

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 425

Introduced by Riepe, 12.

Read first time January 16, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Department of Correctional Services; to
2 amend sections 29-3803, 29-3804, 29-4014, 47-123, 81-1850, 83-170,
3 83-1,107, 83-1,108, 83-1,109, 83-1,110, 83-1,118, 83-1,122,
4 83-1,123, 83-1,125, 83-4,111, 83-4,122, and 83-4,123, Reissue
5 Revised Statutes of Nebraska, and section 29-2204, Revised Statutes
6 Cumulative Supplement, 2014; to provide for earned time; to
7 discontinue the use of good time as prescribed; to define a term; to
8 harmonize provisions; to provide an operative date; and to repeal
9 the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2204, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 29-2204 (1) Except when a term of life imprisonment is required by
4 law, in imposing an indeterminate sentence upon an offender the court
5 shall:

6 (a)(i) Until July 1, 1998, fix the minimum and maximum limits of the
7 sentence to be served within the limits provided by law, except that when
8 a maximum limit of life is imposed by the court for a Class IB felony,
9 the minimum limit may be any term of years not less than the statutory
10 mandatory minimum; and

11 (ii) Beginning July 1, 1998:

12 (A) Fix the minimum and maximum limits of the sentence to be served
13 within the limits provided by law for any class of felony other than a
14 Class IV felony, except that when a maximum limit of life is imposed by
15 the court for a Class IB felony, the minimum limit may be any term of
16 years not less than the statutory mandatory minimum. If the criminal
17 offense is a Class IV felony, the court shall fix the minimum and maximum
18 limits of the sentence, but the minimum limit fixed by the court shall
19 not be less than the minimum provided by law nor more than one-third of
20 the maximum term and the maximum limit shall not be greater than the
21 maximum provided by law; or

22 (B) Impose a definite term of years, in which event the maximum term
23 of the sentence shall be the term imposed by the court and the minimum
24 term shall be the minimum sentence provided by law;

25 (b) Advise the offender on the record the time the offender will
26 serve on his or her minimum term before attaining parole eligibility
27 assuming that no earned ~~good~~ time for which the offender will be eligible
28 is suspended ~~lost~~; and

29 (c) Advise the offender on the record the time the offender will
30 serve on his or her maximum term before attaining mandatory release
31 assuming that no earned ~~good~~ time for which the offender will be eligible

1 is suspended ~~lost~~.

2 If any discrepancy exists between the statement of the minimum limit
3 of the sentence and the statement of parole eligibility or between the
4 statement of the maximum limit of the sentence and the statement of
5 mandatory release, the statements of the minimum limit and the maximum
6 limit shall control the calculation of the offender's term. If the court
7 imposes more than one sentence upon an offender or imposes a sentence
8 upon an offender who is at that time serving another sentence, the court
9 shall state whether the sentences are to be concurrent or consecutive.

10 (2)(a) When the court is of the opinion that imprisonment may be
11 appropriate but desires more detailed information as a basis for
12 determining the sentence to be imposed than has been provided by the
13 presentence report required by section 29-2261, the court shall commit an
14 offender to the Department of Correctional Services for a period not
15 exceeding ninety days. The department shall conduct a complete study of
16 the offender during that time, inquiring into such matters as his or her
17 previous delinquency or criminal experience, social background,
18 capabilities, and mental, emotional, and physical health and the
19 rehabilitative resources or programs which may be available to suit his
20 or her needs. By the expiration of the period of commitment or by the
21 expiration of such additional time as the court shall grant, not
22 exceeding a further period of ninety days, the offender shall be returned
23 to the court for sentencing and the court shall be provided with a
24 written report of the results of the study, including whatever
25 recommendations the department believes will be helpful to a proper
26 resolution of the case. After receiving the report and the
27 recommendations, the court shall proceed to sentence the offender in
28 accordance with subsection (1) of this section. The term of the sentence
29 shall run from the date of original commitment under this subsection.

30 (b) In order to encourage the use of this procedure in appropriate
31 cases, all costs incurred during the period the defendant is held in a

1 state institution under this subsection shall be a responsibility of the
2 state and the county shall be liable only for the cost of delivering the
3 defendant to the institution and the cost of returning him or her to the
4 appropriate court for sentencing or such other disposition as the court
5 may then deem appropriate.

