

LEGISLATIVE BILL 567

Approved by the Governor May 22, 1975

Introduced by Judiciary Committee, Luedtke, 28, Chmn.;
DeCamp, 40; Barnett, 26; Nichol, 48; Anderson,
37; Schmit, 23

AN ACT to amend sections 83-1,109 and 83-1,118, Reissue Revised Statutes of Nebraska, 1943, and sections 83-170, 83-1,107, 83-1,108, 83-1,110, and 83-1,111, Revised Statutes Supplement, 1974, relating to the Department of Correctional Services; to define terms; to provide for the reduction of sentences of committed offenders as prescribed; to provide for restitution of the civil rights of such persons upon release from custody or supervision; to assign duties to the Director of Correctional Services; to correct obsolete language; to provide for retroactive application of this act; and to repeal the original sections.

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

Section 1. That section 83-170, Revised Statutes Supplement, 1974, be amended to read as follows:

83-170. As used in this act, unless the context otherwise requires:

- (1) Board shall mean the Board of Parole;
- (2) Committed offender shall mean any person who, under any provision of law, is sentenced or committed to a facility operated by the Department of Correctional Services or is sentenced or committed to the department, other than a person adjudged delinquent or in need of special supervision by a juvenile court;
- (3) Facility shall mean any prison, reformatory, training school, reception center, community guidance center, group home, or other institution operated by the Department of Correctional Services;
- (4) Maximum term shall mean the maximum sentence provided by law or the maximum sentence imposed by a court, whichever is shorter;
- (5) Minimum term shall mean the minimum sentence provided by law or the minimum sentence imposed by a court, whichever is longer;

(6) Pardon authority shall mean the power to remit fines and forfeitures and to grant respites, reprieves, pardons, or commutations;

(7) Parole term shall mean the time from the release on parole to the end completion of the maximum term, not reduced by institutional good-time reductions parole time granted pursuant to section 3 of this act and good behavior good time granted under the provisions of this section and section 2 of this act;

(8) Person committed to the department shall mean any person sentenced or committed to a facility within the department;

(9) Department shall mean the Department of Correctional Services; and

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

(11) Good time shall mean any reduction of sentence granted pursuant to this section and sections 2 and 3 of this act.

Sec. 2. That section 83-1,107, Revised Statutes Supplement, 1974, be amended to read as follows:

83-1,107. (1) The chief executive officer of a facility shall reduce; ~~for parole purposes; for good behavior and faithful performance of duties while confined in a facility~~ the term of a committed offender as follows: Two months on the first year, two months on the second year, three months on the third year, four months for each succeeding year of his term and pro rata for any part thereof which is less than a year. ~~In addition; for especially meritorious behavior or exceptional performance of his duties; an offender may receive a further reduction; for parole purposes; not to exceed five days; for any month of imprisonment.~~ The total of all such reductions shall be credited from the date of sentence, which shall include any term of confinement prior to sentence and commitment as provided pursuant to section 83-1106, and shall be deducted;

(a) From his minimum term, to determine the date of his eligibility for release on parole; and

(b) From his maximum term, to determine the date when his release on parole becomes ~~mandatory under the provisions of section 83-1,111~~ discharge from the custody of the state becomes mandatory.

(2) Reductions While the offender is in the custody of the Department of Correctional Services, reductions of such terms may be forfeited, withheld and restored by the chief executive officer of the facility, with the approval of the director after the offender has been consulted regarding the charges of misconduct. No reduction of an offender's term for especially meritorious behavior or exceptional performance of his duties shall be forfeited or withheld after an offender is released on parole.

(3) While the offender is in the custody of the Board of Parole, reductions of such terms may be forfeited, withheld, and restored by the Parole Administrator with the approval of the director after the offender has been consulted regarding the charges of misconduct or breach of the conditions of his parole. In addition, the Board of Parole may recommend such forfeitures of good time to the director.

(4) Good time or other reductions of sentence granted under the provisions of any law prior to July 6, 1972 the effective date of this act may be forfeited, withheld, or restored in accordance with the terms of this act.

Sec. 3. (1) In addition to the reductions provided in section 1 of this act, an offender shall receive, for faithful performance of his assigned duties, a further reduction of five days for each month of his term. The total of all such reductions shall be deducted from his maximum term to determine the date when his discharge from the custody of the state becomes mandatory.

(2) While the offender is in the custody of the Department of Correctional Services, reductions of such terms may be forfeited, withheld, and restored by the chief executive officer of the facility, with the approval of the director after the offender has been consulted regarding any charges of misconduct.

(3) While the offender is in the custody of the Board of Parole, reductions of such terms may be forfeited, withheld, and restored by the Parole Administrator with the approval of the director after the offender has been consulted regarding the charges of misconduct or breach of the conditions of his parole. In addition, the Board of Parole may recommend such forfeitures of good time to the director.

Sec. 4. That section 83-1,108, Revised Statutes Supplement, 1974, be amended to read as follows:

83-1,108. (1) The Board of Parole shall reduce for good conduct in conformity with the conditions of his parole, a parolee's parole term by six two days for each month of such term. The total of such reductions shall be deducted from his parole maximum term, less good time reductions granted under the provisions of sections 2 and 3 of this act, to determine the date when his discharge from parole becomes mandatory.

