

LEGISLATIVE BILL 907

Approved by the Governor April 16, 2014

Introduced by Ashford, 20; Avery, 28; Harms, 48; Krist, 10; Lathrop, 12; Mello, 5; Cook, 13.

FOR AN ACT relating to legal process; to amend sections 7-201, 7-202, 7-203, 7-204, 7-206, 7-207, 7-208, 7-209, 83-1,104, and 83-1,119, Reissue Revised Statutes of Nebraska, and sections 29-3927, 83-1,102, and 83-1,107, Revised Statutes Cumulative Supplement, 2012; to rename and change provisions of the Legal Education for Public Service Loan Repayment Act; to create the Nebraska Justice Reinvestment Working Group, a reentry program for inmates and parolees, the Vocational and Life Skills Program, a fund, and the Nebraska Center for Justice Research at the University of Nebraska at Omaha; to provide powers and duties; to prohibit public employers from asking for criminal history as prescribed; to provide, change, and eliminate parole provisions; to state intent regarding appropriations; to eliminate certain sentencing provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 29-2208 and 29-2405, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 7-201, Reissue Revised Statutes of Nebraska, is amended to read:

7-201 Sections 7-201 to 7-209 and section 6 of this act shall be known and may be cited as the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Act.

Sec. 2. Section 7-202, Reissue Revised Statutes of Nebraska, is amended to read:

7-202 The Legislature finds that many attorneys graduate from law school with substantial educational debt that prohibits many from considering public legal service work or work in less-populated rural areas of Nebraska. A need exists for public legal service entities and rural clients to hire competent attorneys. The public is better served by competent and qualified attorneys working in the area of public legal service and serving underserved rural areas. Programs providing educational loan ~~forgiveness~~ repayment assistance will encourage law students and other attorneys to seek employment in the area of public legal service and in designated legal profession shortage areas in rural Nebraska and will enable public legal service entities and rural communities to attract and retain qualified attorneys.

Sec. 3. Section 7-203, Reissue Revised Statutes of Nebraska, is amended to read:

7-203 For purposes of the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Act:

(1) Board means the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Board;

(2) Designated legal profession shortage area means a rural area located within any county in Nebraska having a population of less than fifteen thousand inhabitants and not included within a metropolitan statistical area as defined by the United States Department of Commerce, Bureau of the Census, and determined by the board to be underserved by available legal representation;

~~(2)~~ (3) Educational loans means loans received as an educational benefit, scholarship, or stipend toward a juris doctorate degree and either (a) made, insured, or guaranteed by a governmental unit or (b) made under a program funded in whole or in part by a governmental unit or nonprofit institution; and

~~(3)~~ (4) Public legal service means providing legal service to indigent persons while employed by a tax-exempt charitable organization.

Sec. 4. Section 7-204, Reissue Revised Statutes of Nebraska, is amended to read:

7-204 The Legal Education for Public Service and Rural Practice Loan Repayment Assistance Board is created. The board shall consist of the director of Legal Aid of Nebraska, the deans of Creighton School of Law and the University of Nebraska College of Law, a student from each law school selected by the dean of the law school, at least one of whom intends to work for a tax-exempt charitable organization primarily doing public legal service and at least one of whom is from or intends to practice in a designated

legal profession shortage area, a member of the Nebraska State Bar Association who practices in a designated legal profession shortage area selected by the president of the association, and the chief counsel of the Commission on Public Advocacy.

Sec. 5. Section 7-206, Reissue Revised Statutes of Nebraska, is amended to read:

7-206 The board shall develop and recommend to the Commission on Public Advocacy rules and regulations that will govern the legal education for public legal service and rural practice loan repayment assistance program. The rules and regulations shall include:

(1) Recipients shall be ~~full-time~~, either: (a) Full-time, salaried attorneys working for a tax-exempt charitable organization and whose primary duties are public legal service or (b) full-time attorneys primarily serving in a designated legal profession shortage area;

(2) Loan applicants shall pay an application fee established by the rules and regulations at a level anticipated to cover all or most of the administrative costs of the program. All application fees shall be remitted to the State Treasurer for credit to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund. Every effort shall be made to minimize administrative costs and the application fee;

