

## LEGISLATIVE BILL 841

Approved by the Governor April 17, 2018

Introduced by Pansing Brooks, 28; Baker, 30; Brewer, 43; Ebke, 32; Morfeld, 46; Schumacher, 22.

A BILL FOR AN ACT relating to criminal justice; to amend sections 28-322, 29-2252, 29-2935, 29-4019, 71-961, 81-1401, 83-174.03, 83-174.04, 83-174.05, 83-191, 83-192, 83-198, 83-1,102, 83-1,103, 83-1,103.01, 83-1,103.02, 83-1,103.03, 83-1,103.04, 83-1,104, 83-1,107.01, 83-1,107.02, 83-1,109, 83-1,111, 83-1,112, 83-1,112.01, 83-1,114, 83-1,118, 83-1,120, 83-1,121, 83-1,125, and 83-4,157, Reissue Revised Statutes of Nebraska, sections 47-624, 47-624.01, 47-627, 47-629, 47-903, 47-908, 47-919, 83-170, 83-171, 83-184, 83-1,100, 83-1,100.02, 83-1,101, 83-1,107, 83-1,119, 83-1,122.01, 83-1,135, 83-1,135.02, and 83-933, Revised Statutes Cumulative Supplement, 2016, and sections 29-2261 and 83-1,110.02, Revised Statutes Supplement, 2017; to define and redefine terms; to change provisions relating to conditional release of committed offenders; to rename the Office of Parole Administration; to change the title of Parole Administrator; to provide and change powers and duties for the Department of Correctional Services, Board of Parole, Division of Parole Supervision, and Director of Supervision and Services; to change provisions relating to administration of parole services and conditions of parole; to create a fund; to prohibit and provide a penalty for certain acts toward employees of the Board of Parole; to change conditions for eligibility for medical parole; to provide for applicability of certain provisions; to provide duties for the medical director of the Department of Correctional Services; to require a staffing analysis by the department; to require an implementation plan for the accelerated parole review process; to require reports; to eliminate provisions regarding deputy parole officers and certain violations of parole; to repeal the original sections; and to outright repeal section 83-1,124, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 28-322, Reissue Revised Statutes of Nebraska, is amended to read:

28-322 For purposes of sections 28-322 to 28-322.03:

(1) Inmate or parolee means any individual confined in a facility operated by the Department of Correctional Services or a city or county correctional or jail facility or under parole supervision; and

(2) Person means (a) an individual employed by the Department of Correctional Services or by the ~~Division of Parole Supervision Office of Parole Administration~~, including any individual working in central administration of the department, any individual working under contract with the department, and any individual, other than an inmate's spouse, to whom the department has authorized or delegated control over an inmate or an inmate's activities, (b) an individual employed by a city or county correctional or jail facility, including any individual working in central administration of the city or county correctional or jail facility, any individual working under contract with the city or county correctional or jail facility, and any individual, other than an inmate's spouse, to whom the city or county correctional or jail facility has authorized or delegated control over an inmate or an inmate's activities, and (c) an individual employed by the Office of Probation Administration who performs official duties within any facility operated by the Department of Correctional Services or a city or county correctional or jail facility.

Sec. 2. Section 29-2252, Reissue Revised Statutes of Nebraska, is amended to read:

29-2252 The administrator shall:

(1) Supervise and administer the office;

(2) Establish and maintain policies, standards, and procedures for the system, with the concurrence of the Supreme Court;

(3) Prescribe and furnish such forms for records and reports for the system as shall be deemed necessary for uniformity, efficiency, and statistical accuracy;

(4) Establish minimum qualifications for employment as a probation officer in this state and establish and maintain such additional qualifications as he or she deems appropriate for appointment to the system. Qualifications for probation officers shall be established in accordance with subsection (4) of section 29-2253. An ex-offender released from a penal complex or a county jail may be appointed to a position of deputy probation or parole officer. Such ex-offender shall maintain a record free of arrests, except for minor traffic violations, for one year immediately preceding his or her appointment;

(5) Establish and maintain advanced periodic inservice training requirements for the system;

(6) Cooperate with all agencies, public or private, which are concerned with treatment or welfare of persons on probation;

(7) Organize and conduct training programs for probation officers.

Training shall include the proper use of a risk and needs assessment, risk-based supervision strategies, relationship skills, cognitive behavioral interventions, community-based resources, criminal risk factors, and targeting criminal risk factors to reduce recidivism and the proper use of a matrix of administrative sanctions, custodial sanctions, and rewards developed pursuant to subdivision (18) of this section. All probation officers employed on or after August 30, 2015, shall complete the training requirements set forth in this subdivision;

(8) Collect, develop, and maintain statistical information concerning probationers, probation practices, and the operation of the system and provide the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice with the information needed to compile the report required in section 47-624;

(9) Interpret the probation program to the public with a view toward developing a broad base of public support;

(10) Conduct research for the purpose of evaluating and improving the effectiveness of the system. Subject to the availability of funding, the administrator shall contract with an independent contractor or academic institution for evaluation of existing community corrections facilities and programs operated by the office;

(11) Adopt and promulgate such rules and regulations as may be necessary or proper for the operation of the office or system. The administrator shall adopt and promulgate rules and regulations for transitioning individuals on probation across levels of supervision and discharging them from supervision consistent with evidence-based practices. The rules and regulations shall ensure supervision resources are prioritized for individuals who are high risk to reoffend, require transitioning individuals down levels of supervision intensity based on assessed risk and months of supervision without a reported major violation, and establish incentives for earning discharge from supervision based on compliance;

(12) Transmit a report during each even-numbered year to the Supreme Court on the operation of the office for the preceding two calendar years which shall include a historical analysis of probation officer workload, including participation in non-probation-based programs and services. The report shall be transmitted by the Supreme Court to the Governor and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically;

(13) Administer the payment by the state of all salaries, travel, and actual and necessary expenses incident to the conduct and maintenance of the office;

(14) Use the funds provided under section 29-2262.07 to augment operational or personnel costs associated with the development, implementation, and evaluation of enhanced probation-based programs and non-probation-based programs and services in which probation personnel or probation resources are utilized pursuant to an interlocal agreement authorized by subdivision (16) of this section and to purchase services to provide such programs aimed at enhancing adult probationer or non-probation-based program participant supervision in the community and treatment needs of probationers and non-probation-based program participants. Enhanced probation-based programs include, but are not limited to, specialized units of supervision, related equipment purchases and training, and programs that address a probationer's vocational, educational, mental health, behavioral, or substance abuse treatment needs;

(15) Ensure that any risk or needs assessment instrument utilized by the system be periodically validated;

(16) Have the authority to enter into interlocal agreements in which probation resources or probation personnel may be utilized in conjunction with or as part of non-probation-based programs and services. Any such interlocal agreement shall comply with section 29-2255;

(17) Collaborate with the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice and the Division of Parole Supervision ~~Office of Parole Administration~~ to develop rules governing the participation of parolees in community corrections programs operated by the Office of Probation Administration;

(18) Develop a matrix of rewards for compliance and positive behaviors and graduated administrative sanctions and custodial sanctions for use in responding to and deterring substance abuse violations and technical violations. As applicable under sections 29-2266.02 and 29-2266.03, custodial sanctions of up to thirty days in jail shall be designated as the most severe response to a violation in lieu of revocation and custodial sanctions of up to three days in jail shall be designated as the second most severe response;

(19) Adopt and promulgate rules and regulations for the creation of individualized post-release supervision plans, collaboratively with the Department of Correctional Services and county jails, for probationers sentenced to post-release supervision; and

(20) Exercise all powers and perform all duties necessary and proper to carry out his or her responsibilities.

Each member of the Legislature shall receive an electronic copy of the report required by subdivision (12) of this section by making a request for it to the administrator.

Sec. 3. Section 29-2261, Revised Statutes Supplement, 2017, is amended to read:

29-2261 (1) Unless it is impractical to do so, when an offender has been

convicted of a felony other than murder in the first degree, the court shall not impose sentence without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation. When an offender has been convicted of murder in the first degree and (a) a jury renders a verdict finding the existence of one or more aggravating circumstances as provided in section 29-2520 or (b)(i) the information contains a notice of aggravation as provided in section 29-1603 and (ii) the offender waives his or her right to a jury determination of the alleged aggravating circumstances, the court shall not commence the sentencing determination proceeding as provided in section 29-2521 without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation.

(2) A court may order a presentence investigation in any case, except in cases in which an offender has been convicted of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic infraction, or any corresponding city or village ordinance.

(3) The presentence investigation and report shall include, when available, an analysis of the circumstances attending the commission of the crime, the offender's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, and personal habits, and any other matters that the probation officer deems relevant or the court directs to be included. All local and state police agencies and Department of Correctional Services adult correctional facilities shall furnish to the probation officer copies of such criminal records, in any such case referred to the probation officer by the court of proper jurisdiction, as the probation officer shall require without cost to the court or the probation officer.

Such investigation shall also include:

(a) Any written statements submitted to the county attorney by a victim; and

(b) Any written statements submitted to the probation officer by a victim.

(4) If there are no written statements submitted to the probation officer, he or she shall certify to the court that:

(a) He or she has attempted to contact the victim; and

(b) If he or she has contacted the victim, such officer offered to accept the written statements of the victim or to reduce such victim's oral statements to writing.

For purposes of subsections (3) and (4) of this section, the term victim shall be as defined in section 29-119.

(5) Before imposing sentence, the court may order the offender to submit to psychiatric observation and examination for a period of not exceeding sixty days or such longer period as the court determines to be necessary for that purpose. The offender may be remanded for this purpose to any available clinic or mental hospital, or the court may appoint a qualified psychiatrist to make the examination. The report of the examination shall be submitted to the court.

(6) Any presentence report, substance abuse evaluation, or psychiatric examination shall be privileged and shall not be disclosed directly or indirectly to anyone other than a judge, probation officers to whom an offender's file is duly transferred, the probation administrator or his or her designee, alcohol and drug counselors, mental health practitioners, psychiatrists, and psychologists licensed or certified under the Uniform Credentialing Act to conduct substance abuse evaluations and treatment, or others entitled by law to receive such information, including personnel and mental health professionals for the Nebraska State Patrol specifically assigned to sex offender registration and community notification for the sole purpose of using such report, evaluation, or examination for assessing risk and for community notification of registered sex offenders. For purposes of this subsection, mental health professional means (a) a practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act, (b) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111, or (c) a practicing mental health professional licensed or certified in this state as provided in the Mental Health Practice Act.

