

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 114

Introduced by Blood, 3.

Read first time January 10, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act;
- 2 to amend section 83-1,107, Revised Statutes Cumulative Supplement,
- 3 2018; to change provisions relating to reductions of good time; and
- 4 to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-1,107, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 83-1,107 (1)(a) Within sixty days after initial classification and
4 assignment of any offender committed to the department, all available
5 information regarding such committed offender shall be reviewed and a
6 committed offender department-approved personalized program plan document
7 shall be drawn up. The document shall specifically describe the
8 department-approved personalized program plan and the specific goals the
9 department expects the committed offender to achieve. The document shall
10 also contain a realistic schedule for completion of the department-
11 approved personalized program plan. The department-approved personalized
12 program plan shall be developed with the active participation of the
13 committed offender. The department shall provide programs to allow
14 compliance by the committed offender with the department-approved
15 personalized program plan.

16 Programming may include, but is not limited to:

17 (i) Academic and vocational education, including teaching such
18 classes by qualified offenders;

19 (ii) Substance abuse treatment;

20 (iii) Mental health and psychiatric treatment, including criminal
21 personality programming;

22 (iv) Constructive, meaningful work programs; and

23 (v) Any other program deemed necessary and appropriate by the
24 department.

25 (b) A modification in the department-approved personalized program
26 plan may be made to account for the increased or decreased abilities of
27 the committed offender or the availability of any program. Any
28 modification shall be made only after notice is given to the committed
29 offender. The department may not impose disciplinary action upon any
30 committed offender solely because of the committed offender's failure to
31 comply with the department-approved personalized program plan, but such

1 failure may be considered by the board in its deliberations on whether or
2 not to grant parole to a committed offender.

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

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

14 (c) The total reductions under this subsection shall be credited
15 from the date of sentence, which shall include any term of confinement
16 prior to sentence and commitment as provided pursuant to section
17 83-1,106, and shall be deducted from the maximum term, to determine the
18 date when discharge from the custody of the state becomes mandatory.

19 ~~(3)(a) {3}~~ While the offender is in the custody of the department,
20 reductions of terms granted pursuant to subdivision (2)(a) of this
21 section may be forfeited, withheld, and restored by the chief executive
22 officer of the facility with the approval of the director after the
23 offender has been notified regarding the charges of misconduct.

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

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

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

30 (c) An event under subdivision (3)(b) of this section may include
31 more than one incident that results in a violation.

1 (d) Any forfeiture of a reduction of term granted pursuant to
2 subdivision (2)(a) of this section may be restored by the chief executive
3 officer of the facility with the approval of the director.

4 (4) The department shall ensure that a release or reentry plan is
5 complete or near completion when the offender has served at least eighty
6 percent of his or her sentence. For purposes of this subsection, release
7 or reentry plan means a comprehensive and individualized strategic plan
8 to ensure an individual's safe and effective transition or reentry into
9 the community to which he or she resides with the primary goal of
10 reducing recidivism. At a minimum, the release or reentry plan shall
11 include, but not be limited to, consideration of the individual's housing
12 needs, medical or mental health care needs, and transportation and job
13 needs and shall address an individual's barriers to successful release or
14 reentry in order to prevent recidivism. The release or reentry plan does
15 not include an individual's programming needs included in the
16 individual's personalized program plan for use inside the prison.

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

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

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

30 (6)(a) Within thirty days after any committed offender has been
31 paroled, all available information regarding such parolee shall be

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

10 Programming may include, but is not limited to:

11 (i) Academic and vocational education;

12 (ii) Substance abuse treatment;

13 (iii) Mental health and psychiatric treatment, including criminal
14 personality programming;

15 (iv) Constructive, meaningful work programs;

16 (v) Community service programs; and

17 (vi) Any other program deemed necessary and appropriate by the
18 division.

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

27 (7) While the offender is in the custody of the board, reductions of
28 terms granted pursuant to subdivision (2)(a) of this section may be
29 forfeited, withheld, and restored by the director upon the recommendation
30 of the board after the offender has been notified regarding the charges
31 of misconduct or breach of the conditions of parole.

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

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

13 Sec. 2. Original section 83-1,107, Revised Statutes Cumulative
14 Supplement, 2018, is repealed.