

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SPECIAL SESSION

LEGISLATIVE BILL 25

Introduced by McKinney, 11.

Read first time July 26, 2024

Committee:

1 A BILL FOR AN ACT relating to criminal justice; to amend section 29-2208,
2 Revised Statutes Cumulative Supplement, 2022, and section 83-1,135,
3 Revised Statutes Supplement, 2023, as amended by Laws 2024, LB631,
4 section 44; to adopt the Prison Population Reduction and Property
5 Tax Relief Act; to provide for early discharge from parole and
6 recommendations for commutation; to provide duties for the
7 Department of Correctional Services, the Board of Parole, the
8 Division of Parole Services, the Board of Pardons, and the Reentry
9 Continuity Advisory Board; to harmonize provisions; and to repeal
10 the original section.

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

1 Section 1. Sections 1 to 4 of this act shall be known and may be
2 cited as the Prison Population Reduction and Property Tax Relief Act.

3 Sec. 2. (1) The Legislature finds that:

4 (a) High incarceration rates lead to a drain on the state's fiscal
5 resources, which means there are less resources available to provide
6 relief for property taxes pursuant to property tax relief programs
7 authorized or amended by any legislative bill enacted by the One Hundred
8 Eighth Legislature, First Special Session;

9 (b) Providing for early parole discharge and for second chance
10 relief for individuals serving long-term sentences can reduce
11 incarceration rates without requiring substantial upfront state funding;
12 and

13 (c) Reducing the prison population can lead to significant savings,
14 which can be used to lower property taxes pursuant to property tax relief
15 programs authorized or amended by any legislative bill enacted by the One
16 Hundred Eighth Legislature, First Special Session.

17 (2) Through the enactment of the Prison Population Reduction and
18 Property Tax Relief Act, the early parole discharge program under section
19 6 of this act, and the second chance relief program under section 7 of
20 this act, the Legislature intends to:

21 (a) Reduce the state prison population without requiring upfront
22 state funding; and

23 (b) Reallocate savings from reduced incarceration costs to provide
24 property tax relief pursuant to property tax relief programs authorized
25 or amended by any legislative bill enacted by the One Hundred Eighth
26 Legislature, First Special Session.

27 (3)(a) The Legislature further finds that in order to address
28 Nebraska's high incarceration rates, it is necessary to reduce the
29 numbers of people sentenced to prison when less costly and more
30 rehabilitative and effective sentences are available.

31 (b) To that end, the Legislature encourages judges throughout the

1 state to utilize, to the fullest extent permitted by the law and whenever
2 appropriate considering the facts of the case, sentences other than
3 imprisonment, including probation, community service, and house arrest.

4 Sec. 3. (1) The Department of Correctional Services shall, on or
5 before July 1, 2026, and on or before each July 1 thereafter, report on
6 cost savings to the state as a result of the early parole discharge
7 program under section 6 of this act and the second chance relief program
8 under section 7 of this act. The department shall consult with fiscal
9 analysts when determining the amount of such cost savings. The report
10 shall be submitted electronically to the Legislature and to the
11 Department of Revenue, which shall use such report to determine the
12 amount of savings that may be used for property tax relief.

13 (2) The Reentry Continuity Advisory Board shall monitor the
14 implementation and effectiveness of the early parole discharge program
15 under section 6 of this act and the second chance relief program under
16 section 7 of this act. The board shall, on or before July 1, 2026, and on
17 or before each July 1 thereafter, electronically submit a report to the
18 Legislature regarding such programs. The report shall include, but need
19 not be limited to:

20 (a) Reductions in the prison population as a result of such
21 programs;

22 (b) Cost savings achieved; and

23 (c) Recommendations for further improvements.

24 Sec. 4. It is the intent of the Legislature for FY2026-27 to
25 transfer an amount equivalent to the cost savings realized by the passage
26 of this legislative bill from the General Fund to the Property Tax Credit
27 Cash Fund and to transfer corresponding amounts for each fiscal year
28 thereafter.

29 Sec. 5. Section 29-2208, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 29-2208 (1) A person who has been ordered to pay fines or costs and

1 who has not been arrested or brought into custody as described in
2 subdivision (1)(a) of section 29-2412 but who believes himself or herself
3 to be financially unable to pay such fines or costs may request a hearing
4 to determine such person's financial ability to pay such fines or costs.
5 The hearing shall be scheduled on the first regularly scheduled court
6 date following the date of the request. Pending the hearing, the person
7 shall not be arrested or brought into custody for failure to pay such
8 fines or costs or failure to appear before a court or magistrate on the
9 due date of such fines or costs.

