

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 366

Introduced by Halloran, 33.

Read first time January 13, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to parole; to amend sections 28-322, 29-2252,
2 29-2935, 29-4019, 71-961, 81-1401, 83-174.03, 83-174.04, 83-174.05,
3 83-191, 83-192, 83-198, 83-1,102, 83-1,103, 83-1,103.01,
4 83-1,103.02, 83-1,103.03, 83-1,103.04, 83-1,104, 83-1,107.01,
5 83-1,107.02, 83-1,109, 83-1,111, 83-1,112, 83-1,112.01, 83-1,114,
6 83-1,118, 83-1,120, 83-1,121, and 83-1,125, Reissue Revised Statutes
7 of Nebraska, sections 47-624, 47-624.01, 47-627, 47-629, 47-903,
8 47-908, 47-919, 83-170, 83-171, 83-1,100, 83-1,100.02, 83-1,101,
9 83-1,107, 83-1,119, 83-1,135, and 83-933, Revised Statutes
10 Cumulative Supplement, 2016, and section 29-2261, Revised Statutes
11 Cumulative Supplement, 2014, as amended by Laws 2015, LB 504,
12 section 1; to move and rename the Office of Parole Administration
13 and to change the title of Parole Administrator; to change
14 provisions relating to administration of parole services; to create
15 and provide for use of a fund; to change and provide powers and
16 duties; to eliminate deputy parole officers and provisions relating
17 to a violation of parole as prescribed; to harmonize provisions; to
18 repeal the original sections; and to outright repeal section
19 83-1,124, Reissue Revised Statutes of Nebraska.
20 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-322, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-322 For purposes of sections 28-322 to 28-322.03:

4 (1) Inmate or parolee means any individual confined in a facility
5 operated by the Department of Correctional Services or a city or county
6 correctional or jail facility or under parole supervision; and

7 (2) Person means (a) an individual employed by the Department of
8 Correctional Services or by the Division of Parole Supervision ~~Office of~~
9 ~~Parole Administration~~, including any individual working in central
10 administration of the department, any individual working under contract
11 with the department, and any individual, other than an inmate's spouse,
12 to whom the department has authorized or delegated control over an inmate
13 or an inmate's activities, (b) an individual employed by a city or county
14 correctional or jail facility, including any individual working in
15 central administration of the city or county correctional or jail
16 facility, any individual working under contract with the city or county
17 correctional or jail facility, and any individual, other than an inmate's
18 spouse, to whom the city or county correctional or jail facility has
19 authorized or delegated control over an inmate or an inmate's activities,
20 and (c) an individual employed by the Office of Probation Administration
21 who performs official duties within any facility operated by the
22 Department of Correctional Services or a city or county correctional or
23 jail facility.

24 Sec. 2. Section 29-2252, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 29-2252 The administrator shall:

27 (1) Supervise and administer the office;

28 (2) Establish and maintain policies, standards, and procedures for
29 the system, with the concurrence of the Supreme Court;

30 (3) Prescribe and furnish such forms for records and reports for the
31 system as shall be deemed necessary for uniformity, efficiency, and

1 statistical accuracy;

2 (4) Establish minimum qualifications for employment as a probation
3 officer in this state and establish and maintain such additional
4 qualifications as he or she deems appropriate for appointment to the
5 system. Qualifications for probation officers shall be established in
6 accordance with subsection (4) of section 29-2253. An ex-offender
7 released from a penal complex or a county jail may be appointed to a
8 position of deputy probation or parole officer. Such ex-offender shall
9 maintain a record free of arrests, except for minor traffic violations,
10 for one year immediately preceding his or her appointment;

11 (5) Establish and maintain advanced periodic inservice training
12 requirements for the system;

13 (6) Cooperate with all agencies, public or private, which are
14 concerned with treatment or welfare of persons on probation;

15 (7) Organize and conduct training programs for probation officers.
16 Training shall include the proper use of a risk and needs assessment,
17 risk-based supervision strategies, relationship skills, cognitive
18 behavioral interventions, community-based resources, criminal risk
19 factors, and targeting criminal risk factors to reduce recidivism and the
20 proper use of a matrix of administrative sanctions, custodial sanctions,
21 and rewards developed pursuant to subdivision (18) of this section. All
22 probation officers employed on or after August 30, 2015, shall complete
23 the training requirements set forth in this subdivision;

24 (8) Collect, develop, and maintain statistical information
25 concerning probationers, probation practices, and the operation of the
26 system and provide the Community Corrections Division of the Nebraska
27 Commission on Law Enforcement and Criminal Justice with the information
28 needed to compile the report required in section 47-624;

29 (9) Interpret the probation program to the public with a view toward
30 developing a broad base of public support;

31 (10) Conduct research for the purpose of evaluating and improving

1 the effectiveness of the system. Subject to the availability of funding,
2 the administrator shall contract with an independent contractor or
3 academic institution for evaluation of existing community corrections
4 facilities and programs operated by the office;

5 (11) Adopt and promulgate such rules and regulations as may be
6 necessary or proper for the operation of the office or system. The
7 administrator shall adopt and promulgate rules and regulations for
8 transitioning individuals on probation across levels of supervision and
9 discharging them from supervision consistent with evidence-based
10 practices. The rules and regulations shall ensure supervision resources
11 are prioritized for individuals who are high risk to reoffend, require
12 transitioning individuals down levels of supervision intensity based on
13 assessed risk and months of supervision without a reported major
14 violation, and establish incentives for earning discharge from
15 supervision based on compliance;

16 (12) Transmit a report during each even-numbered year to the Supreme
17 Court on the operation of the office for the preceding two calendar years
18 which shall include a historical analysis of probation officer workload,
19 including participation in non-probation-based programs and services. The
20 report shall be transmitted by the Supreme Court to the Governor and the
21 Clerk of the Legislature. The report submitted to the Clerk of the
22 Legislature shall be submitted electronically;

23 (13) Administer the payment by the state of all salaries, travel,
24 and actual and necessary expenses incident to the conduct and maintenance
25 of the office;

26 (14) Use the funds provided under section 29-2262.07 to augment
27 operational or personnel costs associated with the development,
28 implementation, and evaluation of enhanced probation-based programs and
29 non-probation-based programs and services in which probation personnel or
30 probation resources are utilized pursuant to an interlocal agreement
31 authorized by subdivision (16) of this section and to purchase services

1 to provide such programs aimed at enhancing adult probationer or non-
2 probation-based program participant supervision in the community and
3 treatment needs of probationers and non-probation-based program
4 participants. Enhanced probation-based programs include, but are not
5 limited to, specialized units of supervision, related equipment purchases
6 and training, and programs that address a probationer's vocational,
7 educational, mental health, behavioral, or substance abuse treatment
8 needs;

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

11 (16) Have the authority to enter into interlocal agreements in which
12 probation resources or probation personnel may be utilized in conjunction
13 with or as part of non-probation-based programs and services. Any such
14 interlocal agreement shall comply with section 29-2255;

15 (17) Collaborate with the Community Corrections Division of the
16 Nebraska Commission on Law Enforcement and Criminal Justice and the
17 Division of Parole Supervision ~~Office of Parole Administration~~ to develop
18 rules governing the participation of parolees in community corrections
19 programs operated by the Office of Probation Administration;

20 (18) Develop a matrix of rewards for compliance and positive
21 behaviors and graduated administrative sanctions and custodial sanctions
22 for use in responding to and deterring substance abuse violations and
23 technical violations. As applicable under sections 29-2266.02 and
24 29-2266.03, custodial sanctions of up to thirty days in jail shall be
25 designated as the most severe response to a violation in lieu of
26 revocation and custodial sanctions of up to three days in jail shall be
27 designated as the second most severe response;

28 (19) Adopt and promulgate rules and regulations for the creation of
29 individualized post-release supervision plans, collaboratively with the
30 Department of Correctional Services and county jails, for probationers
31 sentenced to post-release supervision; and

1 (20) Exercise all powers and perform all duties necessary and proper
2 to carry out his or her responsibilities.

3 Each member of the Legislature shall receive an electronic copy of
4 the report required by subdivision (12) of this section by making a
5 request for it to the administrator.

6 Sec. 3. Section 29-2261, Revised Statutes Cumulative Supplement,
7 2014, as amended by Laws 2015, LB504, section 1, is amended to read:

8 29-2261 (1) Unless it is impractical to do so, when an offender has
9 been convicted of a felony other than murder in the first degree, the
10 court shall not impose sentence without first ordering a presentence
11 investigation of the offender and according due consideration to a
12 written report of such investigation. When an offender has been convicted
13 of murder in the first degree and (a) a jury renders a verdict finding
14 the existence of one or more aggravating circumstances as provided in
15 section 29-2520 or (b)(i) the information contains a notice of
16 aggravation as provided in section 29-1603 and (ii) the offender waives
17 his or her right to a jury determination of the alleged aggravating
18 circumstances, the court shall not commence the sentencing determination
19 proceeding as provided in section 29-2521 without first ordering a
20 presentence investigation of the offender and according due consideration
21 to a written report of such investigation.

22 (2) A court may order a presentence investigation in any case,
23 except in cases in which an offender has been convicted of a Class IIIA
24 misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic
25 infraction, or any corresponding city or village ordinance.

26 (3) The presentence investigation and report shall include, when
27 available, an analysis of the circumstances attending the commission of
28 the crime, the offender's history of delinquency or criminality, physical
29 and mental condition, family situation and background, economic status,
30 education, occupation, and personal habits, and any other matters that
31 the probation officer deems relevant or the court directs to be included.

1 All local and state police agencies and Department of Correctional
2 Services adult correctional facilities shall furnish to the probation
3 officer copies of such criminal records, in any such case referred to the
4 probation officer by the court of proper jurisdiction, as the probation
5 officer shall require without cost to the court or the probation officer.

6 Such investigation shall also include:

7 (a) Any written statements submitted to the county attorney by a
8 victim; and

9 (b) Any written statements submitted to the probation officer by a
10 victim.

11 (4) If there are no written statements submitted to the probation
12 officer, he or she shall certify to the court that:

13 (a) He or she has attempted to contact the victim; and

14 (b) If he or she has contacted the victim, such officer offered to
15 accept the written statements of the victim or to reduce such victim's
16 oral statements to writing.