(7) The court shall permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or parts of the report, evaluation, or examination, as determined by the court, by the prosecuting attorney and defense counsel. Beginning July 1, 2016, such inspection shall be by electronic access only unless the court determines such access is not available to the prosecuting attorney or defense counsel. The State Court Administrator shall determine and develop the means of electronic access to such presentence reports, evaluations, and examinations. Upon application by the prosecuting attorney or defense counsel, the court may order that addresses, telephone numbers, and other contact information for victims or witnesses named in the report, evaluation, or examination be redacted upon a showing by a preponderance of the evidence that such redaction is warranted in the interests of public safety. The court may permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or examination of parts of the report, evaluation, or examination by any other person having a proper interest therein whenever the court finds it is in the best interest of a particular offender. The court may allow fair opportunity for an offender to provide additional information for the court's consideration.

(8) If an offender is sentenced to imprisonment, a copy of the report of

any presentence investigation, substance abuse evaluation, or psychiatric examination shall be transmitted immediately to the Department of Correctional Services. Upon request, the Board of Parole or the Division of Parole Supervision Office of Parole Administration may receive a copy of the report from the department.

(9) Notwithstanding subsections (6) and (7) of this section, the Supreme Court or an agent of the Supreme Court acting under the direction and supervision of the Chief Justice shall have access to psychiatric examinations, substance abuse evaluations, and presentence investigations and reports for research purposes. The Supreme Court and its agent shall treat such information as confidential, and nothing identifying any individual shall be released.

Sec. 4. Section 29-2935, Reissue Revised Statutes of Nebraska, is amended to read:

29-2935 For purposes of evaluating the treatment process, the Division of Parole Supervision Office of Parole Administration, the Department of Correctional Services, the Board of Parole, and the designated aftercare treatment programs shall allow appropriate access to data and information as requested by the Department of Health and Human Services.

Sec. 5. Section 29-4019, Reissue Revised Statutes of Nebraska, is amended to read:

29-4019 (1) When sentencing a person convicted of an offense which requires lifetime community supervision upon release pursuant to section 83-174.03, the sentencing court shall:

(a) Provide written notice to the defendant that he or she shall be subject to lifetime community supervision by the Division of Parole Supervision Office of Parole Administration upon release from incarceration or civil commitment. The written notice shall inform the defendant (i) that he or she shall be subject to lifetime community supervision by the division office upon release and that the division office shall conduct a risk assessment and evaluation to determine the conditions of community supervision which will minimize, in the least restrictive manner that is compatible with public safety, the risk of the defendant committing additional offenses, (ii) that a violation of any of the conditions of community supervision imposed by the division office may result in the revision of existing conditions, the addition of new conditions, a recommendation that civil commitment proceedings should be instituted, or criminal prosecution, and (iii) of his or her right to challenge the determination of the conditions of community supervision by the division office and the right to a periodic review of the conditions of community supervision pursuant to section 83-174.03 to determine if the conditions are still necessary to protect the public;

(b) Require the defendant to read and sign a form stating that the duty of the defendant to comply with the conditions of community supervision and his or her rights to challenge the conditions of community supervision imposed by the division office has been explained; and

(c) Retain a copy of the written notification signed by the defendant.

(2) Prior to the release of a person serving a sentence for an offense requiring lifetime community supervision by the Division of Parole Supervision Office of Parole Administration pursuant to section 83-174.03, the Department of Correctional Services, the Department of Health and Human Services, or a city or county correctional or jail facility shall:

(a) Provide written notice to the person that he or she shall be subject to lifetime community supervision by the division office upon release from incarceration. The written notice shall inform the person (i) that he or she shall be subject to lifetime community supervision by the division office upon release and that the division office shall conduct a risk assessment and evaluation of the defendant to determine the conditions of community supervision which will minimize, in the least restrictive manner that is compatible with public safety, the risk of the person committing additional offenses, (ii) that a violation of any of the conditions of community supervision imposed by the division office may result in the revision of existing conditions, the addition of new conditions, a recommendation that civil commitment proceedings should be instituted, or criminal prosecution, and (iii) of his or her right to challenge the determination of the conditions of community supervision by the division office and the right to a periodic review of the conditions of community supervision pursuant to section 83-174.03 to determine if the conditions are still necessary to protect the public;

(b) Require the defendant to read and sign a form stating that the duty of the defendant to comply with the conditions of community supervision and his or her right to challenge the conditions of community supervision imposed by the division office has been explained; and

(c) Retain a copy of the written notification signed by the person.

Sec. 6. Section 47-624, Revised Statutes Cumulative Supplement, 2016, is amended to read:

47-624 The division shall:

(1) Collaborate with the Office of Probation Administration, the Division of Parole Supervision Office of Parole Administration, and the Department of Correctional Services to develop and implement a plan to establish statewide operation and use of a continuum of community correctional facilities and programs;

(2) Develop, in consultation with the probation administrator and the Director of Supervision and Services of the Division of Parole Supervision Parole Administrator, standards for the use of community correctional facilities and programs by the Nebraska Probation System and the parole system;

(3) Collaborate with the Office of Probation Administration, the Division of Parole Supervision ~~Office of Parole Administration~~, and the Department of Correctional Services on the development of additional reporting centers as set forth in section 47-624.01;

(4) Analyze and promote the consistent use of offender risk assessment tools;

(5) Educate the courts, the Board of Parole, criminal justice system stakeholders, and the general public about the availability, use, and benefits of community correctional facilities and programs;

(6) Enter into and administer contracts, if necessary, to carry out the purposes of the Community Corrections Act;

(7) In order to ensure adequate funding for substance abuse treatment programs, consult with the probation administrator and the Director of Supervision and Services of the Division of Parole Supervision ~~Parole Administrator~~ and develop or assist with the development of programs as provided in subdivision (14) of section 29-2252 and subdivision (8) of section 83-1,102;

(8) Study substance abuse and mental health treatment services in and related to the criminal justice system, recommend improvements, and evaluate the implementation of improvements;

(9) Research and evaluate existing community correctional facilities and programs, within the limits of available funding;

(10) Develop standardized definitions of outcome measures for community correctional facilities and programs, including, but not limited to, recidivism, employment, and substance abuse;

(11) Report annually to the Legislature and the Governor on the development and performance of community correctional facilities and programs. The report submitted to the Legislature shall be submitted electronically. The report shall include, but not be limited to, the following:

(a) A description of community correctional facilities and programs currently serving offenders in Nebraska, which includes the following information:

(i) The target population and geographic area served by each facility or program, eligibility requirements, and the total number of offenders utilizing the facility or program over the past year;

(ii) Services, programs, assessments, case management, supervision, and tools provided for offenders at the facility, in the program, or under the supervision of a governmental agency in any capacity;

(iii) The costs of operating the facility or program and the cost per offender; and

(iv) The funding sources for the facility or program;

(b) The progress made in expanding community correctional facilities and programs statewide and an analysis of the need for additional community corrections services;

(c) An analysis of the impact community correctional facilities and programs have on the number of offenders incarcerated within the Department of Correctional Services; and

(d) The recidivism rates and outcome data for probationers, parolees, and problem-solving-court clients participating in community corrections programs;

(12) Grant funds to entities including local governmental agencies, nonprofit organizations, and behavioral health services which will support the intent of the act;

(13) Manage all offender data acquired by the division in a confidential manner and develop procedures to ensure that identifiable information is not released;

(14) Establish and administer grants, projects, and programs for the operation of the division; and

(15) Perform such other duties as may be necessary to carry out the policy of the state established in the act.

Sec. 7. Section 47-624.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

47-624.01 (1) The division shall collaborate with the Office of Probation Administration, the Division of Parole Supervision ~~Office of Parole Administration~~, and the Department of Correctional Services in developing a plan for the implementation and funding of reporting centers in Nebraska.

(2) The plan shall include recommended locations for at least one reporting center in each district court judicial district that currently lacks such a center and shall prioritize the recommendations for additional reporting centers based upon need.

(3) The plan shall also identify and prioritize the need for expansion of reporting centers in those district court judicial districts which currently have a reporting center but have an unmet need for additional reporting center services due to capacity, distance, or demographic factors.

Sec. 8. Section 47-627, Revised Statutes Cumulative Supplement, 2016, is amended to read:

47-627 The director shall develop and maintain a uniform crime data analysis system in Nebraska which shall include, but need not be limited to, the number of offenses, arrests, charges, probation admissions, probation violations, probation discharges, participants in specialized community corrections programs, admissions to and discharges from problem-solving courts, admissions to and discharges from the Department of Correctional Services, parole reviews, parole hearings, releases on parole, parole violations, and parole discharges. The data shall be categorized by statutory crime. The data

shall be collected from the Board of Parole, the State Court Administrator, the Department of Correctional Services, the Division of Parole Supervision Office of Parole Administration, the Office of Probation Administration, the Nebraska State Patrol, counties, local law enforcement, and any other entity associated with criminal justice. The division and the Supreme Court shall have access to such data to implement the Community Corrections Act.

Sec. 9. Section 47-629, Revised Statutes Cumulative Supplement, 2016, is amended to read:

47-629 (1) The Board of Parole may parole an offender to a community correctional facility or program pursuant to guidelines developed by the division.

(2) The Department of Correctional Services and the Division of Parole Supervision Office of Parole Administration shall utilize community correctional facilities and programs as appropriate.

Sec. 10. Section 47-903, Revised Statutes Cumulative Supplement, 2016, is amended to read:

47-903 For purposes of the Office of Inspector General of the Nebraska Correctional System Act, the following definitions apply:

(1) Administrator means a person charged with administration of a program, an office, or a division of the department or administration of a private agency;

(2) Department means the Department of Correctional Services;

(3) Director means the Director of Correctional Services;

(4) Division of Parole Supervision means the division created pursuant to section 83-1,100;

(5) Inspector General means the Inspector General of the Nebraska Correctional System appointed under section 47-904;

(6) (5) Malfeasance means a wrongful act that the actor has no legal right to do or any wrongful conduct that affects, interrupts, or interferes with performance of an official duty;

(7) (6) Management means supervision of subordinate employees;

(8) (7) Misfeasance means the improper performance of some act that a person may lawfully do;

(9) (8) Obstruction means hindering an investigation, preventing an investigation from progressing, stopping or delaying the progress of an investigation, or making the progress of an investigation difficult or slow;

(10) (9) Office means the office of Inspector General of the Nebraska Correctional System and includes the Inspector General and other employees of the office;

(10) ~~Office of Parole Administration means the office created pursuant to section 83-1,100;~~

(11) Private agency means an entity that contracts with the department or contracts to provide services to another entity that contracts with the department; and

(12) Record means any recording in written, audio, electronic transmission, or computer storage form, including, but not limited to, a draft, memorandum, note, report, computer printout, notation, or message, and includes, but is not limited to, medical records, mental health records, case files, clinical records, financial records, and administrative records.

