

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 790

Introduced by Wayne, 13.

Read first time January 18, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to treatment and corrections; to amend
2 sections 28-912, 47-902, 47-903, and 81-8,240, Reissue Revised
3 Statutes of Nebraska, and sections 29-2261, 81-8,244, 83-1,100,
4 83-1,102, 83-1,107, 83-901, 83-903, and 83-904, Revised Statutes
5 Cumulative Supplement, 2022; to adopt the Community Work Release and
6 Treatment Centers Act; to provide powers and duties for the Board of
7 Parole, the Office of Probation Administration, the office of
8 Inspector General of the Nebraska Correctional System, the Public
9 Counsel, the Division of Parole Supervision, and the Department of
10 Correctional Services; to change provisions relating to escape from
11 official detention; to provide for access to presentence
12 investigation reports and other records; to transfer responsibility
13 for certain programs and services from the Department of
14 Correctional Services to the Board of Parole; to require reports; to
15 redefine terms; to eliminate obsolete provisions; to harmonize
16 provisions; to repeal the original sections; and to outright repeal
17 section 83-933, Revised Statutes Cumulative Supplement, 2022.
18 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

28 (1) Board means the Board of Parole;

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

30 (3) Community work release and treatment center or center means a
31 residential home, halfway house, or other facility operated by a private

1 provider pursuant to an agreement in writing with the division for
2 providing housing and supervision of committed offenders placed in the
3 center by the division for work release and for vocational training,
4 education, programming, or behavioral health or mental health treatment;

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

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

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

14 Sec. 4. (1) The board may place parole-eligible committed offenders
15 at community work release and treatment centers as provided in the
16 Community Work Release and Treatment Centers Act.

17 (2) Any offender placed at a community work release and treatment
18 center pursuant to the act:

19 (a) Shall be under the continuing jurisdiction and authority of the
20 board as if the offender was selected for release on ordinary parole
21 status as provided for in section 83-192; and

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

24 Sec. 5. (1) The division may exercise all powers and perform all
25 duties necessary and proper for carrying out its responsibilities under
26 the Community Work Release and Treatment Centers Act.

27 (2) The division may use designated funds provided by the
28 Legislature to enter into agreements with private providers for the
29 development and operation of community work release and treatment centers
30 to be established at various locations throughout the state. Any such
31 agreement shall require a private provider to:

1 (a) Assist any committed offender placed at the center to obtain and
2 maintain employment in the community;

3 (b) Provide vocational training, education, programming, and
4 treatment for issues related to the criminogenic needs of any committed
5 offender placed at the center; and

6 (c) Otherwise direct and supervise the activities and behavior of
7 any committed offender placed at the center as provided in the act.

8 (3) In an agreement under this section, the division may include
9 contractual requirements that obligate the private provider to offer to
10 any committed offender placed at the center:

11 (a) Specialized educational or vocational training; and

12 (b) Other programming that will address the mental health,
13 behavioral health, or substance abuse treatment needs of such committed
14 offender.

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

18 (a) Regarding the behavior of committed offenders;

19 (b) To ensure that committed offenders seek and retain continuous
20 employment;

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

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

26 (e) To ensure that committed offenders consistently participate in
27 all necessary therapy, programming, treatment, vocational training, and
28 educational classes; and

29 (f) To ensure that committed offenders maintain their scheduled work
30 hours.

31 Sec. 6. The division shall set standards for the appropriate

1 staffing levels of community work release and treatment centers. The
2 division shall require each center to:

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

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

7 (3) Assign an individual counselor to each committed offender
8 assigned to the center.

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

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

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

25 Sec. 9. The division shall establish an internal system for
26 assessing the achievements of community work release and treatment
27 centers and the effectiveness of the Community Work Release and Treatment
28 Centers Act as a whole. The division shall develop and maintain
29 measurable goals and objectives for such assessment.

