

**ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011**  
**COMMITTEE STATEMENT**  
**LB390**

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**Hearing Date:** Thursday January 27, 2011  
**Committee On:** Judiciary  
**Introducer:** Ashford  
**One Liner:** Change provisions relating to jails and corrections and create the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

<b>Aye:</b>	5	Senators Ashford, Coash, Harr, Larson, McGill
<b>Nay:</b>		
<b>Absent:</b>	3	Senators Council, Lathrop, Lautenbaugh
<b>Present Not Voting:</b>		

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**Proponents:**  
SEN. BRAD ASHFORD  
MICHEAL BEHM  
LINDA KRUTZ

**Representing:**  
INTRODUCER  
CRIME COMMISSION  
COMMUNITY CORRECTIONS

**Opponents:**  
DAN WILLIAMSON  
JOHN KRECJI  
MIKE THEW  
KEVIN STUKENHOLTZ  
AMBER MULBERRY  
MICHELLE SCHINDLER  
WILLIS LUEDKE  
DUANE BOND  
TED PACWIECZ  
JOHN EDWARDS  
DENNY MACOMBER  
DANIEL EVANS

**Representing:**  
NEBRASKA SHERIFFS ASSOCIATION  
INTERCHURCH MINISTRIES  
LANCASTER COUNTY  
NEBRASKA SHERIFFS ASSOC  
GAGE COUNTY SHERIFFS OFFICE  
LANCASTER COUNTY YOUTH  
SALINE COUNTY COMMISSIONER  
BUFFALO COUNTY SHERIFF'S OFFICE  
PLATTE COUNTY SHERIFF'S  
NACO  
SELF  
SELF

**Neutral:**  
MARSHALL LUX  
ELLEN BROKOFKY

**Representing:**  
OMBUDSMAN'S OFFICE  
STATE PROBATION

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**Summary of purpose and/or changes:**

Section 1 23-2802 : Removes a reference to the Jail Standards Board in section providing that in counties with 150,000 of more inhabitants the County Board is to act as the board of corrections for those counties instead.

Section 2 29-2252 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in section providing the probation administrator's duties.

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Section 3 29-2255 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in section addressing interlocal agreements between probation and a political subdivision.

Section 4 29-2261 : Removes language that the Nebraska Commission on Law Enforcement and Criminal Justice shall have access to presentence investigation reports for purposes of carrying out a homicide study.

Section 5 29-2262.07 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in section creating the Probation Program Cash Fund. The cash fund will now be spent in consultation with the new Division.

Section 6 29-2521.02 : Removes language that the Nebraska Supreme Court may take judicial notice of the Nebraska Commission on Law Enforcement and Criminal Justice's homicide study.

Section 7 43-245 : Places a definition of juvenile detention center into juvenile code. Previously, center was defined in jail standard statutes that are eliminated.

Section 8 47-1 01: Eliminates the duty of the Jail Standards Board to write rules related to the regulation and government of county and city jails and provides new duties to the Nebraska Commission on Law Enforcement and Criminal Justice. The Director of the Nebraska Commission on Law Enforcement and Criminal Justice will be required to publish and distribute a manual of recommended guidelines with the same criteria the Jail Standards Board currently utilizes. The manual is to be developed in consultation with the Department of Correctional Services, the League of Nebraska Municipalities, the Nebraska Association of County Officials, and the Nebraska County Sheriffs' Association, the office of Public Counsel, the Police Officers' Association of Nebraska, and the State Fire Marshal.

Section 9 47-102 : Requires the director to deliver a copy of the manual to every county board.

Section 10 47-103 : Requires the sheriff to place a copy of the manual in every room or cell in the jail.

Section 11 47-104 : Provides the authority to the director to update the manual as he or she deems necessary.

Section 12 47-106 : Changes references from the standards to the manual in relation to the sheriffs' or other persons' duties related to the jail register.

Section 13 47-108 : Provides that a District Court should provide a copy of the manual to a grand jury.

Section 14 47-109 : Removes a duty of the grand jury to report whether or not the jail standards have been kept and observed.

Section 15 47-110 : Removes a duty from county boards to provide for repairs to a jail as prescribed by the Jail Standards Board. Instead, the board may repair as needed.

Section 16 47-202 : Requires the director to provide a copy of the manual to each mayor or chief officer of a municipality.

Section 17 47-204 : Removes a requirement that the officer in charge of a municipal jail to keep records in compliance with the jail standards.

Section 18 47-205 : Removes a requirement that the officer in charge of a municipal jail file reports as required by the Jail Standards Board. The duty to report to the city clerk and clerk of the district court will continue to be an annual requirement.

Section 19 47-621 : Changes the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in the purposes section of the Community Corrections Act. Redefines executive director to mean the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice.

Section 20 47-622 : Removes Community Corrections Council and replaces it with the Community Corrections Division within the Nebraska Commission on Law Enforcement and Criminal Justice. Expressly provides that the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice shall appoint and remove employees of the division.