Sec. 11. Section 47-908, Revised Statutes Cumulative Supplement, 2016, is amended to read:

47-908 All employees of the department, all employees of the Division of Parole Supervision Office of Parole Administration, and all owners, operators, managers, supervisors, and employees of private agencies shall cooperate with the office. Cooperation includes, but is not limited to, the following:

(1) Provision of full access to and production of records and information. Providing access to and producing records and information for the office is not a violation of confidentiality provisions under any statute, rule, or regulation if done in good faith for purposes of an investigation under the Office of Inspector General of the Nebraska Correctional System Act;

(2) Fair and honest disclosure of records and information reasonably requested by the office in the course of an investigation under the act;

(3) Encouraging employees to fully comply with reasonable requests of the office in the course of an investigation under the act;

(4) Prohibition of retaliation by owners, operators, or managers against employees for providing records or information or filing or otherwise making a complaint to the office;

(5) Not requiring employees to gain supervisory approval prior to filing a complaint with or providing records or information to the office;

(6) Provision of complete and truthful answers to questions posed by the office in the course of an investigation; and

(7) Not willfully interfering with or obstructing the investigation.

Sec. 12. Section 47-919, Revised Statutes Cumulative Supplement, 2016, is amended to read:

47-919 The Division of Parole Supervision Office of Parole Administration shall provide the Public Counsel and the Inspector General with direct computer access to all computerized records, reports, and documents maintained by the office in connection with administration of the Nebraska parole system, except that access for the Public Counsel and the Inspector General to a parolee's medical or mental health records shall be subject to the parolee's consent.

Sec. 13. Section 71-961, Reissue Revised Statutes of Nebraska, is amended to read:

71-961 (1) All records kept on any subject shall remain confidential

except as otherwise provided by law. Such records shall be accessible to (a) the subject, except as otherwise provided in subsection (2) of this section, (b) the subject's legal counsel, (c) the subject's guardian or conservator, if any, (d) the mental health board having jurisdiction over the subject, (e) persons authorized by an order of a judge or court, (f) persons authorized by written permission of the subject, (g) agents or employees of the Department of Health and Human Services upon delivery of a subpoena from the department in connection with a licensing or licensure investigation by the department, (h) individuals authorized to receive notice of the release of a sex offender pursuant to section 83-174, (i) the Nebraska State Patrol or the department pursuant to section 69-2409.01, or (j) the Division of Parole Supervision Office of Parole Administration if the subject meets the requirements for lifetime community supervision pursuant to section 83-174.03.

(2) Upon application by the county attorney or by the administrator of the treatment facility where the subject is in custody and upon a showing of good cause therefor, a judge of the district court of the county where the mental health board proceedings were held or of the county where the treatment facility is located may order that the records not be made available to the subject if, in the judgment of the court, the availability of such records to the subject will adversely affect his or her mental illness or personality disorder and the treatment thereof.

(3) When a subject is absent without authorization from a treatment facility or program described in section 71-939 or 71-1223 and is considered to be dangerous to others, the subject's name and description and a statement that the subject is believed to be considered dangerous to others may be disclosed in order to aid in the subject's apprehension and to warn the public of such danger.

Sec. 14. Section 81-1401, Reissue Revised Statutes of Nebraska, is amended to read:

81-1401 For purposes of sections 81-1401 to 81-1414.10, unless the context otherwise requires:

(1) Commission means the Nebraska Commission on Law Enforcement and Criminal Justice;

(2) Council means the Nebraska Police Standards Advisory Council;

(3) Director means the director of the Nebraska Law Enforcement Training Center;

(4) Felony means a crime punishable by imprisonment for a term of more than one year or a crime committed outside of Nebraska which would be punishable by imprisonment for a term of more than one year if committed in Nebraska;

(5) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;

(6) Incapacity means incapable of or lacking the ability to perform or carry out the usual duties of a law enforcement officer in accordance with the standards established by the commission due to physical, mental, or emotional factors. Incapacity does not exist if a law enforcement officer remains employed as a law enforcement officer, including employment as a law enforcement officer in a restricted or limited-duty status;

(7) Law enforcement agency means the police department or the town marshal in incorporated municipalities, the office of sheriff in unincorporated areas, and the Nebraska State Patrol;

(8)(a) Law enforcement officer means any person who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political subdivision of the state for more than one hundred hours per year and is authorized by law to make arrests and includes, but is not limited to:

(i) A full-time or part-time member of the Nebraska State Patrol;

(ii) A county sheriff;

(iii) A full-time, part-time, or reserve employee of a county sheriff's office;

(iv) A full-time, part-time, or reserve employee of a municipal or village police agency;

(v) A full-time or part-time Game and Parks Commission conservation officer;

(vi) A full-time or part-time deputy state sheriff; or

(vii) A full-time employee of an organized and paid fire department of any city of the metropolitan class who is an authorized arson investigator and whose duties consist of determining the cause, origin, and circumstances of fires or explosions while on duty in the course of an investigation;

(b) Law enforcement officer does not include employees of the Department of Correctional Services, probation officers under the Nebraska Probation System, parole officers appointed by the Director of Supervision and Services of the Division of Parole Supervision ~~Parole Administrator~~, or employees of the Department of Revenue under section 77-366; and

(c) A law enforcement officer shall possess a valid law enforcement officer certificate or diploma, as established by the council, in order to be vested with the authority of this section, but this subdivision does not prohibit an individual from receiving a conditional appointment as an officer pursuant to subsection (2) of section 81-1414;

(9) Training academy means the training center or such other council-approved law enforcement training facility operated and maintained by a law enforcement agency which offers certification training that meets or exceeds

the certification training curriculum of the training center;

(10) Training center means the Nebraska Law Enforcement Training Center;  
and

(11) Training school means a public or private institution of higher education, including the University of Nebraska, the Nebraska state colleges, and the community colleges of this state, that offers training in a council-approved pre-certification course.

Sec. 15. Section 83-170, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-170 As used in the Nebraska Treatment and Corrections Act, unless the context otherwise requires:

~~(1) Administrator means the Parole Administrator;~~

(1) ~~(2)~~ Board means the Board of Parole;

(2) ~~(3)~~ Committed offender means any person who, under any provision of law, is sentenced or committed to a facility operated by the department or is sentenced or committed to the department other than a person adjudged to be as described in subdivision (1), (2), (3)(b), or (4) of section 43-247 by a juvenile court;

(3) ~~(4)~~ Department means the Department of Correctional Services;

(4) ~~(5)~~ Director means the Director of Correctional Services;

(5) Director of Supervision and Services means the Director of Supervision and Services appointed pursuant to section 83-1,101;

(6) Facility means any prison, reformatory, training school, reception center, community guidance center, group home, or other institution operated by the department;

(7) Good time means any reduction of sentence granted pursuant to sections 83-1,107 and 83-1,108;

(8) Maximum term means the maximum sentence provided by law or the maximum sentence imposed by a court, whichever is shorter;

(9) Minimum term means the minimum sentence provided by law or the minimum sentence imposed by a court, whichever is longer;

(10) Pardon authority means the power to remit fines and forfeitures and to grant respites, reprieves, pardons, or commutations;

(11) Parole term means the time from release on parole to the completion of the maximum term, reduced by good time;

(12) Person committed to the department means any person sentenced or committed to a facility within the department;

(13) Restrictive housing means conditions of confinement that provide limited contact with other offenders, strictly controlled movement while out of cell, and out-of-cell time of less than twenty-four hours per week; and

(14) Solitary confinement means the status of confinement of an inmate in an individual cell having solid, soundproof doors and which deprives the inmate of all visual and auditory contact with other persons.

Sec. 16. Section 83-171, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-171 There is hereby created a Department of Correctional Services which shall:

(1) Maintain and administer facilities required for the custody, control, correctional treatment, and rehabilitation of persons committed to the department and for the safekeeping of such other persons as may be remanded to the department in accordance with law;

(2) Develop policies and programs for the correctional treatment and rehabilitation of persons committed to the department;

(3) Supervise parolees who have been committed to the department; and

(4) Until July 1, 2016, administer parole services in the facilities and in the community and, beginning July 1, 2016, cooperate with the Board of Parole and Division of Parole Supervision Office of Parole Administration to assist with the efficient administration of parole services in the facilities and in the community.

Sec. 17. Section 83-174.03, Reissue Revised Statutes of Nebraska, is amended to read:

83-174.03 (1) Any individual who, on or after July 14, 2006, (a) is convicted of or completes a term of incarceration for a registrable offense under section 29-4003 and has a previous conviction for a registrable offense under such section, (b) is convicted of sexual assault of a child in the first degree pursuant to section 28-319.01, or (c) is convicted of or completes a term of incarceration for an aggravated offense as defined in section 29-4001.01, shall, upon completion of his or her term of incarceration or release from civil commitment, be supervised in the community by the Division of Parole Supervision Office of Parole Administration for the remainder of his or her life.

(2) Notice shall be provided to the division Office of Parole Administration by an agency or political subdivision which has custody of an individual required to be supervised in the community pursuant to subsection (1) of this section at least sixty days prior to the release of such individual from custody.

(3) Individuals required to be supervised in the community pursuant to subsection (1) of this section shall undergo a risk assessment and evaluation by the division Office of Parole Administration to determine the conditions of community supervision to be imposed to best protect the public from the risk that the individual will reoffend.