30 Sec. 10. The division shall designate a parole officer to monitor
31 the performance of each committed offender who is assigned to a community

1 work release and treatment center. The designated parole officer shall be
2 required to periodically report to the division on the progress of the
3 committed offender.

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

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

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

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

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

27 Sec. 13. The division shall allow a community work release and
28 treatment center to have access to all of the records, documents, and
29 reports in the custody of the division, including presentencing reports,
30 that relate to any committed offender who is assigned to the center. A
31 center shall maintain the confidentiality of presentencing reports as

1 provided in section 29-2261.

2 Sec. 14. (1) Beginning October 1, 2023, the Board of Parole shall
3 electronically submit a quarterly report to the Judiciary Committee of
4 the Legislature and the Appropriations Committee of the Legislature
5 regarding any reentry service center pilot programs being conducted by
6 the Board of Parole. The report shall include:

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

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

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

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

19 Sec. 15. (1) Beginning October 1, 2023, the Office of Probation
20 Administration shall electronically submit a quarterly report to the
21 Judiciary Committee of the Legislature and the Appropriations Committee
22 of the Legislature regarding individuals serving sentences of post-
23 release supervision. The report shall include:

24 (a) The number of individuals:

25 (i) On post-release supervision;

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

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

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

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

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

1 supervision;

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

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

4 (b) The number of jail beds utilized for custodial sanctions and the

5 number of days such beds are utilized;

6 (c) The types of programming offered to individuals on post-release

7 supervision; and

8 (d) The risk scores of individuals on post-release supervision at

9 the time they began serving a sentence of imprisonment and upon discharge

10 from post-release supervision.

11 (2) The report shall redact all personal identifying information of

12 individuals on post-release supervision.

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

15 28-912 (1) A person commits escape if he or she unlawfully removes
16 himself or herself from official detention or fails to return to official
17 detention following temporary leave granted for a specific purpose or
18 limited period. Official detention means arrest, detention in or
19 transportation to any facility for custody of persons under charge or
20 conviction of crime or contempt or for persons alleged or found to be
21 delinquent, detention for extradition or deportation, or any other
22 detention for law enforcement purposes. Official detention also includes
23 assignment of a committed offender to a community work release and
24 treatment center as provided in the Community Work Release and Treatment
25 Centers Act, but does not include any other supervision of probation or
26 parole or constraint incidental to release on bail.

27 (2) A public servant concerned in detention commits an offense if he
28 or she knowingly permits an escape. Any person who knowingly causes or
29 facilitates an escape commits a Class IV felony.

30 (3) Irregularity in bringing about or maintaining detention, or lack
31 of jurisdiction of the committing or detaining authority shall not be a

1 defense to prosecution under this section if the escape is from a prison
2 or other custodial facility or from detention pursuant to commitment by
3 official proceedings. In the case of other detentions, irregularity or
4 lack of jurisdiction shall be a defense only if:

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

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

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

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

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

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

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

20 Sec. 17. Section 29-2261, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

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

1 circumstances, the court shall not commence the sentencing determination
2 proceeding as provided in section 29-2521 without first ordering a
3 presentence investigation of the offender and according due consideration
4 to a written report of such investigation.

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

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

20 Such investigation shall also include:

21 (a) Any written statements submitted to the county attorney by a
22 victim; and

23 (b) Any written statements submitted to the probation officer by a
24 victim.

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

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

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

31 For purposes of subsections (3) and (4) of this section, the term

1 victim shall be as defined in section 29-119.

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

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

22 (b) For purposes of this subsection, mental health professional
23 means (i) a practicing physician licensed to practice medicine in this
24 state under the Medicine and Surgery Practice Act, (ii) a practicing
25 psychologist licensed to engage in the practice of psychology in this
26 state as provided in section 38-3111 or as provided under similar
27 provisions of the Psychology Interjurisdictional Compact, (iii) a
28 practicing mental health professional licensed or certified in this state
29 as provided in the Mental Health Practice Act, or (iv) a practicing
30 professional counselor holding a privilege to practice in Nebraska under
31 the Licensed Professional Counselors Interstate Compact.