(3) The maximum annual loan amount, which initially shall not exceed six thousand dollars per year per recipient, shall be an amount which is sufficient to fulfill the purposes of recruiting and retaining public legal service attorneys in occupations and areas with unmet needs, including public legal service attorneys to work in rural areas and attorneys with skills in languages other than English and attorneys committed to working in designated legal profession shortage areas. The board may recommend adjustments of the loan amount annually to the commission to account for inflation and other relevant factors;

(4) Loans shall be made only to refinance existing educational loans;

~~(5) A general program structure of loan forgiveness shall be established that qualifies for the tax benefits provided in section 108(f) of the Internal Revenue Code, as defined in section 49-801.01; and~~

(5) Information on the potential tax consequences of income from discharge of indebtedness;

(6) Recipients shall agree to practice the equivalent of at least three years of full-time practice in public legal service or a designated legal profession shortage area; and

~~(7) Other criteria for loan eligibility, application, payment, and forgiveness repayment assistance necessary to carry out the purposes of the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Act.~~

Sec. 6. The Commission on Public Advocacy shall periodically determine and identify designated legal profession shortage areas within Nebraska. The board shall develop and recommend to the commission legal profession shortage areas. In making such recommendations, the board shall consider, after consultation with other appropriate agencies concerned with legal and rural services and with appropriate professional organizations, factors including, but not limited to:

(1) The latest reliable statistical data available regarding the number of attorneys practicing in an area and the population served by such attorneys;

(2) Distances between client populations and attorney locations;

(3) Particular local needs for legal services;

(4) Capacity of local attorneys providing services and scope of practice being provided; and

(5) Past and future demographic trends in an area.

Sec. 7. Section 7-207, Reissue Revised Statutes of Nebraska, is amended to read:

7-207 The Commission on Public Advocacy shall accept applications for loan ~~forgiveness~~ repayment assistance on an annual basis from qualified persons and shall present those applications to the board for its consideration. The board shall make recommendations for loans to the commission, and the commission shall certify the eligible recipients and the loan amount per recipient. The loans awarded to the recipients shall come from funds appropriated by the Legislature and any other funds that may be available from the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund.

Sec. 8. Section 7-208, Reissue Revised Statutes of Nebraska, is amended to read:

7-208 The Commission on Public Advocacy may solicit and receive

donations from law schools, corporations, nonprofit organizations, bar associations, bar foundations, law firms, individuals, or other sources for purposes of the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Act. The donations shall be remitted to the State Treasurer for credit to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund.

Sec. 9. Section 7-209, Reissue Revised Statutes of Nebraska, is amended to read:

7-209 The Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund is created. The fund shall consist of funds appropriated or transferred by the Legislature, funds donated to the legal education for public legal service and rural practice loan repayment assistance program pursuant to section 7-208, and application fees collected under the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Act. Any money in the Legal Education for Public Service Loan Repayment Fund on the operative date of this section shall be transferred to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 10. Section 29-3927, Revised Statutes Cumulative Supplement, 2012, is amended to read:

29-3927 (1) With respect to its duties under section 29-3923, the commission shall:

(a) Adopt and promulgate rules and regulations for its organization and internal management and rules and regulations governing the exercise of its powers and the fulfillment of its purpose;

(b) Appoint and abolish such advisory committees as may be necessary for the performance of its functions and delegate appropriate powers and duties to them;

(c) Accept and administer loans, grants, and donations from the United States and its agencies, the State of Nebraska and its agencies, and other sources, public and private, for carrying out the functions of the commission;

(d) Enter into contracts, leases, and agreements necessary, convenient, or desirable for carrying out its purposes and the powers granted under this section with agencies of state or local government, corporations, or persons;

(e) Acquire, hold, and dispose of personal property in the exercise of its powers;

(f) Provide legal services to indigent persons through the divisions in section 29-3930; and

(g) Adopt guidelines and standards for county indigent defense systems, including, but not limited to, standards relating to the following: The use and expenditure of funds appropriated by the Legislature to reimburse counties which qualify for reimbursement; attorney eligibility and qualifications for court appointments; compensation rates for salaried public defenders, contracting attorneys, and court-appointed attorneys and overall funding of the indigent defense system; maximum caseloads for all types of systems; systems administration, including rules for appointing counsel, awarding defense contracts, and reimbursing defense expenses; conflicts of interest; continuing legal education and training; and availability of supportive services and expert witnesses.