Section 21 47-624 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in section outlining division duties. Removes division's ability to hire staff and consultants, which is now the duty of the Nebraska Commission on Law Enforcement and Criminal Justice. Also provides for additional duties that were previously the duties of the Community Corrections Council's executive director duties.

Section 22 47-624.01 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice. Removes out-dated language related to reporting center expansion plan.

Section 23 47-627 : Simplifies language related to the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice and the uniform crime data analysis. Removes language referencing sentence guidelines.

Section 24 47-628 : Removes reference to sentence guidelines.

Section 25 47-629 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice.

Section 26 47-632 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice. Removes references to the Council's executive director.

Section 27 47-634 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice.

Section 28 71-2453 : Places definitions related to jails in Chapter 71 which, previously, had been incorporated by cross reference to sections deleted by LB 390. Also deletes a reference to the Jail Standards Board and replaces it with a reference to the Nebraska Commission on Law Enforcement and Criminal Justice.

Section 29 81-1403 : Limits the ability of the Police Standards Advisory Council to delegate powers and duties to the director of the Nebraska Law Enforcement Training Center and to supervise the director. The Council will be able to recommend to the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice a director of the training center.

Section 30 81-1404 : Provides that the director of the training center is responsible to the executive director of Nebraska Commission on Law Enforcement and Criminal Justice.

Section 31 81-1407 : Removes the ability of a member of the Jail Standards Board from being a member of the Police Standards Advisory Council.

Section 32 81-1423 : Removes the power from the Nebraska Commission on Law Enforcement and Criminal Justice to appoint the director of the training center. Removes unneeded language related to the Commission and the Community

Corrections Council and the Jail Standards Board.

Section 33 81-1425 : Provides new duties to the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice to establish a Community Corrections Division, appoint and remove the director of the training center, and appoint and remove the director of the Office of Violence Prevention. Also removes the duty to review, analyze, and produce a report of all cases of homicide in the state. Also removes the duty to update.

Section 34 81-1447 : Provides that the director of the Office of Violence Prevention will be appointed by the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, instead of the Governor. Also provides that necessary support staff may be hired for the Office.

Section 35 83-1,102 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in section related to the Parole Administrator.

Section 36 83-1,107.02 : Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in section related to the Parole Program Cash Fund. Cash fund to be spent in consultation with the new Division.

Section 37 New section providing for an effective date of July 1, 2011.

Section 38 Repealer of amended sections.

Section 39 Provides outright repeal of the following sections:

47-105 Provides that the sheriff and staff shall conform to the rules of the Jail Standards Board.

47-105.01 Provides that the sheriff shall conform to the rules of the Jail Standards Board.

47-116 Relates to the failure of a sheriff to conform to the rules of the Jail Standards Board.

47-201 Provides for Jail Standards for municipal jails.

47-203 Allows Jail Standards to amend rules.

47-206 Provides penalties to municipal jailer for failure to follow the Jail Standards.

47-623 Establishes the Community Corrections Council and members.

47-625 Provides duties to the director of the Community Corrections Council.

47-630 Provides that the Supreme Court shall, by rule, provide for sentencing guidelines.

47-631 Provides for proceedings of the Council to be exempt from the Administrative Procedures Act.

47-635 through 47-639 Deletes the obsolete Probation and Parole Services Study Act.

83-4,124 though 83-4,134 Establishes and provides duties for the Jail Standards Board.

Section 40 Emergency Clause.

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### **Explanation of amendments:**

LB 390 as Amended by Committee Amendment 1521

Strike original sections and insert new sections, which sections include the inclusion of LB 300, remove the elimination of the Jail Standards Board and provide that correctional facilities that have national certification are not subject to the supervision of the Jail Standards Board:

Section 1 29-2252: Eliminates the requirement that the probation administrator utilize funds from offender fees in 'consultation with the Community Corrections Council,' eliminates a reference to programs developed by the council, and provides a new duty that the probation administrator collaborate with the new Community Corrections Division and the Office of Parole Administration in developing rules governing the participation of parolees in community corrections programs operated by probation.

Section 2 29-2255: Removes a reference to the Community Corrections Council in section addressing interlocal agreements between probation and a political subdivision.

Section 3 29-2261: Removes language that the Nebraska Commission on Law Enforcement and Criminal Justice shall have access to presentence investigation reports for purposes of carrying out a homicide study.

Section 4 29-2262.07: Removes the requirement that the probation administrator utilize the Probation Program Cash Fund in consultation with the Community Corrections Council.

Section 5 29-2521.02: Removes language that the Nebraska Supreme Court may take judicial notice of the Nebraska Commission on Law Enforcement and Criminal Justice's homicide study.

Section 6 47-621: Changes the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in the purposes section of the Community Corrections Act. Redefines executive director to the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice.