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

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

28 (9) Notwithstanding subsections (6) and (7) of this section, the
29 Supreme Court or an agent of the Supreme Court acting under the direction
30 and supervision of the Chief Justice shall have access to psychiatric
31 examinations, substance abuse evaluations, and presentence investigations

1 and reports for research purposes. The Supreme Court and its agent shall
2 treat such information as confidential, and nothing identifying any
3 individual shall be released.

4 Sec. 18. Section 47-902, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 47-902 (1) It is the intent of the Legislature to:

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

11 (b) Assist in improving operations of the department and the
12 Nebraska correctional system;

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

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

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

1 associations, societies, and institutions of the executive branch under
2 his or her administrative direction.

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

5 47-903 For purposes of the Office of Inspector General of the
6 Nebraska Correctional System Act, the following definitions apply:

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

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

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

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

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

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

19 (7) Management means supervision of subordinate employees;

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

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

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

29 (11) Private agency means:

30 (a) An ~~an~~ entity that contracts with the department or contracts to
31 provide services to another entity that contracts with the department;

1 and

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

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

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

12 81-8,240 As used in sections 81-8,240 to 81-8,254, unless the
13 context otherwise requires:

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

1 regional behavioral health authority, (e) any instrumentality formed
2 pursuant to an interstate compact and answerable to more than one state,
3 or (f) any entity of the federal government; and

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

7 Sec. 21. Section 81-8,244, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 81-8,244 (1)(a) The Public Counsel may select, appoint, and
10 compensate as he or she sees fit, within the amount available by
11 appropriation, such assistants and employees as he or she deems necessary
12 to discharge the responsibilities under sections 81-8,240 to 81-8,254. He
13 or she shall appoint and designate one assistant to be a deputy public
14 counsel, one assistant to be a deputy public counsel for corrections, one
15 assistant to be a deputy public counsel for institutions, and one
16 assistant to be a deputy public counsel for welfare services.

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

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

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

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

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

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

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

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

26 Sec. 22. Section 83-1,100, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 83-1,100 (1) There is hereby created the Division of Parole
29 Supervision within the Board of Parole. The employees of the division
30 shall consist of the Director of Supervision and Services, the field
31 parole service officers, and all other division staff. The division shall

1 be responsible for the following:

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

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

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

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

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

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

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

23 83-1,102 The Director of Supervision and Services shall:

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

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

28 (3) Divide the state into parole districts and appoint district
29 parole officers and such other employees as may be required to carry out
30 adequate parole supervision of all parolees, prescribe their powers and
31 duties, and obtain division offices for staff in each district as may be

1 necessary;

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

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

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

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

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

27 (9) Subject to supervision of the board, be responsible for
28 implementation and administration of the Interstate Compact for Adult
29 Offender Supervision as it affects parolees, community supervision of sex
30 offenders pursuant to section 83-174.03, and supervision of parolees
31 either paroled in Nebraska and supervised in another state or paroled in

1 another state and supervised in Nebraska, pursuant to the compact;

2 ~~(10) (9)~~ Ensure that any risk or needs assessment instrument
3 utilized by the system be periodically validated;

4 ~~(11) (10)~~ Report annually to the Governor and electronically to the
5 Clerk of the Legislature beginning January 1, 2015, the number of parole
6 revocations and the number of technical violations of parole; and

7 ~~(12) (11)~~ Exercise all powers and perform all duties necessary and
8 proper in carrying out his or her responsibilities.

9 Sec. 24. Section 83-1,107, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 83-1,107 (1)(a) Within sixty days after initial classification and
12 assignment of any offender committed to the department, all available
13 information regarding such committed offender shall be reviewed and a
14 committed offender department-approved personalized program plan document
15 shall be drawn up. The document shall specifically describe the
16 department-approved personalized program plan and the specific goals the
17 department expects the committed offender to achieve. The document shall
18 also contain a realistic schedule for completion of the department-
19 approved personalized program plan. The department-approved personalized
20 program plan shall be developed with the active participation of the
21 committed offender. The department shall provide programs to allow
22 compliance by the committed offender with the department-approved
23 personalized program plan.