(2) The standards adopted by the commission under subdivision (1)(g) of this section are intended to be used as a guide for the proper methods of establishing and operating indigent defense systems. The standards are not intended to be used as criteria for the judicial evaluation of alleged misconduct of defense counsel to determine the validity of a conviction. They may or may not be relevant in such judicial evaluation, depending upon all the circumstances.

(3) With respect to its duties related to the provision of civil legal services to eligible low-income persons, the commission shall have such powers and duties as described in sections 25-3001 to 25-3004.

(4) The commission may adopt and promulgate rules and regulations governing the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Act which are recommended by the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Board pursuant to the act. The commission shall have the powers and duties provided in the act.

Sec. 11. (1) The Legislature finds that while serious crime in the State of Nebraska has not increased in the past five years, the prison population continues to increase as does the amount spent on correctional issues. The Legislature further finds that a need exists to

closely examine the criminal justice system of the State of Nebraska in order to increase public safety while concurrently reducing correctional spending and reinvesting in strategies that decrease crime and strengthen Nebraska communities.

(2) The State of Nebraska shall work cooperatively with the Council of State Governments Justice Center to study and identify innovative solutions and evidence-based practices to develop a data-driven approach to reduce correctional spending and reinvest savings in strategies that can decrease recidivism and increase public safety. The Nebraska Justice Reinvestment Working Group is created under the authority of the executive, legislative, and judicial branches of Nebraska state government to work with the Council of State Governments Justice Center in this process.

(3) The Governor, the Executive Board of the Legislative Council, and the Chief Justice of the Supreme Court are authorized to take any necessary actions to engage the Council of State Governments Justice Center in this process and to ensure that the report required by subsection (6) of this section is delivered. Upon delivery of the report, the working group shall be dissolved and discharged of any further duties.

(4) The working group shall be comprised of four members selected by the Governor, four members selected by the Speaker of the Legislature, four members selected by the Chief Justice of the Supreme Court, and four representatives of local governments selected jointly by the Governor, the Speaker of the Legislature, and the Chief Justice. The Governor, Speaker of the Legislature, and Chief Justice shall serve as co-chairpersons of the working group.

(5) The study undertaken in accordance with this section shall include a broad range of issues, including:

- (a) Courts, specialty courts, and sentencing trends;
- (b) Development of a process to determine the impact of pending legislation on the criminal justice system;
- (c) Analysis of the prison population and its growth;
- (d) Reported crimes and arrests;
- (e) Alternatives to incarceration;
- (f) Effectiveness of all available offender programs, including prison programs and community-based programs;
- (g) Reentry programming and transition;
- (h) Prison programming;
- (i) Community services;
- (j) Probation and parole services;
- (k) Prison admissions and length of stay; and
- (l) Recidivism rates of offenders released from prison, jail, parole, probation, and other community-based programs.

(6) The Council of State Governments Justice Center shall make a final report that includes a summary of the issues studied as required by subsection (5) of this section, potential legislative solutions for the problems associated with prison overcrowding, and an estimate of the cost savings for all policies recommended by the center. The Council of State Governments Justice Center shall electronically deliver the report to the Governor, the Clerk of the Legislature, and the Chief Justice of the Supreme Court by September 1, 2015.

Sec. 12. (1) Except as otherwise provided in this section, a public employer shall not ask an applicant for employment to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiry on any employment application, until the public employer has determined the applicant meets the minimum employment qualifications.

(2) This section does not apply to any law enforcement agency, to any position for which a public employer is required by federal or state law to conduct a criminal history record information check, or to any position for which federal or state law specifically disqualifies an applicant with a criminal background.

(3)(a) This section does not prevent a public employer that is a school district or educational service unit from requiring an applicant for employment to disclose an applicant's criminal record or history relating to sexual or physical abuse.

(b) This section does not prevent a public employer from preparing or delivering an employment application that conspicuously states that a criminal history record information check is required by federal law, state law, or the employer's policy.

(c) This section does not prevent a public employer from conducting a criminal history record information check after the public employer has determined that the applicant meets the minimum employment qualifications.

(4) For purposes of this section:

(a) Law enforcement agency means an agency or department of this state or of any political subdivision of this state which is responsible for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of the town marshal, an office of the county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-106; and

(b) Public employer means an agency or department of this state or of any political subdivision of this state.