10 (2) At the hearing, the person shall have the opportunity to present
11 information as to his or her income, assets, debts, or other matters
12 affecting his or her financial ability to pay. Following the hearing, the
13 court or magistrate shall determine the person's financial ability to pay
14 the fines or costs, including his or her financial ability to pay in
15 installments as described in section 29-2206.

16 (3) If the court or magistrate determines that the person is
17 financially able to pay the fines or costs and the person refuses to pay,
18 the court or magistrate may:

19 (a) Deny the person's request for relief; or

20 (b) Enter an order pursuant to subsection (5) of this section
21 discharging the person of such fines or costs and order the person to
22 complete community service for a specified number of hours pursuant to
23 sections 29-2277 to 29-2279.

24 (4) If the court or magistrate determines that the person is
25 financially unable to pay the fines or costs, the court or magistrate:

26 (a) Shall either:

27 (i) Enter an order pursuant to subsection (5) of this section
28 discharging the person of such fines or costs; or

29 (ii) If the person is subject to an order to pay installments
30 pursuant to section 29-2206, the court or magistrate shall either enter
31 an order pursuant to subsection (5) of this section discharging the

1 person of such obligation or make any necessary modifications to the
2 order specifying the terms of the installment payments as justice may
3 require and that will enable the person to pay the fines or costs; and

4 (b) May order the person to complete community service for a
5 specified number of hours pursuant to sections 29-2277 to 29-2279.

6 (5) An order discharging the person of fines or costs shall be set
7 forth in or accompanied by a judgment entry. Such order shall operate as
8 a complete release of such fines or costs.

9 (6) If the court or magistrate orders a person to complete community
10 service under this section, the court or magistrate shall provide the
11 person with documentation of the fines or costs and how many hours the
12 person will need to complete as well as a list of organizations in the
13 community where the person may complete such community service.

14 Sec. 6. (1) The department and the Division of Parole Supervision
15 shall establish a program to provide recommendations for early parole
16 discharge as provided in this section.

17 (2) A parolee may be eligible for a recommendation for early parole
18 discharge if the parolee:

19 (a) Has successfully served at least six months in a community
20 corrections facility;

21 (b) Has successfully completed at least ninety days of parole;

22 (c) Holds a high school diploma or its equivalent or has
23 successfully completed substantially equivalent educational programs
24 provided or approved by the department;

25 (d) Has maintained steady employment or, if participating in
26 postsecondary education, has a proposed stable host site for the term of
27 parole supervision and an identifiable means of support;

28 (e) Has not had any major disciplinary violations at the community
29 corrections facility;

30 (f) Has no more than five minor disciplinary violations in the last
31 two years;

1 (g) Has successfully participated in programming deemed necessary in
2 the community corrections facility, including, but not limited to,
3 substance abuse education, parenting skills, anger management, and job
4 preparedness; and

5 (h) Meets other criteria established by the director.

6 (3) The department shall screen all committed offenders who have
7 successfully completed at least six months in a community corrections
8 facility and who are being released on parole to determine if such
9 committed offenders are eligible or likely to be eligible for a
10 recommendation for early parole discharge. If the department determines
11 the committed offender is a good candidate for early parole discharge, it
12 shall provide notice of such determination to the offender, the Board of
13 Parole, and the Board of Pardons.

14 (4) Upon receipt of a determination under subsection (3) of this
15 section, the Board of Parole shall review such determination. Such review
16 shall be completed no later than twenty working days prior to the
17 parolee's ninetieth day on parole. The Board of Parole may agree to
18 recommend early parole discharge or may decline to make such
19 recommendation. The Board of Parole shall give notice of its
20 recommendation or denial to the Board of Pardons, the department, and the
21 parolee. The Board of Parole shall only decline to make such
22 recommendation based upon specific, demonstrated factors, such as:

23 (a) Positive urinalysis;

24 (b) Failure to report an arrest of the parolee;

25 (c) Possession of a dangerous weapon by the parolee;

26 (d) Failure to consent to a search of the parolee by a parole
27 officer;

28 (e) Unauthorized movement violations regarding the parolee;

29 (f) Noncompliance by the parolee with terms and conditions of parole
30 supervision; or

31 (g) Failure of the parolee to follow instructions provided by a

1 parole officer.

2 (5) If the Board of Pardons receives a recommendation for early
3 parole from the Board of Parole, the Board of Pardons shall promptly
4 consider whether to grant an early discharge from parole. If the Board of
5 Pardons grants an early discharge from parole, it shall be for a period
6 of at least ninety days. If the Board of Pardons determines not to grant
7 such discharge, it shall provide the parolee with a list of steps or
8 requirements that the parolee must satisfy to be granted an early
9 discharge at a subsequent review and provide a process for seeking a
10 subsequent early discharge review by the Board of Pardons. Upon
11 completion of such steps or requirements, the individual may petition the
12 Board of Pardons to grant an early discharge. The Board of Pardons shall
13 review a petition for subsequent review of a recommendation for early
14 discharge and make a determination within thirty days after receipt of
15 such petition.