24 Programming may include, but is not limited to:

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

27 (ii) Substance abuse treatment;

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

30 (iv) Constructive, meaningful work programs; and

31 (v) Any other program deemed necessary and appropriate by the

1 department.

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

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

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

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

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

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

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

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

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

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

12 Programming may include, but is not limited to:

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

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

29 (7) While the offender is in the custody of the board, reductions of
30 terms granted pursuant to subdivision (2)(a) of this section may be
31 forfeited, withheld, and restored by the director upon the recommendation

1 of the board after the offender has been notified regarding the charges
2 of misconduct or breach of the conditions of parole.

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

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

15 Sec. 25. Section 83-901, Revised Statutes Cumulative Supplement,
16 2022, is amended to read:

17 83-901 The purpose of sections 49-617, 68-621, 72-249, 72-1302 to
18 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01, 83-108, 83-112,
19 83-135, 83-139, 83-140, 83-144, 83-145, 83-147 to 83-150, 83-153 to
20 83-156, 83-170 to 83-173, 83-186, 83-188, 83-443, and 83-901 to 83-916
21 and section 26 of this act is to establish an agency of state government
22 for the custody, study, care, discipline, training, and treatment of
23 persons in the correctional and detention institutions and for the study,
24 training, and treatment of persons under the supervision of other
25 correctional services of the state so that they may be prepared for
26 lawful community living. Correctional services shall be so diversified in
27 program and personnel as to facilitate individualization of treatment.

28 Sec. 26. (1) Prior to the discharge of an individual from a
29 facility of the Department of Correctional Services, the department shall
30 provide such individual with an opportunity to obtain a state
31 identification card or renew a motor vehicle operator's license.

1 (2) The Board of Parole and Office of Probation Administration may
2 assist any such individual in obtaining a state identification card or
3 renewing a motor vehicle operator's license. The department shall
4 cooperate with and facilitate the board's and office's involvement in
5 such matter.

6 Sec. 27. Section 83-903, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 83-903 (1)(a) This subdivision applies until June 30, 2024. The
9 Department of Correctional Services, in consultation with the Board of
10 Parole, shall develop a reentry program for individuals incarcerated in a
11 department correctional facility, individuals who have been discharged
12 from a department correctional facility within the prior eighteen months,
13 and parolees. The department shall hire a reentry program administrator
14 to develop and oversee the reentry program and additional staff as needed
15 to implement the reentry program.

16 (b) This subdivision applies beginning July 1, 2024. The Board of
17 Parole, in consultation with the Department of Correctional Services,
18 shall develop and administer a reentry program for individuals
19 incarcerated in a department correctional facility, individuals who have
20 been discharged from a department correctional facility within the prior
21 eighteen months, and parolees. The board shall hire a reentry program
22 administrator to develop and oversee the reentry program and additional
23 staff as needed to implement the reentry program.

24 (2) The purpose of the reentry program is to facilitate a standard
25 systemwide program of reentry for individuals leaving correctional
26 facilities or transitioning off community supervision. The primary
27 objectives of the reentry program are to reduce recidivism, to identify,
28 assess, and provide treatment options for individuals with mental
29 illness, to increase public safety, and to improve the overall transition
30 of the individual from the criminal justice system into the community.
31 ~~Prior to the discharge of an individual from a department correctional~~

1 ~~facility, the department shall provide such individual with an~~
2 ~~opportunity to obtain a state identification card or renew a motor~~
3 ~~vehicle operator's license.~~

4 Sec. 28. Section 83-904, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 83-904 (1) The Vocational and Life Skills Program is created ~~within~~
7 ~~the Department of Correctional Services, in consultation with the Board~~
8 ~~of Parole.~~ The program shall provide funding to aid in the establishment
9 and provision of community-based vocational training and life skills
10 training for adults who are incarcerated, formerly incarcerated, or
11 serving a period of supervision on either probation or parole. Until June
12 30, 2024, the Department of Correctional Services shall administer the
13 program in consultation with the Board of Parole. Beginning July 1, 2024,
14 the Board of Parole shall administer the program in consultation with the
15 Department of Correctional Services.