17 For purposes of subsections (3) and (4) of this section, the term
18 victim shall be as defined in section 29-119.

19 (5) Before imposing sentence, the court may order the offender to
20 submit to psychiatric observation and examination for a period of not
21 exceeding sixty days or such longer period as the court determines to be
22 necessary for that purpose. The offender may be remanded for this purpose
23 to any available clinic or mental hospital, or the court may appoint a
24 qualified psychiatrist to make the examination. The report of the
25 examination shall be submitted to the court.

26 (6) Any presentence report, substance abuse evaluation, or
27 psychiatric examination shall be privileged and shall not be disclosed
28 directly or indirectly to anyone other than a judge, probation officers
29 to whom an offender's file is duly transferred, the probation
30 administrator or his or her designee, alcohol and drug counselors, mental
31 health practitioners, psychiatrists, and psychologists licensed or

1 certified under the Uniform Credentialing Act to conduct substance abuse
2 evaluations and treatment, or others entitled by law to receive such
3 information, including personnel and mental health professionals for the
4 Nebraska State Patrol specifically assigned to sex offender registration
5 and community notification for the sole purpose of using such report,
6 evaluation, or examination for assessing risk and for community
7 notification of registered sex offenders. For purposes of this
8 subsection, mental health professional means (a) a practicing physician
9 licensed to practice medicine in this state under the Medicine and
10 Surgery Practice Act, (b) a practicing psychologist licensed to engage in
11 the practice of psychology in this state as provided in section 38-3111,
12 or (c) a practicing mental health professional licensed or certified in
13 this state as provided in the Mental Health Practice Act.

14 (7) The court shall permit inspection of the presentence report,
15 substance abuse evaluation, or psychiatric examination or parts of the
16 report, evaluation, or examination, as determined by the court, by the
17 prosecuting attorney and defense counsel. Beginning July 1, 2016, such
18 inspection shall be by electronic access only unless the court determines
19 such access is not available to the prosecuting attorney or defense
20 counsel. The State Court Administrator shall determine and develop the
21 means of electronic access to such presentence reports, evaluations, and
22 examinations. Upon application by the prosecuting attorney or defense
23 counsel, the court may order that addresses, telephone numbers, and other
24 contact information for victims or witnesses named in the report,
25 evaluation, or examination be redacted upon a showing by a preponderance
26 of the evidence that such redaction is warranted in the interests of
27 public safety. The court may permit inspection of the presentence report,
28 substance abuse evaluation, or psychiatric examination or examination of
29 parts of the report, evaluation, or examination by any other person
30 having a proper interest therein whenever the court finds it is in the
31 best interest of a particular offender. The court may allow fair

1 opportunity for an offender to provide additional information for the
2 court's consideration.

3 (8) If an offender is sentenced to imprisonment, a copy of the
4 report of any presentence investigation, substance abuse evaluation, or
5 psychiatric examination shall be transmitted immediately to the
6 Department of Correctional Services. Upon request, the Board of Parole or
7 the Division of Parole Supervision ~~Office of Parole Administration~~ may
8 receive a copy of the report from the department.

9 (9) Notwithstanding subsections (6) and (7) of this section, the
10 Supreme Court or an agent of the Supreme Court acting under the direction
11 and supervision of the Chief Justice shall have access to psychiatric
12 examinations, substance abuse evaluations, and presentence investigations
13 and reports for research purposes. The Supreme Court and its agent shall
14 treat such information as confidential, and nothing identifying any
15 individual shall be released.

16 Sec. 4. Section 29-2935, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 29-2935 For purposes of evaluating the treatment process, the
19 Division of Parole Supervision ~~Office of Parole Administration~~, the
20 Department of Correctional Services, the Board of Parole, and the
21 designated aftercare treatment programs shall allow appropriate access to
22 data and information as requested by the Department of Health and Human
23 Services.

24 Sec. 5. Section 29-4019, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 29-4019 (1) When sentencing a person convicted of an offense which
27 requires lifetime community supervision upon release pursuant to section
28 83-174.03, the sentencing court shall:

29 (a) Provide written notice to the defendant that he or she shall be
30 subject to lifetime community supervision by the Division of Parole
31 Supervision ~~Office of Parole Administration~~ upon release from

1 incarceration or civil commitment. The written notice shall inform the
2 defendant (i) that he or she shall be subject to lifetime community
3 supervision by the division office upon release and that the division
4 office shall conduct a risk assessment and evaluation to determine the
5 conditions of community supervision which will minimize, in the least
6 restrictive manner that is compatible with public safety, the risk of the
7 defendant committing additional offenses, (ii) that a violation of any of
8 the conditions of community supervision imposed by the division office
9 may result in the revision of existing conditions, the addition of new
10 conditions, a recommendation that civil commitment proceedings should be
11 instituted, or criminal prosecution, and (iii) of his or her right to
12 challenge the determination of the conditions of community supervision by
13 the division office and the right to a periodic review of the conditions
14 of community supervision pursuant to section 83-174.03 to determine if
15 the conditions are still necessary to protect the public;

16 (b) Require the defendant to read and sign a form stating that the
17 duty of the defendant to comply with the conditions of community
18 supervision and his or her rights to challenge the conditions of
19 community supervision imposed by the division office has been explained;
20 and

21 (c) Retain a copy of the written notification signed by the
22 defendant.

23 (2) Prior to the release of a person serving a sentence for an
24 offense requiring lifetime community supervision by the Division of
25 Parole Supervision ~~Office of Parole Administration~~ pursuant to section
26 83-174.03, the Department of Correctional Services, the Department of
27 Health and Human Services, or a city or county correctional or jail
28 facility shall:

29 (a) Provide written notice to the person that he or she shall be
30 subject to lifetime community supervision by the division office upon
31 release from incarceration. The written notice shall inform the person

1 (i) that he or she shall be subject to lifetime community supervision by
2 the division office upon release and that the division office shall
3 conduct a risk assessment and evaluation of the defendant to determine
4 the conditions of community supervision which will minimize, in the least
5 restrictive manner that is compatible with public safety, the risk of the
6 person committing additional offenses, (ii) that a violation of any of
7 the conditions of community supervision imposed by the division office
8 may result in the revision of existing conditions, the addition of new
9 conditions, a recommendation that civil commitment proceedings should be
10 instituted, or criminal prosecution, and (iii) of his or her right to
11 challenge the determination of the conditions of community supervision by
12 the division office and the right to a periodic review of the conditions
13 of community supervision pursuant to section 83-174.03 to determine if
14 the conditions are still necessary to protect the public;

15 (b) Require the defendant to read and sign a form stating that the
16 duty of the defendant to comply with the conditions of community
17 supervision and his or her right to challenge the conditions of community
18 supervision imposed by the division office has been explained; and

19 (c) Retain a copy of the written notification signed by the person.

20 Sec. 6. Section 47-624, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 47-624 The division shall:

23 (1) Collaborate with the Office of Probation Administration, the
24 Division of Parole Supervision Office of Parole Administration, and the
25 Department of Correctional Services to develop and implement a plan to
26 establish statewide operation and use of a continuum of community
27 correctional facilities and programs;

28 (2) Develop, in consultation with the probation administrator and
29 the Director of Supervision and Services of the Division of Parole
30 Supervision Parole Administrator, standards for the use of community
31 correctional facilities and programs by the Nebraska Probation System and

1 the parole system;

2 (3) Collaborate with the Office of Probation Administration, the
3 Division of Parole Supervision ~~Office of Parole Administration~~, and the
4 Department of Correctional Services on the development of additional
5 reporting centers as set forth in section 47-624.01;

6 (4) Analyze and promote the consistent use of offender risk
7 assessment tools;

8 (5) Educate the courts, the Board of Parole, criminal justice system
9 stakeholders, and the general public about the availability, use, and
10 benefits of community correctional facilities and programs;

11 (6) Enter into and administer contracts, if necessary, to carry out
12 the purposes of the Community Corrections Act;

13 (7) In order to ensure adequate funding for substance abuse
14 treatment programs, consult with the probation administrator and the
15 Director of Supervision and Services of the Division of Parole
16 Supervision ~~Parole Administrator~~ and develop or assist with the
17 development of programs as provided in subdivision (14) of section
18 29-2252 and subdivision (8) of section 83-1,102;

19 (8) Study substance abuse and mental health treatment services in
20 and related to the criminal justice system, recommend improvements, and
21 evaluate the implementation of improvements;

22 (9) Research and evaluate existing community correctional facilities
23 and programs, within the limits of available funding;

24 (10) Develop standardized definitions of outcome measures for
25 community correctional facilities and programs, including, but not
26 limited to, recidivism, employment, and substance abuse;

27 (11) Report annually to the Legislature and the Governor on the
28 development and performance of community correctional facilities and
29 programs. The report submitted to the Legislature shall be submitted
30 electronically. The report shall include, but not be limited to, the
31 following:

1 (a) A description of community correctional facilities and programs
2 currently serving offenders in Nebraska, which includes the following
3 information:

4 (i) The target population and geographic area served by each
5 facility or program, eligibility requirements, and the total number of
6 offenders utilizing the facility or program over the past year;

7 (ii) Services, programs, assessments, case management, supervision,
8 and tools provided for offenders at the facility, in the program, or
9 under the supervision of a governmental agency in any capacity;

10 (iii) The costs of operating the facility or program and the cost
11 per offender; and

12 (iv) The funding sources for the facility or program;

13 (b) The progress made in expanding community correctional facilities
14 and programs statewide and an analysis of the need for additional
15 community corrections services;

16 (c) An analysis of the impact community correctional facilities and
17 programs have on the number of offenders incarcerated within the
18 Department of Correctional Services; and

19 (d) The recidivism rates and outcome data for probationers,
20 parolees, and problem-solving-court clients participating in community
21 corrections programs;

22 (12) Grant funds to entities including local governmental agencies,
23 nonprofit organizations, and behavioral health services which will
24 support the intent of the act;

25 (13) Manage all offender data acquired by the division in a
26 confidential manner and develop procedures to ensure that identifiable
27 information is not released;

28 (14) Establish and administer grants, projects, and programs for the
29 operation of the division; and

30 (15) Perform such other duties as may be necessary to carry out the
31 policy of the state established in the act.

1 Sec. 7. Section 47-624.01, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 47-624.01 (1) The division shall collaborate with the Office of
4 Probation Administration, the Division of Parole Supervision ~~Office of~~
5 ~~Parole Administration~~, and the Department of Correctional Services in
6 developing a plan for the implementation and funding of reporting centers
7 in Nebraska.

