

## LEGISLATIVE BILL 591

Approved by the Governor March 2, 1984

Introduced by Law Enforcement & Justice Advisory Committee,  
Beutler, 28, Chairperson; Von Minden, 17;  
Chronister, 18; R. Johnson, 34; Abboud, 12;  
Jacobson, 33

AN ACT relating to penal and correctional facilities; to define terms; to provide powers and duties relating to the final disposition of an untried indictment, information, or complaint as prescribed; and to declare an emergency.  
Be it enacted by the people of the State of Nebraska,

Section 1. As used in this act, unless the context otherwise requires:

(1) Director shall mean the Director of Correctional Services; and

(2) Prosecutor shall mean a prosecuting attorney as defined in section 29-104.

Sec. 2. The director shall promptly inform in writing each prisoner in the custody of the Department of Correctional Services of the source and nature of any untried indictment, information, or complaint against him or her of which the director has knowledge and of his or her right to make a request for final disposition thereof.

Sec. 3. Any person who is imprisoned in a facility operated by the Department of Correctional Services may request in writing to the director final disposition of any untried indictment, information, or complaint pending against him or her in this state. Upon receiving any request from a prisoner for final disposition of any untried indictment, information, or complaint, the director shall:

(1) Furnish the prosecutor with a certificate stating the term of commitment under which the prisoner is being held, the time already served on the sentence, the time remaining to be served, the good time earned, the time of the prisoner's parole eligibility, and any decision of the Board of Parole relating to the prisoner;

(2) Send by registered or certified mail, return receipt requested, one copy of the request and the certificate to the court in which the untried indictment, information, or complaint is pending and one copy to the prosecutor charged with the duty of prosecuting it; and

(3) Offer to deliver temporary custody of the prisoner to the appropriate authority in the city or county where the untried indictment, information, or complaint is pending.

Sec. 4. The prosecutor in a city or county in which an untried indictment, information, or complaint is pending shall be entitled to have a prisoner, against whom he or she has lodged a detainer and who is serving a term of imprisonment in any facility operated by the Department of Correctional Services, made available upon presentation of a written request for temporary custody or availability to the director. The court having jurisdiction of such indictment, information, or complaint shall duly approve, record, and transmit the prosecutor's request. Upon receipt of the prosecutor's written request the director shall:

(1) Furnish the prosecutor with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the good time earned, the time of the prisoner's parole eligibility, and any decision of the Board of Parole relating to the prisoner; and

(2) Offer to deliver temporary custody of the prisoner to the appropriate authority in the city or county where the untried indictment, information, or complaint is pending in order that speedy and efficient prosecution may be had.

Sec. 5. Within one hundred eighty days after the prosecutor receives a certificate from the director pursuant to section 3 or 4 of this act or within such additional time as the court for good cause shown in open court may grant, the untried indictment, information, or complaint shall be brought to trial with the prisoner or his or her counsel being present. The parties may stipulate for a continuance or a continuance may be granted on a notice to the attorney of record and an opportunity for him or her to be heard. If the indictment, information, or complaint is not brought to trial within the time period stated in this section, including applicable continuances, no court of this state shall any longer have jurisdiction thereof nor shall the untried indictment, information, or complaint be of any further force or effect and it shall be dismissed with prejudice.

Sec. 6. The temporary custody referred to in sections 3 and 4 of this act shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations, or complaints which form the basis of a detainer lodged with the director or for prosecution on any other charge or charges arising out of the same transaction. Except for attendance at court and transportation to or from any place where the prisoner's presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution. However, the prisoner shall not be classified as a pretrial detainee but shall be deemed to remain in custody of the Department of Correctional

Services and any escape from temporary custody may be dealt with in the same manner as an escape from the Department of Correctional Services' facility to which he or she was confined.

Sec. 7. Escape from custody by a prisoner subsequent to execution of a request for final disposition of any untried indictment, information, or complaint shall void the request.

Sec. 8. No provision of this act and no remedy made available by this act shall apply to any person who is adjudged to be mentally ill.

Sec. 9. The costs of transporting prisoners to and from the city or county in which any untried indictment, information, or complaint is pending as provided in this act shall be paid by the city or county.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.