Sec. 13. The Department of Correctional Services, in consultation with the Board of Parole, shall develop a reentry program for individuals incarcerated in a department correctional facility, individuals who have been discharged from a department correctional facility within the prior eighteen months, and parolees. The department shall hire a reentry program administrator to develop and oversee the reentry program and additional staff as needed to implement the reentry program. The purpose of the reentry program is to facilitate a standard systemwide program of reentry for individuals leaving correctional facilities or transitioning off community supervision. The primary objectives of the reentry program are to reduce recidivism, to identify, assess, and provide treatment options for individuals with mental illness, to increase public safety, and to improve the overall transition of the individual from the criminal justice system into the community.

Sec. 14. (1) The Vocational and Life Skills Program is created within the Department of Correctional Services, in consultation with the Board of Parole. The program shall provide funding to aid in the establishment and provision of community-based vocational training and life skills training for adults who are incarcerated, formerly incarcerated, or serving a period of supervision on either probation or parole.

(2) The Vocational and Life Skills Programming Fund is created. The fund shall consist of appropriations from the Legislature, funds donated by nonprofit entities, funds from the federal government, and funds from other sources. Up to thirty percent of the fund may be used for staffing the reentry program created under section 13 of this act and to provide treatment to individuals preparing for release from incarceration. At least seventy percent of the fund shall be used to provide grants to community-based organizations, community colleges, federally recognized or state recognized Indian tribes, or nonprofit organizations that provide vocational and life skills programming and services to adults and juveniles who are incarcerated, who have been incarcerated within the prior eighteen months, or who are serving a period of supervision on either probation or parole. The department, in awarding grants, shall give priority to programs, services, or training that results in meaningful employment, and no money from the fund shall be used for capital construction.

(3) The department, in consultation with the Board of Parole, shall adopt and promulgate rules and regulations to carry out the Vocational and Life Skills Program. The rules and regulations shall include, but not be limited to, a plan for evaluating the effectiveness of programs, services, and training that receive funding and a reporting process for aid recipients. The reentry program administrator shall report quarterly to the Governor and the Clerk of the Legislature beginning October 1, 2014, on the distribution and use of the aid distributed under the Vocational and Life Skills Program, including how many individuals received programming, the types of programming, the cost per individual for each program, service, or training provided, how many individuals successfully completed their programming, and information on any funds that have not been used. The report to the Clerk of the Legislature shall be submitted electronically. Any funds not distributed to community-based organizations, community colleges, federally recognized or state-recognized Indian tribes, or nonprofit organizations under this subsection shall be retained by the department to be distributed on a competitive basis under the Vocational and Life Skills Program. These funds shall not be expended by the department for any other purpose.

Sec. 15. Section 83-1,102, Revised Statutes Cumulative Supplement, 2012, is amended to read:

83-1,102 The Parole Administrator shall:

(1) Supervise and administer the Office of Parole Administration;
(2) Establish and maintain policies, standards, and procedures for the field parole service and the community supervision of sex offenders pursuant to section 83-174.03;

(3) Divide the state into parole districts and appoint district parole officers, deputy parole officers, if required, and such other employees as may be required to carry out adequate parole supervision of all parolees,

adequate probation supervision of probationers as ordered by district judges, prescribe their powers and duties, and obtain office quarters for staff in each district as may be necessary;

(4) Cooperate with the Board of Parole, the courts, the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice, and all other agencies, public and private, which are concerned with the treatment or welfare of persons on parole;

(5) Provide the Board of Parole and district judges with any record of a parolee ~~or probationer~~ which it may require;

(6) Make recommendations to the Board of Parole or district judge in cases of violation of the conditions of parole, ~~or probation~~, issue warrants for the arrest of parole ~~or probation~~ violators when so instructed by the board or district judge, notify the Director of Correctional Services of determinations made by the board, and upon instruction of the board, issue certificates of parole and of parole revocation to the facilities and certificates of discharge from parole to parolees;

(7) Organize and conduct training programs for the district parole officers and other employees;

(8) Use the funds provided under section 83-1,107.02 to augment operational or personnel costs associated with the development, implementation, and evaluation of enhanced parole-based programs and purchase services to provide such programs aimed at enhancing adult parolee supervision in the community and treatment needs of parolees. Such enhanced parole-based programs include, but are not limited to, specialized units of supervision, related equipment purchases and training, and programs that address a parolee's vocational, educational, mental health, behavioral, or substance abuse treatment needs;

(9) Ensure that any risk or needs assessment instrument utilized by the system be periodically validated; and