8 (2) The plan shall include recommended locations for at least one
9 reporting center in each district court judicial district that currently
10 lacks such a center and shall prioritize the recommendations for
11 additional reporting centers based upon need.

12 (3) The plan shall also identify and prioritize the need for
13 expansion of reporting centers in those district court judicial districts
14 which currently have a reporting center but have an unmet need for
15 additional reporting center services due to capacity, distance, or
16 demographic factors.

17 Sec. 8. Section 47-627, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 47-627 The director shall develop and maintain a uniform crime data
20 analysis system in Nebraska which shall include, but need not be limited
21 to, the number of offenses, arrests, charges, probation admissions,
22 probation violations, probation discharges, participants in specialized
23 community corrections programs, admissions to and discharges from
24 problem-solving courts, admissions to and discharges from the Department
25 of Correctional Services, parole reviews, parole hearings, releases on
26 parole, parole violations, and parole discharges. The data shall be
27 categorized by statutory crime. The data shall be collected from the
28 Board of Parole, the State Court Administrator, the Department of
29 Correctional Services, the Division of Parole Supervision ~~Office of~~
30 ~~Parole Administration~~, the Office of Probation Administration, the
31 Nebraska State Patrol, counties, local law enforcement, and any other

1 entity associated with criminal justice. The division and the Supreme
2 Court shall have access to such data to implement the Community
3 Corrections Act.

4 Sec. 9. Section 47-629, Revised Statutes Cumulative Supplement,
5 2016, is amended to read:

6 47-629 (1) The Board of Parole may parole an offender to a community
7 correctional facility or program pursuant to guidelines developed by the
8 division.

9 (2) The Department of Correctional Services and the Division of
10 Parole Supervision ~~Office of Parole Administration~~ shall utilize
11 community correctional facilities and programs as appropriate.

12 Sec. 10. Section 47-903, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 47-903 For purposes of the Office of Inspector General of the
15 Nebraska Correctional System Act, the following definitions apply:

16 (1) Administrator means a person charged with administration of a
17 program, an office, or a division of the department or administration of
18 a private agency;

19 (2) Department means the Department of Correctional Services;

20 (3) Director means the Director of Correctional Services;

21 (4) Division of Parole Supervision means the division created
22 pursuant to section 83-1,100;

23 (5) Inspector General means the Inspector General of the Nebraska
24 Correctional System appointed under section 47-904;

25 (6) ~~(5)~~ Malfeasance means a wrongful act that the actor has no legal
26 right to do or any wrongful conduct that affects, interrupts, or
27 interferes with performance of an official duty;

28 (7) ~~(6)~~ Management means supervision of subordinate employees;

29 (8) ~~(7)~~ Misfeasance means the improper performance of some act that
30 a person may lawfully do;

31 (9) ~~(8)~~ Obstruction means hindering an investigation, preventing an

1 investigation from progressing, stopping or delaying the progress of an
2 investigation, or making the progress of an investigation difficult or
3 slow;

4 (10) ~~(9)~~ Office means the office of Inspector General of the
5 Nebraska Correctional System and includes the Inspector General and other
6 employees of the office;

7 ~~(10) Office of Parole Administration means the office created~~
8 ~~pursuant to section 83-1,100;~~

9 (11) Private agency means an entity that contracts with the
10 department or contracts to provide services to another entity that
11 contracts with the department; and

12 (12) Record means any recording in written, audio, electronic
13 transmission, or computer storage form, including, but not limited to, a
14 draft, memorandum, note, report, computer printout, notation, or message,
15 and includes, but is not limited to, medical records, mental health
16 records, case files, clinical records, financial records, and
17 administrative records.

18 Sec. 11. Section 47-908, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 47-908 All employees of the department, all employees of the
21 Division of Parole Supervision ~~Office of Parole Administration~~, and all
22 owners, operators, managers, supervisors, and employees of private
23 agencies shall cooperate with the office. Cooperation includes, but is
24 not limited to, the following:

25 (1) Provision of full access to and production of records and
26 information. Providing access to and producing records and information
27 for the office is not a violation of confidentiality provisions under any
28 statute, rule, or regulation if done in good faith for purposes of an
29 investigation under the Office of Inspector General of the Nebraska
30 Correctional System Act;

31 (2) Fair and honest disclosure of records and information reasonably

1 requested by the office in the course of an investigation under the act;

2 (3) Encouraging employees to fully comply with reasonable requests
3 of the office in the course of an investigation under the act;

4 (4) Prohibition of retaliation by owners, operators, or managers
5 against employees for providing records or information or filing or
6 otherwise making a complaint to the office;

7 (5) Not requiring employees to gain supervisory approval prior to
8 filing a complaint with or providing records or information to the
9 office;

10 (6) Provision of complete and truthful answers to questions posed by
11 the office in the course of an investigation; and

12 (7) Not willfully interfering with or obstructing the investigation.

13 Sec. 12. Section 47-919, Revised Statutes Cumulative Supplement,
14 2016, is amended to read:

15 47-919 The Division of Parole Supervision ~~Office of Parole~~
16 ~~Administration~~ shall provide the Public Counsel and the Inspector General
17 with direct computer access to all computerized records, reports, and
18 documents maintained ~~by the office~~ in connection with administration of
19 the Nebraska parole system, except that access for the Public Counsel and
20 the Inspector General to a parolee's medical or mental health records
21 shall be subject to the parolee's consent.

22 Sec. 13. Section 71-961, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-961 (1) All records kept on any subject shall remain confidential
25 except as otherwise provided by law. Such records shall be accessible to
26 (a) the subject, except as otherwise provided in subsection (2) of this
27 section, (b) the subject's legal counsel, (c) the subject's guardian or
28 conservator, if any, (d) the mental health board having jurisdiction over
29 the subject, (e) persons authorized by an order of a judge or court, (f)
30 persons authorized by written permission of the subject, (g) agents or
31 employees of the Department of Health and Human Services upon delivery of

1 a subpoena from the department in connection with a licensing or
2 licensure investigation by the department, (h) individuals authorized to
3 receive notice of the release of a sex offender pursuant to section
4 83-174, (i) the Nebraska State Patrol or the department pursuant to
5 section 69-2409.01, or (j) the Division of Parole Supervision ~~Office of~~
6 ~~Parole Administration~~ if the subject meets the requirements for lifetime
7 community supervision pursuant to section 83-174.03.

8 (2) Upon application by the county attorney or by the administrator
9 of the treatment facility where the subject is in custody and upon a
10 showing of good cause therefor, a judge of the district court of the
11 county where the mental health board proceedings were held or of the
12 county where the treatment facility is located may order that the records
13 not be made available to the subject if, in the judgment of the court,
14 the availability of such records to the subject will adversely affect his
15 or her mental illness or personality disorder and the treatment thereof.

16 (3) When a subject is absent without authorization from a treatment
17 facility or program described in section 71-939 or 71-1223 and is
18 considered to be dangerous to others, the subject's name and description
19 and a statement that the subject is believed to be considered dangerous
20 to others may be disclosed in order to aid in the subject's apprehension
21 and to warn the public of such danger.

22 Sec. 14. Section 81-1401, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 81-1401 For purposes of sections 81-1401 to 81-1414.10, unless the
25 context otherwise requires:

26 (1) Commission means the Nebraska Commission on Law Enforcement and
27 Criminal Justice;

28 (2) Council means the Nebraska Police Standards Advisory Council;

29 (3) Director means the director of the Nebraska Law Enforcement
30 Training Center;

31 (4) Felony means a crime punishable by imprisonment for a term of

1 more than one year or a crime committed outside of Nebraska which would
2 be punishable by imprisonment for a term of more than one year if
3 committed in Nebraska;

4 (5) Handgun means any firearm with a barrel less than sixteen inches
5 in length or any firearm designed to be held and fired by the use of a
6 single hand;

7 (6) Incapacity means incapable of or lacking the ability to perform
8 or carry out the usual duties of a law enforcement officer in accordance
9 with the standards established by the commission due to physical, mental,
10 or emotional factors. Incapacity does not exist if a law enforcement
11 officer remains employed as a law enforcement officer, including
12 employment as a law enforcement officer in a restricted or limited-duty
13 status;

14 (7) Law enforcement agency means the police department or the town
15 marshal in incorporated municipalities, the office of sheriff in
16 unincorporated areas, and the Nebraska State Patrol;

17 (8)(a) Law enforcement officer means any person who is responsible
18 for the prevention or detection of crime or the enforcement of the penal,
19 traffic, or highway laws of the state or any political subdivision of the
20 state for more than one hundred hours per year and is authorized by law
21 to make arrests and includes, but is not limited to:

22 (i) A full-time or part-time member of the Nebraska State Patrol;

23 (ii) A county sheriff;

24 (iii) A full-time, part-time, or reserve employee of a county
25 sheriff's office;

26 (iv) A full-time, part-time, or reserve employee of a municipal or
27 village police agency;

28 (v) A full-time or part-time Game and Parks Commission conservation
29 officer;

30 (vi) A full-time or part-time deputy state sheriff; or

31 (vii) A full-time employee of an organized and paid fire department

1 of any city of the metropolitan class who is an authorized arson
2 investigator and whose duties consist of determining the cause, origin,
3 and circumstances of fires or explosions while on duty in the course of
4 an investigation;

5 (b) Law enforcement officer does not include employees of the
6 Department of Correctional Services, probation officers under the
7 Nebraska Probation System, parole officers appointed by the Director of
8 Supervision and Services of the Division of Parole Supervision ~~Parole~~
9 ~~Administrator~~, or employees of the Department of Revenue under section
10 77-366; and

11 (c) A law enforcement officer shall possess a valid law enforcement
12 officer certificate or diploma, as established by the council, in order
13 to be vested with the authority of this section, but this subdivision
14 does not prohibit an individual from receiving a conditional appointment
15 as an officer pursuant to subsection (2) of section 81-1414;

16 (9) Training academy means the training center or such other
17 council-approved law enforcement training facility operated and
18 maintained by a law enforcement agency which offers certification
19 training that meets or exceeds the certification training curriculum of
20 the training center;

21 (10) Training center means the Nebraska Law Enforcement Training
22 Center; and

23 (11) Training school means a public or private institution of higher
24 education, including the University of Nebraska, the Nebraska state
25 colleges, and the community colleges of this state, that offers training
26 in a council-approved pre-certification course.