6 (3) Except when a term of life is required by law, whenever the
7 defendant was under eighteen years of age at the time he or she committed
8 the crime for which he or she was convicted, the court may, in its
9 discretion, instead of imposing the penalty provided for the crime, make
10 such disposition of the defendant as the court deems proper under the
11 Nebraska Juvenile Code. ~~Until October 1, 2013, prior to making a~~
12 ~~disposition which commits the juvenile to the Office of Juvenile~~
13 ~~Services, the court shall order the juvenile to be evaluated by the~~
14 ~~office if the juvenile has not had an evaluation within the past twelve~~
15 ~~months.~~

16 Sec. 2. Section 29-3803, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 29-3803 Any person who is imprisoned in a facility operated by the
19 Department of Correctional Services may request in writing to the
20 director final disposition of any untried indictment, information, or
21 complaint pending against him or her in this state. Upon receiving any
22 request from a prisoner for final disposition of any untried indictment,
23 information, or complaint, the director shall:

24 (1) Furnish the prosecutor with a certificate stating the term of
25 commitment under which the prisoner is being held, the time already
26 served on the sentence, the time remaining to be served, the good time
27 earned or the accrued earned time, the time of the prisoner's parole
28 eligibility, and any decision of the Board of Parole relating to the
29 prisoner;

30 (2) Send by registered or certified mail, return receipt requested,
31 one copy of the request and the certificate to the court in which the

1 untried indictment, information, or complaint is pending and one copy to
2 the prosecutor charged with the duty of prosecuting it; and

3 (3) Offer to deliver temporary custody of the prisoner to the
4 appropriate authority in the city or county where the untried indictment,
5 information, or complaint is pending.

6 Sec. 3. Section 29-3804, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 29-3804 The prosecutor in a city or county in which an untried
9 indictment, information, or complaint is pending shall be entitled to
10 have a prisoner, against whom he or she has lodged a detainer and who is
11 serving a term of imprisonment in any facility operated by the Department
12 of Correctional Services, made available upon presentation of a written
13 request for temporary custody or availability to the director. The court
14 having jurisdiction of such indictment, information, or complaint shall
15 duly approve, record, and transmit the prosecutor's request. Upon receipt
16 of the prosecutor's written request the director shall:

17 (1) Furnish the prosecutor with a certificate stating the term of
18 commitment under which the prisoner is being held, the time already
19 served, the time remaining to be served on the sentence, the good time
20 earned or the accrued earned time, the time of the prisoner's parole
21 eligibility, and any decision of the Board of Parole relating to the
22 prisoner; and

23 (2) Offer to deliver temporary custody of the prisoner to the
24 appropriate authority in the city or county where the untried indictment,
25 information, or complaint is pending in order that speedy and efficient
26 prosecution may be had.

27 Sec. 4. Section 29-4014, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 29-4014 Any person convicted of a crime requiring registration as a
30 sex offender pursuant to section 29-4003 and committed to the Department
31 of Correctional Services shall attend appropriate sex offender treatment

1 and counseling programming offered by the department. Refusal to
2 participate in such programming shall not result in disciplinary action
3 or a loss of good-time credit or earned time ~~good-time credit~~ on the part
4 of the offender but shall require a civil commitment evaluation pursuant
5 to section 83-174.02 prior to the completion of his or her criminal
6 sentence.

7 Sec. 5. Section 47-123, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 47-123 Inmate participation in community service projects shall be
10 voluntary and no extra good-time credit or earned time shall be given to
11 inmates who participate in a community service project. In no event shall
12 an inmate's decision to participate or not participate in a community
13 service project have any bearing on the granting of good-time credit or
14 earned time.

