include, but are not limited to, problem solving courts established~~
22 ~~pursuant to section 24-1302 and the treatment of problems relating to~~
23 ~~substance abuse, mental health, sex offenses, or domestic violence;~~

24 ~~(13) Post-release supervision means the portion of a split sentence~~
25 ~~following a period of incarceration under which a person found guilty of~~
26 ~~a crime upon verdict or plea is released by a court subject to conditions~~
27 ~~imposed by the court and subject to supervision by the office; and~~

28 ~~(14) Rules and regulations means policies and procedures written by~~
29 ~~the office and approved by the Supreme Court.~~

30 Sec. 6. Section 29-2249, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 29-2249 (1) This subsection applies until June 30, 2024. The Office
2 of Probation Administration is hereby created within the judicial branch
3 of government and directly responsible to the Supreme Court.

4 (2) Beginning July 1, 2024, the Office of Probation Administration
5 shall be within the executive branch of government, and the employees of
6 the office shall be covered by the State Personnel System.

7 (3) The office shall consist of the probation administrator, the
8 Nebraska Probation System, and such other employees as may be necessary
9 to carry out the functions of the Nebraska Probation System.

10 Sec. 7. Section 29-2250, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 29-2250 The office shall:

13 (1) Supervise and administer the system;

14 (2) Establish probation policies and standards for the system, in
15 consultation with the concurrence of the Supreme Court; and

16 (3) Supervise offenders placed on probation in another state who are
17 within the state pursuant to the Interstate Compact for Adult Offender
18 Supervision.

19 Sec. 8. Section 29-2251, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 29-2251 (1) This subsection applies until June 30, 2024. The
22 Supreme Court shall appoint a probation administrator who shall be a
23 person with appropriate experience in the field of probation or with
24 training in relevant disciplines at a recognized college or university
25 and who shall serve at the pleasure of the Supreme Court.

26 (2) Beginning July 1, 2024, the Governor shall appoint and fix the
27 salary of the probation administrator subject to the approval of a
28 majority of the Legislature. The administrator shall be a person with
29 appropriate experience in the field of probation or with training in
30 relevant disciplines at a recognized college or university. The
31 administrator shall serve at the pleasure of the Governor.

1 Sec. 9. Section 29-2252, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 29-2252 The administrator shall:

4 (1) Supervise and administer the office;

5 (2) Establish and maintain policies, standards, and procedures for
6 the system, in consultation with the ~~concurrence of the~~ Supreme Court;

7 (3) Prescribe and furnish such forms for records and reports for the
8 system as shall be deemed necessary for uniformity, efficiency, and
9 statistical accuracy;

10 (4) Establish minimum qualifications for employment as a probation
11 officer in this state and establish and maintain such additional
12 qualifications as he or she deems appropriate for appointment to the
13 system. Qualifications for probation officers shall be established in
14 accordance with subsection (4) of section 29-2253. An ex-offender
15 released from a penal complex or a county jail may be appointed to a
16 position of deputy probation or parole officer. Such ex-offender shall
17 maintain a record free of arrests, except for minor traffic violations,
18 for one year immediately preceding his or her appointment;

19 (5) Establish and maintain advanced periodic inservice training
20 requirements for the system;

21 (6) Cooperate with all agencies, public or private, which are
22 concerned with treatment or welfare of persons on probation;

23 (7) Organize and conduct training programs for probation officers.
24 Training shall include the proper use of a risk and needs assessment,
25 risk-based supervision strategies, relationship skills, cognitive
26 behavioral interventions, community-based resources, criminal risk
27 factors, and targeting criminal risk factors to reduce recidivism and the
28 proper use of a matrix of administrative sanctions, custodial sanctions,
29 and rewards developed pursuant to subdivision (18) of this section. All
30 probation officers ~~employed on or after August 30, 2015,~~ shall complete
31 the training requirements set forth in this subdivision;

1 (8) Collect, develop, and maintain statistical information
2 concerning probationers, probation practices, and the operation of the
3 system and provide the Community Corrections Division of the Nebraska
4 Commission on Law Enforcement and Criminal Justice with the information
5 needed to compile the report required in section 47-624;

6 (9) Interpret the probation program to the public with a view toward
7 developing a broad base of public support;

8 (10) Conduct research for the purpose of evaluating and improving
9 the effectiveness of the system. Subject to the availability of funding,
10 the administrator shall contract with an independent contractor or
11 academic institution for evaluation of existing community corrections
12 facilities and programs operated by the office;

13 (11) Adopt and promulgate such rules and regulations as may be
14 necessary or proper for the operation of the office or system. The
15 administrator shall adopt and promulgate rules and regulations for
16 transitioning individuals on probation across levels of supervision and
17 discharging them from supervision consistent with evidence-based
18 practices. The rules and regulations shall ensure supervision resources
19 are prioritized for individuals who are high risk to reoffend, require
20 transitioning individuals down levels of supervision intensity based on
21 assessed risk and months of supervision without a reported major
22 violation, and establish incentives for earning discharge from
23 supervision based on compliance;

24 (12) Transmit a report during each even-numbered year to the Supreme
25 Court, the Legislature, and the Governor on the operation of the office
26 for the preceding two calendar years which shall include a historical
27 analysis of probation officer workload, including participation in non-
28 probation-based programs and services. ~~The report shall be transmitted by~~
29 ~~the Supreme Court to the Governor and the Clerk of the Legislature.~~ The
30 report submitted to the Clerk of the Legislature shall be submitted
31 electronically. Each member of the Legislature shall receive an

1 electronic copy of such report by making a request for it to the
2 administrator;

3 (13) Administer the payment by the state of all salaries, travel,
4 and expenses authorized under section 29-2259 incident to the conduct and
5 maintenance of the office;

6 (14) Use the funds provided under section 29-2262.07 to augment
7 operational or personnel costs associated with the development,
8 implementation, and evaluation of enhanced probation-based programs and
9 non-probation-based programs and services in which probation personnel or
10 probation resources are utilized pursuant to an interlocal agreement
11 authorized by subdivision (16) of this section and to purchase services
12 to provide such programs aimed at enhancing adult probationer or non-
13 probation-based program participant supervision in the community and
14 treatment needs of probationers and non-probation-based program
15 participants. Enhanced probation-based programs include, but are not
16 limited to, specialized units of supervision, related equipment purchases
17 and training, and programs that address a probationer's vocational,
18 educational, mental health, behavioral, or substance abuse treatment
19 needs;

20 (15) Ensure that any risk or needs assessment instrument utilized by
21 the system be periodically validated;

22 (16) Have the authority to enter into interlocal agreements in which
23 probation resources or probation personnel may be utilized in conjunction
24 with or as part of non-probation-based programs and services. Any such
25 interlocal agreement shall comply with section 29-2255;

26 (17) Collaborate with the Community Corrections Division of the
27 Nebraska Commission on Law Enforcement and Criminal Justice and the
28 ~~Division of Parole Supervision Agency~~ to develop rules governing the
29 participation of parolees in community corrections programs operated by
30 the Office of Probation Administration;

31 (18) Develop a matrix of rewards for compliance and positive

1 behaviors and graduated administrative sanctions and custodial sanctions
2 for use in responding to and deterring substance abuse violations and
3 technical violations. As applicable under sections 29-2266.02 and
4 29-2266.03, custodial sanctions of up to thirty days in jail shall be
5 designated as the most severe response to a violation in lieu of
6 revocation and custodial sanctions of up to three days in jail shall be
7 designated as the second most severe response;

8 (19) Adopt and promulgate rules and regulations for the creation of
9 individualized post-release supervision plans, collaboratively with the
10 Department of Correctional Services and county jails, for probationers
11 sentenced to post-release supervision; and

12 (20) Exercise all powers and perform all duties necessary and proper
13 to carry out his or her responsibilities.

14 ~~Each member of the Legislature shall receive an electronic copy of~~
15 ~~the report required by subdivision (12) of this section by making a~~
16 ~~request for it to the administrator.~~

17 Sec. 10. Section 29-2253, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 29-2253 (1) The administrator, in consultation with the concurrence
20 ~~of the~~ Supreme Court, shall divide the state into probation districts and
21 may from time to time alter the boundaries of such districts in order to
22 maintain the most economical, efficient, and effective utilization of the
23 system.

24 (2) The administrator shall appoint temporary and permanent
25 probation officers and employees for each probation district as may be
26 required to provide adequate probation services.

27 (3) The administrator shall appoint a chief probation officer with
28 the concurrence of the majority of all judges within a probation
29 district.

30 (4) The administrator shall, in consultation with ~~the concurrence of~~
31 all of the separate juvenile court judges within each separate juvenile

1 court, (a) appoint for each separate juvenile court a chief juvenile
2 probation officer, any deputy juvenile probation officers required, and
3 such other employees as may be required to provide adequate probation
4 services for such court and (b) set the salaries of such officers and
5 employees. The chief and deputy juvenile probation officers shall be
6 selected with reference to experience and understanding of problems of
7 family life and child welfare, juvenile delinquency, community
8 organizations, and training in the recognition and treatment of behavior
9 disorders.

10 (5) The administrator may direct a probation officer of one
11 probation district to temporarily act as probation officer for a court in
12 another probation district, and such probation officer while so serving
13 shall have all the powers and responsibilities as if he or she were
14 serving in the probation district to which he or she was originally
15 appointed.

16 (6) The administrator, in consultation with the concurrence of the
17 Supreme Court, shall designate the location of the principal office of
18 the system within each probation district.

19 Sec. 11. Section 29-2257, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 29-2257 The Nebraska Probation System is established which shall
22 consist of the probation administrator, chief probation officers,
23 probation officers, and support staff. The system shall be responsible
24 for juvenile intake services, ~~for~~ preadjudication juvenile supervision
25 services under section 43-254, ~~beginning October 1, 2013, for~~ presentence
26 and other probation investigations, ~~for~~ the direct supervision of persons
27 placed on probation, and ~~for~~ non-probation-based programs and services
28 authorized by an interlocal agreement pursuant to subdivision (16) of
29 section 29-2252. The system shall be sufficient in size to assure that no
30 probation officer carries a caseload larger than is compatible with
31 adequate probation investigation or supervision. Probation officers shall

1 be compensated with salaries substantially equal to other state employees
2 who have similar responsibilities.

3 This provision for salary equalization shall apply only to probation
4 officers and support staff and shall not apply to chief probation
5 officers, the probation administrator, the chief deputy administrator,
6 the deputy probation administrator, or any other similarly established
7 management positions.

8 Sec. 12. Section 29-2258, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 29-2258 A district probation officer shall:

11 (1) Conduct juvenile intake interviews and investigations in
12 accordance with sections 43-253 and 43-260.01 and, ~~beginning October 1,~~
13 ~~2013,~~ supervise delivery of preadjudication juvenile services under
14 subdivision (6) of section 43-254;

15 (2) Make presentence and other investigations, as may be required by
16 law or directed by a court in which he or she is serving;

17 (3) Supervise probationers in accordance with the rules and
18 regulations of the office and the directions of the sentencing court;

19 (4) Advise the sentencing court, in accordance with the Nebraska
20 Probation Administration Act and such rules and regulations of the
21 office, of violations of the conditions of probation by individual
22 probationers;

23 (5) Advise the sentencing court, in accordance with the rules and
24 regulations of the office and the direction of the court, when the
25 situation of a probationer may require a modification of the conditions
26 of probation or when a probationer's adjustment is such as to warrant
27 termination of probation;

28 (6) Provide each probationer with a statement of the period and
29 conditions of his or her probation;

30 (7) Whenever necessary, exercise the power of arrest as provided in
31 sections 29-2266.01 and 29-2266.02 or exercise the power of temporary

1 custody as provided in section 43-286.01;

2 (8) Establish procedures for the direction and guidance of deputy
3 probation officers under his or her jurisdiction and advise such officers
4 in regard to the most effective performance of their duties;

5 (9) Supervise and evaluate deputy probation officers under his or
6 her jurisdiction;

7 (10) Delegate such duties and responsibilities to a deputy probation
8 officer as he or she deems appropriate;

9 (11) Make such reports as required by the administrator, the judges
10 of the probation district in which he or she serves, or the Supreme
11 Court;

12 (12) Keep accurate and complete accounts of all money or property
13 collected or received from probationers and give receipts therefor;

14 (13) Cooperate fully with and render all reasonable assistance to
15 other probation officers;

16 (14) In counties with a population of less than twenty-five thousand
17 people, participate in pretrial diversion programs established pursuant
18 to sections 29-3601 to 29-3604 and juvenile pretrial diversion programs
19 established pursuant to sections 43-260.02 to 43-260.07 as requested by
20 judges of the probation district in which he or she serves or as
21 requested by a county attorney and approved by the judges of the
22 probation district in which he or she serves, except that participation
23 in such programs shall not require appointment of additional personnel
24 and shall be consistent with the probation officer's current caseload;

25 (15) Participate, at the direction of the probation administrator
26 pursuant to an interlocal agreement which meets the requirements of
27 section 29-2255, in non-probation-based programs and services;

28 (16) Perform such other duties not inconsistent with the Nebraska
29 Probation Administration Act or the rules and regulations of the office
30 as a court may from time to time direct; and

31 (17) Exercise all powers and perform all duties necessary and proper

1 to carry out his or her responsibilities.