27 Sec. 15. Section 83-170, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 83-170 As used in the Nebraska Treatment and Corrections Act, unless
30 the context otherwise requires:

31 ~~(1) Administrator means the Parole Administrator;~~

- 1 ~~(1) (2)~~ Board means the Board of Parole;
- 2 ~~(2) (3)~~ Committed offender means any person who, under any provision
3 of law, is sentenced or committed to a facility operated by the
4 department or is sentenced or committed to the department other than a
5 person adjudged to be as described in subdivision (1), (2), (3)(b), or
6 (4) of section 43-247 by a juvenile court;
- 7 ~~(3) (4)~~ Department means the Department of Correctional Services;
- 8 ~~(4) (5)~~ Director means the Director of Correctional Services;
- 9 (5) Director of Supervision and Services means the Director of
10 Supervision and Services appointed pursuant to section 83-1,101;
- 11 (6) Facility means any prison, reformatory, training school,
12 reception center, community guidance center, group home, or other
13 institution operated by the department;
- 14 (7) Good time means any reduction of sentence granted pursuant to
15 sections 83-1,107 and 83-1,108;
- 16 (8) Maximum term means the maximum sentence provided by law or the
17 maximum sentence imposed by a court, whichever is shorter;
- 18 (9) Minimum term means the minimum sentence provided by law or the
19 minimum sentence imposed by a court, whichever is longer;
- 20 (10) Pardon authority means the power to remit fines and forfeitures
21 and to grant respites, reprieves, pardons, or commutations;
- 22 (11) Parole term means the time from release on parole to the
23 completion of the maximum term, reduced by good time;
- 24 (12) Person committed to the department means any person sentenced
25 or committed to a facility within the department;
- 26 (13) Restrictive housing means conditions of confinement that
27 provide limited contact with other offenders, strictly controlled
28 movement while out of cell, and out-of-cell time of less than twenty-four
29 hours per week; and
- 30 (14) Solitary confinement means the status of confinement of an
31 inmate in an individual cell having solid, soundproof doors and which

1 deprives the inmate of all visual and auditory contact with other
2 persons.

3 Sec. 16. Section 83-171, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 83-171 There is hereby created a Department of Correctional Services
6 which shall:

7 (1) Maintain and administer facilities required for the custody,
8 control, correctional treatment, and rehabilitation of persons committed
9 to the department and for the safekeeping of such other persons as may be
10 remanded to the department in accordance with law;

11 (2) Develop policies and programs for the correctional treatment and
12 rehabilitation of persons committed to the department;

13 (3) Supervise parolees who have been committed to the department;
14 and

15 (4) Until July 1, 2016, administer parole services in the facilities
16 and in the community and, beginning July 1, 2016, cooperate with the
17 Board of Parole and Division of Parole Supervision ~~Office of Parole~~
18 ~~Administration~~ to assist with the efficient administration of parole
19 services in the facilities and in the community.

20 Sec. 17. Section 83-174.03, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 83-174.03 (1) Any individual who, on or after July 14, 2006, (a) is
23 convicted of or completes a term of incarceration for a registrable
24 offense under section 29-4003 and has a previous conviction for a
25 registrable offense under such section, (b) is convicted of sexual
26 assault of a child in the first degree pursuant to section 28-319.01, or
27 (c) is convicted of or completes a term of incarceration for an
28 aggravated offense as defined in section 29-4001.01, shall, upon
29 completion of his or her term of incarceration or release from civil
30 commitment, be supervised in the community by the Division of Parole
31 Supervision ~~Office of Parole Administration~~ for the remainder of his or

1 her life.

2 (2) Notice shall be provided to the division ~~Office of Parole~~
3 ~~Administration~~ by an agency or political subdivision which has custody of
4 an individual required to be supervised in the community pursuant to
5 subsection (1) of this section at least sixty days prior to the release
6 of such individual from custody.

7 (3) Individuals required to be supervised in the community pursuant
8 to subsection (1) of this section shall undergo a risk assessment and
9 evaluation by the division ~~Office of Parole Administration~~ to determine
10 the conditions of community supervision to be imposed to best protect the
11 public from the risk that the individual will reoffend.

12 (4) Conditions of community supervision imposed on an individual by
13 the division ~~Office of Parole Administration~~ may include the following:

14 (a) Drug and alcohol testing if the conviction resulting in the
15 imposition of community supervision involved the use of drugs or alcohol;

16 (b) Restrictions on employment and leisure activities necessary to
17 minimize interaction with potential victims;

18 (c) Requirements to report regularly to the individual's community
19 supervision officer;

20 (d) Requirements to reside at a specified location and notify the
21 individual's community supervision officer of any change in address or
22 employment;

23 (e) A requirement to allow the division ~~Office of Parole~~
24 ~~Administration~~ access to medical records from the individual's current
25 and former providers of treatment;

26 (f) A requirement that the individual submit himself or herself to
27 available medical, psychological, psychiatric, or other treatment,
28 including, but not limited to, polygraph examinations; or

29 (g) Any other conditions designed to minimize the risk of
30 recidivism, including, but not limited to, the use of electronic
31 monitoring, which are not unduly restrictive.

1 Sec. 18. Section 83-174.04, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 83-174.04 An individual who violates one or more of the conditions
4 of community supervision established for him or her pursuant to section
5 83-174.03 shall undergo a review by the Division of Parole Supervision
6 ~~Office of Parole Administration~~ to evaluate the risk posed to the public
7 by the violation in question. The division ~~office~~ may take any of the
8 following actions in response to a violation of conditions of community
9 supervision:

10 (1) Revise or impose additional conditions of community supervision
11 in order to minimize the risk to the public from the continued presence
12 of the individual in the community;

13 (2) Forward to the Attorney General or the county attorney in the
14 county where the individual resides a request to initiate a criminal
15 prosecution for failure to comply with the terms of community
16 supervision; or

17 (3) Forward to the county attorney or Attorney General a
18 recommendation that civil commitment proceedings be instituted with
19 respect to the individual.

20 Sec. 19. Section 83-174.05, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 83-174.05 Failure to comply with the conditions of community
23 supervision imposed by the Division of Parole Supervision ~~Office of~~
24 ~~Parole Administration~~ is a Class IV felony for the first offense and a
25 Class III felony for any subsequent offense.

26 Sec. 20. Section 83-191, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 83-191 The members of the Board of Parole shall devote full time to
29 their duties with such board and shall not engage in any other business
30 or profession or hold any other public office. No member shall, at the
31 time of his or her appointment or during his or her tenure, serve as the

1 representative of any political party or of any executive committee or
2 governing body thereof or as an executive officer or employee of any
3 political party, organization, association, or committee. A member shall
4 resign from the board upon filing as a candidate for any elective public
5 office. Each member of the board shall receive an annual salary to be
6 fixed by the Governor. ~~Such~~ ~~On and after July 1, 1993,~~ such salaries
7 shall be paid in equal monthly portions.

8 Sec. 21. Section 83-192, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 83-192 (1) The Board of Parole shall:

11 (a) Determine the time of release on parole of committed offenders
12 eligible for such release;

13 (b) Fix the conditions of parole, revoke parole, issue or authorize
14 the issuance of warrants for the arrest of parole violators, and impose
15 other sanctions short of revocation for violation of conditions of
16 parole;

17 (c) Determine the time of mandatory discharge from parole;

18 (d) Visit and inspect any facility, state or local, for the
19 detention of persons charged with or convicted of an offense and for the
20 safekeeping of such other persons as may be remanded to such facility in
21 accordance with law;

22 (e) Within two years after July 1, 2006, implement the utilization
23 of a validated risk and needs assessment in coordination with the
24 Department of Correctional Services and the Division of Parole
25 Supervision ~~Office of Parole Administration~~. The assessment shall be
26 prepared and completed by the department or the division office for use
27 by the board in determining release on parole and shall be performed at
28 least forty-five days but no more than six months prior to a parole
29 hearing before the board;

30 (f) Review the record of every parole-eligible committed offender
31 annually when he or she is within three years of his or her earliest

1 parole eligibility date. as follows:

2 ~~(i) If a committed offender has a parole eligibility date within~~
3 ~~five years of his or her date of incarceration, his or her record shall~~
4 ~~be reviewed annually;~~

5 ~~(ii) If a committed offender has a parole eligibility date which is~~
6 ~~more than five but not more than ten years from his or her date of~~
7 ~~incarceration, his or her record shall be reviewed during the first year~~
8 ~~of incarceration, and when he or she is within three years of his or her~~
9 ~~earliest parole eligibility date, his or her record shall be reviewed~~
10 ~~annually;~~

11 ~~(iii) If a committed offender has a parole eligibility date which is~~
12 ~~more than ten but not more than thirty years from his or her date of~~
13 ~~incarceration, his or her record shall be reviewed during the first year~~
14 ~~of incarceration, every five years thereafter until he or she is within~~
15 ~~five years of his or her earliest parole eligibility date, and annually~~
16 ~~thereafter;~~

17 ~~(iv) If a committed offender has a parole eligibility date which is~~
18 ~~more than thirty years from his or her date of incarceration, his or her~~
19 ~~record shall be reviewed during his or her first, tenth, and twentieth~~
20 ~~year of incarceration, and when he or she is within five years of his or~~
21 ~~her earliest parole eligibility date, his or her record shall be reviewed~~
22 ~~annually; and~~

23 ~~(v) If a committed offender is serving a minimum life sentence, his~~
24 ~~or her record shall be reviewed during the first year of incarceration~~
25 ~~and every ten years thereafter until such time as the sentence is~~
26 ~~commuted. If such sentence is commuted, the committed offender's record~~
27 ~~shall be reviewed annually when he or she is within five years of his or~~
28 ~~her earliest parole eligibility date.~~

29 ~~Such review shall include the circumstances of the offense, the~~
30 ~~presentence investigation report, the committed offender's previous~~
31 ~~social history and criminal record, his or her conduct, employment, and~~

1 ~~attitude during commitment, and the reports of such physical and mental~~
2 ~~examinations as have been made. The board shall meet with such committed~~
3 ~~offender and counsel him or her concerning his or her progress and~~
4 ~~prospects for future parole.~~

5 The review schedule shall be based on court-imposed sentences or
6 statutory minimum sentences, whichever are greater. The board is not
7 required to review the record of a committed offender when the committed
8 offender's parole eligibility date is within one month of his or her
9 mandatory discharge date. Nothing in such schedule shall prohibit the
10 board from reviewing a committed offender's case at any time;

11 (g) Appoint and remove all employees of the board as prescribed by
12 the State Personnel System and delegate appropriate powers and duties to
13 them; ~~and~~

14 (h) Adopt and promulgate rules and regulations; and

15 (i) Exercise all powers and perform all duties necessary and proper
16 in carrying out its responsibilities of the board under the Nebraska
17 Treatment and Corrections Act.