16 (2)(a) ~~(2)~~ The Vocational and Life Skills Programming Fund is
17 created. The fund shall consist of transfers authorized by the
18 Legislature, funds donated by nonprofit entities, funds from the federal
19 government, and funds from other sources. The fund shall be used to
20 provide grants to community-based organizations, community colleges,
21 federally recognized or state-recognized Indian tribes, or nonprofit
22 organizations that provide vocational and life skills programming and
23 services to adults and juveniles who are incarcerated, who have been
24 incarcerated within the prior eighteen months, or who are serving a
25 period of supervision on either probation or parole.

26 (b)(i) Until June 30, 2024:

27 (A) The department, in awarding grants, shall give priority to
28 programs, services, or training that results in meaningful employment or
29 that provides reentry or transitional housing, wrap-around services,
30 family support, or restorative justice programming; ~~and no money from~~
31 the fund shall be used for capital construction.

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

7 (ii) Beginning July 1, 2024:

8 (A) The Board of Parole, in awarding grants, shall give priority to
9 programs, services, or training that results in meaningful employment;
10 and

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

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

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

23 (e) Beginning July 1, 2022, and each July 1 thereafter until July 1,
24 2024, the State Treasurer shall transfer five million dollars annually
25 from the Prison Overcrowding Contingency Fund to the Vocational and Life
26 Skills Programming Fund, on such dates as directed by the budget
27 administrator of the budget division of the Department of Administrative
28 Services.

29 (3)(a) This subdivision applies until June 30, 2024. ~~(3)~~ The
30 department, in consultation with the Board of Parole, shall adopt and
31 promulgate rules and regulations to carry out the Vocational and Life

1 Skills Program. The rules and regulations shall include, but not be
2 limited to, a plan for evaluating the effectiveness of programs,
3 services, and training that receive funding and a reporting process for
4 aid recipients.

5 (b) This subdivision applies beginning July 1, 2024. The Board of
6 Parole, in consultation with the Department of Correctional Services,
7 shall adopt and promulgate rules and regulations to carry out the
8 Vocational and Life Skills Program. The rules and regulations shall
9 include, but not be limited to, a plan for evaluating the effectiveness
10 of programs, services, and training that receive funding and a reporting
11 process for aid recipients.

12 (4) The reentry program administrator shall report quarterly to the
13 Governor and the Clerk of the Legislature beginning October 1, 2014, on
14 the distribution and use of the aid distributed under the Vocational and
15 Life Skills Program, including how many individuals received programming,
16 the types of programming, the cost per individual for each program,
17 service, or training provided, how many individuals successfully
18 completed their programming, and information on any funds that have not
19 been used. The report to the Clerk of the Legislature shall be submitted
20 electronically. Any funds not distributed to community-based
21 organizations, community colleges, federally recognized or state-
22 recognized Indian tribes, or nonprofit organizations under this
23 subsection shall be retained by the department to be distributed on a
24 competitive basis under the Vocational and Life Skills Program. These
25 funds shall not be expended by the department for any other purpose.

26 Sec. 29. (1) On or before October 1, 2023, the Board of Parole, in
27 consultation with the Department of Correctional Services, shall develop
28 a plan to facilitate the transfer of the duties and functions of the
29 department transferred to the board under sections 83-903 and 83-904
30 pursuant to this legislative bill.

31 (2) On July 1, 2024, all items of personal property, including

1 computers, office furniture and fixtures, books, documents, and records
2 of the department pertaining to the duties and functions under sections
3 83-903 and 83-904 transferred to the board pursuant to this legislative
4 bill shall become the property of the board.