2 Sec. 13. Section 29-2259, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 29-2259 (1) The salaries and expenses incident to the conduct and
5 maintenance of the office shall be paid by the state. Other expenses
6 shall be paid by the state as provided in sections 81-1174 to 81-1177.

7 (2) The salaries and travel expenses of the probation service shall
8 be paid by the state. Travel expenses shall be paid as provided in
9 sections 81-1174 to 81-1177.

10 (3) Except as provided in sections 29-2262 and 29-2262.04, the costs
11 of drug testing and equipment incident to the electronic surveillance of
12 individuals on probation shall be paid by the state.

13 (4) The expenses incident to the conduct and maintenance of the
14 principal office within each probation district shall in the first
15 instance be paid by the county in which it is located, but such county
16 shall be reimbursed for such expenses by all other counties within the
17 probation district to the extent and in the proportions determined by the
18 probation administrator ~~Supreme Court~~ based upon population, number of
19 investigations, and probation cases handled or upon such other basis as
20 the probation administrator ~~Supreme Court~~ deems fair and equitable.

21 (5) Each county shall provide office space and necessary facilities
22 for probation officers performing their official duties and shall bear
23 the costs incident to maintenance of such offices other than salaries,
24 travel expenses, and data processing and word processing hardware and
25 software that is provided on the state computer network.

26 (6) The cost of interpreter services for deaf and hard of hearing
27 persons and for persons unable to communicate the English language shall
28 be paid by the state with money appropriated to the Supreme Court for
29 that purpose or from other funds, including grant money, made available
30 to the Supreme Court for such purpose. Interpreter services shall include
31 auxiliary aids for deaf and hard of hearing persons as defined in section

1 20-151 and interpreters to assist persons unable to communicate the
2 English language as defined in section 25-2402. Interpreter services
3 shall be provided under this section for the purposes of conducting a
4 presentence investigation and for ongoing supervision by a probation
5 officer of such persons placed on probation.

6 (7) The probation administrator shall prepare a budget and request
7 for appropriations for the office and shall submit such request ~~to the~~
8 ~~Supreme Court and with its approval~~ to the appropriate authority in
9 accordance with law.

10 Sec. 14. Section 29-2259.01, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 29-2259.01 (1) There is hereby created the Probation Cash Fund. All
13 money collected pursuant to subdivisions (2)(m) and (2)(o) of section
14 29-2262 shall be remitted to the State Treasurer for credit to the fund.

15 (2) Expenditures from the money in the fund collected pursuant to
16 subdivisions (2)(m) and (2)(o) of section 29-2262 shall include, but not
17 be limited to, supplementing any state funds necessary to support the
18 costs of the services for which the money was collected.

19 (3) Any money in the fund available for investment shall be invested
20 by the state investment officer pursuant to the Nebraska Capital
21 Expansion Act and the Nebraska State Funds Investment Act.

22 ~~(4) The State Treasurer shall transfer any remaining money in the~~
23 ~~fund collected pursuant to subdivisions (4)(a) and (4)(b) of section~~
24 ~~60-4,115 on January 1, 2012, to the Department of Motor Vehicles Ignition~~
25 ~~Interlock Fund.~~

26 Sec. 15. Section 29-2259.02, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 29-2259.02 The State Probation Contractual Services Cash Fund is
29 created. The fund shall consist only of payments received by the state
30 pursuant to contractual agreements with local political subdivisions for
31 probation services provided by the Office of Probation Administration.

1 ~~The Except as otherwise directed by the Supreme Court during the period~~
2 ~~from November 21, 2009, until June 30, 2013,~~ the fund shall only be used
3 to pay for probation services provided by the Office of Probation
4 Administration to local political subdivisions which enter into
5 contractual agreements with the Office of Probation Administration. The
6 fund shall be administered by the probation administrator. Any money in
7 the fund available for investment shall be invested by the state
8 investment officer pursuant to the Nebraska Capital Expansion Act and the
9 Nebraska State Funds Investment Act.

10 Sec. 16. Section 29-2261, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 29-2261 (1) Unless it is impractical to do so, when an offender has
13 been convicted of a felony other than murder in the first degree, the
14 court shall not impose sentence without first ordering a presentence
15 investigation of the offender and according due consideration to a
16 written report of such investigation. When an offender has been convicted
17 of murder in the first degree and (a) a jury renders a verdict finding
18 the existence of one or more aggravating circumstances as provided in
19 section 29-2520 or (b)(i) the information contains a notice of
20 aggravation as provided in section 29-1603 and (ii) the offender waives
21 his or her right to a jury determination of the alleged aggravating
22 circumstances, the court shall not commence the sentencing determination
23 proceeding as provided in section 29-2521 without first ordering a
24 presentence investigation of the offender and according due consideration
25 to a written report of such investigation.

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

30 (3) The presentence investigation and report shall include, when
31 available, an analysis of the circumstances attending the commission of

1 the crime, the offender's history of delinquency or criminality, physical
2 and mental condition, family situation and background, economic status,
3 education, occupation, and personal habits, and any other matters that
4 the probation officer deems relevant or the court directs to be included.
5 All local and state police agencies and Department of Correctional
6 Services adult correctional facilities shall furnish to the probation
7 officer copies of such criminal records, in any such case referred to the
8 probation officer by the court of proper jurisdiction, as the probation
9 officer shall require without cost to the court or the probation officer.

10 Such investigation shall also include:

11 (a) Any written statements submitted to the county attorney by a
12 victim; and

13 (b) Any written statements submitted to the probation officer by a
14 victim.

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

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

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

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

23 (5) Before imposing sentence, the court may order the offender to
24 submit to psychiatric observation and examination for a period of not
25 exceeding sixty days or such longer period as the court determines to be
26 necessary for that purpose. The offender may be remanded for this purpose
27 to any available clinic or mental hospital, or the court may appoint a
28 qualified psychiatrist to make the examination. The report of the
29 examination shall be submitted to the court.

30 (6)(a) Any presentence report, substance abuse evaluation, or
31 psychiatric examination shall be privileged and shall not be disclosed

1 directly or indirectly to anyone other than a judge; probation officers
2 to whom an offender's file is duly transferred; the probation
3 administrator or his or her designee; alcohol and drug counselors, mental
4 health practitioners, psychiatrists, and psychologists licensed or
5 certified under the Uniform Credentialing Act to conduct substance abuse
6 evaluations and treatment; or others entitled by law to receive such
7 information, including personnel and mental health professionals for the
8 Nebraska State Patrol specifically assigned to sex offender registration
9 and community notification for the sole purpose of using such report,
10 evaluation, or examination for assessing risk and for community
11 notification of registered sex offenders.

12 (b) For purposes of this subsection, mental health professional
13 means (i) a practicing physician licensed to practice medicine in this
14 state under the Medicine and Surgery Practice Act, (ii) a practicing
15 psychologist licensed to engage in the practice of psychology in this
16 state as provided in section 38-3111 or as provided under similar
17 provisions of the Psychology Interjurisdictional Compact, (iii) a
18 practicing mental health professional licensed or certified in this state
19 as provided in the Mental Health Practice Act, or (iv) a practicing
20 professional counselor holding a privilege to practice in Nebraska under
21 the Licensed Professional Counselors Interstate Compact.

22 (7) The court shall permit inspection of the presentence report,
23 substance abuse evaluation, or psychiatric examination or parts of the
24 report, evaluation, or examination, as determined by the court, by the
25 prosecuting attorney and defense counsel. ~~Such Beginning July 1, 2016,~~
26 ~~such~~ inspection shall be by electronic access only unless the court
27 determines such access is not available to the prosecuting attorney or
28 defense counsel. The State Court Administrator shall determine and
29 develop the means of electronic access to such presentence reports,
30 evaluations, and examinations. Upon application by the prosecuting
31 attorney or defense counsel, the court may order that addresses,

1 telephone numbers, and other contact information for victims or witnesses
2 named in the report, evaluation, or examination be redacted upon a
3 showing by a preponderance of the evidence that such redaction is
4 warranted in the interests of public safety. The court may permit
5 inspection of the presentence report, substance abuse evaluation, or
6 psychiatric examination or examination of parts of the report,
7 evaluation, or examination by any other person having a proper interest
8 therein whenever the court finds it is in the best interest of a
9 particular offender. The court may allow fair opportunity for an offender
10 to provide additional information for the court's consideration.

11 (8) If an offender is sentenced to imprisonment, a copy of the
12 report of any presentence investigation, substance abuse evaluation, or
13 psychiatric examination shall be transmitted immediately to the
14 Department of Correctional Services. Upon request, the Board of Parole or
15 the ~~Division of~~ Parole Supervision Agency may receive a copy of the
16 report from the department.

17 (9) Notwithstanding subsections (6) and (7) of this section, the
18 Supreme Court or an agent of the Supreme Court acting under the direction
19 and supervision of the Chief Justice shall have access to psychiatric
20 examinations, substance abuse evaluations, and presentence investigations
21 and reports for research purposes. The Supreme Court and its agent shall
22 treat such information as confidential, and nothing identifying any
23 individual shall be released.

24 Sec. 17. Section 29-2262.07, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 29-2262.07 The Probation Program Cash Fund is created. All funds
27 collected pursuant to section 29-2262.06 shall be remitted to the State
28 Treasurer for credit to the fund. ~~The Except as otherwise directed by the~~
29 ~~Supreme Court during the period from November 21, 2009, until June 30,~~
30 ~~2013,~~ the fund shall be utilized by the administrator for the purposes
31 stated in subdivisions (14) and (17) of section 29-2252, ~~except that the~~

1 ~~State Treasurer shall, on or before June 30, 2011, on such date as~~
2 ~~directed by the budget administrator of the budget division of the~~
3 ~~Department of Administrative Services, transfer the amount set forth in~~
4 ~~Laws 2009, LB1, One Hundred First Legislature, First Special Session. Any~~
5 ~~money in the fund available for investment shall be invested by the state~~
6 ~~investment officer pursuant to the Nebraska Capital Expansion Act and the~~
7 ~~Nebraska State Funds Investment Act.~~

8 ~~On July 15, 2010, the State Treasurer shall transfer three hundred~~
9 ~~fifty thousand dollars from the Probation Program Cash Fund to the~~
10 ~~Violence Prevention Cash Fund. The Office of Violence Prevention shall~~
11 ~~distribute such funds as soon as practicable after July 15, 2010, to~~
12 ~~organizations or governmental entities that have submitted violence~~
13 ~~prevention plans and that best meet the intent of reducing street and~~
14 ~~gang violence and reducing homicides and injuries caused by firearms.~~

15 Sec. 18. On and after July 1, 2024, positions of employment in the
16 Office of Probation Administration related to the powers, duties, and
17 functions transferred pursuant to this legislative bill remain within
18 such office and are transferred from the judicial branch to the executive
19 branch. For purposes of the transition, employees of the office shall
20 remain employees of the office and shall retain any rights under the
21 state personnel system or pertinent bargaining agreement, and their
22 service shall be deemed continuous. This section does not grant employees
23 any new rights or benefits not otherwise provided by law or bargaining
24 agreement or preclude the office or the administrator from exercising any
25 of the prerogatives of management set forth in section 81-1311 or as
26 otherwise provided by law. This section is not an amendment to or
27 substitute for the provisions of any existing bargaining agreements.

28 Sec. 19. On and after July 1, 2024, whenever the Office of
29 Probation Administration is referred to or designated by any contract or
30 other document in connection with the duties and functions transferred
31 from the judicial branch to the executive branch pursuant to this

1 legislative bill, such reference or designation shall apply to the office
2 as a part of the executive branch. All contracts entered into by the
3 office prior to July 1, 2024, in connection with the duties and functions
4 transferred pursuant to this legislative bill are hereby recognized, with
5 the office maintaining all rights and obligations under such contracts.
6 Any cash funds, custodial funds, gifts, trusts, grants, and any
7 appropriations of funds from prior fiscal years available to satisfy
8 obligations incurred under such contracts shall be transferred and
9 appropriated to the office for the payments of such obligations. All
10 documents and records transferred, or copies of the same, may be
11 authenticated or certified by the office for all legal purposes.