15 Sec. 6. Section 81-1850, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 81-1850 (1) Upon request of the victim and at the time of conviction
18 of the offender, the county attorney of the jurisdiction in which a
19 person is convicted of a felony shall forward to the Board of Parole, the
20 Department of Correctional Services, the county corrections agency, or
21 the Department of Health and Human Services the name and address of any
22 victim, as defined in section 29-119, of the convicted person. The board,
23 the Department of Correctional Services, the county corrections agency,
24 or the Department of Health and Human Services shall include the name in
25 the file of the convicted person, but the name shall not be part of the
26 public record of any parole hearings of the convicted person. Any victim,
27 including a victim who has waived his or her right to notification at the
28 time of conviction, may request the notification prescribed in this
29 section, as applicable, by sending a written request to the board, the
30 Department of Correctional Services, the county corrections agency, or
31 the Department of Health and Human Services any time after the convicted

1 person is incarcerated and until the convicted person is no longer under
2 the jurisdiction of the board, the county corrections agency, or the
3 Department of Correctional Services or, if the person is under the
4 jurisdiction of the Department of Health and Human Services, within the
5 three-year period after the convicted person is no longer under the
6 jurisdiction of the board, the county corrections agency, or the
7 Department of Correctional Services.

8 (2) A victim whose name appears in the file of the convicted person
9 shall be notified by the Board of Parole:

10 (a) Within ninety days after conviction of an offender, of the
11 tentative date of release and the earliest parole eligibility date of
12 such offender;

13 (b) Of any parole hearings or proceedings;

14 (c) Of any decision of the Board of Parole;

15 (d) When a convicted person who is on parole is returned to custody
16 because of parole violations; and

17 (e) If the convicted person has been adjudged a mentally disordered
18 sex offender or is a convicted sex offender, when such person is released
19 from custody or treatment.

20 Such notification shall be given in person, by telecommunication, or
21 by mail.

22 (3) A victim whose name appears in the file of the convicted person
23 shall be notified by the Department of Correctional Services or a county
24 corrections agency:

25 (a) When a convicted person is granted a furlough or release from
26 incarceration for twenty-four hours or longer or any transfer of the
27 convicted person to community status;

28 (b) When a convicted person is released into community-based
29 programs, including educational release and work release programs. Such
30 notification shall occur at the beginning and termination of any such
31 program;

1 (c) When a convicted person escapes or does not return from a
2 granted furlough or release and again when the convicted person is
3 returned into custody;

4 (d) When a convicted person is discharged from custody upon
5 completion of his or her sentence. Such notice shall be given at least
6 thirty days before discharge, when practicable;

7 (e) Of the (i) department's calculation of the earliest parole
8 eligibility date of the prisoner with all potential good-time ~~good-time~~
9 or disciplinary credits or earned time considered if the sentence exceeds
10 ninety days or (ii) county corrections agency's calculation of the
11 earliest release date of the prisoner. The victim may request one notice
12 of the calculation described in this subdivision. Such information shall
13 be mailed not later than thirty days after receipt of the request;

14 (f) Of any reduction in the prisoner's minimum sentence; and

15 (g) Of the victim's right to submit a statement as provided in
16 section 81-1848.

17 (4) A victim whose name appears in the file of a convicted person
18 shall be notified by the Department of Health and Human Services:

19 (a) When a person convicted of an offense listed in subsection (5)
20 of this section becomes the subject of a petition pursuant to the
21 Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act
22 prior to his or her discharge from custody upon the completion of his or
23 her sentence or within thirty days after such discharge. The county
24 attorney who filed the petition shall notify the Department of
25 Correctional Services of such petition. The Department of Correctional
26 Services shall forward the names and addresses of victims appearing in
27 the file of the convicted person to the Department of Health and Human
28 Services;

29 (b) When a person under a mental health board commitment pursuant to
30 subdivision (a) of this subsection escapes from an inpatient facility
31 providing board-ordered treatment and again when the person is returned

1 to an inpatient facility;

2 (c) When a person under a mental health board commitment pursuant to
3 subdivision (a) of this subsection is discharged or has a change in
4 disposition from inpatient board-ordered treatment;

5 (d) When a person under a mental health board commitment pursuant to
6 subdivision (a) of this subsection is granted a furlough or release for
7 twenty-four hours or longer; and

8 (e) When a person under a mental health board commitment pursuant to
9 subdivision (a) of this subsection is released into educational release
10 programs or work release programs. Such notification shall occur at the
11 beginning and termination of any such program.