18 (2) The chairperson of the board shall:

19 (a) Supervise the administration and operation of the board;

20 (b) Serve in an advisory capacity to the director in administering
21 parole services within any facility ~~and in the community;~~

22 (c) Interpret the parole program to the public with a view toward
23 developing a broad base of public support;

24 (d) Conduct research for the purpose of evaluating and improving the
25 effectiveness of the parole system;

26 (e) Recommend parole legislation to the Governor;

27 (f) Adopt and promulgate rules and regulations for the
28 administration and operation of the board; and

29 (g) Exercise all other powers and perform all other duties necessary
30 and proper in carrying out his or her responsibilities as chairperson.

31 (3) This section does ~~The provisions of this section shall not~~

1 prohibit a committed offender from requesting that the board review his
2 or her record, except that the board is not ~~shall not be~~ required to
3 review a committed offender's record more than once a year.

4 Sec. 22. The Board of Parole Grant Awards Cash Fund is created. All
5 funds received by virtue of public grants awarded to the Board of Parole
6 shall be remitted to the State Treasurer for credit to the fund. The fund
7 shall be utilized by the board for the purposes stated in the individual
8 grant applications and awards. Any money in the fund available for
9 investment shall be invested by the state investment officer pursuant to
10 the Nebraska Capital Expansion Act and the Nebraska State Funds
11 Investment Act.

12 Sec. 23. Section 83-198, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 83-198 A person shall be guilty of a felony if he or she threatens
15 or attempts to threaten harm to a member or an employee of the Board of
16 Parole with the purpose to influence a ~~his~~ decision, an opinion, a
17 recommendation, a vote, or any other exercise of discretion as member or
18 employee of the board or if he or she privately addresses to any member
19 or employee of the board any representation, entreaty, argument, or other
20 communication designed to influence the outcome of any matter which is or
21 may come before the board on the basis of considerations other than those
22 authorized by law, and shall be guilty of a Class IV felony.

23 Sec. 24. Section 83-1,100, Revised Statutes Cumulative Supplement,
24 2016, is amended to read:

25 83-1,100 (1) There is hereby created the Division of Parole
26 Supervision Office of Parole Administration. Until July 1, 2016, the
27 office shall be within the Department of Correctional Services. Beginning
28 July 1, 2016, the office shall be within the Board of Parole. The
29 director and the board shall jointly develop a transition implementation
30 plan. The plan shall be presented to the Governor and to the Legislature
31 no later than December 1, 2015. The report to the Legislature shall be

1 ~~delivered electronically.~~ The employees of the division office shall
2 consist of the Director of Supervision and Services Parole Administrator,
3 the field parole service officers, and all other division staff. The
4 division office staff. ~~The office~~ shall be responsible for the following:

- 5 (a) The administration of parole services in the community;
- 6 (b) The maintenance of all records and files associated with the
7 Board of Parole;
- 8 (c) The daily supervision and training of staff members of the
9 division office, including training regarding evidence-based practices in
10 supervision pursuant to section 83-1,100.02; and
- 11 (d) The assessment, evaluation, and supervision of individuals who
12 are subject to parole supervision, including lifetime community
13 supervision pursuant to section 83-174.03.

14 (2) Parole officers shall be compensated with salaries substantially
15 equal to other state employees who have similar responsibilities,
16 including employees of the Office of Probation Administration. This
17 subsection shall apply only to field parole service officers and support
18 staff and shall not apply to the Director of Supervision and Services
19 ~~Parole Administrator, any deputy parole administrator, or any other~~
20 management-level ~~similarly established management~~ position.

21 (3) ~~This section does not prohibit the division~~ Nothing in this
22 ~~section shall be construed to prohibit the office~~ from maintaining daily
23 records and files associated with the Board of Pardons.

24 Sec. 25. Section 83-1,100.02, Revised Statutes Cumulative
25 Supplement, 2016, is amended to read:

26 83-1,100.02 (1) For purposes of this section:

- 27 (a) Levels of supervision means the determination of the following
28 for each person on parole:
 - 29 (i) Supervision contact requirements, including the frequency,
30 location, methods, and nature of contact with the parole officer;
 - 31 (ii) Substance abuse testing requirements and frequency;

- 1 (iii) Contact restrictions;
- 2 (iv) Curfew restrictions;
- 3 (v) Access to available programs and treatment, with priority given
- 4 to moderate-risk and high-risk parolees; and
- 5 (vi) Severity of graduated responses to violations of supervision
- 6 conditions; and
- 7 (b) Risk and needs assessment means an actuarial tool that has been
- 8 validated in Nebraska to determine the likelihood of the parolee engaging
- 9 in future criminal behavior.

10 (2) The Division of Parole Supervision ~~Office of Parole~~

11 ~~Administration~~ shall establish an evidence-based process that utilizes a

12 risk and needs assessment to measure criminal risk factors and specific

13 individual needs.

14 (3) The risk and needs assessment shall be performed at the

15 commencement of the parole term and every six months thereafter by

16 division ~~office~~ staff trained and certified in the use of the risk and

17 needs assessment.

18 (4) The ~~office shall test the~~ validity of the risk and needs

19 assessment shall be tested at least every five years.

20 (5) Based on the results of the risk and needs assessment, the

21 division ~~office~~ shall ~~determine levels of supervision to~~ target parolee

22 criminal risk and need factors by focusing sanction, program, and

23 treatment resources on moderate-risk and high-risk parolees.

24 (6) The division ~~office~~ shall provide training to its parole

25 officers on use of a risk and needs assessment, risk-based supervision

26 strategies, relationship skills, cognitive behavioral interventions,

27 community-based resources, criminal risk factors, targeting criminal risk

28 factors to reduce recidivism, and proper use of a matrix of

29 administrative sanctions, custodial sanctions, and rewards developed

30 pursuant to section 83-1,119. All parole officers employed on August 30,

31 2015, shall complete the training requirements set forth in this

1 subsection on or before January 1, 2017. Each parole officer hired on or
2 after August 30, 2015, shall complete the training requirements set forth
3 in this subsection within one year after his or her hire date.

4 (7) The ~~division~~ office shall provide training for chief parole
5 officers to become trainers so as to ensure long-term and self-sufficient
6 training capacity in the state.

7 Sec. 26. Section 83-1,101, Revised Statutes Cumulative Supplement,
8 2016, is amended to read:

9 83-1,101 The Board of Parole shall appoint a Director of Supervision
10 ~~and Services who Parole Administrator. The Parole Administrator~~ shall be
11 a person with appropriate experience and training, including, but not
12 limited to, familiarity with the implementation of evidence-based
13 processes for utilizing risk and needs assessments to measure criminal
14 risk factors and specific individual needs.

15 Sec. 27. Section 83-1,102, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 83-1,102 The Director of Supervision and Services ~~Parole~~
18 ~~Administrator~~ shall:

19 (1) Supervise and administer the Division of Parole Supervision
20 ~~Office of Parole Administration~~;

21 (2) Establish and maintain policies, standards, and procedures for
22 the field parole service and the community supervision of sex offenders
23 pursuant to section 83-174.03;

24 (3) Divide the state into parole districts and appoint district
25 parole officers, ~~deputy parole officers, if required,~~ and such other
26 employees as may be required to carry out adequate parole supervision of
27 all parolees, prescribe their powers and duties, and obtain division
28 ~~offices~~ ~~office~~ quarters for staff in each district as may be necessary;

29 (4) Cooperate with the Board of Parole, the courts, the Community
30 Corrections Division of the Nebraska Commission on Law Enforcement and
31 Criminal Justice, and all other agencies, public and private, which are

1 concerned with the treatment or welfare of persons on parole;

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

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

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

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

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

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

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

29 Sec. 28. Section 83-1,103, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 83-1,103 The field parole service, consisting of district parole

1 officers and ~~deputy parole officers~~ working under the direction of the
2 Director of Supervision and Services ~~Parole Administrator~~ or district
3 judge, shall be responsible for the investigation, supervision, and
4 assistance of parolees, probationers, or individuals subject to community
5 supervision under section 83-174.03. The field parole service shall be
6 sufficient in size to assure that no district parole officer carries a
7 case load larger than is compatible with adequate parole investigation or
8 supervision.

9 Sec. 29. Section 83-1,103.01, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 83-1,103.01 A parole officer assigned by the Director of Supervision
12 and Services ~~administrator~~ to supervise individuals subject to lifetime
13 community supervision pursuant to section 83-174.03 shall:

14 (1) Make investigations, prior to an individual subject to community
15 supervision being released from incarceration, in cooperation with
16 institutional caseworkers at prisons, mental health facilities, and
17 county jails, to determine the community supervision conditions necessary
18 to protect the public and make reasonable advance preparation for release
19 into the community;

20 (2) Assist individuals subject to community supervision to comply
21 with the conditions of supervision and to make a successful adjustment in
22 the community;

23 (3) Supervise individuals subject to community supervision by
24 keeping informed of their conduct and condition;

25 (4) Make reports as required by the Director of Supervision and
26 Services ~~administrator~~ to determine the effectiveness of community
27 supervision in protecting the public or the progress of an individual
28 subject to community supervision;

29 (5) Cooperate with social welfare agencies and treatment providers
30 to ensure that individuals subject to community supervision receive any
31 necessary services or treatment;

1 (6) Inform the Director of Supervision and Services administrator
2 when, in the opinion of the community supervision officer, an individual
3 is in violation of the conditions of his or her community supervision,
4 and whenever necessary exercise the power of arrest as provided in
5 section 83-1,102;

6 (7) Conduct periodic reviews of the conditions of community
7 supervision imposed on an individual as required by the Director of
8 Supervision and Services administrator; and

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

11 Sec. 30. Section 83-1,103.02, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 83-1,103.02 (1) Prior to the release from incarceration of an
14 individual subject to lifetime community supervision pursuant to section
15 83-174.03, the Division of Parole Supervision Office of Parole
16 Administration shall:

17 (a) Notify the individual in writing that he or she is subject to
18 community supervision upon completion of his or her criminal sentence;

19 (b) Inform the individual subject to community supervision of the
20 process by which conditions of community supervision are determined and
21 his or her right to submit relevant information to the division office
22 for consideration when establishing the conditions of supervision;

23 (c) Determine the individual's risk of recidivism if released into
24 the community, utilizing a validated risk assessment tool;

25 (d) After considering the information required in subdivision (e) of
26 this subsection, determine the conditions of supervision which will most
27 effectively minimize the risk of the individual committing another sex
28 offense. The conditions shall be the least restrictive conditions
29 available, in terms of the effect on the individual's personal freedom,
30 which minimize the risk of recidivism and are compatible with public
31 safety; and

1 (e) In determining the conditions of supervision to be imposed, the
2 ~~division office~~ shall consider the following:

3 (i) A report prepared by the institutional caseworkers relating to
4 the individual's personality, social history, and adjustment to authority
5 and including any recommendations which the staff of the facility may
6 make;

7 (ii) All official reports of the individual's prior criminal record,
8 including reports and records of earlier probation and parole
9 experiences;

10 (iii) The presentence investigation report;

11 (iv) The reports of any physical, mental, and psychiatric
12 examinations of the individual;

13 (v) Any relevant information which may be submitted by the
14 individual, his or her attorney, the victim of the crime, or other
15 persons; and

16 (vi) Such other relevant information concerning the individual as
17 may be reasonably available.