12 Sec. 20. No suit, action, or other proceeding, judicial or
13 administrative, lawfully commenced prior to July 1, 2024, or which could
14 have been commenced prior to that date, by or against the Office of
15 Probation Administration or the probation administrator or any employee
16 of the Nebraska Probation System in the administrator's or employee's
17 official capacity or in relation to the discharge of his or her official
18 duties, shall abate by reason of the transfer of the office from the
19 judicial branch to the executive branch.

20 Sec. 21. On and after July 1, 2024, unless otherwise specified,
21 whenever any provision of law refers to the Office of Probation
22 Administration, such law shall be construed as referring to the office as
23 it exists under the executive branch.

24 Sec. 22. All rules, regulations, and orders of the Office of
25 Probation Administration adopted prior to July 1, 2024, in connection
26 with the powers, duties, and functions transferred from the judicial
27 branch to the executive branch by this legislative bill shall continue to
28 be effective until revised, amended, repealed, or nullified pursuant to
29 law.

30 Sec. 23. (1) On July 1, 2024, all items of property, real and
31 personal, including office furniture and fixtures, books, documents, and

1 records of the Office of Probation Administration pertaining to the
2 duties and functions transferred to the executive branch pursuant to this
3 legislative bill shall remain the property of the office as part of the
4 executive branch.

5 (2) Any appropriation and salary limit for fiscal year 2024-25
6 provided in any legislative bill enacted by the One Hundred Eighth
7 Legislature, First or Second Session, to Agency No. 5, Supreme Court, in
8 the following program classifications, shall be null and void, and any
9 such amounts are hereby appropriated to Agency No. XXX, Office of
10 Probation Administration: Program No. 67, Probation Services; Program No.
11 235, State Probation Contractual Services; and Program No. 435, Probation
12 Community Corrections.

13 (3) Any financial obligations of the Office of Probation
14 Administration that remain unpaid as of June 30, 2024, and that are
15 subsequently certified as valid encumbrances to the accounting division
16 of the Department of Administrative Services pursuant to sections
17 81-138.01 to 81-138.04, shall be paid by the office from the unexpended
18 balance of appropriations existing in such program classifications on
19 June 30, 2024.

20 Sec. 24. Section 29-2269, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 29-2269 Sections 29-2246 to 29-2269 and sections 18 to 23 of this
23 act shall be known and may be cited as the Nebraska Probation
24 Administration Act.

25 Sec. 25. Section 29-2935, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 29-2935 For purposes of evaluating the treatment process, the
28 Division of Parole Supervision Agency, the Department of Correctional
29 Services, the Board of Parole, and the designated aftercare treatment
30 programs shall allow appropriate access to data and information as
31 requested by the Department of Health and Human Services.

1 Sec. 26. Section 29-4019, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 29-4019 (1) When sentencing a person convicted of an offense which
4 requires lifetime community supervision upon release pursuant to section
5 83-174.03, the sentencing court shall:

6 (a) Provide written notice to the defendant that he or she shall be
7 subject to lifetime community supervision by the ~~Division of Parole~~
8 Supervision Agency upon release from incarceration or civil commitment.
9 The written notice shall inform the defendant (i) that he or she shall be
10 subject to lifetime community supervision by the agency ~~division~~ upon
11 release and that the agency ~~division~~ shall conduct a risk assessment and
12 evaluation to determine the conditions of community supervision which
13 will minimize, in the least restrictive manner that is compatible with
14 public safety, the risk of the defendant committing additional offenses,
15 (ii) that a violation of any of the conditions of community supervision
16 imposed by the agency ~~division~~ may result in the revision of existing
17 conditions, the addition of new conditions, a recommendation that civil
18 commitment proceedings should be instituted, or criminal prosecution, and
19 (iii) of his or her right to challenge the determination of the
20 conditions of community supervision by the agency ~~division~~ and the right
21 to a periodic review of the conditions of community supervision pursuant
22 to section 83-174.03 to determine if the conditions are still necessary
23 to protect the public;

24 (b) Require the defendant to read and sign a form stating that the
25 duty of the defendant to comply with the conditions of community
26 supervision and his or her rights to challenge the conditions of
27 community supervision imposed by the agency ~~division~~ has been explained;
28 and

29 (c) Retain a copy of the written notification signed by the
30 defendant.

31 (2) Prior to the release of a person serving a sentence for an

1 offense requiring lifetime community supervision by the ~~Division~~ of
2 Parole Supervision Agency pursuant to section 83-174.03, the Department
3 of Correctional Services, the Department of Health and Human Services, or
4 a city or county correctional or jail facility shall:

5 (a) Provide written notice to the person that he or she shall be
6 subject to lifetime community supervision by the Parole Supervision
7 Agency ~~division~~ upon release from incarceration. The written notice shall
8 inform the person (i) that he or she shall be subject to lifetime
9 community supervision by the agency ~~division~~ upon release and that the
10 agency ~~division~~ shall conduct a risk assessment and evaluation of the
11 defendant to determine the conditions of community supervision which will
12 minimize, in the least restrictive manner that is compatible with public
13 safety, the risk of the person committing additional offenses, (ii) that
14 a violation of any of the conditions of community supervision imposed by
15 the agency ~~division~~ may result in the revision of existing conditions,
16 the addition of new conditions, a recommendation that civil commitment
17 proceedings should be instituted, or criminal prosecution, and (iii) of
18 his or her right to challenge the determination of the conditions of
19 community supervision by the agency ~~division~~ and the right to a periodic
20 review of the conditions of community supervision pursuant to section
21 83-174.03 to determine if the conditions are still necessary to protect
22 the public;

23 (b) Require the defendant to read and sign a form stating that the
24 duty of the defendant to comply with the conditions of community
25 supervision and his or her right to challenge the conditions of community
26 supervision imposed by the agency ~~division~~ has been explained; and

27 (c) Retain a copy of the written notification signed by the person.

28 Sec. 27. Section 43-4316, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 43-4316 Responsible individual means a foster parent, a relative
31 provider of foster care, or an employee of the department, the juvenile

1 services division, the commission, a foster home, a private agency, a
2 licensed child care facility, or another provider of child welfare or
3 juvenile justice programs and services responsible for the care or
4 custody of records, documents, and files.

5 Sec. 28. Section 43-4318, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 43-4318 (1) The office shall investigate:

8 (a) Allegations or incidents of possible misconduct, misfeasance,
9 malfeasance, or violations of statutes or of rules or regulations of:

10 (i) The department by an employee of or person under contract with
11 the department, a private agency, a licensed child care facility, a
12 foster parent, or any other provider of child welfare services or which
13 may provide a basis for discipline pursuant to the Uniform Credentialing
14 Act;

15 (ii) ~~The Subject to subsection (5) of this section,~~ the juvenile
16 services division by an employee of or person under contract with the
17 juvenile services division, a private agency, a licensed facility, a
18 foster parent, or any other provider of juvenile justice services;

19 (iii) The commission by an employee of or person under contract with
20 the commission related to programs and services supported by the Nebraska
21 County Juvenile Services Plan Act, the Community-based Juvenile Services
22 Aid Program, juvenile pretrial diversion programs, or inspections of
23 juvenile facilities; and

24 (iv) A juvenile detention facility and staff secure juvenile
25 facility by an employee of or person under contract with such facilities;

26 (b) Death or serious injury in foster homes, private agencies, child
27 care facilities, juvenile detention facilities, staff secure juvenile
28 facilities, and other programs and facilities licensed by or under
29 contract with the department or the juvenile services division when the
30 office, upon review, determines the death or serious injury did not occur
31 by chance; and

1 (c) Death or serious injury in any case in which services are
2 provided by the department or the juvenile services division to a child
3 or his or her parents or any case involving an investigation under the
4 Child Protection and Family Safety Act, which case has been open for one
5 year or less and upon review determines the death or serious injury did
6 not occur by chance.

7 (2) The department, the juvenile services division, each juvenile
8 detention facility, and each staff secure juvenile facility shall report
9 to the office (a) all cases of death or serious injury of a child in a
10 foster home, private agency, child care facility or program, or other
11 program or facility licensed by the department or inspected through the
12 commission to the Inspector General as soon as reasonably possible after
13 the department or the Office of Probation Administration learns of such
14 death or serious injury and (b) all allegations of sexual abuse of a
15 state ward, juvenile on probation, juvenile in a detention facility, and
16 juvenile in a residential child-caring agency. For purposes of this
17 subsection, serious injury means an injury or illness caused by suspected
18 abuse, neglect, or maltreatment which leaves a child in critical or
19 serious condition.

20 (3)(a) The Office of Juvenile Services shall report to the office of
21 Inspector General of Nebraska Child Welfare as soon as reasonably
22 possible after any of the following instances occur at a youth
23 rehabilitation and treatment center:

- 24 (i) An assault;
- 25 (ii) An escape or elopement;
- 26 (iii) An attempted suicide;
- 27 (iv) Self-harm by a juvenile;
- 28 (v) Property damage not caused by normal wear and tear;
- 29 (vi) The use of mechanical restraints on a juvenile;
- 30 (vii) A significant medical event suffered by a juvenile; and
- 31 (viii) Internally substantiated violations of 34 U.S.C. 30301 et

1 seq.

2 (b) The Office of Juvenile Services and the office of Inspector
3 General of Nebraska Child Welfare shall, if requested by either party,
4 work in collaboration to clarify the specific parameters to comply with
5 subdivision (3)(a) of this section.

6 (4) The department shall notify the office of Inspector General of
7 Nebraska Child Welfare of any leadership changes within the Office of
8 Juvenile Services and the youth rehabilitation and treatment centers.

9 ~~(5) With respect to any investigation conducted by the Inspector~~
10 ~~General pursuant to subdivision (1)(a) of this section that involves~~
11 ~~possible misconduct by an employee of the juvenile services division, the~~
12 ~~Inspector General shall immediately notify the probation administrator~~
13 ~~and provide the information pertaining to potential personnel matters to~~
14 ~~the Office of Probation Administration.~~

15 (5) ~~(6)~~ Any investigation conducted by the Inspector General shall
16 be independent of and separate from an investigation pursuant to the
17 Child Protection and Family Safety Act. The Inspector General and his or
18 her staff are subject to the reporting requirements of the Child
19 Protection and Family Safety Act.

20 (6) ~~(7)~~ Notwithstanding the fact that a criminal investigation, a
21 criminal prosecution, or both are in progress, all law enforcement
22 agencies and prosecuting attorneys shall cooperate with any investigation
23 conducted by the Inspector General and shall, immediately upon request by
24 the Inspector General, provide the Inspector General with copies of all
25 law enforcement reports which are relevant to the Inspector General's
26 investigation. All law enforcement reports which have been provided to
27 the Inspector General pursuant to this section are not public records for
28 purposes of sections 84-712 to 84-712.09 and shall not be subject to
29 discovery by any other person or entity. Except to the extent that
30 disclosure of information is otherwise provided for in the Office of
31 Inspector General of Nebraska Child Welfare Act, the Inspector General

1 shall maintain the confidentiality of all law enforcement reports
2 received pursuant to its request under this section. Law enforcement
3 agencies and prosecuting attorneys shall, when requested by the Inspector
4 General, collaborate with the Inspector General regarding all other
5 information relevant to the Inspector General's investigation. If the
6 Inspector General in conjunction with the Public Counsel determines it
7 appropriate, the Inspector General may, when requested to do so by a law
8 enforcement agency or prosecuting attorney, suspend an investigation by
9 the office until a criminal investigation or prosecution is completed or
10 has proceeded to a point that, in the judgment of the Inspector General,
11 reinstatement of the Inspector General's investigation will not impede or
12 infringe upon the criminal investigation or prosecution. Under no
13 circumstance shall the Inspector General interview any minor who has
14 already been interviewed by a law enforcement agency, personnel of the
15 Division of Children and Family Services of the department, or staff of a
16 child advocacy center in connection with a relevant ongoing investigation
17 of a law enforcement agency.

18 Sec. 29. Section 43-4319, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 43-4319 (1) The office shall have access to all information and
21 personnel necessary to perform the duties of the office.

22 (2) A full investigation conducted by the office shall consist of
23 retrieval of relevant records through subpoena, request, or voluntary
24 production, review of all relevant records, and interviews of all
25 relevant persons.