(4) Conditions of community supervision imposed on an individual by the division Office of Parole Administration may include the following:



(a) Drug and alcohol testing if the conviction resulting in the imposition of community supervision involved the use of drugs or alcohol;

(b) Restrictions on employment and leisure activities necessary to minimize interaction with potential victims;

(c) Requirements to report regularly to the individual's community supervision officer;

(d) Requirements to reside at a specified location and notify the individual's community supervision officer of any change in address or employment;

(e) A requirement to allow the ~~division Office of Parole Administration~~ access to medical records from the individual's current and former providers of treatment;

(f) A requirement that the individual submit himself or herself to available medical, psychological, psychiatric, or other treatment, including, but not limited to, polygraph examinations; or

(g) Any other conditions designed to minimize the risk of recidivism, including, but not limited to, the use of electronic monitoring, which are not unduly restrictive.

Sec. 18. Section 83-174.04, Reissue Revised Statutes of Nebraska, is amended to read:

83-174.04 An individual who violates one or more of the conditions of community supervision established for him or her pursuant to section 83-174.03 shall undergo a review by the ~~Division of Parole Supervision Office of Parole Administration~~ to evaluate the risk posed to the public by the violation in question. The ~~division office~~ may take any of the following actions in response to a violation of conditions of community supervision:

(1) Revise or impose additional conditions of community supervision in order to minimize the risk to the public from the continued presence of the individual in the community;

(2) Forward to the Attorney General or the county attorney in the county where the individual resides a request to initiate a criminal prosecution for failure to comply with the terms of community supervision; or

(3) Forward to the county attorney or Attorney General a recommendation that civil commitment proceedings be instituted with respect to the individual.

Sec. 19. Section 83-174.05, Reissue Revised Statutes of Nebraska, is amended to read:

83-174.05 Failure to comply with the conditions of community supervision imposed by the ~~Division of Parole Supervision Office of Parole Administration~~ is a Class IV felony for the first offense and a Class III felony for any subsequent offense.

Sec. 20. Section 83-184, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-184 (1) When the conduct, behavior, mental attitude, and conditions indicate that a person committed to the department and the general society of the state will be benefited, and there is reason to believe that the best interests of the people of the state and the person committed to the department will be served thereby, in that order, and upon the recommendation of the board in the case of each committed offender, the director may authorize such person, under prescribed conditions, to:

(a) Visit a specifically designated place or places and return to the same or another facility. An extension of limits may be granted to permit a visit to a dying relative, attendance at the funeral of a relative, the obtaining of medical services, the contacting of prospective employers, or for any other reason consistent with the public interest; ~~or~~

(b) Work at paid employment or participate in a training program in the community on a voluntary basis whenever:

(i) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(ii) The rates of pay and other conditions of employment will not be less than those paid or provided for work of similar nature in the locality in which the work is to be performed; ~~or -~~

(c) Leave the facility to participate in substance abuse evaluations or treatment, attend rehabilitative programming or treatment, seek residency or employment, or participate in structured programming as provided in section 83-182.01 and return to the same or another facility. The department shall collaborate with community-based providers to enhance the availability of community-based options for such participation that meet the department's requirements for rehabilitative programming or treatment or structured programming.

(2) The wages earned by a person authorized to work at paid employment in the community under ~~the provisions of~~ this section shall be credited by the chief executive officer of the facility to such person's wage fund. The director shall authorize the chief executive officer to withhold up to five percent of such person's net wages. The funds withheld pursuant to this subsection shall be remitted to the State Treasurer for credit as provided in subsection (2) of section 33-157.

(3) A person authorized to work at paid employment in the community under ~~the provisions of~~ this section may be required to pay, and the director is authorized to collect, such costs incident to the person's confinement as the director deems appropriate and reasonable. Collections shall be deposited in the state treasury as miscellaneous receipts.

(4) A person authorized to work at paid employment in the community under ~~the provisions of~~ this section may be required to pay restitution. The director shall adopt and promulgate rules and regulations which will protect the committed offender's rights to due process and govern the collection of restitution as provided in section 83-184.01.

(5) The willful failure of a person to remain within the extended limits of his or her confinement or to return within the time prescribed to a facility designated by the director may be deemed an escape from custody punishable as provided in section 28-912.

(6) No person employed in the community under ~~the provisions of~~ this section or otherwise released shall, while working in such employment in the community or going to or from such employment or during the time of such release, be deemed to be an agent, employee, or servant of the state.

Sec. 21. Section 83-191, Reissue Revised Statutes of Nebraska, is amended to read:

83-191 The members of the Board of Parole shall devote full time to their duties with such board and shall not engage in any other business or profession or hold any other public office. No member shall, at the time of his or her appointment or during his or her tenure, serve as the representative of any political party or of any executive committee or governing body thereof or as an executive officer or employee of any political party, organization, association, or committee. A member shall resign from the board upon filing as a candidate for any elective public office. Each member of the board shall receive an annual salary to be fixed by the Governor. Such ~~On and after July 1, 1993, such~~ salaries shall be paid in equal monthly portions.

Sec. 22. Section 83-192, Reissue Revised Statutes of Nebraska, is amended to read:

83-192 (1) The Board of Parole shall:

(a) Determine the time of release on parole of committed offenders eligible for such release;

(b) Fix the conditions of parole, revoke parole, issue or authorize the issuance of warrants for the arrest of parole violators, and impose other sanctions short of revocation for violation of conditions of parole;

(c) Determine the time of mandatory discharge from parole;

(d) Visit and inspect any facility, state or local, for the detention of persons charged with or convicted of an offense and for the safekeeping of such other persons as may be remanded to such facility in accordance with law;

(e) Within two years after July 1, 2006, implement the utilization of a validated risk and needs assessment in coordination with the Department of Correctional Services and the Division of Parole Supervision Office of Parole Administration. The assessment shall be prepared and completed by the department or the division office for use by the board in determining release on parole;

(f) Review the record of every parole-eligible committed offender annually when he or she is within three years of his or her earliest parole eligibility date, as follows:

~~(i) If a committed offender has a parole eligibility date within five years of his or her date of incarceration, his or her record shall be reviewed annually;~~

~~(ii) If a committed offender has a parole eligibility date which is more than five but not more than ten years from his or her date of incarceration, his or her record shall be reviewed during the first year of incarceration, and when he or she is within three years of his or her earliest parole eligibility date, his or her record shall be reviewed annually;~~

~~(iii) If a committed offender has a parole eligibility date which is more than ten but not more than thirty years from his or her date of incarceration, his or her record shall be reviewed during the first year of incarceration, every five years thereafter until he or she is within five years of his or her earliest parole eligibility date, and annually thereafter;~~

~~(iv) If a committed offender has a parole eligibility date which is more than thirty years from his or her date of incarceration, his or her record shall be reviewed during his or her first, tenth, and twentieth year of incarceration, and when he or she is within five years of his or her earliest parole eligibility date, his or her record shall be reviewed annually; and~~

~~(v) If a committed offender is serving a minimum life sentence, his or her record shall be reviewed during the first year of incarceration and every ten years thereafter until such time as the sentence is commuted. If such sentence is commuted, the committed offender's record shall be reviewed annually when he or she is within five years of his or her earliest parole eligibility date.~~

~~Such review shall include the circumstances of the offense, the presentence investigation report, the committed offender's previous social history and criminal record, his or her conduct, employment, and attitude during commitment, and the reports of such physical and mental examinations as have been made. The board shall meet with such committed offender and counsel him or her concerning his or her progress and prospects for future parole.~~

~~The review schedule shall be based on court-imposed sentences or statutory minimum sentences, whichever are greater. The board is not required to review the record of a committed offender when the committed offender's parole eligibility date is within one month of his or her mandatory discharge date. Nothing in such schedule shall prohibit the board from reviewing a committed offender's case at any time;~~

~~(g) Appoint and remove all employees of the board as prescribed by the State Personnel System and delegate appropriate powers and duties to them; and~~

(h) Adopt and promulgate rules and regulations; and  
(i) Exercise all powers and perform all duties necessary and proper in carrying out its responsibilities of the board under the Nebraska Treatment and Corrections Act.

(2) The chairperson of the board shall:

- (a) Supervise the administration and operation of the board;
- (b) Serve in an advisory capacity to the director in administering parole services within any facility ~~and in the community;~~
- (c) Interpret the parole program to the public with a view toward developing a broad base of public support;
- (d) Conduct research for the purpose of evaluating and improving the effectiveness of the parole system;
- (e) Recommend parole legislation to the Governor;
- (f) Adopt and promulgate rules and regulations for the administration and operation of the board; and
- (g) Exercise all other powers and perform all other duties necessary and proper in carrying out his or her responsibilities as chairperson.

(3) This section does ~~The provisions of this section shall not prohibit a committed offender from requesting that the board review his or her record, except that the board is not shall not be required to review a committed offender's record more than once a year.~~

Sec. 23. The Board of Parole Grant Awards Cash Fund is created. All funds received by virtue of public grants awarded to the Board of Parole shall be remitted to the State Treasurer for credit to the fund. The fund shall be utilized by the board for the purposes stated in the individual grant applications and awards. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 24. Section 83-198, Reissue Revised Statutes of Nebraska, is amended to read:

83-198 A person shall be guilty of a Class IV felony if he or she threatens or attempts to threaten harm to a member or an employee of the Board of Parole with the purpose to influence a his decision, an opinion, a recommendation, a vote, or any other exercise of discretion as member or employee of the board or if he or she privately addresses to any member or employee of the board any representation, entreaty, argument, or other communication designed to influence the outcome of any matter which is or may come before the board on the basis of considerations other than those authorized by law, ~~and shall be guilty of a Class IV felony.~~

Sec. 25. Section 83-1,100, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-1,100 (1) There is hereby created the Division of Parole Supervision Office of Parole Administration. ~~Until July 1, 2016, the office shall be within the Department of Correctional Services. Beginning July 1, 2016, the office shall be within the Board of Parole. The director and the board shall jointly develop a transition implementation plan. The plan shall be presented to the Governor and to the Legislature no later than December 1, 2015. The report to the Legislature shall be delivered electronically. The employees of the division office shall consist of the Director of Supervision and Services Parole Administrator, the field parole service officers, and all other division staff. The division office staff. The office shall be responsible for the following:~~

- (a) The administration of parole services in the community;
- (b) The maintenance of all records and files associated with the Board of Parole;
- (c) The daily supervision and training of staff members of the division office, including training regarding evidence-based practices in supervision pursuant to section 83-1,100.02; and
- (d) The assessment, evaluation, and supervision of individuals who are subject to parole supervision, including lifetime community supervision pursuant to section 83-174.03.