(10) Report annually to the Governor and electronically to the Clerk of the Legislature beginning January 1, 2015, the number of parole revocations and the number of technical violations of parole; and

(11) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

Sec. 16. Section 83-1,104, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,104 A district parole officer shall:

(1) Make investigations, prior to a committed offender's release on parole, in cooperation with institutional caseworkers and the Board of Parole to determine the adequacy of parole plans and make reasonable advance preparation for release on parole;

(2) Assist parolees ~~or probationers~~ a committed offender who requests assistance prior to release or a parolee to comply with the conditions of parole ~~or probation~~ and to make a successful adjustment in the community, including facilitating the transitional needs of housing and employment, access to and participation in job training services in the community, access to mental health services, assisting with applications for health care coverage or ensuring that the committed offender or parolee knows how to apply for and obtain health care coverage, and assisting with enrollment in the medical assistance program established pursuant to the Medical Assistance Act, if eligible, to ensure that the committed offender or parolee has access to such program close to the time of release or soon thereafter;

(3) Supervise parolees ~~or probationers~~ by keeping informed of their conduct and condition, utilizing global positioning systems and other monitoring technology as needed during the period of supervision;

(4) Make such reports as required by the Parole Administrator or district judge to determine the effectiveness of the parole system or the progress of an individual parolee; ~~or probationer;~~

(5) Cooperate with social welfare agencies;

(6) Observe the work of any deputy parole officer under his or her supervision from time to time;

(7) Inform the Parole Administrator when, in his or her opinion, any eligible parolee's conduct and attitude warrant his or her discharge from supervision, or when any parolee's ~~or probationer's~~ violation of the conditions of parole ~~or probation~~ is of sufficient seriousness to require action by the Board of Parole or district judge and whenever necessary exercise the power of arrest as provided in section 83-1,119;

(8) Delegate in his or her discretion any of the above responsibilities to a deputy parole officer if provided for his or her district; and

(9) Exercise all powers and perform all duties necessary and proper

in carrying out his or her responsibilities.

Sec. 17. Section 83-1,107, Revised Statutes Cumulative Supplement, 2012, 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 fully explained to 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) 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.

(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) 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.

~~(5)(a)~~ (6)(a) Within thirty days after any committed offender has been paroled, all available information regarding such parolee shall be

reviewed and a parolee personalized program plan document shall be drawn up and approved by the Office of Parole Administration. The document shall specifically describe the approved personalized program plan and the specific goals the office expects the parolee to achieve. The document shall also contain a realistic schedule for completion of the approved personalized program plan. The approved personalized program plan shall be fully explained to the parolee. During the term of parole, the parolee shall comply with the approved personalized program plan and the office shall provide programs to allow compliance by the parolee with the approved personalized program 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 office.

(b) A modification in the approved personalized program 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 personalized program plan by any parolee as scheduled for any year, or pro rata part thereof, shall cause disciplinary action to be taken by the office resulting in the forfeiture of up to a maximum of three months' good time for the scheduled year.

~~(6)~~ (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 administrator with the approval of the director after the offender has been notified regarding the charges of misconduct or breach of the conditions of parole. In addition, the board may recommend such forfeitures of good time to the director.

~~(7)~~ (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.

Sec. 18. Section 83-1,119, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,119 (1) For purposes of this section:

(a) Administrative sanction means additional parole requirements imposed upon a parolee by his or her parole officer, with the full knowledge and consent of the parolee, designed to hold the parolee accountable for substance abuse or technical violations of conditions of parole, including, but not limited to:

- (i) Counseling or reprimand by the adult parole administration of the department;
- (ii) Increased supervision contact requirements;
- (iii) Increased substance abuse testing;
- (iv) Referral for substance abuse or mental health evaluation or other specialized assessment, counseling, or treatment;
- (v) Imposition of a designated curfew for a period to be determined by the adult parole administration; and
- (vi) Travel restrictions to stay within his or her county of residence or employment unless otherwise permitted by the adult parole administration;

(b) Substance abuse violation means a parolee's activities or behaviors associated with the use of chemical substances or related treatment services resulting in a violation of an original condition of parole, including:

- (i) Positive breath test for the consumption of alcohol if the parolee is required to refrain from alcohol consumption;
- (ii) Positive urinalysis for the illegal use of drugs;
- (iii) Failure to report for alcohol testing or drug testing; and
- (iv) Failure to appear for or complete substance abuse or mental health treatment evaluations or inpatient or outpatient treatment; and