26 ~~(3) For a request for confidential record information pursuant to~~
27 ~~subsection (5) of section 43-2,108 involving death or serious injury, the~~
28 ~~office may submit a written request to the probation administrator. The~~
29 ~~record information shall be provided to the office within five days.~~

30 Sec. 30. Section 43-4320, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 43-4320 (1) Complaints to the office may be made in writing. The
2 office shall also maintain a toll-free telephone line for complaints. A
3 complaint shall be evaluated to determine if it alleges possible
4 misconduct, misfeasance, malfeasance, or violation of a statute or of
5 rules and regulations pursuant to section 43-4318. All complaints shall
6 be evaluated to determine whether a full investigation is warranted.

7 (2) The office shall not conduct a full investigation of a complaint
8 unless:

9 (a) The complaint alleges misconduct, misfeasance, malfeasance, or
10 violation of a statute or of rules and regulations pursuant to section
11 43-4318;

12 (b) The complaint is against a person within the jurisdiction of the
13 office; and

14 (c) The allegations can be independently verified through
15 investigation.

16 (3) The Inspector General shall determine within fourteen days after
17 receipt of a complaint whether it will conduct a full investigation. A
18 complaint alleging facts which, if verified, would provide a basis for
19 discipline under the Uniform Credentialing Act shall be referred to the
20 appropriate credentialing board under the act.

21 ~~(4) When a full investigation is opened on a private agency that~~
22 ~~contracts with the Office of Probation Administration, the Inspector~~
23 ~~General shall give notice of such investigation to the Office of~~
24 ~~Probation Administration.~~

25 Sec. 31. Section 43-4321, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 43-4321 All employees of the department, the juvenile services
28 ~~division as directed by the juvenile court or the Office of Probation~~
29 ~~Administration~~, or the commission, all foster parents, and all owners,
30 operators, managers, supervisors, and employees of private agencies,
31 licensed child care facilities, juvenile detention facilities, staff

1 secure juvenile facilities, and other providers of child welfare services
2 or juvenile justice services shall cooperate with the office. Cooperation
3 includes, but is not limited to, the following:

4 (1) Provision of full access to and production of records and
5 information. Providing access to and producing records and information
6 for the office is not a violation of confidentiality provisions under any
7 law, statute, rule, or regulation if done in good faith for purposes of
8 an investigation under the Office of Inspector General of Nebraska Child
9 Welfare Act;

10 (2) Fair and honest disclosure of records and information reasonably
11 requested by the office in the course of an investigation under the act;

12 (3) Encouraging employees to fully comply with reasonable requests
13 of the office in the course of an investigation under the act;

14 (4) Prohibition of retaliation by owners, operators, or managers
15 against employees for providing records or information or filing or
16 otherwise making a complaint to the office;

17 (5) Not requiring employees to gain supervisory approval prior to
18 filing a complaint with or providing records or information to the
19 office;

20 (6) Provision of complete and truthful answers to questions posed by
21 the office in the course of an investigation; and

22 (7) Not willfully interfering with or obstructing the investigation.

23 Sec. 32. Section 43-4323, Revised Statutes Cumulative Supplement,
24 2022, is amended to read:

25 43-4323 The Inspector General may issue a subpoena, enforceable by
26 action in an appropriate court, to compel any person to appear, give
27 sworn testimony, or produce documentary or other evidence deemed relevant
28 to a matter under his or her inquiry. A person thus required to provide
29 information shall be paid the same fees and travel allowances and shall
30 be accorded the same privileges and immunities as are extended to
31 witnesses in the district courts of this state and shall also be entitled

1 to have personal counsel present while being questioned. Any fees
2 associated with counsel present under this section shall not be the
3 responsibility of the office of Inspector General of Nebraska Child
4 Welfare.

5 Sec. 33. Section 43-4324, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 43-4324 (1) In conducting investigations, the office shall access
8 all relevant records through subpoena, compliance with a request of the
9 office, and voluntary production. The office may request or subpoena any
10 record necessary for the investigation from the department, the juvenile
11 services division ~~as permitted by law~~, the commission, a foster parent, a
12 licensed child care facility, a juvenile detention facility, a staff
13 secure juvenile facility, or a private agency that is pertinent to an
14 investigation. All case files, licensing files, medical records,
15 financial and administrative records, and records required to be
16 maintained pursuant to applicable licensing rules shall be produced for
17 review by the office in the course of an investigation.

18 (2) Compliance with a request of the office includes:

19 (a) Production of all records requested;

20 (b) A diligent search to ensure that all appropriate records are
21 included; and

22 (c) A continuing obligation to immediately forward to the office any
23 relevant records received, located, or generated after the date of the
24 request.

25 (3) The office shall seek access in a manner that respects the
26 dignity and human rights of all persons involved, maintains the integrity
27 of the investigation, and does not unnecessarily disrupt child welfare
28 and juvenile justice programs or services. When advance notice to a
29 foster parent or to an administrator or his or her designee is not
30 provided, the office investigator shall, upon arrival at the departmental
31 office, bureau, or division, the private agency, the licensed child care

1 facility, the juvenile detention facility, the staff secure juvenile
2 facility, or the location of another provider of child welfare or
3 juvenile justice services, request that an onsite employee notify the
4 administrator or his or her designee of the investigator's arrival.

5 (4) When circumstances of an investigation require, the office may
6 make an unannounced visit to a foster home, a departmental office,
7 bureau, or division, a licensed child care facility, a juvenile detention
8 facility, a staff secure juvenile facility, a private agency, or another
9 provider to request records relevant to an investigation.

10 (5) A responsible individual or an administrator may be asked to
11 sign a statement of record integrity and security when a record is
12 secured by request as the result of a visit by the office, stating:

13 (a) That the responsible individual or the administrator has made a
14 diligent search of the office, bureau, division, private agency, licensed
15 child care facility, juvenile detention facility, staff secure juvenile
16 facility, or other provider's location to determine that all appropriate
17 records in existence at the time of the request were produced;

18 (b) That the responsible individual or the administrator agrees to
19 immediately forward to the office any relevant records received, located,
20 or generated after the visit;

21 (c) The persons who have had access to the records since they were
22 secured; and

23 (d) Whether, to the best of the knowledge of the responsible
24 individual or the administrator, any records were removed from or added
25 to the record since it was secured.

26 (6) The office shall permit a responsible individual, an
27 administrator, or an employee of a departmental office, bureau, or
28 division, a private agency, a licensed child care facility, a juvenile
29 detention facility, a staff secure juvenile facility, or another provider
30 to make photocopies of the original records within a reasonable time in
31 the presence of the office for purposes of creating a working record in a

1 manner that assures confidentiality.

2 (7) The office shall present to the responsible individual or the
3 administrator or other employee of the departmental office, bureau, or
4 division, private agency, licensed child care facility, juvenile
5 detention facility, staff secure juvenile facility, or other service
6 provider a copy of the request, stating the date and the titles of the
7 records received.

8 (8) If an original record is provided during an investigation, the
9 office shall return the original record as soon as practical but no later
10 than ten working days after the date of the compliance request.

11 (9) All investigations conducted by the office shall be conducted in
12 a manner designed to ensure the preservation of evidence for possible use
13 in a criminal prosecution.

14 Sec. 34. Section 43-4326, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 43-4326 (1) The department shall provide the Public Counsel and the
17 Inspector General with direct computer access to all computerized
18 records, reports, and documents maintained by the department in
19 connection with administration of the Nebraska child welfare system.

20 (2) The commission shall provide the Inspector General with direct
21 computer access to all computerized records, reports, and documents
22 maintained in connection with administration of juvenile justice
23 services.

24 (3) The juvenile services division, ~~as directed by the juvenile~~
25 ~~court or the Office of Probation Administration,~~ shall provide the
26 Inspector General with direct computer access to all computerized
27 records, reports, and documents maintained by the juvenile services
28 division in connection with the administration of juvenile probation and
29 juvenile justice services ~~a specific case under investigation.~~

30 Sec. 35. Section 47-624, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 47-624 The division shall:

2 (1) Collaborate with the Office of Probation Administration, the
3 ~~Division of Parole Supervision Agency~~, and the Department of Correctional
4 Services to develop and implement a plan to establish statewide operation
5 and use of a continuum of community correctional facilities and programs;

6 (2) Develop, in consultation with the probation administrator and
7 the Director of Supervision and Services ~~of the Division of Parole~~
8 ~~Supervision~~, standards for the use of community correctional facilities
9 and programs by the Nebraska Probation System and the parole system;

10 (3) Collaborate with the Office of Probation Administration, the
11 ~~Division of Parole Supervision Agency~~, and the Department of Correctional
12 Services on the development of additional reporting centers as set forth
13 in section 47-624.01;

14 (4) Analyze and promote the consistent use of offender risk
15 assessment tools;

16 (5) Educate the courts, the Board of Parole, criminal justice system
17 stakeholders, and the general public about the availability, use, and
18 benefits of community correctional facilities and programs;

19 (6) Enter into and administer contracts, if necessary, to carry out
20 the purposes of the Community Corrections Act;

21 (7) In order to ensure adequate funding for substance abuse
22 treatment programs, consult with the probation administrator and the
23 Director of Supervision and Services ~~of the Division of Parole~~
24 ~~Supervision~~ and develop or assist with the development of programs as
25 provided in subdivision (14) of section 29-2252 and subdivision (8) of
26 section 83-1,102;

27 (8) Study substance abuse and mental health treatment services in
28 and related to the criminal justice system, recommend improvements, and
29 evaluate the implementation of improvements;

30 (9) Research and evaluate existing community correctional facilities
31 and programs, within the limits of available funding;

1 (10) Develop standardized definitions of outcome measures for
2 community correctional facilities and programs, including, but not
3 limited to, recidivism, employment, and substance abuse;

4 (11) Report annually to the Legislature and the Governor on the
5 development and performance of community correctional facilities and
6 programs. The report submitted to the Legislature shall be submitted
7 electronically. The report shall include, but not be limited to, the
8 following:

9 (a) A description of community correctional facilities and programs
10 currently serving offenders in Nebraska, which includes the following
11 information:

12 (i) The target population and geographic area served by each
13 facility or program, eligibility requirements, and the total number of
14 offenders utilizing the facility or program over the past year;

15 (ii) Services, programs, assessments, case management, supervision,
16 and tools provided for offenders at the facility, in the program, or
17 under the supervision of a governmental agency in any capacity;

18 (iii) The costs of operating the facility or program and the cost
19 per offender; and

20 (iv) The funding sources for the facility or program;

21 (b) The progress made in expanding community correctional facilities
22 and programs statewide and an analysis of the need for additional
23 community corrections services;

24 (c) An analysis of the impact community correctional facilities and
25 programs have on the number of offenders incarcerated within the
26 Department of Correctional Services; and

27 (d) The recidivism rates and outcome data for probationers,
28 parolees, and problem-solving-court clients participating in community
29 corrections programs;

30 (12) Grant funds to entities including local governmental agencies,
31 nonprofit organizations, and behavioral health services which will

1 support the intent of the Community Corrections Act ~~act~~;

2 (13) Manage all offender data acquired by the division in a
3 confidential manner and develop procedures to ensure that identifiable
4 information is not released;

5 (14) Establish and administer grants, projects, and programs for the
6 operation of the division; and

7 (15) Perform such other duties as may be necessary to carry out the
8 policy of the state established in the act.

9 Sec. 36. Section 47-624.01, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 47-624.01 (1) The division shall collaborate with the Office of
12 Probation Administration, the ~~Division of~~ Parole Supervision Agency, and
13 the Department of Correctional Services in developing a plan for the
14 implementation and funding of reporting centers in Nebraska.

15 (2) The plan shall include recommended locations for at least one
16 reporting center in each district court judicial district that currently
17 lacks such a center and shall prioritize the recommendations for
18 additional reporting centers based upon need.

19 (3) The plan shall also identify and prioritize the need for
20 expansion of reporting centers in those district court judicial districts
21 which currently have a reporting center but have an unmet need for
22 additional reporting center services due to capacity, distance, or
23 demographic factors.