(2) Parole officers shall be compensated with salaries substantially equal to other state employees who have similar responsibilities, including employees of the Office of Probation Administration. This subsection shall apply only to field parole service officers and support staff and shall not apply to the Director of Supervision and Services Parole Administrator, any deputy parole administrator, or any other management-level similarly established management position.

(3) This section does not prohibit the division ~~Nothing in this section shall be construed to prohibit the office from maintaining daily records and files associated with the Board of Pardons.~~

Sec. 26. Section 83-1,100.02, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-1,100.02 (1) For purposes of this section:

- (a) Levels of supervision means the determination of the following for each person on parole:
  - (i) Supervision contact requirements, including the frequency, location, methods, and nature of contact with the parole officer;
  - (ii) Substance abuse testing requirements and frequency;
  - (iii) Contact restrictions;
  - (iv) Curfew restrictions;
  - (v) Access to available programs and treatment, with priority given to moderate-risk and high-risk parolees; and

(vi) Severity of graduated responses to violations of supervision conditions; and

(b) Risk and needs assessment means an actuarial tool that has been validated in Nebraska to determine the likelihood of the parolee engaging in future criminal behavior.

(2) The Division of Parole Supervision Office of Parole Administration shall establish an evidence-based process that utilizes a risk and needs assessment to measure criminal risk factors and specific individual needs.

(3) The risk and needs assessment shall be performed at the commencement of the parole term and every six months thereafter by division office staff trained and certified in the use of the risk and needs assessment.

(4) ~~The office shall test the validity of the risk and needs assessment shall be tested at least every five years.~~

(5) Based on the results of the risk and needs assessment, the division office shall ~~determine levels of supervision to~~ target parolee criminal risk and need factors by focusing sanction, program, and treatment resources on moderate-risk and high-risk parolees.

(6) The division office shall provide training to its parole officers on use of a risk and needs assessment, risk-based supervision strategies, relationship skills, cognitive behavioral interventions, community-based resources, criminal risk factors, targeting criminal risk factors to reduce recidivism, and proper use of a matrix of administrative sanctions, custodial sanctions, and rewards developed pursuant to section 83-1,119. All parole officers employed on August 30, 2015, shall complete the training requirements set forth in this subsection on or before January 1, 2017. Each parole officer hired on or after August 30, 2015, shall complete the training requirements set forth in this subsection within one year after his or her hire date.

(7) The division office shall provide training for chief parole officers to become trainers so as to ensure long-term and self-sufficient training capacity in the state.

Sec. 27. Section 83-1,101, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-1,101 The Board of Parole shall appoint a Director of Supervision and Services ~~who Parole Administrator. The Parole Administrator~~ shall be a person with appropriate experience and training, including, but not limited to, familiarity with the implementation of evidence-based processes for utilizing risk and needs assessments to measure criminal risk factors and specific individual needs.

Sec. 28. Section 83-1,102, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,102 The Director of Supervision and Services ~~Parole Administrator~~ shall:

(1) Supervise and administer the Division of Parole Supervision Office of Parole Administration;

(2) Establish and maintain policies, standards, and procedures for the field parole service and the community supervision of sex offenders pursuant to section 83-174.03;

(3) Divide the state into parole districts and appoint district parole officers, ~~deputy parole officers, if required,~~ and such other employees as may be required to carry out adequate parole supervision of all parolees, prescribe their powers and duties, and obtain division offices ~~office quarters~~ for staff in each district as may be necessary;

(4) Cooperate with the Board of Parole, the courts, the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice, and all other agencies, public and private, which are concerned with the treatment or welfare of persons on parole;

(5) Provide the Board of Parole and district judges with any record of a parolee which the board or such judges ~~it~~ may require;

(6) Make recommendations to the Board of Parole or district judge in cases of violation of the conditions of parole, issue warrants for the arrest of parole violators when so instructed by the board or district judge, notify the Director of Correctional Services of determinations made by the board, and upon instruction of the board, issue certificates of parole and of parole revocation to the facilities and certificates of discharge from parole to parolees;

(7) Organize and conduct training programs for the district parole officers and other employees;

(8) Use the funds provided under section 83-1,107.02 to augment operational or personnel costs associated with the development, implementation, and evaluation of enhanced parole-based programs and purchase services to provide such programs aimed at enhancing adult parolee supervision in the community and treatment needs of parolees. Such enhanced parole-based programs include, but are not limited to, specialized units of supervision, related equipment purchases and training, and programs that address a parolee's vocational, educational, mental health, behavioral, or substance abuse treatment needs, including evidence-based peer and family support programs;

(9) Ensure that any risk or needs assessment instrument utilized by the system be periodically validated;

(10) Report annually to the Governor and electronically to the Clerk of the Legislature beginning January 1, 2015, the number of parole revocations and the number of technical violations of parole; and

(11) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

Sec. 29. Section 83-1,103, Reissue Revised Statutes of Nebraska, is

amended to read:

83-1,103 The field parole service, consisting of district parole officers and deputy parole officers working under the direction of the Director of Supervision and Services Parole Administrator or district judge, shall be responsible for the investigation, supervision, and assistance of parolees, probationers, or individuals subject to community supervision under section 83-174.03. The field parole service shall be sufficient in size to assure that no district parole officer carries a case load larger than is compatible with adequate parole investigation or supervision.

Sec. 30. Section 83-1,103.01, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,103.01 A parole officer assigned by the Director of Supervision and Services administrator to supervise individuals subject to lifetime community supervision pursuant to section 83-174.03 shall:

(1) Make investigations, prior to an individual subject to community supervision being released from incarceration, in cooperation with institutional caseworkers at prisons, mental health facilities, and county jails, to determine the community supervision conditions necessary to protect the public and make reasonable advance preparation for release into the community;

(2) Assist individuals subject to community supervision to comply with the conditions of supervision and to make a successful adjustment in the community;

(3) Supervise individuals subject to community supervision by keeping informed of their conduct and condition;

(4) Make reports as required by the Director of Supervision and Services administrator to determine the effectiveness of community supervision in protecting the public or the progress of an individual subject to community supervision;

(5) Cooperate with social welfare agencies and treatment providers to ensure that individuals subject to community supervision receive any necessary services or treatment;

(6) Inform the Director of Supervision and Services administrator when, in the opinion of the community supervision officer, an individual is in violation of the conditions of his or her community supervision, and whenever necessary exercise the power of arrest as provided in section 83-1,102;

(7) Conduct periodic reviews of the conditions of community supervision imposed on an individual as required by the Director of Supervision and Services administrator; and

(8) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

Sec. 31. Section 83-1,103.02, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,103.02 (1) Prior to the release from incarceration of an individual subject to lifetime community supervision pursuant to section 83-174.03, the Division of Parole Supervision Office of Parole Administration shall:

(a) Notify the individual in writing that he or she is subject to community supervision upon completion of his or her criminal sentence;

(b) Inform the individual subject to community supervision of the process by which conditions of community supervision are determined and his or her right to submit relevant information to the division office for consideration when establishing the conditions of supervision;

(c) Determine the individual's risk of recidivism if released into the community, utilizing a validated risk assessment tool;

(d) After considering the information required in subdivision (e) of this subsection, determine the conditions of supervision which will most effectively minimize the risk of the individual committing another sex offense. The conditions shall be the least restrictive conditions available, in terms of the effect on the individual's personal freedom, which minimize the risk of recidivism and are compatible with public safety; and

(e) In determining the conditions of supervision to be imposed, the division office shall consider the following:

(i) A report prepared by the institutional caseworkers relating to the individual's personality, social history, and adjustment to authority and including any recommendations which the staff of the facility may make;

(ii) All official reports of the individual's prior criminal record, including reports and records of earlier probation and parole experiences;

(iii) The presentence investigation report;

(iv) The reports of any physical, mental, and psychiatric examinations of the individual;

(v) Any relevant information which may be submitted by the individual, his or her attorney, the victim of the crime, or other persons; and

(vi) Such other relevant information concerning the individual as may be reasonably available.

(2) Upon completion of the risk assessment and the determination of the conditions of community supervision and no later than thirty days prior to the completion of the individual's criminal sentence, the division Office of Parole Administration shall issue a certificate of community supervision to the individual containing the conditions of community supervision he or she will be required to comply with upon the completion of his or her criminal sentence. The Director of Supervision and Services administrator shall include with the certificate written information on how to appeal the determination of the conditions of community supervision.

Sec. 32. Section 83-1,103.03, Reissue Revised Statutes of Nebraska, is

amended to read:

83-1,103.03 The Division of Parole Supervision Office of ~~Parole Administration~~ shall review the conditions of community supervision imposed on an individual pursuant to section 83-174.03 on an annual basis and shall provide the individual the opportunity to submit written materials to the division office for consideration during such review.

If the division office determines, after reviewing the individual's conduct while under supervision and any other relevant facts, that one or more of the conditions of community supervision imposed upon the individual is no longer necessary to reduce the risk of the individual reoffending or is no longer the least restrictive condition compatible with public safety, the division office shall revise the conditions of community supervision so that the individual's freedom is not unnecessarily restricted.

Sec. 33. Section 83-1,103.04, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,103.04 (1) Whenever a determination or revision of the conditions of community supervision is made by the Division of Parole Supervision Office of ~~Parole Administration~~, the individual subject to the conditions shall be entitled to an appeal. The appeal shall be heard by the district court in the county where the individual resides. The individual shall be informed of his or her right to request counsel, and if counsel is requested the court shall determine if the individual is indigent. If the court finds the individual to be indigent, it shall appoint counsel from the public defender's office to represent the individual during the appeal.

(2) In an appeal contesting the determination or revision of the conditions of community supervision, the burden of proof shall be on the individual subject to community supervision to show by clear and convincing evidence (a) that the conditions in question will not reduce the risk of the individual reoffending or otherwise protect the public or (b) that the condition is overly restrictive of the individual's freedom and a less restrictive condition is available which is equally or more effective in reducing the risk of the individual reoffending.