18 (2) Upon completion of the risk assessment and the determination of
19 the conditions of community supervision and no later than thirty days
20 prior to the completion of the individual's criminal sentence, the
21 ~~division Office of Parole Administration~~ shall issue a certificate of
22 community supervision to the individual containing the conditions of
23 community supervision he or she will be required to comply with upon the
24 completion of his or her criminal sentence. The Director of Supervision
25 and Services administrator shall include with the certificate written
26 information on how to appeal the determination of the conditions of
27 community supervision.

28 Sec. 31. Section 83-1,103.03, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 83-1,103.03 The Division of Parole Supervision Office of Parole
31 ~~Administration~~ shall review the conditions of community supervision

1 imposed on an individual pursuant to section 83-174.03 on an annual basis
2 and shall provide the individual the opportunity to submit written
3 materials to the division office for consideration during such review.

4 If the division office determines, after reviewing the individual's
5 conduct while under supervision and any other relevant facts, that one or
6 more of the conditions of community supervision imposed upon the
7 individual is no longer necessary to reduce the risk of the individual
8 reoffending or is no longer the least restrictive condition compatible
9 with public safety, the division office shall revise the conditions of
10 community supervision so that the individual's freedom is not
11 unnecessarily restricted.

12 Sec. 32. Section 83-1,103.04, Reissue Revised Statutes of Nebraska,
13 is amended to read:

14 83-1,103.04 (1) Whenever a determination or revision of the
15 conditions of community supervision is made by the Division of Parole
16 Supervision Office of Parole Administration, the individual subject to
17 the conditions shall be entitled to an appeal. The appeal shall be heard
18 by the district court in the county where the individual resides. The
19 individual shall be informed of his or her right to request counsel, and
20 if counsel is requested the court shall determine if the individual is
21 indigent. If the court finds the individual to be indigent, it shall
22 appoint counsel from the public defender's office to represent the
23 individual during the appeal.

24 (2) In an appeal contesting the determination or revision of the
25 conditions of community supervision, the burden of proof shall be on the
26 individual subject to community supervision to show by clear and
27 convincing evidence (a) that the conditions in question will not reduce
28 the risk of the individual reoffending or otherwise protect the public or
29 (b) that the condition is overly restrictive of the individual's freedom
30 and a less restrictive condition is available which is equally or more
31 effective in reducing the risk of the individual reoffending.

1 Sec. 33. Section 83-1,104, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 83-1,104 A district parole officer shall:

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

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

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

22 (4) Make such reports as required by the Director of Supervision and
23 Services Parole Administrator or district judge to determine the
24 effectiveness of the parole system or the progress of an individual
25 parolee;

26 (5) Cooperate with social welfare agencies;

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

29 (7) Inform the Director of Supervision and Services Parole
30 Administrator when, in his or her opinion, any eligible parolee's conduct
31 and attitude warrant his or her discharge from active supervision, or

1 when any parolee's violation of the conditions of parole is of sufficient
2 seriousness to require action by the Board of Parole or district judge
3 and whenever necessary exercise the power of arrest as provided in
4 section 83-1,119;

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

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

10 Sec. 34. Section 83-1,107, Revised Statutes Cumulative Supplement,
11 2016, is amended to read:

12 83-1,107 (1)(a) Within sixty days after initial classification and
13 assignment of any offender committed to the department, all available
14 information regarding such committed offender shall be reviewed and a
15 committed offender department-approved personalized program plan document
16 shall be drawn up. The document shall specifically describe the
17 department-approved personalized program plan and the specific goals the
18 department expects the committed offender to achieve. The document shall
19 also contain a realistic schedule for completion of the department-
20 approved personalized program plan. The department-approved personalized
21 program plan shall be developed with the active participation of the
22 committed offender. The department shall provide programs to allow
23 compliance by the committed offender with the department-approved
24 personalized program plan.

25 Programming may include, but is not limited to:

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

28 (ii) Substance abuse treatment;

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

31 (iv) Constructive, meaningful work programs; and

1 (v) Any other program deemed necessary and appropriate by the
2 department.

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

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

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

23 (c) The total reductions under this subsection shall be credited
24 from the date of sentence, which shall include any term of confinement
25 prior to sentence and commitment as provided pursuant to section
26 83-1,106, and shall be deducted from the maximum term, to determine the
27 date when discharge from the custody of the state becomes mandatory.

28 (3) While the offender is in the custody of the department,
29 reductions of terms granted pursuant to subdivision (2)(a) of this
30 section may be forfeited, withheld, and restored by the chief executive
31 officer of the facility with the approval of the director after the

1 offender has been notified regarding the charges of misconduct.

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

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

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

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

28 (6)(a) Within thirty days after any committed offender has been
29 paroled, all available information regarding such parolee shall be
30 reviewed and a case parolee personalized program plan document shall be
31 drawn up and approved by the Division of Parole Supervision ~~Office~~ of

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

11 Programming may include, but is not limited to:

12 (i) Academic and vocational education;

13 (ii) Substance abuse treatment;

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

16 (iv) Constructive, meaningful work programs;

17 (v) Community service programs; and

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

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

28 (7) While the offender is in the custody of the board, reductions of
29 terms granted pursuant to subdivision (2)(a) of this section may be
30 forfeited, withheld, and restored by the director upon the recommendation
31 of the board administrator ~~with the approval of the director~~ after the

1 offender has been notified regarding the charges of misconduct or breach
2 of the conditions of parole. ~~In addition, the board may recommend such~~
3 ~~forfeitures of good time to the director.~~

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

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

16 Sec. 35. Section 83-1,107.01, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 83-1,107.01 (1) Unless otherwise provided by this section, whenever
19 an adult offender is paroled, the board shall require a parolee to pay a
20 monthly parole programming fee.

21 (2) Parolees under the supervision of the Division of Parole
22 Supervision ~~Office of Parole Administration~~ shall pay a monthly parole
23 programming fee of twenty-five dollars, not later than the tenth day of
24 each month, beginning the second month of parole supervision and
25 continuing for the duration of the parole.

26 (3) The board shall waive payment of the monthly parole programming
27 fee in whole or in part if after a hearing a determination is made that
28 such payment would constitute an undue hardship on the parolee due to
29 limited income, employment or school status, or physical or mental
30 handicap. Such waiver shall be in effect only during the period of time
31 that the parolee is unable to pay his or her monthly parole programming

1 fee.

2 (4) When monthly parole programming fees are waived, in whole or in
3 part, the parole officer, pursuant to rules and regulations adopted by
4 the board, may contract with the parolee to perform approved community
5 service at the rate of five dollars per hour in lieu of payment of
6 monthly parole programming fees. A parolee may be required to pay a
7 participation fee in order to take advantage of community service
8 programs. A parolee may not accumulate more than three months' advance
9 credit for community service. The use of community service alternatives
10 does not preclude the imposition of other intermediate measures.

11 (5) The division ~~Office of Parole Administration~~ with the approval
12 of the Board of Parole shall implement sanctions if a parolee defaults in
13 the payment of monthly parole programming fees or any installment thereof
14 as established by subsection (2) of this section, except that parole
15 shall not be revoked nor shall the parolee be imprisoned for such
16 nonpayment if the parolee is financially unable to make the payment.

17 (6) If the board determines that the default in payment described in
18 subsection (5) of this section was not attributable to a deliberate
19 refusal to obey the order of the board or to failure on the parolee's
20 part to make a good faith effort to obtain the funds required for
21 payment, the board may allow the parolee additional time for payment,
22 reduce the amount of each installment, or revoke the fees or the unpaid
23 portion in whole or in part.

24 (7) No parolee shall be required to pay more than one monthly parole
25 programming fee per month.

26 (8) The imposition of monthly parole programming fees in this
27 section shall be considered separate and apart from specific service
28 delivery fees.

29 (9) Any adult offender received for supervision pursuant to section
30 29-2637 or the Interstate Compact for Adult Offender Supervision shall be
31 assessed a monthly parole programming fee during the period of time the

1 offender is actively supervised by Nebraska parole authorities.

2 (10) A parolee shall pay the fees described in this section to the
3 ~~division. The division~~ Office of Parole Administration. The office shall
4 remit all fees to the State Treasurer for credit to the Parole Program
5 Cash Fund.

6 (11) The board and the ~~division~~ office shall adopt and promulgate
7 rules and regulations to carry out this section.

8 Sec. 36. Section 83-1,107.02, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 83-1,107.02 The Parole Program Cash Fund is created. All funds
11 collected pursuant to section 83-1,107.01 shall be remitted to the State
12 Treasurer for credit to the fund. The fund shall be utilized by the
13 ~~Division of Parole Supervision~~ Office of Parole Administration for the
14 purposes stated in subdivision (8) of section 83-1,102. Any money in the
15 fund available for investment shall be invested by the state investment
16 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
17 State Funds Investment Act.