(c) Technical violation means a parolee's activities or behaviors which create the opportunity for re-offending or diminish the effectiveness of parole supervision resulting in a violation of an original condition of parole, including, but not limited to:

- (i) Moving traffic violations;
- (ii) Failure to report to his or her parole officer;
- (iii) Leaving the state without the permission of the Board of

Parole;

(iv) Failure to work regularly or attend training or school;

(v) Failure to notify his or her parole officer of change of address or employment;

(vi) Frequenting places where controlled substances are illegally sold, used, distributed, or administered; and

(vii) Failure to pay fines, court costs, restitution, or any fees imposed pursuant to section 83-1,107.01 as directed.

(2) Whenever a parole officer has reasonable cause to believe that a parolee has committed or is about to commit a substance abuse violation or technical violation while on parole, but that the parolee will not attempt to leave the jurisdiction and will not place lives or property in danger, the parole officer shall either:

(a) Impose one or more administrative sanctions based upon the parolee's risk level, the severity of the violation, and the parolee's response to the violation. If administrative sanctions are to be imposed, the parolee shall acknowledge in writing the nature of the violation and agree upon the administrative sanction. The parolee has the right to decline to acknowledge the violation. If he or she declines to acknowledge the violation, the parole officer shall take action pursuant to subdivision (2)(b) of this section. A copy of the report shall be submitted to the Board of Parole; or

(b) Submit a written report to the Board of Parole, outlining the nature of the parole violation, and request that formal revocation proceedings be instituted against the parolee.

~~(1)~~ (3) Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of parole but by a violation other than a substance abuse violation or a technical violation and the parole officer has reasonable cause to believe that the parolee will not attempt to leave the jurisdiction and will not place lives or property in danger, the parole officer shall submit a written report to the Board of Parole which may, on the basis of such report and such further investigation as it may deem appropriate:

(a) Dismiss the charge of violation;

(b) Determine whether the parolee violated the conditions of his or her parole;

(c) Revoke his or her parole in accordance with the Nebraska Treatment and Corrections Act; or

(d) Issue a warrant for the arrest of the parolee.

~~(2)~~ (4) Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of parole and that the parolee will attempt to leave the jurisdiction or will place lives or property in danger, the parole officer shall arrest the parolee without a warrant and call on any peace officer to assist him or her in doing so.

~~(3)~~ (5) Whenever a parolee is arrested with or without a warrant, he or she shall be detained in a local jail or other detention facility. Immediately after such arrest and detention, the parole officer shall notify the Board of Parole and submit a written report of the reason for such arrest. A complete investigation shall be made by the parole administration and submitted to the parole board. After prompt consideration of such written report, the board shall order the parolee's release from detention or continued confinement to await a final decision on the revocation of parole.

(6) The Board of Parole shall adopt and promulgate rules and regulations to carry out this section.

Sec. 19. It is the intent of the Legislature to appropriate:

(1) To the Office of Probation Administration:

(a) Five million dollars to expand mental health services with priority population being participants in the specialized substance abuse supervision program and problem-solving courts; and

(b) Three million eight hundred thousand dollars for new reporting centers and expanded services;

(2) To the Vocational and Life Skills Program under the Department of Correctional Services, five million dollars to carry out the program;

(3) To the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund, five hundred thousand dollars from the General Fund; and

(4) To the Consortium for Crime and Justice Research at the University of Nebraska at Omaha, two hundred thousand dollars to facilitate the establishment of the Nebraska Center for Justice Research at the University of Nebraska at Omaha. The mission of the center shall be to develop and sustain research capacity internal to the State of Nebraska to assist the Legislature in research, evaluation, and policymaking to reduce recidivism, promote the use of evidence-based practices in corrections, and

improve public safety.

Sec. 20. Sections 11, 20, and 23 of this act become operative on their effective date. The other sections of this act become operative three calendar months after the adjournment of this legislative session.

Sec. 21. Original sections 7-201, 7-202, 7-203, 7-204, 7-206, 7-207, 7-208, 7-209, 83-1,104, and 83-1,119, Reissue Revised Statutes of Nebraska, and sections 29-3927, 83-1,102, and 83-1,107, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 22. The following sections are outright repealed: Sections 29-2208 and 29-2405, Reissue Revised Statutes of Nebraska.

Sec. 23. Since an emergency exists, this act takes effect when passed and approved according to law.