24 Sec. 37. Section 47-627, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 47-627 The director shall develop and maintain a uniform crime data
27 analysis system in Nebraska which shall include, but need not be limited
28 to, the number of offenses, arrests, charges, probation admissions,
29 probation violations, probation discharges, participants in specialized
30 community corrections programs, admissions to and discharges from
31 problem-solving courts, admissions to and discharges from the Department

1 of Correctional Services, parole reviews, parole hearings, releases on
2 parole, parole violations, and parole discharges. The data shall be
3 categorized by statutory crime. The data shall be collected from the
4 Board of Parole, the State Court Administrator, the Department of
5 Correctional Services, the ~~Division of Parole Supervision Agency~~, the
6 Office of Probation Administration, the Nebraska State Patrol, counties,
7 local law enforcement, and any other entity associated with criminal
8 justice. The division and the Supreme Court shall have access to such
9 data to implement the Community Corrections Act.

10 Sec. 38. Section 47-629, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 47-629 (1) The Board of Parole may parole an offender to a community
13 correctional facility or program pursuant to guidelines developed by the
14 division.

15 (2) The Department of Correctional Services and the ~~Division of~~
16 Parole Supervision Agency shall utilize community correctional facilities
17 and programs as appropriate.

18 Sec. 39. Section 47-903, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 47-903 For purposes of the Office of Inspector General of the
21 Nebraska Correctional System Act, the following definitions apply:

22 (1) Administrator means a person charged with administration of a
23 program, an office, or a division of the department or administration of
24 a private agency;

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

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

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

29 (4) ~~(5)~~ Inspector General means the Inspector General of the
30 Nebraska Correctional System appointed under section 47-904;

31 (5) ~~(6)~~ Malfeasance means a wrongful act that the actor has no legal

1 right to do or any wrongful conduct that affects, interrupts, or
2 interferes with performance of an official duty;

3 (6) ~~(7)~~ Management means supervision of subordinate employees;

4 (7) ~~(8)~~ Misfeasance means the improper performance of some act that
5 a person may lawfully do;

6 (8) ~~(9)~~ Obstruction means hindering an investigation, preventing an
7 investigation from progressing, stopping or delaying the progress of an
8 investigation, or making the progress of an investigation difficult or
9 slow;

10 (9) ~~(10)~~ Office means the office of Inspector General of the
11 Nebraska Correctional System and includes the Inspector General and other
12 employees of the office;

13 (10) ~~(11)~~ Private agency means an entity that contracts with the
14 department or contracts to provide services to another entity that
15 contracts with the department; and

16 (11) ~~(12)~~ Record means any recording in written, audio, electronic
17 transmission, or computer storage form, including, but not limited to, a
18 draft, memorandum, note, report, computer printout, notation, or message,
19 and includes, but is not limited to, medical records, mental health
20 records, case files, clinical records, financial records, and
21 administrative records.

22 Sec. 40. Section 47-908, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 47-908 All employees of the department, all employees of the
25 ~~Division of Parole Supervision Agency~~, and all owners, operators,
26 managers, supervisors, and employees of private agencies shall cooperate
27 with the office. Cooperation includes, but is not limited to, the
28 following:

29 (1) Provision of full access to and production of records and
30 information. Providing access to and producing records and information
31 for the office is not a violation of confidentiality provisions under any

1 statute, rule, or regulation if done in good faith for purposes of an
2 investigation under the Office of Inspector General of the Nebraska
3 Correctional System Act;

4 (2) Fair and honest disclosure of records and information reasonably
5 requested by the office in the course of an investigation under the act;

6 (3) Encouraging employees to fully comply with reasonable requests
7 of the office in the course of an investigation under the act;

8 (4) Prohibition of retaliation by owners, operators, or managers
9 against employees for providing records or information or filing or
10 otherwise making a complaint to the office;

11 (5) Not requiring employees to gain supervisory approval prior to
12 filing a complaint with or providing records or information to the
13 office;

14 (6) Provision of complete and truthful answers to questions posed by
15 the office in the course of an investigation; and

16 (7) Not willfully interfering with or obstructing the investigation.

17 Sec. 41. Section 47-919, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 47-919 The ~~Division of~~ Parole Supervision Agency shall provide the
20 Public Counsel and the Inspector General with direct computer access to
21 all computerized records, reports, and documents maintained in connection
22 with administration of the Nebraska parole system, except that access for
23 the Public Counsel and the Inspector General to a parolee's medical or
24 mental health records shall be subject to the parolee's consent.

25 Sec. 42. Section 71-961, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 71-961 (1) All records kept on any subject shall remain confidential
28 except as otherwise provided by law. Such records shall be accessible to
29 (a) the subject, except as otherwise provided in subsection (2) of this
30 section, (b) the subject's legal counsel, (c) the subject's guardian or
31 conservator, if any, (d) the mental health board having jurisdiction over

1 the subject, (e) persons authorized by an order of a judge or court, (f)
2 persons authorized by written permission of the subject, (g) agents or
3 employees of the Department of Health and Human Services upon delivery of
4 a subpoena from the department in connection with a licensing or
5 licensure investigation by the department, (h) individuals authorized to
6 receive notice of the release of a sex offender pursuant to section
7 83-174, (i) the Nebraska State Patrol or the department pursuant to
8 section 69-2409.01, or (j) the ~~Division of Parole Supervision Agency~~ if
9 the subject meets the requirements for lifetime community supervision
10 pursuant to section 83-174.03.

11 (2) Upon application by the county attorney or by the administrator
12 of the treatment facility where the subject is in custody and upon a
13 showing of good cause therefor, a judge of the district court of the
14 county where the mental health board proceedings were held or of the
15 county where the treatment facility is located may order that the records
16 not be made available to the subject if, in the judgment of the court,
17 the availability of such records to the subject will adversely affect his
18 or her mental illness or personality disorder and the treatment thereof.

19 (3) When a subject is absent without authorization from a treatment
20 facility or program described in section 71-939 or 71-1223 and is
21 considered to be dangerous to others, the subject's name and description
22 and a statement that the subject is believed to be considered dangerous
23 to others may be disclosed in order to aid in the subject's apprehension
24 and to warn the public of such danger.

25 Sec. 43. Section 81-1401, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 81-1401 For purposes of sections 81-1401 to 81-1414.19, unless the
28 context otherwise requires:

29 (1) Class I railroad means a rail carrier classified as Class I
30 pursuant to 49 C.F.R. part 1201 1-1;

31 (2) Commission means the Nebraska Commission on Law Enforcement and

1 Criminal Justice;

2 (3) Council means the Nebraska Police Standards Advisory Council;

3 (4) Director means the director of the Nebraska Law Enforcement
4 Training Center;

5 (5) Felony means a crime punishable by imprisonment for a term of
6 more than one year or a crime committed outside of Nebraska which would
7 be punishable by imprisonment for a term of more than one year if
8 committed in Nebraska;

9 (6) Handgun means any firearm with a barrel less than sixteen inches
10 in length or any firearm designed to be held and fired by the use of a
11 single hand;

12 (7) Law enforcement agency means the police department or the town
13 marshal in incorporated municipalities, the office of sheriff in
14 unincorporated areas, the Nebraska State Patrol, and Class I railroad
15 police departments;

16 (8)(a) Law enforcement officer means any person who has successfully
17 completed an entry-level law enforcement certification from a training
18 academy and who is responsible for the prevention or detection of crime
19 or the enforcement of the penal, traffic, or highway laws of the state or
20 any political subdivision of the state for more than one hundred hours
21 per year and is authorized by law to make arrests and includes, but is
22 not limited to:

23 (i) A full-time or part-time member of the Nebraska State Patrol;

24 (ii) A county sheriff;

25 (iii) A full-time or part-time employee of a county sheriff's
26 office;

27 (iv) A full-time or part-time employee of a municipal or village
28 police agency;

29 (v) A full-time or part-time Game and Parks Commission conservation
30 officer;

31 (vi) A full-time or part-time deputy state sheriff;

1 (vii) A full-time employee of an organized and paid fire department
2 of any city of the metropolitan class who is an authorized arson
3 investigator and whose duties consist of determining the cause, origin,
4 and circumstances of fires or explosions while on duty in the course of
5 an investigation;

6 (viii) A member of a law enforcement reserve force appointed in
7 accordance with section 81-1438; or

8 (ix) A full-time Class I railroad police officer;

9 (b) Law enforcement officer includes a noncertified conditional
10 officer;

11 (c) Law enforcement officer does not include employees of the
12 Department of Correctional Services, probation officers under the
13 Nebraska Probation System, parole officers appointed by the Director of
14 Supervision and Services ~~of the Division of Parole Supervision~~, or
15 employees of the Department of Revenue under section 77-366; and

16 (d) Except for a noncertified conditional officer, a law enforcement
17 officer shall possess a valid law enforcement officer certificate or
18 diploma, as established by the council, in order to be vested with the
19 authority of this section;

20 (9) Misdemeanor crime of domestic violence has the same meaning as
21 in section 28-1206;

22 (10) Noncertified conditional officer means a person appointed
23 pursuant to subsection (6) of section 81-1414;

24 (11) Serious misconduct means improper or illegal actions taken by a
25 law enforcement officer that have a rational connection with the person's
26 fitness or capacity to serve as a law enforcement officer and includes,
27 but is not limited to:

28 (a) Conviction of a felony or misdemeanor crime of domestic
29 violence;

30 (b) Fabrication of evidence;

31 (c) Repeated substantiated allegations of the use of excessive

1 force;

2 (d) Acceptance of a bribe;

3 (e) Commission of fraud or perjury; or

4 (f) Sexual assault;

5 (12) Training academy means:

6 (a) The training center; or

7 (b) Another council-approved law enforcement training facility

8 which:

9 (i) Offers certification training that meets or exceeds the
10 certification training curriculum of the training center; and

11 (ii) Is operated and maintained by a law enforcement agency or by
12 multiple law enforcement agencies pursuant to the Interlocal Cooperation
13 Act; -

14 (13) Training center means the Nebraska Law Enforcement Training
15 Center; and

16 (14) Training school means a public or private institution of higher
17 education, including the University of Nebraska, the Nebraska state
18 colleges, and the community colleges of this state, that offers training
19 in a council-approved pre-certification course.

20 Sec. 44. Section 83-171, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 83-171 There is hereby created a Department of Correctional Services
23 which shall:

24 (1) Maintain and administer facilities required for the custody,
25 control, correctional treatment, and rehabilitation of persons committed
26 to the department and for the safekeeping of such other persons as may be
27 remanded to the department in accordance with law;

28 (2) Develop policies and programs for the correctional treatment and
29 rehabilitation of persons committed to the department;

30 (3) Supervise parolees who have been committed to the department;

31 and

1 (4) ~~Cooperate Until July 1, 2016, administer parole services in the~~
2 ~~facilities and in the community and, beginning July 1, 2016, cooperate~~
3 with the Board of Parole and ~~Division of~~ Parole Supervision Agency to
4 assist with the efficient administration of parole services in the
5 facilities and in the community.

6 Sec. 45. Section 83-174.03, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 83-174.03 (1) Any individual who, on or after July 14, 2006, (a) is
9 convicted of or completes a term of incarceration for a registrable
10 offense under section 29-4003 and has a previous conviction for a
11 registrable offense under such section, (b) is convicted of sexual
12 assault of a child in the first degree pursuant to section 28-319.01, or
13 (c) is convicted of or completes a term of incarceration for an
14 aggravated offense as defined in section 29-4001.01, shall, upon
15 completion of his or her term of incarceration or release from civil
16 commitment, be supervised in the community by the ~~Division of~~ Parole
17 Supervision Agency for the remainder of his or her life.

18 (2) Notice shall be provided to the Parole Supervision Agency
19 ~~division~~ by an agency or political subdivision which has custody of an
20 individual required to be supervised in the community pursuant to
21 subsection (1) of this section at least sixty days prior to the release
22 of such individual from custody.

23 (3) Individuals required to be supervised in the community pursuant
24 to subsection (1) of this section shall undergo a risk assessment and
25 evaluation by the Parole Supervision Agency ~~division~~ to determine the
26 conditions of community supervision to be imposed to best protect the
27 public from the risk that the individual will reoffend.

28 (4) Conditions of community supervision imposed on an individual by
29 the Parole Supervision Agency ~~division~~ may include the following:

30 (a) Drug and alcohol testing if the conviction resulting in the
31 imposition of community supervision involved the use of drugs or alcohol;

1 (b) Restrictions on employment and leisure activities necessary to
2 minimize interaction with potential victims;

3 (c) Requirements to report regularly to the individual's community
4 supervision officer;

5 (d) Requirements to reside at a specified location and notify the
6 individual's community supervision officer of any change in address or
7 employment;

8 (e) A requirement to allow the agency ~~division~~ access to medical
9 records from the individual's current and former providers of treatment;

10 (f) A requirement that the individual submit himself or herself to
11 available medical, psychological, psychiatric, or other treatment,
12 including, but not limited to, polygraph examinations; or

13 (g) Any other conditions designed to minimize the risk of
14 recidivism, including, but not limited to, the use of electronic
15 monitoring, which are not unduly restrictive.