12 (5) Subsection (4) of this section applies to persons convicted of
13 at least one of the following offenses which is also alleged to be the
14 recent act or threat underlying the commitment of such persons as
15 mentally ill and dangerous or as dangerous sex offenders as defined in
16 section 83-174.01:

17 (a) Murder in the first degree pursuant to section 28-303;

18 (b) Murder in the second degree pursuant to section 28-304;

19 (c) Kidnapping pursuant to section 28-313;

20 (d) Assault in the first degree pursuant to section 28-308;

21 (e) Assault in the second degree pursuant to section 28-309;

22 (f) Sexual assault in the first degree pursuant to section 28-319;

23 (g) Sexual assault in the second degree pursuant to section 28-320;

24 (h) Sexual assault of a child in the first degree pursuant to
25 section 28-319.01;

26 (i) Sexual assault of a child in the second or third degree pursuant
27 to section 28-320.01;

28 (j) Stalking pursuant to section 28-311.03; or

29 (k) An attempt, solicitation, or conspiracy to commit an offense
30 listed in subdivisions (a) through (j) of this subsection.

31 (6) A victim whose name appears in the file of a convicted person

1 shall be notified by the Board of Pardons:

2 (a) Of any pardon or commutation proceedings; and

3 (b) If a pardon or commutation has been granted.

4 (7) The Board of Parole, the Department of Correctional Services,
5 the Department of Health and Human Services, and the Board of Pardons
6 shall adopt and promulgate rules and regulations as needed to carry out
7 this section.

8 (8) The victim's address and telephone number maintained by the
9 Department of Correctional Services, the Department of Health and Human
10 Services, the county corrections agency, or the Board of Parole pursuant
11 to subsection (1) of this section shall be exempt from disclosure under
12 public records laws and federal freedom of information laws, as such laws
13 existed on January 1, 2004.

14 Sec. 7. Section 83-170, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 83-170 As used in the Nebraska Treatment and Corrections Act, unless
17 the context otherwise requires:

18 (1) Administrator means ~~shall mean~~ the Parole Administrator;

19 (2) Board means ~~shall mean~~ the Board of Parole;

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

25 (4) Department means ~~shall mean~~ the Department of Correctional
26 Services;

27 (5) Director means ~~shall mean~~ the Director of Correctional Services;

28 (6) Earned time means any reduction of sentence granted pursuant to
29 sections 83-1,107 and 83-1,108 for sentences imposed on or after the
30 operative date of this act;

31 (7) Facility means ~~shall mean~~ any prison, reformatory, training

1 school, reception center, community guidance center, group home, or other
2 institution operated by the department;

3 (8 7) Good time means ~~shall mean~~ any reduction of sentence granted
4 pursuant to sections 83-1,107 and 83-1,108 for sentences imposed prior to
5 the operative date of this act;

6 (9 8) Maximum term means ~~shall mean~~ the maximum sentence provided by
7 law or the maximum sentence imposed by a court, whichever is shorter;

8 (10 9) Minimum term means ~~shall mean~~ the minimum sentence provided
9 by law or the minimum sentence imposed by a court, whichever is longer;

10 (11 10) Pardon authority means ~~shall mean~~ the power to remit fines
11 and forfeitures and to grant respites, reprieves, pardons, or
12 commutations;

13 (12 11) Parole term means ~~shall mean~~ the time from release on parole
14 to the completion of the maximum term, reduced by good time; and

15 (13 12) Person committed to the department means ~~shall mean~~ any
16 person sentenced or committed to a facility within the department.

17 Sec. 8. Section 83-1,107, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 83-1,107 (1)(a) Within sixty days after initial classification and
20 assignment of any offender committed to the department, all available
21 information regarding such committed offender shall be reviewed and a
22 committed offender department-approved personalized program plan document
23 shall be drawn up. The document shall specifically describe the
24 department-approved personalized program plan and the specific goals the
25 department expects the committed offender to achieve. The document shall
26 also contain a realistic schedule for completion of the department-
27 approved personalized program plan. The department-approved personalized
28 program plan shall be fully explained to the committed offender. The
29 department shall provide programs to allow compliance by the committed
30 offender with the department-approved personalized program plan.