16 Sec. 7. (1)(a) The Legislature finds that individuals serving long-
17 term or life sentences who are rehabilitated and ready to be safely
18 released from incarceration should be able to earn a second chance by
19 receiving a commutation of their sentences from the Board of Pardons.
20 Such commutation is intended to allow such rehabilitated individuals to
21 be responsibly reintegrated into their communities while on parole and,
22 if successful on parole, as fully free individuals.

23 (b) Second chance relief is a program through which the department,
24 the Division of Parole Supervision, and the Board of Parole identify
25 eligible committed offenders and work with them to apply for a
26 commutation from the Board of Pardons.

27 (2) The department, the Division of Parole Supervision, and the
28 Board of Parole shall establish a program to provide recommendations for
29 second chance relief as provided in this section.

30 (3) A committed offender serving a sentence of imprisonment,
31 including life imprisonment, is eligible for second chance relief under

1 this section as follows:

2 (a) For an offense committed when the offender was younger than
3 twenty-six years of age, after serving at least twenty-five years of a
4 sentence of imprisonment; or

5 (b) For an offense committed when the offender was twenty-six years
6 of age or older, after serving at least thirty years of a sentence of
7 imprisonment.

8 (4) The department shall regularly identify committed offenders who
9 are eligible under this section or who will become eligible within five
10 years. The department shall regularly provide lists of such offenders to
11 the Board of Parole. The board shall advise such offenders regarding the
12 second chance relief program and work with interested offenders to
13 improve their chances of obtaining second chance relief through
14 rehabilitation and good behavior.

15 (5) In determining whether an eligible committed offender is
16 rehabilitated and a good candidate for second chance relief, the Board of
17 Parole shall:

18 (a) Complete a risk assessment for the committed offender; and

19 (b) Involve community leaders and stakeholders in the review process
20 to ensure that public safety and community concerns are addressed.

21 (6) If the Board of Parole determines that an eligible committed
22 offender is rehabilitated and a good candidate for second chance relief,
23 the board shall make a recommendation to the Board of Pardons that such
24 offender's sentence be commuted.

25 (7)(a) If the Board of Pardons receives a recommendation for second
26 chance relief from the Board of Parole, the Board of Pardons shall
27 promptly consider whether to grant a commutation of some or all of the
28 remainder of a committed offender's sentence.

29 (b) If the Board of Pardons determines not to grant a commutation,
30 it shall provide the committed offender with a list of steps or
31 requirements that the committed offender must satisfy to increase the

1 chances the committed offender will be granted a commutation at a
2 subsequent review. The Board of Pardons shall also provide a process for
3 seeking a subsequent commutation review. Upon completion of such steps or
4 requirements, the committed offender may petition the Board of Pardons to
5 grant a commutation. The Board of Pardons shall review a petition for
6 subsequent review and make a determination within thirty days after
7 receipt of such petition.

8 (8) If a committed offender is granted a commutation and paroled
9 under this section, the Board of Parole shall:

10 (a) Develop a detailed reentry plan tailored to the committed
11 offender's needs, including job placement, housing support, and access to
12 continuing education and mental health services;

13 (b) Provide the committed offender with access to mentorship
14 programs and community support networks to facilitate successful
15 reintegration into the community;

16 (c) Provide for victim and community involvement through restorative
17 justice programs. The Board of Parole shall offer restorative justice
18 opportunities, when appropriate, to allow the committed offender to make
19 amends with victims and the community; and

20 (d) Provide for accountability and monitoring by requiring regular
21 check-ins with parole officers and continuous monitoring during the
22 initial phase of reentry to ensure compliance with conditions of parole.

23 (9) The Board of Parole shall implement a system for ongoing
24 evaluation and adjustment of the second chance relief program based on
25 outcomes and feedback.

26 Sec. 8. Section 83-1,135, Revised Statutes Supplement, 2023, as
27 amended by Laws 2024, LB631, section 44, is amended to read:

28 83-1,135 Sections 83-170 to 83-1,135.05, and sections 37 to 43 of
29 this act, and sections 6 and 7 of this act shall be known and may be
30 cited as the Nebraska Treatment and Corrections Act.

31 Sec. 9. Original section 29-2208, Revised Statutes Cumulative

1 Supplement, 2022, and section 83-1,135, Revised Statutes Supplement,
2 2023, as amended by Laws 2024, LB631, section 44, are repealed.