16 Sec. 46. Section 83-174.04, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 83-174.04 An individual who violates one or more of the conditions
19 of community supervision established for him or her pursuant to section
20 83-174.03 shall undergo a review by the ~~Division of~~ Parole Supervision
21 Agency to evaluate the risk posed to the public by the violation in
22 question. The agency ~~division~~ may take any of the following actions in
23 response to a violation of conditions of community supervision:

24 (1) Revise or impose additional conditions of community supervision
25 in order to minimize the risk to the public from the continued presence
26 of the individual in the community;

27 (2) Forward to the Attorney General or the county attorney in the
28 county where the individual resides a request to initiate a criminal
29 prosecution for failure to comply with the terms of community
30 supervision; or

31 (3) Forward to the county attorney or Attorney General a

1 recommendation that civil commitment proceedings be instituted with
2 respect to the individual.

3 Sec. 47. Section 83-174.05, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 83-174.05 Failure to comply with the conditions of community
6 supervision imposed by the ~~Division of~~ Parole Supervision Agency is a
7 Class IV felony for the first offense and a Class III felony for any
8 subsequent offense.

9 Sec. 48. Section 83-192, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 83-192 (1) The Board of Parole shall:

12 (a) Determine the time of release on parole of committed offenders
13 eligible for such release;

14 (b) Fix the conditions of parole, revoke parole, issue or authorize
15 the issuance of warrants for the arrest of parole violators, and impose
16 other sanctions short of revocation for violation of conditions of
17 parole;

18 (c) Determine the time of mandatory discharge from parole;

19 (d) Visit and inspect any facility, state or local, for the
20 detention of persons charged with or convicted of an offense and for the
21 safekeeping of such other persons as may be remanded to such facility in
22 accordance with law;

23 (e) Implement ~~Within two years after July 1, 2006, implement~~ the
24 utilization of a validated risk and needs assessment in coordination with
25 the Department of Correctional Services and the ~~Division of~~ Parole
26 Supervision Agency. The assessment shall be prepared and completed by the
27 department or the agency ~~division~~ for use by the board in determining
28 release on parole;

29 (f) Review the record of every parole-eligible committed offender
30 annually when he or she is within three years of his or her earliest
31 parole eligibility date.

1 The review schedule shall be based on court-imposed sentences or
2 statutory minimum sentences, whichever are greater. The board is not
3 required to review the record of a committed offender when the committed
4 offender's parole eligibility date is within one month of his or her
5 mandatory discharge date. Nothing in such schedule shall prohibit the
6 board from reviewing a committed offender's case at any time;

7 (g) Appoint and remove all employees of the board as prescribed by
8 the State Personnel System and delegate appropriate powers and duties to
9 them;

10 (h) Adopt and promulgate rules and regulations; and

11 (i) Exercise all powers and perform all duties necessary and proper
12 in carrying out its responsibilities under the Nebraska Treatment and
13 Corrections Act.

14 (2) The chairperson of the board shall:

15 (a) Supervise the administration and operation of the board;

16 (b) Serve in an advisory capacity to the director in administering
17 parole services within any facility;

18 (c) Interpret the parole program to the public with a view toward
19 developing a broad base of public support;

20 (d) Conduct research for the purpose of evaluating and improving the
21 effectiveness of the parole system;

22 (e) Recommend parole legislation to the Governor;

23 (f) Adopt and promulgate rules and regulations for the
24 administration and operation of the board; and

25 (g) Exercise all other powers and perform all other duties necessary
26 and proper in carrying out his or her responsibilities as chairperson.

27 (3) This section does not prohibit a committed offender from
28 requesting that the board review his or her record, except that the board
29 is not required to review a committed offender's record more than once a
30 year.

31 Sec. 49. Section 83-198, Revised Statutes Cumulative Supplement,

1 2022, is amended to read:

2 83-198 A person shall be guilty of a Class IV felony if he or she
3 threatens or attempts to threaten harm to a member or an employee of the
4 Board of Parole or the Parole Supervision Agency with the purpose to
5 influence a decision, an opinion, a recommendation, a vote, or any other
6 exercise of discretion as member or employee of the board or agency or if
7 he or she privately addresses to any member or employee of the board or
8 agency any representation, entreaty, argument, or other communication
9 designed to influence the outcome of any matter which is or may come
10 before the board on the basis of considerations other than those
11 authorized by law.

12 Sec. 50. Section 83-1,100, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 83-1,100 (1) This subsection applies until June 30, 2024. There is
15 hereby created the Division of Parole Supervision within the Board of
16 Parole. The employees of the division shall consist of the Director of
17 Supervision and Services, the field parole service officers, and all
18 other division staff. The division shall be responsible for the
19 following:

20 (a) The administration of parole services in the community;

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

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

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

29 (2) This subsection applies beginning July 1, 2024. The Division of
30 Parole Supervision is renamed the Parole Supervision Agency and shall not
31 be a part of the Board of Parole but shall exist as an independent agency

1 of the state. The employees of the agency shall consist of the Director
2 of Supervision and Services, the field parole service officers, and all
3 other agency staff. The employees of the agency shall be covered by the
4 State Personnel System. The agency shall be responsible for the
5 following:

6 (a) The administration of parole services in the community;

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 agency, 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 (3) ~~(2)~~ Parole officers shall be compensated with salaries
16 substantially equal to other state employees who have similar
17 responsibilities, including employees of the Office of Probation
18 Administration. This subsection shall apply only to field parole service
19 officers and support staff and shall not apply to the Director of
20 Supervision and Services or any other management-level position.

21 (4) ~~(3)~~ This section does not prohibit the division or the Parole
22 Supervision Agency from maintaining daily records and files associated
23 with the Board of Pardons.

24 Sec. 51. Section 83-1,100.02, Revised Statutes Cumulative
25 Supplement, 2022, is amended to read:

26 83-1,100.02 (1) For purposes of this section:

27 (a) Levels of supervision means the determination of the following
28 for each person on parole:

29 (i) Supervision contact requirements, including the frequency,
30 location, methods, and nature of contact with the parole officer;

31 (ii) Substance abuse testing requirements and frequency;

- 1 (iii) Contact restrictions;
- 2 (iv) Curfew restrictions;
- 3 (v) Access to available programs and treatment, with priority given
- 4 to moderate-risk and high-risk parolees; and
- 5 (vi) Severity of graduated responses to violations of supervision
- 6 conditions; and
- 7 (b) Risk and needs assessment means an actuarial tool that has been
- 8 validated in Nebraska to determine the likelihood of the parolee engaging
- 9 in future criminal behavior.

10 (2) The ~~Division of Parole Supervision~~ Agency shall establish an

11 evidence-based process that utilizes a risk and needs assessment to

12 measure criminal risk factors and specific individual needs.

13 (3) The risk and needs assessment shall be performed at the

14 commencement of the parole term and every six months thereafter by agency

15 ~~division~~ staff trained and certified in the use of the risk and needs

16 assessment.

17 (4) The validity of the risk and needs assessment shall be tested at

18 least every five years.

19 (5) Based on the results of the risk and needs assessment, the

20 agency ~~division~~ shall target parolee criminal risk and need factors by

21 focusing sanction, program, and treatment resources on moderate-risk and

22 high-risk parolees.

23 (6) The agency ~~division~~ shall provide training to its parole

24 officers on use of a risk and needs assessment, risk-based supervision

25 strategies, relationship skills, cognitive behavioral interventions,

26 community-based resources, criminal risk factors, targeting criminal risk

27 factors to reduce recidivism, and proper use of a matrix of

28 administrative sanctions, custodial sanctions, and rewards developed

29 pursuant to section 83-1,119. All ~~parole officers employed on August 30,~~

30 ~~2015, shall complete the training requirements set forth in this~~

31 ~~subsection on or before January 1, 2017.~~ Each parole officer hired on or

1 ~~after August 30, 2015,~~ shall complete the training requirements set forth
2 in this subsection within one year after his or her hire date.

3 (7) The agency division shall provide training for chief parole
4 officers to become trainers so as to ensure long-term and self-sufficient
5 training capacity in the state.

6 Sec. 52. Section 83-1,101, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 83-1,101 (1) This subsection applies until June 30, 2024. The Board
9 of Parole shall appoint a Director of Supervision and Services who shall
10 be a person with appropriate experience and training, including, but not
11 limited to, familiarity with the implementation of evidence-based
12 processes for utilizing risk and needs assessments to measure criminal
13 risk factors and specific individual needs.

14 (2) Beginning July 1, 2024, the Governor shall appoint and fix the
15 salary of the Director of Supervision and Services subject to the
16 approval of a majority of the Legislature. The director shall be a person
17 with appropriate experience and training, including, but not limited to,
18 familiarity with the implementation of evidence-based processes for
19 utilizing risk and needs assessments to measure criminal risk factors and
20 specific individual needs. The director shall serve at the pleasure of
21 the Governor.

22 Sec. 53. Section 83-1,102, Revised Statutes Cumulative Supplement,
23 2022, is amended to read:

24 83-1,102 The Director of Supervision and Services shall:

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

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) Ensure that any risk or needs assessment instrument utilized by
30 the agency system be periodically validated;

31 (10) Each January 1, report ~~Report annually~~ to the Governor and

1 electronically to the Clerk of the Legislature ~~beginning January 1, 2015,~~
2 the number of parole revocations and the number of technical violations
3 of parole; and

4 (11) Exercise all powers and perform all duties necessary and proper
5 in carrying out his or her responsibilities.

6 Sec. 54. Section 83-1,103.02, Revised Statutes Cumulative
7 Supplement, 2022, is amended to read:

8 83-1,103.02 (1) Prior to the release from incarceration of an
9 individual subject to lifetime community supervision pursuant to section
10 83-174.03, the ~~Division of~~ Parole Supervision Agency shall:

11 (a) Notify the individual in writing that he or she is subject to
12 community supervision upon completion of his or her criminal sentence;

13 (b) Inform the individual subject to community supervision of the
14 process by which conditions of community supervision are determined and
15 his or her right to submit relevant information to the agency ~~division~~
16 for consideration when establishing the conditions of supervision;

17 (c) Determine the individual's risk of recidivism if released into
18 the community, utilizing a validated risk assessment tool;

19 (d) After considering the information required in subdivision (e) of
20 this subsection, determine the conditions of supervision which will most
21 effectively minimize the risk of the individual committing another sex
22 offense. The conditions shall be the least restrictive conditions
23 available, in terms of the effect on the individual's personal freedom,
24 which minimize the risk of recidivism and are compatible with public
25 safety; and

26 (e) In determining the conditions of supervision to be imposed, the
27 agency ~~division~~ shall consider the following:

28 (i) A report prepared by the institutional caseworkers relating to
29 the individual's personality, social history, and adjustment to authority
30 and including any recommendations which the staff of the facility may
31 make;

1 (ii) All official reports of the individual's prior criminal record,
2 including reports and records of earlier probation and parole
3 experiences;

4 (iii) The presentence investigation report;

5 (iv) The reports of any physical, mental, and psychiatric
6 examinations of the individual;

7 (v) Any relevant information which may be submitted by the
8 individual, his or her attorney, the victim of the crime, or other
9 persons; and

10 (vi) Such other relevant information concerning the individual as
11 may be reasonably available.

12 (2) Upon completion of the risk assessment and the determination of
13 the conditions of community supervision and no later than thirty days
14 prior to the completion of the individual's criminal sentence, the agency
15 ~~division~~ shall issue a certificate of community supervision to the
16 individual containing the conditions of community supervision he or she
17 will be required to comply with upon the completion of his or her
18 criminal sentence. The Director of Supervision and Services shall include
19 with the certificate written information on how to appeal the
20 determination of the conditions of community supervision.

21 Sec. 55. Section 83-1,103.03, Revised Statutes Cumulative
22 Supplement, 2022, is amended to read:

23 83-1,103.03 The ~~Division of~~ Parole Supervision Agency shall review
24 the conditions of community supervision imposed on an individual pursuant
25 to section 83-174.03 on an annual basis and shall provide the individual
26 the opportunity to submit written materials to the agency ~~division~~ for
27 consideration during such review.