18 Sec. 37. Section 83-1,109, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 83-1,109 The chief executive officer of a facility shall regularly
21 report all good time and all forfeitures, withholdings, and restorations
22 of good time to the director. On the basis of such report, the director
23 shall inform the board and the ~~Director of Supervision and Services~~
24 ~~administrator~~ of all committed offenders who are expected to become
25 eligible for release on parole within the next three months.

26 Sec. 38. Section 83-1,111, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 83-1,111 (1) ~~A~~ Every committed offender serving an indeterminate
29 sentence under which he or she may become eligible for parole shall be
30 interviewed and have his or her record reviewed by two or more members of
31 the Board of Parole or a person designated by the board within sixty days

1 before the expiration of his or her minimum term less any reductions as
2 provided in section 83-1,110. If, in the opinion of the reviewers, the
3 review indicates the offender is reasonably likely to be granted parole
4 and has a potential parole term of no less than one month, the Board of
5 Parole shall schedule a public hearing before a majority of its members.
6 At such hearing the offender may present evidence, call witnesses, and be
7 represented by counsel. If, in the opinion of the reviewers, the review
8 indicates the offender should be denied parole, the offender may request
9 an additional review by a majority of the members of the board. A review
10 by the majority of the members of the board may be conducted not more
11 than once annually. Any hearing and review shall be conducted in an
12 informal manner, but a complete record of the proceedings shall be made
13 and preserved.

14 (2) The board shall render its decision regarding the committed
15 offender's release on parole within a reasonable time after the hearing
16 or review. The decision shall be by majority vote of the board. The
17 decision shall be based on the entire record before the board, which
18 shall include the opinion of the person who conducted the review. If the
19 board denies ~~shall deny~~ parole, written notification listing the reasons
20 for such denial and the recommendations for correcting deficiencies which
21 cause the denial shall be given to the committed offender within thirty
22 days following the hearing.

23 (3) If the board fixes the release date, such date shall be not more
24 than six months from the date of the committed offender's parole hearing,
25 or from the date of last reconsideration of his or her case, unless there
26 are special reasons for fixing a later release date.

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

31 (5) The release of a committed offender on parole shall not be upon

1 the application of the offender, but by the initiative of the Board of
2 Parole. No application for release on parole made by a committed offender
3 or on his or her behalf shall be entertained by the board. This
4 subsection does not ~~Nothing herein shall~~ prohibit the Director of
5 Correctional Services from recommending to the board that it consider an
6 individual offender for release on parole.

7 Sec. 39. Section 83-1,112, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 83-1,112 (1) Each committed offender eligible for parole shall, in
10 advance of his or her parole hearing, have a parole plan in accordance
11 with the rules of the Board of Parole. Whenever the board determines that
12 it will facilitate the parole hearing, it may furnish the offender with
13 any information and records to be considered by it at the hearing.

14 (2) An offender shall be permitted to advise with any person whose
15 assistance he or she desires, including his or her own legal counsel, in
16 preparing for a hearing before the Board of Parole.

17 Sec. 40. Section 83-1,112.01, Reissue Revised Statutes of Nebraska,
18 is amended to read:

19 83-1,112.01 The board shall require any person who is incarcerated
20 pursuant to subdivision (9) or (10) of section 60-6,197.03 to complete
21 all diagnostic evaluations provided by the department and all programming
22 required by the department prior to being considered eligible for parole.
23 If the programming required by the department cannot be completed during
24 the person's period of incarceration but can be provided in the
25 community, and the board in its discretion believes the incarcerated
26 person will participate in programming available in the community, the
27 board may waive the programming requirement of this section and, as a
28 condition of parole, require that such programming be completed by the
29 offender during his or her parole term.

30 Sec. 41. Section 83-1,114, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 83-1,114 (1) Whenever the Board of Parole considers the release of a
2 committed offender who is eligible for release on parole, it shall order
3 his or her release unless it is of the opinion that his or her release
4 should be deferred because:

5 (a) There is a substantial risk that he or she will not conform to
6 the conditions of parole;

7 (b) His or her release would depreciate the seriousness of his or
8 her crime or promote disrespect for law;

9 (c) His or her release would have a substantially adverse effect on
10 institutional discipline; or

11 (d) His or her continued correctional treatment, medical care, or
12 vocational or other training in the facility will substantially enhance
13 his or her capacity to lead a law-abiding life when released at a later
14 date.

15 (2) In making its determination regarding a committed offender's
16 release on parole, the Board of Parole shall give consideration to its
17 decision guidelines as set forth in its rules and regulations and shall
18 take into account each of the following factors:

19 (a) The offender's personality, including his or her maturity,
20 stability, and sense of responsibility and any apparent development in
21 his or her personality which may promote or hinder his or her conformity
22 to law;

23 (b) The adequacy of the offender's parole plan;

24 (c) The offender's ability and readiness to assume obligations and
25 undertake responsibilities;

26 (d) The offender's intelligence and training;

27 (e) The offender's family status and whether he or she has relatives
28 who display an interest in him or her or whether he or she has other
29 close and constructive associations in the community;

30 (f) The offender's employment history, his or her occupational
31 skills, and the stability of his or her past employment;

1 (g) The type of residence, neighborhood, or community in which the
2 offender plans to live;

3 (h) The offender's past use of narcotics or past habitual and
4 excessive use of alcohol;

5 (i) The offender's mental or physical makeup, including any
6 disability or handicap which may affect his or her conformity to law;

7 (j) The offender's prior criminal record, including the nature and
8 circumstances, dates ~~recency~~, and frequency of previous offenses;

9 (k) The offender's attitude toward law and authority;

10 (l) The offender's conduct in the facility, including particularly
11 whether he or she has taken advantage of the opportunities for self-
12 improvement, whether he or she has been punished for misconduct within
13 six months prior to his or her hearing or reconsideration for parole
14 release, whether any reductions of term have been forfeited, and whether
15 such reductions have been restored at the time of hearing or
16 reconsideration;

17 (m) The offender's behavior and attitude during any previous
18 experience of probation or parole and how recent ~~the recency~~ of such
19 experience is;

20 (n) The risk and needs assessment completed pursuant to section
21 83-192; and

22 (o) Any other factors the board determines to be relevant.

23 Sec. 42. Section 83-1,118, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 83-1,118 (1) If, in the opinion of the board, upon receipt of
26 information from the Director of Supervision and Services, a parolee has
27 shown suitable compliance with his or her parole programming plan, the
28 board may reduce the level of supervision for a parolee that is
29 commensurate with the best interests of the parolee and is compatible
30 with the protection of the public , ~~a parolee does not require guidance~~
31 ~~or supervision, the board may dispense with and terminate such~~

1 supervision.

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

5 ~~(2)~~ (3) The board shall discharge a parolee from parole when the
6 time served in the custody of the department and the time served on
7 parole equal the maximum term less good time.

8 ~~(3)~~ (4) The department shall discharge a committed offender from the
9 custody of the department when the time served in the facility equals the
10 maximum term less good time.

11 ~~(4)~~ (5) Upon completion of the lawful requirements of the sentence,
12 the department shall provide the parolee or committed offender with a
13 written notice regarding his or her civil rights. The notice shall inform
14 the parolee or committed offender that voting rights are restored two
15 years after completion of the sentence. The notice shall also include
16 information on restoring other civil rights through the pardon process,
17 including application to and hearing by the Board of Pardons.

18 ~~(5)~~ (6) The Board of Parole may discharge a parolee from parole when
19 such parolee is under the supervision of another state's correctional
20 institution and such offender has reached the expiration date of his or
21 her Nebraska parole term.

22 Sec. 43. Section 83-1,119, Revised Statutes Cumulative Supplement,
23 2016, is amended to read:

24 83-1,119 (1) For purposes of this section:

25 (a) Absconding parole supervision means a parolee has purposely
26 avoided supervision for a period of at least two weeks and reasonable
27 efforts by a parole officer and staff to locate the parolee in person
28 have proven unsuccessful;

29 (b) Administrative sanction means additional parole requirements
30 imposed upon a parolee by his or her parole officer, with the full
31 knowledge and consent of the parolee, designed to hold the parolee

1 accountable for substance abuse or technical violations of conditions of
2 parole, including, but not limited to:

3 (i) Counseling or reprimand by the Division of Parole Supervision
4 ~~adult parole administration of the department;~~

5 (ii) Increased supervision contact requirements;

6 (iii) Increased substance abuse testing;

7 (iv) Referral for substance abuse or mental health evaluation or
8 other specialized assessment, counseling, or treatment;

9 (v) Imposition of a designated curfew for a period to be determined
10 by the division ~~adult parole administration;~~ and

11 (vi) Travel restrictions to stay within his or her county of
12 residence or employment unless otherwise permitted by the division ~~adult~~
13 ~~parole administration;~~

14 (c) Contract facility means a county jail that contracts with the
15 department to house parolees or other offenders under the jurisdiction of
16 the department;

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

21 (i) Positive breath test for the consumption of alcohol if the
22 parolee is required to refrain from alcohol consumption;

23 (ii) Positive urinalysis for the illegal use of drugs;

24 (iii) Failure to report for alcohol testing or drug testing; and

25 (iv) Failure to appear for or complete substance abuse or mental
26 health treatment evaluations or inpatient or outpatient treatment; and

27 (e) Technical violation means a parolee's activities or behaviors
28 which create the opportunity for re-offending or diminish the
29 effectiveness of parole supervision resulting in a violation of an
30 original condition of parole and includes:

31 (i) Moving traffic violations;

- 1 (ii) Failure to report to his or her parole officer;
- 2 (iii) Leaving the state without the permission of the Board of
3 Parole;
- 4 (iv) Failure to work regularly or attend training or school;
- 5 (v) Failure to notify his or her parole officer of change of address
6 or employment;
- 7 (vi) Frequenting places where controlled substances are illegally
8 sold, used, distributed, or administered; and
- 9 (vii) Failure to pay fines, court costs, restitution, or any fees
10 imposed pursuant to section 83-1,107.01 as directed.

11 Technical violation does not include absconding parole supervision.

12 (2) The ~~division Office of Parole Administration~~ shall develop a
13 matrix of rewards for compliance and positive behaviors and graduated
14 administrative sanctions and custodial sanctions for use in responding to
15 and deterring substance abuse violations and technical violations. A
16 custodial sanction of thirty days in a correctional facility or a
17 contract facility shall be designated as the most severe response to a
18 violation in lieu of revocation.

