

LEGISLATIVE BILL 83

Approved by the Governor March 19, 2007

Introduced by Synowiecki, 7; Pedersen, 39

FOR AN ACT relating to incarceration work camps; to amend sections 83-4,144 and 83-4,145, Reissue Revised Statutes of Nebraska, and sections 83-4,142, 83-4,143, and 83-4,146, Revised Statutes Cumulative Supplement, 2006; to provide for recommendations for placement of felony offenders at an incarceration work camp by the Board of Parole; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 83-4,142, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-4,142 The Department of Correctional Services shall develop and implement an incarceration work camp, to be completed no later than January 1, 2005, for placement of felony offenders to be placed in as a condition of a sentence of intensive supervision probation or as a transitional phase prior to release on parole. As part of the incarceration work camp, an intensive residential drug treatment program may be developed and implemented for felony offenders.

It is the intent of the Legislature that the incarceration work camp serve to reduce prison overcrowding and to make prison bed space available for violent offenders. It is the further intent of the Legislature that the incarceration work camp serve the interests of society by addressing the criminogenic needs of certain designated offenders ~~on intensive supervision probation~~ and by deterring such offenders from engaging in further criminal activity. To accomplish these goals, the incarceration work camp shall provide regimented, structured, disciplined programming, including all of the following: Work programs; vocational training; behavior management and modification; money management; substance abuse awareness, counseling, and treatment; and education, programming needs, and aftercare planning, which will increase the offender's abilities to lead a law-abiding, productive, and fulfilling life as a contributing member of a free society.

Sec. 2. Section 83-4,143, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-4,143 (1) It is the intent of the Legislature that the court target the felony offender (a) who is eligible and by virtue of his or her criminogenic needs is suitable to be sentenced to intensive supervision probation with placement at the incarceration work camp, (b) for whom the court finds that other conditions of a sentence of intensive supervision probation, in and of themselves, are not suitable, and (c) who, without the existence of an incarceration work camp, would, in all likelihood, be sentenced to prison.

(2) When the court is of the opinion that imprisonment is appropriate, but that a brief and intensive period of regimented, structured, and disciplined programming within a secure facility may better serve the interests of society, the court may place an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of a sentence of intensive supervision probation. The court may consider such placement if the offender (a) is a male or female offender convicted of a felony offense in a district court, (b) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (c) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to 28-321 or of any capital crime are not eligible to be placed in an incarceration work camp.

(3) It is also the intent of the Legislature that the Board of Parole may recommend placement of felony offenders at the incarceration work camp. The offenders recommended by the board shall be offenders currently housed at other Department of Correctional Services adult correctional facilities and shall complete the incarceration work camp programming prior to release on parole.

(4) When the Board of Parole is of the opinion that a felony offender currently incarcerated in a Department of Correctional Services adult correctional facility may benefit from a brief and intensive period of regimented, structured, and disciplined programming immediately prior to release on parole, the board may direct placement of such an offender in an incarceration work camp for a period not to exceed one hundred eighty days

as a condition of release on parole. The board may consider such placement if the felony offender (a) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (b) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to 28-321 or of any capital crime are not eligible to be placed in an incarceration work camp.

Sec. 3. Section 83-4,144, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,144 Upon successful completion of the incarceration work camp program, as determined by the Department of Correctional Services, the sentencing court may modify the offender's conditions of his or her sentence of probation, place the offender in an aftercare program, or discharge the offender. An offender placed in an incarceration work camp pursuant to a recommendation of the Board of Parole shall be released on parole upon successful completion, as determined by the board, of the incarceration work camp program.

Sec. 4. Section 83-4,145, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,145 If the offender for any reason fails to successfully complete the incarceration work camp program, the sentencing court may impose any other sentence that the court may have originally imposed. An offender placed at the incarceration work camp pursuant to a recommendation of the Board of Parole who fails to successfully complete the incarceration work camp program shall be returned to the board for a rescission hearing. Credit shall be given for time actually served in the incarceration work camp program.

Sec. 5. Section 83-4,146, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-4,146 All costs incurred during the period the offender is committed to an incarceration work camp shall be the responsibility of the state. Counties ~~and the counties~~ shall be liable for the cost of transporting the offender to the incarceration work camp and for returning the offender to the appropriate court for reimposition of sentence or such other disposition as the court may then deem appropriate only if the offender is unsatisfactorily discharged for unsatisfactory performance from the incarceration work camp, except that the state shall be liable for the cost of transporting the offender to the incarceration work camp when such placement was made pursuant to a recommendation by the Board of Parole and for returning the offender to the appropriate Department of Correctional Services adult correctional facility if the offender is discharged for unsatisfactory performance from the incarceration work camp.

Sec. 6. Original sections 83-4,144 and 83-4,145, Reissue Revised Statutes of Nebraska, and sections 83-4,142, 83-4,143, and 83-4,146, Revised Statutes Cumulative Supplement, 2006, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.