Section 7 47-622: Removes Community Corrections Council and replaces it with the Community Corrections Division within the Nebraska Commission on Law Enforcement and Criminal Justice. Expressly provides that the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice shall appoint and remove employees of the division.

Section 8 47-624: Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in section outlining division duties. Removes division's ability to hire staff and consultants, which is now the duty of the Nebraska Commission on Law Enforcement and Criminal Justice. Also provides for additional duties that were previously the duties of the Community Corrections Council's executive director duties.

Section 9 47-624.01: Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice. Removes out-dated language related to reporting center expansion plan.

Section 10 47-627: Simplifies language related to the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice and the uniform crime data analysis. Removes language referencing sentence guidelines.

Section 11 47-628: Removes reference to sentence guidelines.

Section 12 47-629: Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice.

Section 13 47-632: Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice. Removes references to the Council's executive director.

Section 14 47-634: Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice.

Section 15 81-8,239.01: Provides a reference to 81-1801.02 to this section.

Section 16 81-1403: Limits the ability of the Police Standards Advisory Council to delegate powers and duties to the director of the Nebraska Law Enforcement Training Center and to supervise the director. The Council will be able to recommend to the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice a director

of the training center.

Section 17 81-1404: Provides that the director of the training center is responsible to the executive director of Nebraska Commission on Law Enforcement and Criminal Justice.

Section 18 81-1423: Removes the power from the Nebraska Commission on Law Enforcement and Criminal Justice to appoint the director of the training center. Removes unneeded language related to the Commission and the Community Corrections Council.

Section 19 81-1425: Provides new duties to the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice to establish a Community Corrections Division, appoint and remove the director of the training center, and appoint and remove the director of the Office of Violence Prevention. Also removes the duty to review, analyze, produce and update a report of all cases of homicide in the state.

Section 20 81-1447: Provides that the director of the Office of Violence Prevention will be appointed by the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, instead of the Governor. Also provides that necessary support staff may be hired for the Office.

Section 21 81-1801: Strikes from the definition in (7) the phrase "or as a result of a natural disaster" to clarify that this definition only pertains to individuals who are seeking the use of the Crime Victims Reparations Fund and not the benefit of the Community Trust.

Section 22 81-1801.02: Clarifies the structure and operation of the Community Trust in the following manner:

\* Creates a new subsection (3) to provide that the board of directors who govern the Community Trust may be represented by the Attorney General in a civil action arising out of their actions as a director of the trust in a similar manner to state officers or employees. This section also provides indemnification for liability of a director of the trust in the same manner as provided to state officers and employees under 81-8,239.05.

\* Revises subsection (4) to provide that a report of distributions shall be made for each tragedy and the Community Trust shall acknowledge all contributions "as soon as reasonably possible", instead of the current requirement that a report of contributions and distributions be made within two weeks.

\* Creates a new subsection (5) to allow up to ten percent of contributions received by the trust to be used for administrative cost as no general funds were appropriated when this bill was passed in 2009.

\* Revises subsection (6) to strike the requirements that the procedure for applications, hearings, and compensation orders used by the Community Trust follow those utilized by the Nebraska Crime Victims Reparations Act and now requires the Community Trust to implement their own rules and procedures for receiving contributions and making distributions including the eligibility for receiving those contributions. This section also strikes the required time frames for the beginning and ending distributions under this section and requires that distributions be completed "as soon as reasonably possible."

\* Creates a new subsection (7) to allow the Community Trust at its own discretion, to donate the amount of contributions received for a particular tragedy, to another nonprofit that is serving the same tragedy when it is impractical for the community trust to follow its normal procedure for making distributions, based on the amount of donations received and the volume and size of claims filed.

Section 23 81-1818: Clarifies that distribution's under this section shall only be for claims filed under the Crime Victims Reparations Act. Also strikes the reference that the victims' compensation committee or a hearing officer may make a distribution from the Community Trust for loss resulting from a natural disaster, as the sole discretion for making distributions shall be the "sole" responsibility of the board of directors of the Community Trust.

Section 24 81-1822: Strikes a reference to the distribution of funds from the Community Trust from subdivision 5 (d).

Section 25 83-1,102: Changes references from the Community Corrections Council to the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice in section related to the Parole Administrator. Also removes the requirement that the Parole Administration must spend offender fees be spent in consultation with the council.

Section 26 83-1,107.02: Eliminates the requirement that Parole Administration utilize the Parole Program Cash Fund in consultation with the Community Corrections Council.

Section 27 83-4,126: Provides that the Jail Standards Board shall not have authority or responsibility for correctional facilities that are accredited by a nationally recognized correctional association.

Section 28 84-1410: Allows the Community Trust the ability to hold closed door sessions when they are discussing the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster.

Section 29. Split operative date. Sections 3, 9, 10, 11, 12, 13 and 15 subject to E Clause, remaining sections effective July 1, 2011.

Section 30-32 : Repealer sections.

Section 33 : Emergency Clause.

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Brad Ashford, Chairperson