31 Programming may include, but is not limited to:

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

3 (ii) Substance abuse treatment;

4 (iii) Mental health and psychiatric treatment, including criminal
5 personality programming;

6 (iv) Constructive, meaningful work programs; and

7 (v) Any other program deemed necessary and appropriate by the
8 department.

9 (b) A modification in the department-approved personalized program
10 plan may be made to account for the increased or decreased abilities of
11 the committed offender or the availability of any program. Any
12 modification shall be made only after notice is given to the committed
13 offender. The department may not impose disciplinary action upon any
14 committed offender solely because of the committed offender's failure to
15 comply with the department-approved personalized program plan, but such
16 failure may be considered by the board in its deliberations on whether or
17 not to grant parole to a committed offender.

18 (2)(a) This subdivision applies to sentences imposed prior to the
19 operative date of this act. The department shall reduce the term of a
20 committed offender by six months for each year of the offender's term and
21 pro rata for any part thereof which is less than a year.

22 (b) This subdivision applies to sentences imposed on or after the
23 operative date of this act. The department may apply earned time only to
24 eligibility for parole or mandatory supervision. Earned time does not
25 otherwise affect a committed offender's term. Earned time is a privilege
26 and not a right. The department may grant earned time to a committed
27 offender only if the department finds that the committed offender is
28 actively engaged in a vocational or an educational program, in an
29 industrial program or other work program, or in a treatment program,
30 unless the department finds that the committed offender is not capable of
31 participating in such a program. A committed offender may accrue earned

1 time in an amount determined by the department that does not exceed
2 fifteen days for each thirty days actually served for the diligent
3 participation in a vocational or educational program provided to inmates
4 by the department. For purposes of this subdivision, participation in
5 vocational or an educational program includes the participation of the
6 committed offender as a tutor or pupil. The department may not award
7 earned time for the participation in a literacy program unless the
8 department determines that the committed offender participated in good
9 faith and with diligence as a tutor or pupil.

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

18 (d) The total reductions under this subsection shall be credited
19 from the date of sentence, which shall include any term of confinement
20 prior to sentence and commitment as provided pursuant to section
21 83-1,106, and shall be deducted from the maximum term, to determine the
22 date when discharge from the custody of the state becomes mandatory.

23 (3) While the offender is in the custody of the department,
24 reductions of terms granted pursuant to subdivisions (2)(a) and (b)
25 subdivision (2)(a) of this section may be forfeited, withheld, suspended,
26 and restored by the chief executive officer of the facility ~~with the~~
27 ~~approval of the director~~ after the offender has been notified regarding
28 the charges of misconduct.

29 (4)(a) This subsection applies to sentences imposed on or after the
30 operative date of this act. If a committed offender commits an offense or
31 violates a rule of the department during the actual term of imprisonment

1 of the committed offender in the department or in a transfer facility,
2 the department may forfeit all or any part of the committed offender's
3 accrued earned time or, in accordance with a policy adopted under
4 subdivision (4)(c) of this section, place all or any part of the
5 committed offender's accrued earned time under suspension. The department
6 may not restore earned time forfeited under this subsection but may
7 reinstate earned time suspended under this subsection, except that the
8 department may restore earned time forfeited on a revocation that does
9 not involve a new criminal conviction after the committed offender has
10 served at least three months of good behavior in the facility subject to
11 the policies established by the facility.

12 (b) On the revocation of parole or mandatory supervision of a
13 committed offender, the committed offender shall forfeit all earned time
14 previously accrued. Upon return to a Department of Correctional Services
15 adult correctional facility, the committed offender may accrue new earned
16 time for subsequent time served in the facility.

17 (c) The department shall establish a policy regarding the suspension
18 of earned time under subdivision (4)(a) of this section. The policy shall
19 provide that:

20 (i) The department will consider the severity of a committed
21 offender's offense or violation in determining whether to suspend all or
22 part of a committed offender's earned time instead of forfeiting the
23 committed offender's earned time; and

24 (ii) During any period that earned time is under suspension, earned
25 time placed under suspension may not be used for purposes of granting
26 privileges to a committed offender or to compute a committed offender's
27 eligibility for parole or mandatory supervision.

