

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 980

Introduced by McKinney, 11.

Read first time January 12, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal justice; to amend section 83-175,
2 Reissue Revised Statutes of Nebraska, and sections 83-184,
3 83-1,110.02, 83-1,111, 83-1,135, and 83-1,135.02, Revised Statutes
4 Cumulative Supplement, 2020; to provide for release for medical
5 treatment; to change provisions relating to medical parole; to
6 provide for parole eligibility for persons serving sentences of
7 life; to provide duties for the Board of Parole; to provide for
8 applicability; to harmonize provisions; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-175, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 83-175 Whenever the Director of Correctional Services finds that a
4 person committed to the department requires specialized treatment,
5 medical treatment, or treatment of a kind that is not feasible to provide
6 within the department, the director may place such person in an
7 institution, facility, or community placement institutions providing such
8 treatment. If such placement is in another jurisdiction, the department
9 ~~and~~ may agree to pay reimbursement therefor. A person so placed or
10 ~~transferred to an out-of-state institution~~ shall be subject to the rules
11 and regulations of such institution concerning the custody, conduct, and
12 discipline of its inmates but shall remain subject to the Nebraska
13 Treatment and Corrections Act concerning his or her term, reduction of
14 term, and release on parole.

15 Sec. 2. Section 83-184, Revised Statutes Cumulative Supplement,
16 2020, is amended to read:

17 83-184 (1) When the conduct, behavior, mental attitude, physical
18 health, and conditions indicate that a person committed to the department
19 and the general society of the state will be benefited, and there is
20 reason to believe that the best interests of the people of the state and
21 the person committed to the department will be served thereby, in that
22 order, and upon the recommendation of the board in the case of each
23 committed offender, the director may authorize such person, under
24 prescribed conditions, to:

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

31 (b) Work at paid employment or participate in a training program in

1 the community on a voluntary basis whenever:

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

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

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

17 (d) For a person with a terminal illness, permanent incapacity, or
18 debilitating medical condition, leave the facility to receive medical
19 care and treatment and return to the same or another facility. Such
20 placement for medical treatment may be for a definite or indefinite
21 period of time in a hospital, a hospice, or another housing accommodation
22 suitable to the person's medical condition, including, but not limited
23 to, the person's family's home.

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

31 (3) A person authorized to work at paid employment in the community

1 under this section may be required to pay, and the director is authorized
2 to collect, such costs incident to the person's confinement as the
3 director deems appropriate and reasonable. Collections shall be deposited
4 in the state treasury as miscellaneous receipts.

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

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

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

18 Sec. 3. (1) Subject to subsection (2) of this section, a committed
19 offender serving a sentence of life imprisonment shall be eligible for
20 parole upon serving twenty-five years of such sentence.

21 (2) A committed offender serving a consecutive term of years, in
22 addition to a sentence of imprisonment, whether received at the same time
23 or at any time during the original sentence, shall be eligible for
24 release on parole when the offender has served the greater of:

25 (a) Twenty-five years; or

26 (b) A total of one-half of the minimum term as provided in sections
27 83-1,107 and 83-1,108 for any and all sentences for a term of years.

28 (3) The board shall conduct a parole review not later than sixty
29 days prior to the date a committed offender becomes eligible for parole
30 as provided in this section.

31 (4) If a committed offender serving a sentence imposed prior to the

1 effective date of this act is eligible for parole under this section as
2 of the effective date of this act, the board shall conduct a parole
3 review as early as is practical. The board shall prioritize such reviews
4 and set as the highest priority reviews for committed offenders who have
5 served the longest terms.

6 Sec. 4. Section 83-1,110.02, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 83-1,110.02 (1) A committed offender who is not under sentence of
9 death or of life imprisonment and who because of an existing medical or
10 physical condition is determined by the department to be terminally ill,
11 ~~or~~ permanently incapacitated, or suffering from a debilitating medical
12 condition may be considered for medical parole by the board. A committed
13 offender may be eligible for medical parole in addition to any other
14 parole. The department shall identify committed offenders who may be
15 eligible for medical parole based upon their medical records.

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

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

30 (4) The parole term of a medical parolee shall be for the remainder
31 of his or her sentence as reduced by any adjustment for good conduct

1 pursuant to the Nebraska Treatment and Corrections Act.

