

LEGISLATIVE BILL 191

Approved by the Governor March 16, 2011

Introduced by Council, 11; Ashford, 20.

FOR AN ACT relating to the Nebraska Treatment and Corrections Act; to amend sections 83-1,107 and 83-1,108, Reissue Revised Statutes of Nebraska; to change provisions relating to sentence reductions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 83-1,107, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,107 (1)(a) Within sixty days after initial classification and assignment of any offender committed to the department, all available information regarding such committed offender shall be reviewed and a committed offender department-approved personalized program plan document shall be drawn up. The document shall specifically describe the department-approved personalized program plan and the specific goals the department expects the committed offender to achieve. The document shall also contain a realistic schedule for completion of the department-approved personalized program plan. The department-approved personalized program plan shall be fully explained to the committed offender. The department shall provide programs to allow compliance by the committed offender with the department-approved personalized program plan.

Programming may include, but is not limited to:

- (i) Academic and vocational education, including teaching such classes by qualified offenders;
- (ii) Substance abuse treatment;
- (iii) Mental health and psychiatric treatment, including criminal personality programming;
- (iv) Constructive, meaningful work programs; and
- (v) Any other program deemed necessary and appropriate by the department.

(b) A modification in the department-approved personalized program plan may be made to account for the increased or decreased abilities of the committed offender or the availability of any program. Any modification shall be made only after notice is given to the committed offender. The department may not impose disciplinary action upon any committed offender solely because of the committed offender's failure to comply with the department-approved personalized program plan, but such failure may be considered by the board in its deliberations on whether or not to grant parole to a committed offender.

~~(2)~~ (2)(a) The department shall reduce the term of a committed offender by six months for each year of the offender's term and pro rata for any part thereof which is less than a year.

(b) In addition to reductions granted in subdivision (2)(a) of this section, the department shall reduce the term of a committed offender by three days on the first day of each month following a twelve-month period of incarceration within the department during which the offender has not been found guilty of (i) a Class I or Class II offense or (ii) more than three Class III offenses under the department's disciplinary code. Reductions earned under this subdivision shall not be subject to forfeit or withholding by the department.

(c) The total reductions under this subsection 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 83-1,106, and shall be deducted from the maximum term, to determine the date when discharge from the custody of the state becomes mandatory.

(3) While the offender is in the custody of the department, reductions of terms granted pursuant to ~~subsection (2)~~ subdivision (2)(a) of this section 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 notified regarding the charges of misconduct.

(4) The department shall make treatment programming available to committed offenders as provided in section 83-1,110.01 and shall include continuing participation in such programming as part of each offender's parolee personalized program plan.

(5)(a) Within thirty days after any committed offender has been paroled, all available information regarding such parolee shall be reviewed and a parolee personalized program plan document shall be drawn up and approved by the Office of Parole Administration. The document shall

specifically describe the approved personalized program plan and the specific goals the office expects the parolee to achieve. The document shall also contain a realistic schedule for completion of the approved personalized program plan. The approved personalized program plan shall be fully explained to the parolee. During the term of parole, the parolee shall comply with the approved personalized program plan and the office shall provide programs to allow compliance by the parolee with the approved personalized program plan.

Programming may include, but is not limited to:

- (i) Academic and vocational education;
- (ii) Substance abuse treatment;
- (iii) Mental health and psychiatric treatment, including criminal personality programming;
- (iv) Constructive, meaningful work programs;
- (v) Community service programs; and
- (vi) Any other program deemed necessary and appropriate by the office.

(b) A modification in the approved personalized program plan may be made to account for the increased or decreased abilities of the parolee or the availability of any program. Any modification shall be made only after notice is given to the parolee. Intentional failure to comply with the approved personalized program plan by any parolee as scheduled for any year, or pro rata part thereof, shall cause disciplinary action to be taken by the office resulting in the forfeiture of up to a maximum of three months' good time for the scheduled year.

(6) While the offender is in the custody of the board, reductions of terms granted pursuant to ~~subsection (2)~~ subdivision (2)(a) of this section may be forfeited, withheld, and restored by the administrator with the approval of the director after the offender has been notified regarding the charges of misconduct or breach of the conditions of parole. In addition, the board may recommend such forfeitures of good time to the director.

(7) Good time or other reductions of sentence granted under the provisions of any law prior to July 1, 1996, may be forfeited, withheld, or restored in accordance with the terms of the Nebraska Treatment and Corrections Act.

Sec. 2. Section 83-1,108, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,108 (1) The board shall reduce, for good conduct in conformity with the conditions of parole, a parolee's parole term by ~~two~~ ten days for each month of such term. The total of such reductions shall be deducted from the maximum term, less good time granted pursuant to section 83-1,107, to determine the date when discharge from parole becomes mandatory.

(2) Reductions of the parole terms may be forfeited, withheld, and restored by the board after the parolee has been consulted regarding any charge of misconduct or breach of the conditions of parole.

Sec. 3. Original sections 83-1,107 and 83-1,108, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.