28 (5 4) The department shall ensure that a release or reentry plan is
29 complete or near completion when the offender has served at least eighty
30 percent of his or her sentence. For purposes of this subsection, release
31 or reentry plan means a comprehensive and individualized strategic plan

1 to ensure an individual's safe and effective transition or reentry into
2 the community to which he or she resides with the primary goal of
3 reducing recidivism. At a minimum, the release or reentry plan shall
4 include, but not be limited to, consideration of the individual's housing
5 needs, medical or mental health care needs, and transportation and job
6 needs and shall address an individual's barriers to successful release or
7 reentry in order to prevent recidivism. The release or reentry plan does
8 not include an individual's programming needs included in the
9 individual's personalized program plan for use inside the prison.

10 (6 5) The department shall make treatment programming available to
11 committed offenders as provided in section 83-1,110.01 and shall include
12 continuing participation in such programming as part of each offender's
13 parolee personalized program plan.

14 (7 6)(a) Within thirty days after any committed offender has been
15 paroled, all available information regarding such parolee shall be
16 reviewed and a parolee personalized program plan document shall be drawn
17 up and approved by the Office of Parole Administration. The document
18 shall specifically describe the approved personalized program plan and
19 the specific goals the office expects the parolee to achieve. The
20 document shall also contain a realistic schedule for completion of the
21 approved personalized program plan. The approved personalized program
22 plan shall be fully explained to the parolee. During the term of parole,
23 the parolee shall comply with the approved personalized program plan and
24 the office shall provide programs to allow compliance by the parolee with
25 the approved personalized program plan.

26 Programming may include, but is not limited to:

27 (i) Academic and vocational education;

28 (ii) Substance abuse treatment;

29 (iii) Mental health and psychiatric treatment, including criminal
30 personality programming;

31 (iv) Constructive, meaningful work programs;

1 (v) Community service programs; and
2 (vi) Any other program deemed necessary and appropriate by the
3 office.

4 (b) A modification in the approved personalized program plan may be
5 made to account for the increased or decreased abilities of the parolee
6 or the availability of any program. Any modification shall be made only
7 after notice is given to the parolee. Intentional failure to comply with
8 the approved personalized program plan by any parolee as scheduled for
9 any year, or pro rata part thereof, shall cause disciplinary action to be
10 taken by the office resulting in the forfeiture of up to a maximum of
11 three months' good time or suspension or forfeiture of up to three
12 months' earned time for the scheduled year.

13 (~~8~~ 7) While the offender is in the custody of the board, reductions
14 of terms granted pursuant to subdivisions (2)(a) and (b) ~~subdivision (2)~~
15 ~~(a)~~ of this section may be forfeited, suspended, withheld, and restored
16 by the administrator with the approval of the director after the offender
17 has been notified regarding the charges of misconduct or breach of the
18 conditions of parole. In addition, the board may recommend such
19 forfeitures of good time or suspensions or forfeitures of earned time to
20 the director.

21 (~~9~~ 8) Good time or other reductions of sentence granted under ~~the~~
22 ~~provisions of any law prior to July 1, 1996, may be forfeited, withheld,~~
23 ~~or restored in accordance with the terms of the Nebraska Treatment and~~
24 ~~Corrections Act.~~ Good time or other reductions of sentence granted under
25 any law prior to the operative date of this act may be forfeited,
26 withheld, or restored in accordance with the act.

27 Sec. 9. Section 83-1,108, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 83-1,108 (1) The board shall reduce, for good conduct in conformity
30 with the conditions of parole, a parolee's parole term by ten days for
31 each month of such term. The total of such reductions shall be deducted

1 from the maximum term, less good time or earned time granted pursuant to
2 section 83-1,107, to determine the date when discharge from parole
3 becomes mandatory.

4 (2) Reductions of the parole terms may be forfeited, suspended,
5 withheld, and restored by the board after the parolee has been consulted
6 regarding any charge of misconduct or breach of the conditions of parole.

7 Sec. 10. Section 83-1,109, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 83-1,109 The chief executive officer of a facility shall regularly
10 report all good time and earned time and all forfeitures, suspensions,
11 withholdings, and restorations of good time and earned time to the
12 director. On the basis of such report, the director shall inform the
13 board and the administrator of all committed offenders who are expected
14 to become eligible for release on parole within the next three months.