Sec. 34. Section 83-1,104, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,104 A district parole officer shall:

(1) Make investigations, prior to a committed offender's release on parole, in cooperation with institutional caseworkers and the Board of Parole to determine the adequacy of parole plans and make reasonable advance preparation for release on parole;

(2) Assist a committed offender who requests assistance prior to release or a parolee to comply with the conditions of parole and to make a successful adjustment in the community, including facilitating the transitional needs of housing and employment, access to and participation in job training services in the community, access to mental health services, assisting with applications for health care coverage or ensuring that the committed offender or parolee knows how to apply for and obtain health care coverage, and assisting with enrollment in the medical assistance program established pursuant to the Medical Assistance Act, if eligible, to ensure that the committed offender or parolee has access to such program close to the time of release or soon thereafter;

(3) Supervise parolees by keeping informed of their conduct and condition, utilizing global positioning systems and other monitoring technology as needed during the period of supervision;

(4) Make such reports as required by the Director of Supervision and Services Parole Administrator or district judge to determine the effectiveness of the parole system or the progress of an individual parolee;

(5) Cooperate with social welfare agencies;

(6) Observe the work of any ~~deputy~~ parole officer under his or her supervision from time to time;

(7) Inform the Director of Supervision and Services Parole Administrator when, in his or her opinion, any eligible parolee's conduct and attitude warrant his or her discharge from active supervision, or when any parolee's violation of the conditions of parole is of sufficient seriousness to require action by the Board of Parole or district judge and whenever necessary exercise the power of arrest as provided in section 83-1,119;

(8) Delegate in his or her discretion any of the above responsibilities to a ~~deputy parole officer under his or her supervision if provided for his or her district~~; and

(9) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

Sec. 35. Section 83-1,107, Revised Statutes Cumulative Supplement, 2016, 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 developed with the active participation of 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)(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 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 ensure that a release or reentry plan is complete or near completion when the offender has served at least eighty percent of his or her sentence. For purposes of this subsection, release or reentry plan means a comprehensive and individualized strategic plan to ensure an individual's safe and effective transition or reentry into the community to which he or she resides with the primary goal of reducing recidivism. At a minimum, the release or reentry plan shall include, but not be limited to, consideration of the individual's housing needs, medical or mental health care needs, and transportation and job needs and shall address an individual's barriers to successful release or reentry in order to prevent recidivism. The release or reentry plan does not include an individual's programming needs included in the individual's personalized program plan for use inside the prison.

(5)(a) 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.

(b) Any committed offender with a mental illness shall be provided with the community standard of mental health care. The mental health care shall utilize evidence-based therapy models that include an evaluation component to track the effectiveness of interventions.

(c) Any committed offender with a mental illness shall be evaluated before release to ensure that adequate monitoring and treatment of the committed offender will take place or, if appropriate, that a commitment proceeding under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act will take place.

(6)(a) Within thirty days after any committed offender has been paroled, all available information regarding such parolee shall be reviewed and a case parolee personalized program plan document shall be drawn up and approved by the Division of Parole Supervision ~~Office of Parole Administration~~. The document shall specifically describe the approved case personalized program plan and the specific goals the division office expects the parolee to achieve. The document shall also contain a realistic schedule for completion of the approved case personalized program plan. The approved case personalized program plan shall be developed with the active participation of the parolee. During the term of parole, the parolee shall comply with the approved case personalized program plan and the division office shall provide programs to allow compliance by the parolee with the approved case 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 division office.

(b) A modification in the approved ~~case 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 case 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 division office resulting in the forfeiture of up to a maximum of three months' good time for the scheduled year.

(7) While the offender is in the custody of the board, reductions of terms granted pursuant to subdivision (2)(a) of this section may be forfeited, withheld, and restored by the director upon the recommendation of the board 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.~~

(8) 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.

(9) Pursuant to rules and regulations adopted by the probation administrator and the director, an individualized post-release supervision plan shall be collaboratively prepared by the Office of Probation Administration and the department and provided to the court to prepare individuals under custody of the department for post-release supervision. All records created during the period of incarceration shall be shared with the Office of Probation Administration and considered in preparation of the post-release supervision plan.

Sec. 36. Section 83-1,107.01, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,107.01 (1) Unless otherwise provided by this section, whenever an adult offender is paroled, the board shall require a parolee to pay a monthly parole programming fee.

(2) Parolees under the supervision of the Division of Parole Supervision Office of Parole Administration shall pay a monthly parole programming fee of twenty-five dollars, not later than the tenth day of each month, beginning the second month of parole supervision and continuing for the duration of the parole.

(3) The board shall waive payment of the monthly parole programming fee in whole or in part if after a hearing a determination is made that such payment would constitute an undue hardship on the parolee due to limited income, employment or school status, or physical or mental handicap. Such waiver shall be in effect only during the period of time that the parolee is unable to pay his or her monthly parole programming fee.

(4) When monthly parole programming fees are waived, in whole or in part, the parole officer, pursuant to rules and regulations adopted by the board, may contract with the parolee to perform approved community service at the rate of five dollars per hour in lieu of payment of monthly parole programming fees. A parolee may be required to pay a participation fee in order to take advantage of community service programs. A parolee may not accumulate more than three months' advance credit for community service. The use of community service alternatives does not preclude the imposition of other intermediate measures.

(5) The division Office of Parole Administration with the approval of the Board of Parole shall implement sanctions if a parolee defaults in the payment of monthly parole programming fees or any installment thereof as established by subsection (2) of this section, except that parole shall not be revoked nor shall the parolee be imprisoned for such nonpayment if the parolee is financially unable to make the payment.

(6) If the board determines that the default in payment described in subsection (5) of this section was not attributable to a deliberate refusal to obey the order of the board or to failure on the parolee's part to make a good faith effort to obtain the funds required for payment, the board may allow the parolee additional time for payment, reduce the amount of each installment, or revoke the fees or the unpaid portion in whole or in part.

(7) No parolee shall be required to pay more than one monthly parole programming fee per month.

(8) The imposition of monthly parole programming fees in this section shall be considered separate and apart from specific service delivery fees.

(9) Any adult offender received for supervision pursuant to section 29-2637 or the Interstate Compact for Adult Offender Supervision shall be assessed a monthly parole programming fee during the period of time the offender is actively supervised by Nebraska parole authorities.

(10) A parolee shall pay the fees described in this section to the division. ~~The division Office of Parole Administration. The office shall remit all fees to the State Treasurer for credit to the Parole Program Cash Fund.~~

(11) The board and the division office shall adopt and promulgate rules and regulations to carry out this section.

Sec. 37. Section 83-1,107.02, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,107.02 The Parole Program Cash Fund is created. All funds collected pursuant to section 83-1,107.01 shall be remitted to the State Treasurer for credit to the fund. The fund shall be utilized by the Division of Parole Supervision Office of Parole Administration for the purposes stated in



subdivision (8) of section 83-1,102. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 38. Section 83-1,109, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,109 The chief executive officer of a facility shall regularly report all good time and all forfeitures, withholdings, and restorations of good time to the director. On the basis of such report, the director shall inform the board and the Director of Supervision and Services administrator of all committed offenders who are expected to become eligible for release on parole within the next three months.

Sec. 39. Section 83-1,110.02, Revised Statutes Supplement, 2017, is amended to read:

83-1,110.02 (1) A committed offender ~~who is otherwise eligible for parole,~~ who is not under sentence of death or of life imprisonment, and who because of an existing medical or physical condition is determined by the department to be terminally ill or permanently incapacitated may be considered for medical parole by the board. A committed offender may be eligible for medical parole in addition to any other parole. The department shall identify committed offenders who may be eligible for medical parole based upon their medical records.

(2) The board shall decide to grant medical parole only after a review of the medical, institutional, and criminal records of the committed offender and such additional medical evidence from board-ordered examinations or investigations as the board in its discretion determines to be necessary. The decision to grant medical parole and to establish conditions of release on medical parole in addition to the conditions stated in subsection (3) of this section is within the sole discretion of the board.

(3) As conditions of release on medical parole, the board shall require that the committed offender agree to placement for medical treatment and that he or she be placed for a definite or indefinite period of time in a hospital, a hospice, or another housing accommodation suitable to his or her medical condition, including, but not limited to, his or her family's home, as specified by the board.

(4) The parole term of a medical parolee shall be for the remainder of his or her sentence as reduced by any adjustment for good conduct pursuant to the Nebraska Treatment and Corrections Act.

Sec. 40. Section 83-1,111, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,111 (1) A Every committed offender serving an indeterminate sentence under which he or she may become eligible for parole shall be interviewed and have his or her record reviewed by two or more members of the Board of Parole or a person designated by the board within sixty days before the expiration of his or her minimum term less any reductions as provided in section 83-1,110. If, in the opinion of the reviewers, the review indicates the offender is reasonably likely to be granted parole and has a potential parole term of no less than one month, the Board of Parole shall schedule a public hearing before a majority of its members. At such hearing the offender may present evidence, call witnesses, and be represented by counsel. If, in the opinion of the reviewers, the review indicates the offender should be denied parole, the offender may request an additional review by a majority of the members of the board. A review by the majority of the members of the board may be conducted not more than once annually. Any hearing and review 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 or review. 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 person who conducted the review. If the board denies 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 or her 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 review 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) 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 or her behalf shall be entertained by the board. This subsection does not ~~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. 41. Section 83-1,112, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,112 (1) Each committed offender eligible for parole shall, in advance of his or her parole hearing, have a parole plan in accordance with the rules of the Board of Parole. Whenever the board determines that it will facilitate the parole hearing, it may furnish the offender with any information and records to be considered by it at the hearing.

(2) An offender shall be permitted to advise with any person whose assistance he or she desires, including his or her own legal counsel, in preparing for a hearing before the Board of Parole.

Sec. 42. Section 83-1,112.01, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,112.01 The board shall require any person who is incarcerated pursuant to subdivision (9) or (10) of section 60-6,197.03 to complete all diagnostic evaluations provided by the department and all programming required by the department prior to being considered eligible for parole. If the programming required by the department cannot be completed during the person's period of incarceration but can be provided in the community, and the board in its discretion believes the incarcerated person will participate in programming available in the community, the board may waive the programming requirement of this section and, as a condition of parole, require that such programming be completed by the person during his or her parole term.

Sec. 43. Section 83-1,114, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,114 (1) Whenever the ~~board~~ Board of Parole considers the release of a committed offender who is eligible for release on parole, it shall order his or her release unless it is of the opinion that his or her release should be deferred because:

(a) There is a substantial risk that he or she will not conform to the conditions of parole;

(b) His or her release would depreciate the seriousness of his or her crime or promote disrespect for law;

(c) His or her release would have a substantially adverse effect on institutional discipline; or

(d) His or her continued correctional treatment, medical care, or vocational or other training in the facility will substantially enhance his or her capacity to lead a law-abiding life when released at a later date.

