LENSWALL NER AKS
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGALISLATIVE BILL 114

Introduced by Blood, 3.
Read first time January 10, 2019

Committee: Judiciary

A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act;
to amend section 83-1,107, Revised Statutes Cumulative Supplement,
2018; to change provisions relating to reductions of good time; and
to repeal the original section.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 83-1,107, Revised Statutes Cumulative Supplement, 2018, 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)(a) (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.

(b) The amount of any forfeiture of a reduction of term granted pursuant to subdivision (2)(a) of this section shall not exceed:

(i) Six months per event for a violation not involving assault or serious injury to a person; or

(ii) Two years per event for a violation involving assault or serious injury to a person.

(c) An event under subdivision (3)(b) of this section may include more than one incident that results in a violation.
(d) Any forfeiture of a reduction of term granted pursuant to subdivision (2)(a) of this section may be restored by the chief executive officer of the facility with the approval of the director.

(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 plan document shall be drawn up and approved by the Division of Parole Supervision. The document shall specifically describe the approved case plan and the specific goals the division expects the parolee to achieve. The document shall also contain a realistic schedule for completion of the approved case plan. The approved case plan shall be developed with the active participation of the parolee. During the term of parole, the parolee shall comply with the approved case plan and the division shall provide programs to allow compliance by the parolee with the approved case 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.

(b) A modification in the approved case 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 plan by any parolee as scheduled for any year, or pro rata part thereof, shall cause disciplinary action to be taken by the division 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 after the offender has been notified regarding the charges of misconduct or breach of the conditions of parole.
(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. 2. Original section 83-1,107, Revised Statutes Cumulative Supplement, 2018, is repealed.