28 If the agency ~~division~~ determines, after reviewing the individual's
29 conduct while under supervision and any other relevant facts, that one or
30 more of the conditions of community supervision imposed upon the
31 individual is no longer necessary to reduce the risk of the individual

1 reoffending or is no longer the least restrictive condition compatible
2 with public safety, the agency division shall revise the conditions of
3 community supervision so that the individual's freedom is not
4 unnecessarily restricted.

5 Sec. 56. Section 83-1,103.04, Revised Statutes Cumulative
6 Supplement, 2022, is amended to read:

7 83-1,103.04 (1) Whenever a determination or revision of the
8 conditions of community supervision is made by the ~~Division of Parole~~
9 Supervision Agency, the individual subject to the conditions shall be
10 entitled to an appeal. The appeal shall be heard by the district court in
11 the county where the individual resides. The individual shall be informed
12 of his or her right to request counsel, and if counsel is requested the
13 court shall determine if the individual is indigent. If the court finds
14 the individual to be indigent, it shall appoint counsel from the public
15 defender's office to represent the individual during the appeal.

16 (2) In an appeal contesting the determination or revision of the
17 conditions of community supervision, the burden of proof shall be on the
18 individual subject to community supervision to show by clear and
19 convincing evidence (a) that the conditions in question will not reduce
20 the risk of the individual reoffending or otherwise protect the public or
21 (b) that the condition is overly restrictive of the individual's freedom
22 and a less restrictive condition is available which is equally or more
23 effective in reducing the risk of the individual reoffending.

24 Sec. 57. Section 83-1,107, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 83-1,107 (1)(a) Within sixty days after initial classification and
27 assignment of any offender committed to the department, all available
28 information regarding such committed offender shall be reviewed and a
29 committed offender department-approved personalized program plan document
30 shall be drawn up. The document shall specifically describe the
31 department-approved personalized program plan and the specific goals the

1 department expects the committed offender to achieve. The document shall
2 also contain a realistic schedule for completion of the department-
3 approved personalized program plan. The department-approved personalized
4 program plan shall be developed with the active participation of the
5 committed offender. The department shall provide programs to allow
6 compliance by the committed offender with the department-approved
7 personalized program plan.

8 Programming may include, but is not limited to:

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

11 (ii) Substance abuse treatment;

12 (iii) Mental health and psychiatric treatment, including criminal
13 personality programming;

14 (iv) Constructive, meaningful work programs; and

15 (v) Any other program deemed necessary and appropriate by the
16 department.

17 (b) A modification in the department-approved personalized program
18 plan may be made to account for the increased or decreased abilities of
19 the committed offender or the availability of any program. Any
20 modification shall be made only after notice is given to the committed
21 offender. The department may not impose disciplinary action upon any
22 committed offender solely because of the committed offender's failure to
23 comply with the department-approved personalized program plan, but such
24 failure may be considered by the board in its deliberations on whether or
25 not to grant parole to a committed offender.

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

29 (b) In addition to reductions granted in subdivision (2)(a) of this
30 section, the department shall reduce the term of a committed offender by
31 three days on the first day of each month following a twelve-month period

1 of incarceration within the department during which the offender has not
2 been found guilty of (i) a Class I or Class II offense or (ii) more than
3 three Class III offenses under the department's disciplinary code.
4 Reductions earned under this subdivision shall not be subject to forfeit
5 or withholding by the department.

6 (c) The total reductions under this subsection shall be credited
7 from the date of sentence, which shall include any term of confinement
8 prior to sentence and commitment as provided pursuant to section
9 83-1,106, and shall be deducted from the maximum term, to determine the
10 date when discharge from the custody of the state becomes mandatory.

11 (3) While the offender is in the custody of the department,
12 reductions of terms granted pursuant to subdivision (2)(a) of this
13 section may be forfeited, withheld, and restored by the chief executive
14 officer of the facility with the approval of the director after the
15 offender has been notified regarding the charges of misconduct.

16 (4) The department shall ensure that a release or reentry plan is
17 complete or near completion when the offender has served at least eighty
18 percent of his or her sentence. For purposes of this subsection, release
19 or reentry plan means a comprehensive and individualized strategic plan
20 to ensure an individual's safe and effective transition or reentry into
21 the community to which he or she resides with the primary goal of
22 reducing recidivism. At a minimum, the release or reentry plan shall
23 include, but not be limited to, consideration of the individual's housing
24 needs, medical or mental health care needs, and transportation and job
25 needs and shall address an individual's barriers to successful release or
26 reentry in order to prevent recidivism. The release or reentry plan does
27 not include an individual's programming needs included in the
28 individual's personalized program plan for use inside the prison.

29 (5)(a) The department shall make treatment programming available to
30 committed offenders as provided in section 83-1,110.01 and shall include
31 continuing participation in such programming as part of each offender's

1 parolee personalized program plan.

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

6 (c) Any committed offender with a mental illness shall be evaluated
7 before release to ensure that adequate monitoring and treatment of the
8 committed offender will take place or, if appropriate, that a commitment
9 proceeding under the Nebraska Mental Health Commitment Act or the Sex
10 Offender Commitment Act will take place.

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

22 Programming may include, but is not limited to:

23 (i) Academic and vocational education;

24 (ii) Substance abuse treatment;

25 (iii) Mental health and psychiatric treatment, including criminal
26 personality programming;

27 (iv) Constructive, meaningful work programs;

28 (v) Community service programs; and

29 (vi) Any other program deemed necessary and appropriate by the
30 agency division.

31 (b) A modification in the approved case plan may be made to account

1 for the increased or decreased abilities of the parolee or the
2 availability of any program. Any modification shall be made only after
3 notice is given to the parolee. Intentional failure to comply with the
4 approved case plan by any parolee as scheduled for any year, or pro rata
5 part thereof, shall cause disciplinary action to be taken by the agency
6 ~~division~~ resulting in the forfeiture of up to a maximum of three months'
7 good time for the scheduled year.

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

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

17 (9) Pursuant to rules and regulations adopted by the probation
18 administrator and the director, an individualized post-release
19 supervision plan shall be collaboratively prepared by the Office of
20 Probation Administration and the department and provided to the court to
21 prepare individuals under custody of the department for post-release
22 supervision. All records created during the period of incarceration shall
23 be shared with the Office of Probation Administration and considered in
24 preparation of the post-release supervision plan.

25 Sec. 58. Section 83-1,107.01, Revised Statutes Cumulative
26 Supplement, 2022, is amended to read:

27 83-1,107.01 (1) Unless otherwise provided by this section, whenever
28 an adult offender is paroled, the board shall require a parolee to pay a
29 monthly parole programming fee.

30 (2) Parolees under the supervision of the ~~Division~~ of Parole
31 Supervision Agency shall pay a monthly parole programming fee of twenty-

1 five dollars, not later than the tenth day of each month, beginning the
2 second month of parole supervision and continuing for the duration of the
3 parole.

4 (3) The board shall waive payment of the monthly parole programming
5 fee in whole or in part if after a hearing a determination is made that
6 such payment would constitute an undue hardship on the parolee due to
7 limited income, employment or school status, or physical or mental
8 handicap. Such waiver shall be in effect only during the period of time
9 that the parolee is unable to pay his or her monthly parole programming
10 fee.

11 (4) When monthly parole programming fees are waived, in whole or in
12 part, the parole officer, pursuant to rules and regulations adopted by
13 the board, may contract with the parolee to perform approved community
14 service at the rate of five dollars per hour in lieu of payment of
15 monthly parole programming fees. A parolee may be required to pay a
16 participation fee in order to take advantage of community service
17 programs. A parolee may not accumulate more than three months' advance
18 credit for community service. The use of community service alternatives
19 does not preclude the imposition of other intermediate measures.

20 (5) The agency division ~~division~~ with the approval of the Board of Parole
21 shall implement sanctions if a parolee defaults in the payment of monthly
22 parole programming fees or any installment thereof as established by
23 subsection (2) of this section, except that parole shall not be revoked
24 nor shall the parolee be imprisoned for such nonpayment if the parolee is
25 financially unable to make the payment.

26 (6) If the board determines that the default in payment described in
27 subsection (5) of this section was not attributable to a deliberate
28 refusal to obey the order of the board or to failure on the parolee's
29 part to make a good faith effort to obtain the funds required for
30 payment, the board may allow the parolee additional time for payment,
31 reduce the amount of each installment, or revoke the fees or the unpaid

1 portion in whole or in part.

2 (7) No parolee shall be required to pay more than one monthly parole
3 programming fee per month.

4 (8) The imposition of monthly parole programming fees in this
5 section shall be considered separate and apart from specific service
6 delivery fees.

7 (9) Any adult offender received for supervision pursuant to section
8 29-2637 or the Interstate Compact for Adult Offender Supervision shall be
9 assessed a monthly parole programming fee during the period of time the
10 offender is actively supervised by Nebraska parole authorities.

11 (10) A parolee shall pay the fees described in this section to the
12 agency division. The ~~agency division~~ shall remit all fees to the State
13 Treasurer for credit to the Parole Program Cash Fund.

14 (11) The board and the ~~agency division~~ shall adopt and promulgate
15 rules and regulations to carry out this section.

16 Sec. 59. Section 83-1,107.02, Revised Statutes Cumulative
17 Supplement, 2022, is amended to read:

18 83-1,107.02 The Parole Program Cash Fund is created. All funds
19 collected pursuant to section 83-1,107.01 shall be remitted to the State
20 Treasurer for credit to the fund. The fund shall be utilized by the
21 ~~Division of Parole Supervision~~ Agency for the purposes stated in
22 subdivision (8) of section 83-1,102. Any money in the fund available for
23 investment shall be invested by the state investment officer pursuant to
24 the Nebraska Capital Expansion Act and the Nebraska State Funds
25 Investment Act.

26 Sec. 60. Section 83-1,113, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 83-1,113 The Board of Parole, the Parole Supervision Agency, and the
29 employees of the board and the agency ~~and its employees~~ shall have access
30 at all reasonable times to any committed offender over whom the board may
31 have jurisdiction and shall have means provided for communication with

1 and observing the committed offender. The board and agency shall be
2 furnished such reports as they ~~it~~ may require concerning the conduct and
3 character of any committed offender and any other information deemed
4 pertinent by the board in determining whether a committed offender should
5 be paroled.

6 Sec. 61. Section 83-1,119, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 83-1,119 (1) For purposes of this section:

9 (a) Absconding parole supervision means a parolee has purposely
10 avoided supervision for a period of at least two weeks and reasonable
11 efforts by a parole officer and staff to locate the parolee in person
12 have proven unsuccessful;

13 (b) Administrative sanction means additional parole requirements
14 imposed upon a parolee by his or her parole officer, with the full
15 knowledge and consent of the parolee, designed to hold the parolee
16 accountable for substance abuse or technical violations of conditions of
17 parole, including, but not limited to:

18 (i) Counseling or reprimand by the ~~Division of~~ Parole Supervision
19 Agency;

20 (ii) Increased supervision contact requirements;

21 (iii) Increased substance abuse testing;

22 (iv) Referral for substance abuse or mental health evaluation or
23 other specialized assessment, counseling, or treatment;

24 (v) Imposition of a designated curfew for a period to be determined
25 by the agency ~~division~~; and

26 (vi) Travel restrictions to stay within his or her county of
27 residence or employment unless otherwise permitted by the agency
28 ~~division~~;

29 (c) Contract facility means a county jail that contracts with the
30 department to house parolees or other offenders under the jurisdiction of
31 the department;

1 (d) Substance abuse violation means a parolee's activities or
2 behaviors associated with the use of chemical substances or related
3 treatment services resulting in a violation of an original condition of
4 parole, including:

5 (i) Positive breath test for the consumption of alcohol if the
6 parolee is required to refrain from alcohol consumption;

7 (ii) Positive urinalysis for the illegal use of drugs;

8 (iii) Failure to report for alcohol testing or drug testing; and

9 (iv) Failure to appear for or complete substance abuse or mental
10 health treatment evaluations or inpatient or outpatient treatment; and

11 (e) Technical violation means a parolee's activities or behaviors
12 which create the opportunity for re-offending or diminish the
13 effectiveness of parole supervision resulting in a violation of an
14 original condition of parole and includes:

15 (i) Moving traffic violations;

16 (ii) Failure to report to his or her parole officer;

17 (iii) Leaving the state without the permission of the Board of
18 Parole;

19 (iv) Failure to work regularly or attend training or school;

20 (v) Failure to notify his or her parole officer of change of address
21 or employment;

22 (vi) Frequenting places where controlled substances are illegally
23 sold, used, distributed, or administered; and

24 (vii) Failure to pay fines, court costs, restitution, or any fees
25 imposed pursuant to section 83-1,107.01 as directed.