15 Sec. 11. Section 83-1,110, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 83-1,110 (1) Every committed offender shall be eligible for parole
18 when the offender has served one-half the minimum term of his or her
19 sentence as provided in sections 83-1,107 and 83-1,108. The board shall
20 conduct a parole review not later than sixty days prior to the date a
21 committed offender becomes eligible for parole as provided in this
22 subsection, except that if a committed offender is eligible for parole
23 upon his or her commitment to the department, a parole review shall occur
24 as early as is practical. No such reduction of sentence shall be applied
25 to any sentence imposing a mandatory minimum term.

26 (2) Every committed offender sentenced to consecutive terms, whether
27 received at the same time or at any time during the original sentence,
28 shall be eligible for release on parole when the offender has served the
29 total of one-half the minimum term as provided in sections 83-1,107 and
30 83-1,108. The maximum terms shall be added to compute the new maximum
31 term which, less good time or earned time, shall determine the date when

1 discharge from the custody of the state becomes mandatory.

2 Sec. 12. Section 83-1,118, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 83-1,118 (1) If, in the opinion of the board, a parolee does not
5 require guidance or supervision, the board may dispense with and
6 terminate such supervision.

7 (2) The board may discharge a parolee from parole at any time if
8 such discharge is compatible with the protection of the public and is in
9 the best interest of the parolee.

10 (3) The board shall discharge a parolee from parole when the time
11 served in the custody of the department and the time served on parole
12 equal the maximum term less good time or earned time.

13 (4) The department shall discharge a committed offender from the
14 custody of the department when the time served in the facility equals the
15 maximum term less good time or earned time.

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

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

27 Sec. 13. Section 83-1,122, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 83-1,122 (1) If the board finds that the parolee has engaged in
30 criminal conduct, used drugs or alcohol, or refused to submit to a drug
31 or alcohol test while on parole, the board may order revocation of the

1 parolee's parole.

2 (2) If the board finds that the parolee did violate a condition of
3 parole but is of the opinion that revocation of parole is not
4 appropriate, the board may order that:

5 (a) The parolee receive a reprimand and warning;

6 (b) Parole supervision and reporting be intensified;

7 (c) Good time granted pursuant to section 83-1,108 be forfeited or
8 withheld or earned time granted pursuant to section 83-1,108 be forfeited
9 or suspended; or

10 (d) The parolee be required to conform to one or more additional
11 conditions of parole which may be imposed in accordance with the Nebraska
12 Treatment and Corrections Act.

13 Sec. 14. Section 83-1,123, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 83-1,123 (1) A parolee whose parole is revoked shall be recommitted
16 to the department until discharge from the custody of the state becomes
17 mandatory or until reparaoled by the board.

18 (2) The time from the date of the parolee's declared delinquency
19 until the date of arrest for the custody of the board shall not be
20 counted as any portion of the time served.

21 (3) A parolee whose parole has been revoked shall be considered by
22 the board for reparole at any time in the same manner as any other
23 committed offender eligible for parole.

24 (4) Except in the case of a parolee who has left the jurisdiction or
25 his or her place of residence, action revoking a parolee's parole and
26 recommitting the parolee for violation of the conditions of parole must
27 be taken before the expiration of the parole term less good time or
28 earned time. A parolee who has left the jurisdiction or his or her place
29 of residence shall be treated as a parole violator and, when apprehended,
30 shall be subject to recommitment or to supervision for the balance of the
31 parole term as of the date of the violation.

1 Sec. 15. Section 83-1,125, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 83-1,125 (1) If a warrant or detainer is placed against a committed
4 offender by a court, parole agency, or other authority of this or any
5 other jurisdiction, the administrator shall inquire before such offender
6 becomes eligible for parole whether the authority concerned intends to
7 execute or withdraw the warrant or detainer when the offender is
8 released.

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

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

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

1 Compact for Adult Offender Supervision.

2 Sec. 16. Section 83-4,111, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 83-4,111 (1) The department shall adopt and promulgate rules and
5 regulations to establish criteria for justifiably and reasonably
6 determining which rights and privileges an inmate forfeits upon
7 commitment and which rights and privileges an inmate retains.