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

24 (a) Impose one or more administrative sanctions based upon the
25 parolee's risk level, the severity of the violation, and the parolee's
26 response to the violation. If administrative sanctions are to be imposed,
27 the parolee shall acknowledge in writing the nature of the violation and
28 agree upon the administrative sanction. The parolee has the right to
29 decline to acknowledge the violation. If he or she declines to
30 acknowledge the violation, the parole officer shall take action pursuant
31 to subdivision (3)(b) of this section. A copy of the report shall be

1 submitted to the Board of Parole; or

2 (b) Submit a written report to the Board of Parole, outlining the
3 nature of the parole violation, and request the imposition of a custodial
4 sanction of up to thirty days in a correctional facility or a contract
5 facility. On the basis of the report and such further investigation as
6 the board may deem appropriate, the board shall determine whether and how
7 the parolee violated the conditions of parole and may:

8 (i) Dismiss the charge of violation; or

9 (ii) If the board finds a violation justifying a custodial sanction,
10 issue a warrant if necessary and impose a custodial sanction of up to
11 thirty days in a correctional facility or a contract facility.

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

20 (a) Dismiss the charge of violation;

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

23 (c) Impose a custodial sanction of up to thirty days in a
24 correctional facility or a contract facility;

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

27 (e) Issue a warrant for the arrest of the parolee.

28 (5) Whenever a parole officer has reasonable cause to believe that a
29 parolee has violated or is about to violate a condition of parole and
30 that the parolee will attempt to leave the jurisdiction or will place
31 lives or property in danger, the parole officer shall arrest the parolee

1 without a warrant and call on any peace officer to assist him or her in
2 doing so.

3 (6) Whenever a parolee is arrested with or without a warrant, he or
4 she shall be detained in a local jail or other detention facility
5 operated by the Department of Correctional Services pending completion of
6 review of parole proceedings by the Board of Parole. Immediately after
7 such arrest and detention, the parole officer shall notify the Board of
8 Parole and submit a written report of the reason for such arrest. A
9 complete investigation shall be made by the Division of Parole
10 Supervision ~~parole administration~~ and submitted to the board. After
11 prompt consideration of such written report, the board shall order the
12 parolee's release from detention or continued confinement to await a
13 final decision on imposition of a custodial sanction or the revocation of
14 parole.

15 (7) The Board of Parole shall adopt and promulgate rules and
16 regulations necessary to carry out this section.

17 Sec. 44. Section 83-1,120, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 83-1,120 Whenever a parolee is charged with a violation of his
20 parole, he or she shall be entitled to a prompt hearing on such charge by
21 the Board of Parole, which hearing in no event shall occur more than
22 thirty days after receipt of the parole officer's written report. At such
23 hearing, the parolee shall be permitted to be present, to testify, to
24 produce witnesses, to cross-examine adverse witnesses, and to introduce
25 such other evidence as may be pertinent. The parolee shall be informed of
26 his or her right to request counsel at such hearing, and if the parolee
27 ~~he~~ thereafter makes such request, based on a timely and colorable claim
28 (1) that he or she has not committed the alleged violation of the
29 conditions upon which he or she is at liberty, or (2) that, even if the
30 violation is a matter of public record or is uncontested, there are
31 substantial reasons which justified or mitigated the violation and make

1 revocation inappropriate and that the reasons are complex or otherwise
2 difficult to develop or present, and upon consideration of whether or not
3 the parolee appears to be capable of speaking effectively for himself or
4 herself, the board in the exercise of a sound discretion may provide
5 counsel unless retained counsel is available to the parolee. In every
6 case in which ~~when~~ a request for counsel is refused, the grounds for
7 refusal shall be stated in the record.

8 Sec. 45. Section 83-1,121, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 83-1,121 A committed offender while on parole shall remain in the
11 legal custody and control of the Board of Parole. The board may at any
12 time revoke the parole of an offender or recommit him or her to the
13 custody of the Department of Correctional Services, with or without
14 cause.

15 Sec. 46. Section 83-1,125, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 83-1,125 (1) If a warrant or detainer is placed against a committed
18 offender by a court, parole agency, or other authority of this or any
19 other jurisdiction, the Director of Supervision and Services
20 ~~administrator~~ shall inquire before such offender becomes eligible for
21 parole whether the authority concerned intends to execute or withdraw the
22 warrant or detainer when the offender is released.

23 (2) If the authority notifies the Director of Supervision and
24 Services administrator that it intends to execute the warrant or detainer
25 when the offender is released, the Director of Supervision and Services
26 ~~administrator~~ shall advise the authority concerned of the sentence under
27 which the offender is held, the time of parole eligibility, any decision
28 of the board relating to the offender, and the nature of the offender's
29 adjustment during imprisonment and shall give reasonable notice to such
30 authority of the offender's release date.

31 (3) The board may parole an offender who is eligible for release to

1 a warrant or detainer. If an offender is paroled to such a warrant or
2 detainer, the board may provide, as a condition of release, that if the
3 charge or charges on which the warrant or detainer is based are
4 dismissed, or are satisfied after conviction and sentence, prior to the
5 expiration of the offender's parole term, the authority to whose warrant
6 or detainer the offender is released shall return the offender to serve
7 the remainder of the parole term or such part as the board may determine.

8 (4) If a person paroled to a warrant or detainer is thereafter
9 sentenced and placed on probation, or released on parole in another
10 jurisdiction, prior to the expiration of the parole term less good time
11 in this state, the board may permit the person to serve the remainder of
12 the parole term or such part as the board may determine concurrently with
13 the person's new probation or parole term. Such concurrent terms may be
14 served in either of the two jurisdictions, and supervision shall be
15 administered in accordance with the Interstate Compact for Adult Offender
16 Supervision.

17 Sec. 47. (1) The Board of Parole and the Division of Parole
18 Supervision may maintain an individual file for each person who is under
19 the jurisdiction of the Board of Parole. Such file may be maintained
20 electronically and shall include, when available and appropriate, the
21 following information on such person:

22 (a) Admission summary;

23 (b) Presentence investigation report;

24 (c) Classification reports and recommendations;

25 (d) Official records of conviction and commitment along with any
26 earlier criminal records;

27 (e) Progress reports and admission-orientation reports;

28 (f) Reports of any disciplinary infractions and their disposition;

29 (g) Risk and needs assessments;

30 (h) Parole plan and parole placement and investigation worksheets;

31 (i) Decision guideline scores;

- 1 (j) Parole case plan;
- 2 (k) Parole progress reports and contact notes;
- 3 (l) Arrest and violation reports, including disposition;
- 4 (m) Parole proceedings orders and notices;
- 5 (n) Other documents related to parole supervision;
- 6 (o) Correspondence; and
- 7 (p) Other pertinent data concerning his or her background, conduct,
- 8 associations, and family relationships.

9 (2) Any decision concerning release on or revocation of parole or
10 imposition of sanctions shall be made only after the individual file has
11 been reviewed. The contents of the individual file shall be confidential
12 unless disclosed in connection with a public hearing and shall not be
13 subject to public inspection except by court order for good cause shown.
14 The contents of the file shall not be accessible to any person under the
15 jurisdiction of the Board of Parole. A person under the jurisdiction of
16 the board may obtain access to his or her medical records by request to
17 the provider pursuant to sections 71-8401 to 71-8407 notwithstanding the
18 fact that such medical records may be a part of his or her parole file.
19 The board and the Division of Parole Supervision have the authority to
20 withhold decision guideline scores, risk and needs assessment scores, and
21 mental health and psychological records of a person under the
22 jurisdiction of the board when appropriate.

23 (3) Nothing in this section limits in any manner the authority of
24 the Public Counsel to inspect and examine the records and documents of
25 the board and the Division of Parole Supervision pursuant to sections
26 81-8,240 to 81-8,254, except that the Public Counsel's access to the
27 medical or mental health records of a person under the jurisdiction of
28 the board shall be subject to his or her consent. The office of Public
29 Counsel shall not disclose the medical or mental health records of a
30 person under the jurisdiction of the board to anyone else, including any
31 other person under the jurisdiction of the board, except as authorized by

1 law.

2 Sec. 48. Section 83-1,135, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 83-1,135 Sections 83-170 to 83-1,135.05 and sections 22 and 47 of
5 this act shall be known and may be cited as the Nebraska Treatment and
6 Corrections Act.

7 Sec. 49. Section 83-933, Revised Statutes Cumulative Supplement,
8 2016, is amended to read:

9 83-933 ~~Until July 1, 2016, the Office of Parole Administration~~
10 ~~shall be within the Division of Community-Centered Services.~~ Beginning
11 July 1, 2016, until the effective date of this act, the Office of Parole
12 Administration shall be within the Board of Parole. Beginning on the
13 effective date of this act, the Division of Parole Supervision shall be
14 within the Board of Parole.

15 Subject to supervision, the Director of Supervision and Services
16 ~~Parole Administrator~~ shall be charged with the administration of parole
17 services in the community pursuant to the provisions of section 83-1,102,
18 implementation and administration of the Interstate Compact for Adult
19 Offender Supervision as it affects parolees, community supervision of sex
20 offenders pursuant to section 83-174.03, and supervision of parolees
21 either paroled in Nebraska and supervised in another state or paroled in
22 another state and supervised in Nebraska, pursuant to the compact.

23 Sec. 50. Original sections 28-322, 29-2252, 29-2935, 29-4019,
24 71-961, 81-1401, 83-174.03, 83-174.04, 83-174.05, 83-191, 83-192, 83-198,
25 83-1,102, 83-1,103, 83-1,103.01, 83-1,103.02, 83-1,103.03, 83-1,103.04,
26 83-1,104, 83-1,107.01, 83-1,107.02, 83-1,109, 83-1,111, 83-1,112,
27 83-1,112.01, 83-1,114, 83-1,118, 83-1,120, 83-1,121, and 83-1,125,
28 Reissue Revised Statutes of Nebraska, sections 47-624, 47-624.01, 47-627,
29 47-629, 47-903, 47-908, 47-919, 83-170, 83-171, 83-1,100, 83-1,100.02,
30 83-1,101, 83-1,107, 83-1,119, 83-1,135, and 83-933, Revised Statutes
31 Cumulative Supplement, 2016, and section 29-2261, Revised Statutes

1 Cumulative Supplement, 2014, as amended by Laws 2015, LB 504, section 1,
2 are repealed.

3 Sec. 51. The following section is outright repealed: Section
4 83-1,124, Reissue Revised Statutes of Nebraska.