(2) Reductions of the parole term--for--good behavior terms may be forfeited, withheld, and restored by the Board of Parole after the parolee has been consulted regarding any charge of misconduct or breach of the conditions of his parole. The--forfeiture--and withholding of such reductions shall be made only if the board finds a violation of parole conditions.

Sec. 5. That section 83-1,109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,109. The chief executive officer of a facility shall regularly report all reductions of prison terms for good behavior and faithful performance of duties, and--for--especially--meritorious--behavior--or exceptional performance of duties, and all forfeitures and restorations of such reductions to the Director of Corrections Correctional Services. On the basis of such report, the director shall inform the Board of Parole and the Parole Administrator of all committed offenders who are expected to become eligible for release on parole or whose release on parole will become mandatory within the next three months.

Sec. 6. That section 83-1,110, Revised Statutes Supplement, 1974, be amended to read as follows:

83-1,110. (1) Every committed offender shall be eligible for release on parole upon completion of his minimum term less reductions granted in accordance with this act. A committed offender shall be eligible for parole prior to the expiration of the minimum term whenever the minimum sentence provided by law, less such reductions, has been served and the sentencing judge or his successor in office shall give his approval for the parole of such offender.

(2) Every committed offender sentenced to consecutive terms, whether received at the same time or at any time during the original sentence, shall be eligible for release on parole when he shall have served the total of the minimum terms, less reductions granted in accordance with the provisions of this act. The

maximum terms shall be added to compute the new maximum term, which, less reductions granted in accordance with the provisions of this act, shall determine the date when his release-on-parole discharge from the custody of the state becomes mandatory.

Sec. 7. That section 83-1,111, Revised Statutes Supplement, 1974, be amended to read as follows:

83-1,111. (1) Every committed offender shall have a hearing before a majority of the members of the Board of Parole within sixty days before the expiration of his minimum term less any reductions. Every committed offender shall be interviewed within sixty days prior to his final parole hearing by a member of the Board of Parole. The hearing shall be conducted in an informal manner, but a complete record of the proceedings shall be made and preserved.

(2) The board shall render its decision regarding the committed offender's release on parole within a reasonable time after the hearing. The decision shall be by majority vote of the board. The decision shall be based on the entire record before the board, which shall include the opinion of the member who presided at the hearing. If the board shall deny parole, written notification listing the reasons for such denial and the recommendations for correcting deficiencies which cause the denial shall be given to the committed offender within thirty days following the hearing.

(3) If the board fixes the release date, such date shall be not more than six months from the date of the committed offender's parole hearing, or from the date of last reconsideration of his case, unless there are special reasons for fixing a later release date.

(4) If the board defers the case for later reconsideration, the committed offender shall be afforded a parole hearing at least once a year until a release date is fixed. The board may order a reconsideration or a rehearing of the case at any time.

~~(5) If the board fixes no earlier release date, a committed offender's release on parole shall become mandatory at the expiration of his maximum term of imprisonment, less good time reductions allowed in accordance with the provisions of this act, or three months prior to discharge, whichever is earlier. Nothing herein shall require the mandatory parole of an offender who has violated a discretionary parole within twelve months of the date when his parole would otherwise be mandatory.~~

(6) (5) The release of a committed offender on parole shall not be upon the application of the offender, but by the initiative of the Board of Parole. No application for release on parole made by a committed offender or on his behalf shall be entertained by the board. Nothing herein shall prohibit the Director of Correctional Services from recommending to the board that it consider an individual offender for release on parole.

Sec. 8. That section 83-1,118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,118. (1) If, in the opinion of the Board of Parole, a parolee does not require guidance or supervision, the board may dispense with and terminate such supervision.

(2) The Board of Parole may discharge a parolee from parole at any time if such discharge is compatible with the protection of the public and is in the best interest of the parolee.

(3) The Board of Parole shall discharge a parolee from parole when the time served in the custody of the Division--of--Corrections Department of Correctional Services and the time spent served on parole equals the maximum term reduced-by-his-parole less all good time reductions but-not-reduced-by-his-institutional-good-time reductions granted in accordance with the provisions of this act.

(4) The Department of Correctional Services shall discharge a legal offender from the custody of the department when the time served in the facility equals the maximum term less all good time reductions granted in accordance with the provisions of this act.

(4) (5) Whenever any committed offender or parolee shall have completed the lawful requirements of his sentence, or-parole, the Board-of-Parole Director of Correctional Services shall issue a certificate of discharge to such offender, or--parolee, and such certificate shall restore the civil rights of such committed offender or-parolee as though a pardon had been issued.

Sec. 9. Any person in the custody of the Department of Correctional Services or under supervision of the Board of Parole shall be subject to the provisions of this act. Any person eligible for immediate discharge or release pursuant to this act shall be so discharged or released no later than one hundred twenty days after the

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effective date of this act subject to the approval of the Board of Pardons.

Sec. 10. That original sections 83-1,109 and 83-1,118, Reissue Revised Statutes of Nebraska, 1943, and sections 83-170, 83-1,107, 83-1,108, 83-1,110, and 83-1,111, Revised Statutes Supplement, 1974, are repealed.