5 (3) Beginning July 1, 2024, whenever the department is referred to
6 or designated by any contract or other document in connection with the
7 duties and functions under sections 83-903 and 83-904 transferred to the
8 board pursuant to this legislative bill, such reference or designation
9 shall apply to the board. All contracts entered into by the department
10 prior to July 1, 2024, in connection with such duties and functions are
11 hereby recognized, with the board succeeding to all rights and
12 obligations under such contracts.

13 (4) All rules and regulations of the department adopted prior to
14 July 1, 2024, in connection with the duties and functions under sections
15 83-903 and 83-904 transferred to the board pursuant to this legislative
16 bill shall continue to be effective until revised, amended, repealed, or
17 nullified pursuant to law.

18 (5) No suit, action, or other proceeding, judicial or
19 administrative, lawfully commenced prior to July 1, 2024, or which could
20 have been commenced prior to that date, by or against the department, or
21 any employee thereof in such employee's official capacity or in relation
22 to the discharge of his or her official duties, shall abate by reason of
23 the transfer of duties and functions from the department to the board
24 pursuant to this legislative bill.

25 (6) Beginning July 1, 2024, positions of employment in the
26 department related to the duties and functions under sections 83-903 and
27 83-904 that are transferred pursuant to this legislative bill, including
28 the reentry program administrator, are transferred to the board. The
29 affected employees shall retain their rights under the state personnel
30 system or pertinent bargaining agreement, and their service shall be
31 deemed continuous. This section does not grant employees any new rights

1 or benefits not otherwise provided by law or bargaining agreement or
2 preclude the board from exercising any of the prerogatives of management
3 set forth in section 81-1311 or as otherwise provided by law. This
4 section is not an amendment to or substitute for the provisions of any
5 existing bargaining agreements.

6 (7) It is the intent of the Legislature that any appropriation and
7 salary limit for fiscal year 2023-24 provided in any legislative bill
8 enacted by the One Hundred Eighth Legislature, to Agency No. 46,
9 Department of Correctional Services, in the following program
10 classifications, shall be null and void, and any such amounts shall be
11 appropriated to Agency No. 15, Board of Parole: Program No. 214,
12 Vocational and Life Skills.

13 Sec. 30. (1) The Board of Parole shall develop a comprehensive plan
14 to transition responsibility for community corrections from the
15 Department of Correctional Services to the board. The plan shall have an
16 implementation start date of July 1, 2025. The plan shall identify
17 timelines and infrastructure needs. The department shall cooperate with
18 the board in developing the plan. The board may hire a consultant or
19 consultants to facilitate development of the plan.

20 (2) The Board of Parole shall electronically submit the
21 comprehensive plan to the Judiciary Committee of the Legislature on or
22 before October 1, 2024.

23 Sec. 31. (1) The Board of Parole shall develop a comprehensive plan
24 to transition responsibility for post-release supervision from the
25 judicial branch and the Office of Probation Administration to the board.
26 The plan shall have an implementation start date of July 1, 2026. The
27 plan shall identify timelines and infrastructure needs. The Office of
28 Probation Administration and State Court Administrator shall cooperate
29 with the board in developing the plan. The board may hire a consultant or
30 consultants to facilitate development of the plan.

31 (2) The Board of Parole shall electronically submit the

1 comprehensive plan to the Judiciary Committee of the Legislature on or
2 before October 1, 2025.

3 Sec. 32. Original sections 28-912, 47-902, 47-903, and 81-8,240,
4 Reissue Revised Statutes of Nebraska, and sections 29-2261, 81-8,244,
5 83-1,100, 83-1,102, 83-1,107, 83-901, 83-903, and 83-904, Revised
6 Statutes Cumulative Supplement, 2022, are repealed.

7 Sec. 33. The following section is outright repealed: Section
8 83-933, Revised Statutes Cumulative Supplement, 2022.