(2) In making its determination regarding a committed offender's release on parole, the ~~board~~ Board of Parole shall give consideration to its decision guidelines as set forth in its rules and regulations and shall take into account each of the following factors:

(a) The offender's personality, including his or her maturity, stability, and sense of responsibility and any apparent development in his or her personality which may promote or hinder his or her conformity to law;

(b) The adequacy of the offender's parole plan;

(c) The offender's ability and readiness to assume obligations and undertake responsibilities;

(d) The offender's intelligence and training;

(e) The offender's family status and whether he or she has relatives who display an interest in him or her or whether he or she has other close and constructive associations in the community;

(f) The offender's employment history, his or her occupational skills, and the stability of his or her past employment;

(g) The type of residence, neighborhood, or community in which the offender plans to live;

(h) The offender's past use of narcotics or past habitual and excessive use of alcohol;

(i) The offender's mental or physical makeup, including any disability or handicap which may affect his or her conformity to law;

(j) The offender's prior criminal record, including the nature and circumstances, dates ~~recency~~, and frequency of previous offenses;

(k) The offender's attitude toward law and authority;

(l) The offender's conduct in the facility, including particularly whether he or she has taken advantage of the opportunities for self-improvement, whether he or she has been punished for misconduct within six months prior to his or her hearing or reconsideration for parole release, whether any reductions of term have been forfeited, and whether such reductions have been restored at the time of hearing or reconsideration;

(m) The offender's behavior and attitude during any previous experience of probation or parole and how recent ~~the recency of~~ such experience is;

(n) The risk and needs assessment completed pursuant to section 83-192; and

(o) Any other factors the board determines to be relevant.

Sec. 44. Section 83-1,118, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,118 (1) If, in the opinion of the board, upon receipt of information from the Director of Supervision and Services, a parolee has shown suitable compliance with his or her parole programming plan, the board may reduce the level of supervision for a parolee that is commensurate with the best interests of the parolee and is compatible with the protection of the public, ~~a parolee does not require guidance or supervision, the board may dispense with and terminate such supervision.~~

~~(2) The board 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.~~

(2) ~~(3)~~ The board shall discharge a parolee from parole when the time served in the custody of the department and the time served on parole equal the maximum term less good time.

(3) ~~(4)~~ The department shall discharge a committed offender from the custody of the department when the time served in the facility equals the

maximum term less good time.

(4) ~~(5)~~ Upon completion of the lawful requirements of the sentence, the department shall provide the parolee or committed offender with a written notice regarding his or her civil rights. The notice shall inform the parolee or committed offender that voting rights are restored two years after completion of the sentence. The notice shall also include information on restoring other civil rights through the pardon process, including application to and hearing by the Board of Pardons.

(5) ~~(6)~~ The Board of Parole may discharge a parolee from parole when such parolee is under the supervision of another state's correctional institution and such offender has reached the expiration date of his or her Nebraska parole term.

Sec. 45. Section 83-1,119, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-1,119 (1) For purposes of this section:

(a) Absconding parole supervision means a parolee has purposely avoided supervision for a period of at least two weeks and reasonable efforts by a parole officer and staff to locate the parolee in person have proven unsuccessful;

(b) Administrative sanction means additional parole requirements imposed upon a parolee by his or her parole officer, with the full knowledge and consent of the parolee, designed to hold the parolee accountable for substance abuse or technical violations of conditions of parole, including, but not limited to:

(i) Counseling or reprimand by the Division of Parole Supervision ~~adult parole administration of the department~~;

(ii) Increased supervision contact requirements;

(iii) Increased substance abuse testing;

(iv) Referral for substance abuse or mental health evaluation or other specialized assessment, counseling, or treatment;

(v) Imposition of a designated curfew for a period to be determined by the division ~~adult parole administration~~; and

(vi) Travel restrictions to stay within his or her county of residence or employment unless otherwise permitted by the division ~~adult parole administration~~;

(c) Contract facility means a county jail that contracts with the department to house parolees or other offenders under the jurisdiction of the department;

(d) Substance abuse violation means a parolee's activities or behaviors associated with the use of chemical substances or related treatment services resulting in a violation of an original condition of parole, including:

(i) Positive breath test for the consumption of alcohol if the parolee is required to refrain from alcohol consumption;

(ii) Positive urinalysis for the illegal use of drugs;

(iii) Failure to report for alcohol testing or drug testing; and

(iv) Failure to appear for or complete substance abuse or mental health treatment evaluations or inpatient or outpatient treatment; and

(e) Technical violation means a parolee's activities or behaviors which create the opportunity for re-offending or diminish the effectiveness of parole supervision resulting in a violation of an original condition of parole and includes:

(i) Moving traffic violations;

(ii) Failure to report to his or her parole officer;

(iii) Leaving the state without the permission of the Board of Parole;

(iv) Failure to work regularly or attend training or school;

(v) Failure to notify his or her parole officer of change of address or employment;

(vi) Frequenting places where controlled substances are illegally sold, used, distributed, or administered; and

(vii) Failure to pay fines, court costs, restitution, or any fees imposed pursuant to section 83-1,107.01 as directed.

Technical violation does not include absconding parole supervision.

(2) The division ~~Office of Parole Administration~~ shall develop a matrix of rewards for compliance and positive behaviors and graduated administrative sanctions and custodial sanctions for use in responding to and deterring substance abuse violations and technical violations. A custodial sanction of thirty days in a correctional facility or a contract facility shall be designated as the most severe response to a violation in lieu of revocation.

(3) Whenever a parole officer has reasonable cause to believe that a parolee has committed or is about to commit a substance abuse violation or technical violation while on parole, but that the parolee will not attempt to leave the jurisdiction and will not place lives or property in danger, the parole officer shall either:

(a) Impose one or more administrative sanctions based upon the parolee's risk level, the severity of the violation, and the parolee's response to the violation. If administrative sanctions are to be imposed, the parolee shall acknowledge in writing the nature of the violation and agree upon the administrative sanction. The parolee has the right to decline to acknowledge the violation. If he or she declines to acknowledge the violation, the parole officer shall take action pursuant to subdivision (3)(b) of this section. A copy of the report shall be submitted to the Board of Parole; or

(b) Submit a written report to the Board of Parole, outlining the nature of the parole violation, and request the imposition of a custodial sanction of

up to thirty days in a correctional facility or a contract facility. On the basis of the report and such further investigation as the board may deem appropriate, the board shall determine whether and how the parolee violated the conditions of parole and may:

(i) Dismiss the charge of violation; or

(ii) If the board finds a violation justifying a custodial sanction, issue a warrant if necessary and impose a custodial sanction of up to thirty days in a correctional facility or a contract facility.

(4) Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of parole by a violation other than a substance abuse violation or a technical violation and the parole officer has reasonable cause to believe that the parolee will not attempt to leave the jurisdiction and will not place lives or property in danger, the parole officer shall submit a written report to the Board of Parole which may, on the basis of such report and such further investigation as it may deem appropriate:

(a) Dismiss the charge of violation;

(b) Determine whether the parolee violated the conditions of his or her parole;

(c) Impose a custodial sanction of up to thirty days in a correctional facility or a contract facility;

(d) Revoke his or her parole in accordance with the Nebraska Treatment and Corrections Act; or

(e) Issue a warrant for the arrest of the parolee.

(5) Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of parole and that the parolee will attempt to leave the jurisdiction or will place lives or property in danger, the parole officer shall arrest the parolee without a warrant and call on any peace officer to assist him or her in doing so.

(6) Whenever a parolee is arrested with or without a warrant, he or she shall be detained in a local jail or other detention facility operated by the Department of Correctional Services pending completion of review of parole proceedings by the Board of Parole. Immediately after such arrest and detention, the parole officer shall notify the Board of Parole and submit a written report of the reason for such arrest. A complete investigation shall be made by the Division of Parole Supervision ~~parole administration~~ and submitted to the board. After prompt consideration of such written report, the board shall order the parolee's release from detention or continued confinement to await a final decision on imposition of a custodial sanction or the revocation of parole.

(7) The Board of Parole shall adopt and promulgate rules and regulations necessary to carry out this section.

Sec. 46. Section 83-1,120, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,120 Whenever a parolee is charged with a violation of his parole, he or she shall be entitled to a prompt hearing on such charge by the Board of Parole, which hearing in no event shall occur more than thirty days after receipt of the parole officer's written report. At such hearing, the parolee shall be permitted to be present, to testify, to produce witnesses, to cross-examine adverse witnesses, and to introduce such other evidence as may be pertinent. The parolee shall be informed of his or her right to request counsel at such hearing, and if the parolee ~~he~~ thereafter makes such request, based on a timely and colorable claim (1) that he or she has not committed the alleged violation of the conditions upon which he or she is at liberty, or (2) that, even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present, and upon consideration of whether or not the parolee appears to be capable of speaking effectively for himself or herself, the board in the exercise of a sound discretion may provide counsel unless retained counsel is available to the parolee. In every case in which ~~when~~ a request for counsel is refused, the grounds for refusal shall be stated in the record.

Sec. 47. Section 83-1,121, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,121 A committed offender while on parole shall remain in the legal custody and control of the Board of Parole. The board may at any time revoke the parole of an offender or recommit him or her to the custody of the Department of Correctional Services, with or without cause.

Sec. 48. Section 83-1,122.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-1,122.01 (1) Except as provided in subsection (3) of this section, ~~The~~ board does not have jurisdiction over a person who is committed to the department in accordance with section 29-2204.02 for a Class III, IIIA, or IV felony committed on or after August 30, 2015, unless the person is also committed to the department in accordance with section 29-2204 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony committed prior to August 30, 2015, or (b) a sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony.

(2) Except as provided in subsection (3) of this section, ~~The~~ board does not have jurisdiction over a person committed to the department for a misdemeanor sentence imposed consecutively or concurrently with a Class III, IIIA, or IV felony sentence for an offense committed on or after August 30,

2015, unless the person is also committed to the department in accordance with section 29-2204 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony committed prior to August 30, 2015, or (b) a sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony.

(3) This section does not apply to medical parole under section 83-1,110.02.

Sec. 49. Section 83-1,125, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,125 (1) If a warrant or detainer is placed against a committed offender by a court, parole agency, or other authority of this or any other jurisdiction, the Director of Supervision and Services administrator shall inquire before such offender becomes eligible for parole whether the authority concerned intends to execute or withdraw the warrant or detainer when the offender is released.