2 Sec. 5. Section 83-1,111, Revised Statutes Cumulative Supplement,
3 2020, is amended to read:

4 83-1,111 (1) A committed offender serving an indeterminate sentence
5 under which he or she may become eligible for parole shall be interviewed
6 and have his or her record reviewed by two or more members of the Board
7 of Parole or a person designated by the board within sixty days before
8 the expiration of his or her minimum term less any reductions as provided
9 in section 83-1,110 or, for an offender serving a sentence of life
10 imprisonment, by the deadline provided in section 3 of this act. If, in
11 the opinion of the reviewers, the review indicates the offender is
12 reasonably likely to be granted parole and has a potential parole term of
13 no less than one month, the Board of Parole shall schedule a public
14 hearing before a majority of its members. At such hearing the offender
15 may present evidence, call witnesses, and be represented by counsel. If,
16 in the opinion of the reviewers, the review indicates the offender should
17 be denied parole, the offender may request an additional review by a
18 majority of the members of the board. A review by the majority of the
19 members of the board may be conducted not more than once annually. Any
20 hearing and review shall be conducted in an informal manner, but a
21 complete record of the proceedings shall be made and preserved.

22 (2) The board shall render its decision regarding the committed
23 offender's release on parole within a reasonable time after the hearing
24 or review. The decision shall be by majority vote of the board. The
25 decision shall be based on the entire record before the board which shall
26 include the opinion of the person who conducted the review. If the board
27 denies parole, written notification listing the reasons for such denial
28 and the recommendations for correcting deficiencies which cause the
29 denial shall be given to the committed offender within thirty days
30 following the hearing.

31 (3) If the board fixes the release date, such date shall be not more

1 than six months from the date of the committed offender's parole hearing
2 or from the date of last reconsideration of his or her case, unless there
3 are special reasons for fixing a later release date.

4 (4) If the board defers the case for later reconsideration, the
5 committed offender shall be afforded a parole review at least once a year
6 until a release date is fixed. The board may order a reconsideration or a
7 rehearing of the case at any time.

8 (5) The release of a committed offender on parole shall not be upon
9 the application of the offender but by the initiative of the Board of
10 Parole. No application for release on parole made by a committed offender
11 or on his or her behalf shall be entertained by the board. This
12 subsection does not prohibit the Director of Correctional Services from
13 recommending to the board that it consider an individual offender for
14 release on parole.

15 Sec. 6. Section 83-1,135, Revised Statutes Cumulative Supplement,
16 2020, is amended to read:

17 83-1,135 Sections 83-170 to 83-1,135.05 and section 3 of this act
18 shall be known and may be cited as the Nebraska Treatment and Corrections
19 Act.

20 Sec. 7. Section 83-1,135.02, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 83-1,135.02 (1) It is the intent of the Legislature that the changes
23 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,
24 with respect to parole eligibility apply to all committed offenders under
25 sentence and not on parole on May 24, 2003, and to all persons sentenced
26 on and after such date.

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

1 persons sentenced on and after such date.

2 (3) It is the intent of the Legislature that the changes made to
3 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,
4 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by
5 Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03
6 apply to all committed offenders under sentence, on parole, or on
7 probation on or after April 20, 2016, and to all persons sentenced on and
8 after such date.

9 (4) It is the intent of the Legislature that the changes made to
10 sections 83-1,110.02 and 83-1,122.01 by Laws 2018, LB841, apply to all
11 committed offenders under sentence or on parole on or after July 19,
12 2018, and to all persons sentenced on and after such date.

13 (5) It is the intent of the Legislature that the changes made to
14 sections 83-175, 83-184, 83-1,110.02, 83-1,111, and 83-1,135 and section
15 3 of this act by this legislative bill apply to all committed offenders
16 under sentence or on parole on or after the effective date of this act,
17 and to all persons sentenced on and after such date.

18 Sec. 8. Original section 83-175, Reissue Revised Statutes of
19 Nebraska, and sections 83-184, 83-1,110.02, 83-1,111, 83-1,135, and
20 83-1,135.02, Revised Statutes Cumulative Supplement, 2020, are repealed.