

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 348

Introduced by Bromm, 23; Baker, 44; Brown, 6; Bruning, 3;
Cudaback, 36; Quandahl, 31; Schrock, 38

Read first time January 12, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to prisoners; to amend sections 28-913, 83-417,
2 and 83-4,114, Reissue Revised Statutes of Nebraska, and
3 sections 28-101 and 83-4,114.01, Revised Statutes
4 Supplement, 1998; to create the offense of introduction
5 of contraband for escape; to provide and change a
6 penalty; to change provisions relating to inmate escapes,
7 violations of correctional facility rules and
8 regulations, disciplinary restrictions, and punishment
9 for misconduct; to provide powers and duties; to
10 harmonize provisions; and to repeal the original
11 sections.

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

1 Section 1. Section 28-101, Revised Statutes Supplement,
2 1998, is amended to read:

3 28-101. Sections 28-101 to 28-1348 and section 3 of this
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. Section 28-913, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 28-913. (1) A person commits ~~an~~ the offense of
8 introduction of contraband for escape if he or she unlawfully
9 introduces within a correctional or detention facility, or
10 unlawfully provides an inmate with, any weapon, tool, or other
11 ~~thing~~ object which may be useful for escape. An inmate also
12 commits an offense if he or she unlawfully procures, ~~makes~~
13 manufacturers, or otherwise provides himself or herself with, or
14 has in his or her possession, any such ~~implement of~~ contraband for
15 escape. Unlawfully means surreptitiously or contrary to law, rule,
16 or regulation, or ~~order~~ operational memoranda of the ~~detaining~~
17 authority correctional or detention facility.

18 (2) ~~Introducing~~ Introduction of contraband for escape
19 ~~implements~~ is a ~~Class I misdemeanor~~ Class IV felony.

20 Sec. 3. Section 83-417, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~83-417.~~ (1) Any person who purposely or knowingly allows
23 or assists any ~~committed offender inmate~~ to escape or, ~~without the~~
24 ~~approval of the chief executive officer of the facility,~~ allows any
25 ~~offender to be visited, conversed with, comforted, or relieved or~~
26 ~~conveys to or from any committed offender any communication or~~
27 article allows or assists any inmate to receive any article in
28 violation of correctional facility rules or regulations shall be

1 guilty of a Class IV felony.

2 (2) Any person who knowingly communicates with any inmate
3 in violation of correctional facility rules or regulations or
4 knowingly assists any inmate to communicate with another person in
5 violation of correctional facility rules or regulations shall be
6 guilty of a Class IV felony.

7 Sec. 4. Section 83-4,114, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 83-4,114. There shall be no corporal punishment or
10 disciplinary restrictions on diet. Disciplinary restrictions on
11 clothing, bedding, mail, ~~visitations~~, use of toilets, washbowls, or
12 scheduled showers shall be imposed only for abuse of such privilege
13 or facility. No person in the adult division shall be placed in
14 solitary confinement for disciplinary reasons for more than fifteen
15 consecutive days, or more than thirty days out of any
16 forty-five-day period, except in cases of violence or attempted
17 violence committed against another person or property when an
18 additional period of isolation for disciplinary reasons is approved
19 by the warden. This provision shall not apply to segregation or
20 isolation of persons for purposes of institutional control.

21 Sec. 5. Section 83-4,114.01, Revised Statutes
22 Supplement, 1998, is amended to read:

23 83-4,114.01. (1) The chief executive officer of each
24 facility of the department shall be responsible for the discipline
25 of inmates who reside in such facility. No inmate shall be
26 punished except upon the order of the chief executive officer of
27 the facility, and no punishment shall be imposed otherwise than in
28 accordance with this section.

1 (2)(a) Except in flagrant or serious cases, punishment
2 for misconduct shall consist of deprivation of privileges or the
3 imposition of fines, or both, for any Class I or Class II offenses
4 as set forth in the rules and regulations adopted and promulgated
5 by the director. In cases of positive urinalysis tests for drugs
6 or intoxicants prohibited by department rules and regulations,
7 punishment for misconduct shall include cost reimbursement for
8 urinalysis collection and laboratory analysis. An inmate may
9 request confirmation on a positive urinalysis test from an
10 independent laboratory. If such test result negates the original
11 positive test finding, the cost of the confirmation test shall be
12 paid by the department. A test confirming the original positive
13 test finding shall be paid by the inmate. Visitation privileges
14 may be restricted or denied for inmates who test positive for drugs
15 or intoxicants prohibited by department rules and regulations or
16 are in possession of such drugs or intoxicants.

17 (b) In cases of flagrant or serious misconduct, the chief
18 executive officer may order that an inmate's reduction of term as
19 provided in section 83-1,107 be forfeited or withheld and also that
20 the inmate be confined in disciplinary segregation. During the
21 period of disciplinary segregation, such inmate shall be put on an
22 adequate and healthful diet. An inmate in disciplinary segregation
23 shall be visited at least once every eight hours. No cruel,
24 inhuman, or corporal punishment shall be used on any inmate.

25 (3) The chief executive officer shall maintain a record
26 of breaches of discipline, of the disposition of each case, and of
27 the punishment, if any, for each such breach. Each breach of
28 discipline shall be entered in the inmate's file, together with the

1 disposition or punishment for the breach.

2 (4) The chief executive officer may recommend to the
3 director that an inmate who is considered to be incorrigible by
4 reason of frequent intentional breaches of discipline or who is
5 detrimental to the discipline or the morale of the facility be
6 transferred to another facility for stricter safekeeping and closer
7 confinement, subject to the provisions of section 83-176.

8 Sec. 6. Original sections 28-913, 83-417, and 83-4,114,
9 Reissue Revised Statutes of Nebraska, and sections 28-101 and
10 83-4,114.01, Revised Statutes Supplement, 1998, are repealed.