(2) If the authority notifies the Director of Supervision and Services administrator that it intends to execute the warrant or detainer when the offender is released, the Director of Supervision and Services administrator shall advise the authority concerned of the sentence under which the offender is held, the time of parole eligibility, any decision of the board relating to the offender, and the nature of the offender's adjustment during imprisonment and shall give reasonable notice to such authority of the offender's release date.

(3) The board may parole an offender who is eligible for release to a warrant or detainer. If an offender is paroled to such a warrant or detainer, the board may provide, as a condition of release, that if the charge or charges on which the warrant or detainer is based are dismissed, or are satisfied after conviction and sentence, prior to the expiration of the offender's parole term, the authority to whose warrant or detainer the offender is released shall return the offender to serve the remainder of the parole term or such part as the board may determine.

(4) If a person paroled to a warrant or detainer is thereafter sentenced and placed on probation, or released on parole in another jurisdiction, prior to the expiration of the parole term less good time in this state, the board may permit the person to serve the remainder of the parole term or such part as the board may determine concurrently with the person's new probation or parole term. Such concurrent terms may be served in either of the two jurisdictions, and supervision shall be administered in accordance with the Interstate Compact for Adult Offender Supervision.

Sec. 50. (1) The Board of Parole and the Division of Parole Supervision may maintain an individual file for each person who is under the jurisdiction of the Board of Parole. Such file may be maintained electronically and shall include, when available and appropriate, the following information on such person:

- (a) Admission summary;
- (b) Presentence investigation report;
- (c) Classification reports and recommendations;
- (d) Official records of conviction and commitment along with any earlier criminal records;
- (e) Progress reports and admission-orientation reports;
- (f) Reports of any disciplinary infractions and their disposition;
- (g) Risk and needs assessments;
- (h) Parole plan and parole placement and investigation worksheets;
- (i) Decision guideline scores;
- (j) Parole case plan;
- (k) Parole progress reports and contact notes;
- (l) Arrest and violation reports, including disposition;
- (m) Parole proceedings orders and notices;
- (n) Other documents related to parole supervision;
- (o) Correspondence; and
- (p) Other pertinent data concerning his or her background, conduct, associations, and family relationships.

(2) Any decision concerning release on or revocation of parole or imposition of sanctions shall be made only after the individual file has been reviewed. The contents of the individual file shall be confidential unless disclosed in connection with a public hearing and shall not be subject to public inspection except by court order for good cause shown. The contents of the file shall not be accessible to any person under the jurisdiction of the Board of Parole. A person under the jurisdiction of the board may obtain access to his or her medical records by request to the provider pursuant to sections 71-8401 to 71-8407 notwithstanding the fact that such medical records may be a part of his or her parole file. The board and the Division of Parole Supervision have the authority to withhold decision guideline scores, risk and needs assessment scores, and mental health and psychological records of a person under the jurisdiction of the board when appropriate.

(3) Nothing in this section limits in any manner the authority of the Public Counsel to inspect and examine the records and documents of the board and the Division of Parole Supervision pursuant to sections 81-8,240 to 81-8,254, except that the Public Counsel's access to the medical or mental health records of a person under the jurisdiction of the board shall be subject to his or her consent. The office of Public Counsel shall not disclose the medical or mental health records of a person under the jurisdiction of the board to anyone else, including any other person under the jurisdiction of the board, except as authorized by law.

Sec. 51. Section 83-1,135, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-1,135 Sections 83-170 to 83-1,135.05 and sections 23 and 50 of this act shall be known and may be cited as the Nebraska Treatment and Corrections Act.

Sec. 52. Section 83-1,135.02, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-1,135.02 (1) It is the intent of the Legislature that the changes made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46, with respect to parole eligibility apply to all committed offenders under sentence and not on parole on May 24, 2003, and to all persons sentenced on and after such date.

(2) It is the intent of the Legislature that the changes made to sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184, 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01, 83-1,100.02, and 83-1,100.03 apply to all committed offenders under sentence, on parole, or on probation on August 30, 2015, and to all persons sentenced on and after such date.

(3) It is the intent of the Legislature that the changes made to sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267, 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03 apply to all committed offenders under sentence, on parole, or on probation on or after April 20, 2016, and to all persons sentenced on and after such date.

(4) It is the intent of the Legislature that the changes made to sections 83-1,110.02 and 83-1,122.01 by this legislative bill apply to all committed offenders under sentence or on parole on or after the effective date of this act, and to all persons sentenced on and after such date.

Sec. 53. Section 83-4,157, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,157 The medical director shall:

(1) Coordinate all clinical services;

(2) Participate in the selection and supervision of all clinical staff employed by or under contract with the department, including medical doctors, physician assistants, pharmacists, pharmacy technicians, registered nurses, licensed practical nurses, advanced practice registered nurses practicing under and in accordance with their respective certification acts, mental health practitioners, alcohol and drug counselors, laboratory technicians, physical therapists, optometrists, audiologists, dentists, dental assistants, and dental hygienists;

(3) Maintain and preserve the medical records of health care services;

(4) Approve the purchasing of all necessary medical supplies and medical equipment for the department;

(5) Recommend all necessary programs for the preservice, inservice, and continuing medical training and education of the health care staff and other relevant staff of the department, including training specifically designed to promote prompt and effective responses by all staff of the department to medical emergencies;

(6) Develop and implement condition-specific medical treatment protocols that ensure compatibility with a community standard of health care, including protocols addressing the: (a) Treatment of gastrointestinal bleeds; (b) detection and treatment of all communicable diseases; (c) treatment of gender-specific problems; (d) treatment of diabetes; (e) treatment of hypertension; (f) treatment of headaches; (g) utilization of surgical procedures; (h) control of infection; (i) provision of dental care; (j) provision of age-specific and gender-specific routine health maintenance; (k) means by which inmates obtain access to health care services; (l) use of prescribed drugs, devices, or biologicals for the purpose of pain management; (m) referral of patients to medical specialists not in the employ of the department; and (n) initiation, observance, and termination of do not resuscitate orders initiated pursuant to the Rights of the Terminally Ill Act;

(7) Develop and implement a system of general discharge planning for the health care services to be received by inmates who are soon to be released from the custody of the department and who have chronic health care problems, including establishment of a protocol to determine whether or not an inmate soon to be released should be prescribed and dispensed a medication-assisted treatment that could assist in reducing or eliminating the inmate's use of opiates;

(8) Develop and implement a comprehensive health care services plan;

(9) Develop and implement an internal credentialing program for the employment and retention of the health care staff of the department based on a community standard of health care; and

(10) Develop and implement an internal peer review and quality assurance program based upon a community standard of health care.

Sec. 54. Section 83-933, Revised Statutes Cumulative Supplement, 2016, is amended to read:

83-933 Until July 1, 2016, the Office of Parole Administration shall be within the Division of Community-Centered Services. Beginning July 1, 2016, until the effective date of this act, the Office of Parole Administration shall be within the Board of Parole. Beginning on the effective date of this act, the Division of Parole Supervision shall be within the Board of Parole.

Subject to supervision, the Director of Supervision and Services Parole Administrator shall be charged with the administration of parole services in the community pursuant to the provisions of section 83-1,102, implementation and administration of the Interstate Compact for Adult Offender Supervision as

it affects parolees, community supervision of sex offenders pursuant to section 83-174.03, and supervision of parolees either paroled in Nebraska and supervised in another state or paroled in another state and supervised in Nebraska, pursuant to the compact.

Sec. 55. The Department of Correctional Services shall conduct a department-wide staffing analysis of all positions, including a specific analysis regarding behavioral health staffing, in an effort to make a comprehensive determination of staffing needs. Concurrently, the department shall make short-term recommendations for needed staffing, including, but not limited to, facility administrative and support positions, in order to improve the effectiveness of staffing.

The staffing analysis shall be completed and a report of its findings and subsequent staffing recommendations submitted electronically to the Legislature no later than September 15, 2020. Subsequent updates of the staffing analysis shall be completed and shall be submitted electronically to the Legislature on or before September 15, 2026, and at least every six years thereafter or more frequently at the discretion of the department.

Sec. 56. To ensure public safety in the event a correctional system overcrowding emergency is ever declared or determined to exist, the Department of Correctional Services and the Board of Parole shall submit to the Legislature a proposed plan which describes the process of implementing the accelerated parole review process required by section 83-962. The plan shall include, but not be limited to:

(1) The process by which the Director of Correctional Services shall certify that an overcrowding emergency exists;

(2) The process by which the department shall prepare and submit to the board a listing of parole-eligible committed offenders to be considered or reconsidered accelerated for parole;

(3) Any statutory changes required or funding necessary to accommodate such process;

(4) The process by which the board shall examine committed offenders during the accelerated parole review;

(5) A review of the analysis for granting parole pursuant to section 83-1,114 and whether this process and the factors set out in such section are sufficient or adequate for the accelerated parole review process required by section 83-962;

(6) A review of the process of supervising parolees released pursuant to the accelerated review process and the necessary means to ensure public safety; and

(7) Any statutory changes required or resources necessary to accommodate the existence of an overcrowding emergency status and to facilitate the potential requisite gubernatorial declaration of such emergency.

The plan shall be submitted electronically in a report to the Legislature on or before December 1, 2018.

Sec. 57. Original sections 28-322, 29-2252, 29-2935, 29-4019, 71-961, 81-1401, 83-174.03, 83-174.04, 83-174.05, 83-191, 83-192, 83-198, 83-1,102, 83-1,103, 83-1,103.01, 83-1,103.02, 83-1,103.03, 83-1,103.04, 83-1,104, 83-1,107.01, 83-1,107.02, 83-1,109, 83-1,111, 83-1,112, 83-1,112.01, 83-1,114, 83-1,118, 83-1,120, 83-1,121, 83-1,125, and 83-4,157, Reissue Revised Statutes of Nebraska, sections 47-624, 47-624.01, 47-627, 47-629, 47-903, 47-908, 47-919, 83-170, 83-171, 83-184, 83-1,100, 83-1,100.02, 83-1,101, 83-1,107, 83-1,119, 83-1,122.01, 83-1,135, 83-1,135.02, and 83-933, Revised Statutes Cumulative Supplement, 2016, and sections 29-2261 and 83-1,110.02, Revised Statutes Supplement, 2017, are repealed.

Sec. 58. The following section is outright repealed: Section 83-1,124, Reissue Revised Statutes of Nebraska.