26 Technical violation does not include absconding parole supervision.

27 (2) The agency division shall develop a matrix of rewards for
28 compliance and positive behaviors and graduated administrative sanctions
29 and custodial sanctions for use in responding to and deterring substance
30 abuse violations and technical violations. A custodial sanction of thirty
31 days in a correctional facility or a contract facility shall be

1 designated as the most severe response to a violation in lieu of
2 revocation.

3 (3) Whenever a parole officer has reasonable cause to believe that a
4 parolee has committed or is about to commit a substance abuse violation
5 or technical violation while on parole, but that the parolee will not
6 attempt to leave the jurisdiction and will not place lives or property in
7 danger, the parole officer shall either:

8 (a) Impose one or more administrative sanctions based upon the
9 parolee's risk level, the severity of the violation, and the parolee's
10 response to the violation. If administrative sanctions are to be imposed,
11 the parolee shall acknowledge in writing the nature of the violation and
12 agree upon the administrative sanction. The parolee has the right to
13 decline to acknowledge the violation. If he or she declines to
14 acknowledge the violation, the parole officer shall take action pursuant
15 to subdivision (3)(b) of this section. A copy of the report shall be
16 submitted to the Board of Parole; or

17 (b) Submit a written report to the Board of Parole, outlining the
18 nature of the parole violation, and request the imposition of a custodial
19 sanction of up to thirty days in a correctional facility or a contract
20 facility. On the basis of the report and such further investigation as
21 the board may deem appropriate, the board shall determine whether and how
22 the parolee violated the conditions of parole and may:

23 (i) Dismiss the charge of violation; or

24 (ii) If the board finds a violation justifying a custodial sanction,
25 issue a warrant if necessary and impose a custodial sanction of up to
26 thirty days in a correctional facility or a contract facility.

27 (4) Whenever a parole officer has reasonable cause to believe that a
28 parolee has violated or is about to violate a condition of parole by a
29 violation other than a substance abuse violation or a technical violation
30 and the parole officer has reasonable cause to believe that the parolee
31 will not attempt to leave the jurisdiction and will not place lives or

1 property in danger, the parole officer shall submit a written report to
2 the Board of Parole which may, on the basis of such report and such
3 further investigation as it may deem appropriate:

4 (a) Dismiss the charge of violation;

5 (b) Determine whether the parolee violated the conditions of his or
6 her parole;

7 (c) Impose a custodial sanction of up to thirty days in a
8 correctional facility or a contract facility;

9 (d) Revoke his or her parole in accordance with the Nebraska
10 Treatment and Corrections Act; or

11 (e) Issue a warrant for the arrest of the parolee.

12 (5) Whenever a parole officer has reasonable cause to believe that a
13 parolee has violated or is about to violate a condition of parole and
14 that the parolee will attempt to leave the jurisdiction or will place
15 lives or property in danger, the parole officer shall arrest the parolee
16 without a warrant and call on any peace officer to assist him or her in
17 doing so.

18 (6) Whenever a parolee is arrested with or without a warrant, he or
19 she shall be detained in a local jail or other detention facility
20 operated by the Department of Correctional Services pending completion of
21 review of parole proceedings by the Board of Parole. Immediately after
22 such arrest and detention, the parole officer shall notify the Board of
23 Parole and submit a written report of the reason for such arrest. A
24 complete investigation shall be made by the ~~Division~~ of Parole
25 Supervision Agency and submitted to the board. After prompt consideration
26 of such written report, the board shall order the parolee's release from
27 detention or continued confinement to await a final decision on
28 imposition of a custodial sanction or the revocation of parole.

29 (7) The Board of Parole shall adopt and promulgate rules and
30 regulations necessary to carry out this section.

31 Sec. 62. Section 83-1,125.01, Revised Statutes Cumulative

1 Supplement, 2022, is amended to read:

2 83-1,125.01 (1) The Board of Parole and the ~~Division of Parole~~
3 Supervision Agency may maintain an individual file for each person who is
4 under the jurisdiction of the Board of Parole. Such file may be
5 maintained electronically and shall include, when available and
6 appropriate, the following information on such person:

7 (a) Admission summary;

8 (b) Presentence investigation report;

9 (c) Classification reports and recommendations;

10 (d) Official records of conviction and commitment along with any
11 earlier criminal records;

12 (e) Progress reports and admission-orientation reports;

13 (f) Reports of any disciplinary infractions and their disposition;

14 (g) Risk and needs assessments;

15 (h) Parole plan and parole placement and investigation worksheets;

16 (i) Decision guideline scores;

17 (j) Parole case plan;

18 (k) Parole progress reports and contact notes;

19 (l) Arrest and violation reports, including disposition;

20 (m) Parole proceedings orders and notices;

21 (n) Other documents related to parole supervision;

22 (o) Correspondence; and

23 (p) Other pertinent data concerning his or her background, conduct,
24 associations, and family relationships.

25 (2) Any decision concerning release on or revocation of parole or
26 imposition of sanctions shall be made only after the individual file has
27 been reviewed. The contents of the individual file shall be confidential
28 unless disclosed in connection with a public hearing and shall not be
29 subject to public inspection except by court order for good cause shown.
30 The contents of the file shall not be accessible to any person under the
31 jurisdiction of the Board of Parole. A person under the jurisdiction of

1 the board may obtain access to his or her medical records by request to
2 the provider pursuant to sections 71-8401 to 71-8407 notwithstanding the
3 fact that such medical records may be a part of his or her parole file.
4 The board and the ~~Division of~~ Parole Supervision Agency have the
5 authority to withhold decision guideline scores, risk and needs
6 assessment scores, and mental health and psychological records of a
7 person under the jurisdiction of the board when appropriate.

8 (3) Nothing in this section limits in any manner the authority of
9 the Public Counsel to inspect and examine the records and documents of
10 the board and the ~~Division of~~ Parole Supervision Agency pursuant to
11 sections 81-8,240 to 81-8,254, except that the Public Counsel's access to
12 the medical or mental health records of a person under the jurisdiction
13 of the board shall be subject to his or her consent. The office of Public
14 Counsel shall not disclose the medical or mental health records of a
15 person under the jurisdiction of the board to anyone else, including any
16 other person under the jurisdiction of the board, except as authorized by
17 law.

18 Sec. 63. On and after July 1, 2024, positions of employment in the
19 Division of Parole Supervision related to the powers, duties, and
20 functions transferred pursuant to this legislative bill are transferred
21 to the Parole Supervision Agency. For purposes of the transition,
22 employees of the division shall be considered employees of the agency and
23 shall retain any rights under the state personnel system or pertinent
24 bargaining agreement, and their service shall be deemed continuous. This
25 section does not grant employees any new rights or benefits not otherwise
26 provided by law or bargaining agreement or preclude the agency or the
27 Director of Supervision and Services from exercising any of the
28 prerogatives of management set forth in section 81-1311 or as otherwise
29 provided by law. This section is not an amendment to or substitute for
30 the provisions of any existing bargaining agreements.

31 Sec. 64. On and after July 1, 2024, whenever the Division of Parole

1 Supervision is referred to or designated by any contract or other
2 document in connection with the duties and functions transferred to the
3 Parole Supervision Agency pursuant to this legislative bill, such
4 reference or designation shall apply to the agency. All contracts entered
5 into by the division prior to July 1, 2024, in connection with the duties
6 and functions transferred to the agency are hereby recognized, with the
7 agency succeeding to all rights and obligations under such contracts. Any
8 cash funds, custodial funds, gifts, trusts, grants, and any
9 appropriations of funds from prior fiscal years available to satisfy
10 obligations incurred under such contracts shall be transferred and
11 appropriated to the agency for the payments of such obligations. All
12 documents and records transferred, or copies of the same, may be
13 authenticated or certified by the agency for all legal purposes.

14 Sec. 65. No suit, action, or other proceeding, judicial or
15 administrative, lawfully commenced prior to July 1, 2024, or which could
16 have been commenced prior to that date, by or against the Division of
17 Parole Supervision, or the Director of Supervision and Services or any
18 employee of the division in such director's or employee's official
19 capacity or in relation to the discharge of his or her official duties,
20 shall abate by reason of the transfer of duties and functions from the
21 division to the Parole Supervision Agency.

22 Sec. 66. On and after July 1, 2024, unless otherwise specified,
23 whenever any provision of law refers to the Division of Parole
24 Supervision in connection with duties and functions transferred to the
25 Parole Supervision Agency by this legislative bill, such law shall be
26 construed as referring to the agency.

27 Sec. 67. All rules, regulations, and orders of the Division of
28 Parole Supervision adopted prior to July 1, 2024, in connection with the
29 powers, duties, and functions transferred to the Parole Supervision
30 Agency by this legislative bill shall continue to be effective until
31 revised, amended, repealed, or nullified pursuant to law.

1 Sec. 68. (1) On July 1, 2024, all items of property, real and
2 personal, including office furniture and fixtures, books, documents, and
3 records of the Division of Parole Supervision pertaining to the duties
4 and functions transferred to the Parole Supervision Agency pursuant to
5 this legislative bill shall become the property of the agency.

6 (2) Any appropriation and salary limit for fiscal year 2024-25
7 provided in any legislative bill enacted by the One Hundred Eighth
8 Legislature, First or Second Session, to Agency No. 15, Board of Pardons
9 and Board of Parole, Division of Parole Supervision, in the following
10 program classifications, shall be null and void, and any such amounts are
11 hereby appropriated to Agency No. XXX, Parole Supervision Agency: Program
12 No. XXX, [Program Name]; and Program No. XXX, [Program Name].

13 (3) Any financial obligations of the Division of Parole Supervision
14 that remain unpaid as of June 30, 2024, and that are subsequently
15 certified as valid encumbrances to the accounting division of the
16 Department of Administrative Services pursuant to sections 81-138.01 to
17 81-138.04, shall be paid by the Parole Supervision Agency from the
18 unexpended balance of appropriations existing in such program
19 classifications on June 30, 2024.

20 Sec. 69. Section 83-1,135, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 83-1,135 Sections 83-170 to 83-1,135.05 and sections 63 to 68 of
23 this act shall be known and may be cited as the Nebraska Treatment and
24 Corrections Act.

25 Sec. 70. Section 83-933, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 ~~83-933 Beginning July 1, 2016, until July 19, 2018, the Office of~~
28 ~~Parole Administration shall be within the Board of Parole. Beginning on~~
29 ~~July 19, 2018, the Division of Parole Supervision shall be within the~~
30 ~~Board of Parole.~~

31 ~~The Subject to supervision, the Director of Supervision and Services~~

1 shall be charged with the administration of parole services in the
2 community pursuant to ~~the provisions of~~ section 83-1,102, implementation
3 and administration of the Interstate Compact for Adult Offender
4 Supervision as it affects parolees, community supervision of sex
5 offenders pursuant to section 83-174.03, and supervision of parolees
6 either paroled in Nebraska and supervised in another state or paroled in
7 another state and supervised in Nebraska, pursuant to the compact.

8 Sec. 71. Sections 1, 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, 14, 15, 16,
9 17, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41,
10 42, 43, 44, 45, 46, 47, 48, 49, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61,
11 62, 70, and 73 of this act become operative on July 1, 2024. The other
12 sections of this act become operative on their effective date.

13 Sec. 72. Original sections 29-2249, 29-2251, and 29-2269, Reissue
14 Revised Statutes of Nebraska, and sections 83-1,101, 83-1,100, and
15 83-1,135, Revised Statutes Cumulative Supplement, 2022, are repealed.

16 Sec. 73. Original sections 24-205, 24-227.01, 29-2250, 29-2253,
17 29-2257, 29-2258, 29-2259.01, 29-2259.02, 29-2262.07, 43-4316, 43-4319,
18 43-4320, 43-4321, 43-4324, 43-4326, 47-624, 47-624.01, 47-627, 47-629,
19 47-903, 47-908, 47-919, 71-961, and 83-1,113, Reissue Revised Statutes of
20 Nebraska, and sections 25-2905, 28-322, 29-2246, 29-2252, 29-2259,
21 29-2261, 29-2935, 29-4019, 43-4318, 43-4323, 81-1401, 83-171, 83-174.03,
22 83-174.04, 83-174.05, 83-192, 83-198, 83-1,100.02, 83-1,102, 83-1,103.02,
23 83-1,103.03, 83-1,103.04, 83-1,107, 83-1,107.01, 83-1,107.02, 83-1,119,
24 83-1,125.01, and 83-933, Revised Statutes Cumulative Supplement, 2022,
25 are repealed.