8 (2) Such rules and regulations shall include, but not be limited to,
9 criteria concerning (a) disciplinary procedures and a code of offenses
10 for which discipline may be imposed, (b) disciplinary segregation, (c)
11 grievance procedures, (d) good-time credit, (e) earned time, (f) mail and
12 visiting privileges, and (g ~~f~~) rehabilitation opportunities.

13 (3) The rules and regulations adopted pursuant to sections 83-4,109
14 to 83-4,123 shall in no manner deprive an inmate of any rights and
15 privileges to which he or she is entitled under other provisions of law
16 or under policies adopted in a correctional facility.

17 Sec. 17. Section 83-4,122, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 83-4,122 In disciplinary cases which may involve the imposition of
20 disciplinary isolation, ~~or~~ the loss of good-time credit, or the
21 forfeiture or suspension of earned time, the director shall establish
22 disciplinary procedures consistent with the following principles:

23 (1) Any person or persons who initiate a disciplinary charge against
24 an inmate shall not determine the disposition of the charge. The director
25 may establish one or more disciplinary boards to hear and determine
26 charges. To the extent possible, a person representing the treatment or
27 counseling staff of the institution or facility shall participate in
28 determining the disposition of the disciplinary case;

29 (2) An inmate charged with a violation of department rules of
30 behavior shall be given notice of the charge including a statement of the
31 misconduct alleged and of the rules such conduct is alleged to violate.

1 Such notice shall be given at least twenty-four hours before a hearing on
2 the matter is held;

3 (3) An inmate charged with a violation of rules shall be entitled to
4 a hearing on that charge at which time he or she shall have an
5 opportunity to appear before and address the person or persons deciding
6 the charge. The individual bringing the charge shall also appear at such
7 hearing;

8 (4) The person or persons determining the disposition of the charge
9 may also summon to testify any witnesses or other persons with relevant
10 knowledge of the incident. The inmate charged shall be permitted to
11 question any person so summoned and shall be allowed to call witnesses
12 and present documentary evidence in his or her defense when permitting
13 him or her to do so will not be unduly hazardous to institutional safety
14 or correctional goals. The person or persons determining the disposition
15 of charges shall state his, her, or their reasons in writing for refusing
16 to call a witness;

17 (5) If the charge is sustained, the inmate charged shall be entitled
18 to a written statement of the decision by the persons determining the
19 disposition of the charge, which statement shall include the basis for
20 the decision and the disciplinary action, if any, to be imposed;

21 (6) A change in work, education, or other program assignment shall
22 not be used for disciplinary purposes;

23 (7) The inmate charged shall be entitled to an adequate opportunity
24 to prepare a defense. Such opportunity shall include the right to
25 assistance and advice in preparing and presenting a defense from any
26 inmate in general population or staff member at the institution where the
27 hearing is held. Such inmate or staff member may serve in such an
28 advisory capacity for the inmate so charged;

29 (8) Any hearing conducted pursuant to this section shall be tape
30 recorded, and such recording shall be preserved for a period of six
31 months; and

1 (9) The standard of proof to sustain the charge shall be substantial
2 evidence.

3 Sec. 18. Section 83-4,123, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 83-4,123 Nothing in sections 83-4,109 to 83-4,123 shall be construed
6 as to restrict or impair an inmate's free access to the courts and
7 necessary legal assistance in any cause of action arising under such
8 sections or to judicial review for disciplinary cases which involve the
9 imposition of disciplinary isolation or the loss of good-time credit or
10 the forfeiture or suspension of earned time in accordance with the
11 Administrative Procedure Act. Such judicial review may only be invoked
12 after completion of any review of the hearing prescribed by section
13 83-4,122 by the department.

14 Sec. 19. This act becomes operative on October 1, 2015.

15 Sec. 20. Original sections 29-3803, 29-3804, 29-4014, 47-123,
16 81-1850, 83-170, 83-1,107, 83-1,108, 83-1,109, 83-1,110, 83-1,118,
17 83-1,122, 83-1,123, 83-1,125, 83-4,111, 83-4,122, and 83-4,123, Reissue
18 Revised Statutes of Nebraska, and section 29-2204, Revised Statutes
19 Cumulative Supplement, 2014, are repealed.