

LEGISLATIVE BILL 13

Approved by the Governor October 5, 1992

Introduced by Lindsay, 9, at the request of the Governor

AN ACT relating to parole and pardons; to amend sections 83-188, 83-191, 83-192, 83-1,100, 83-1,113, 83-1,127, and 83-1,135, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the powers and duties of the Board of Parole, the Board of Pardons, the Office of Parole Administration, and the Department of Correctional Services; to provide for payment of salaries; to provide for transfer of certain items as prescribed; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 83-188, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-188. There is hereby created the Board of Parole. ~~Fer administrative purposes only; the board shall be within the Board of Pardons.~~ Nothing in this act the Nebraska Treatment and Corrections Act shall be construed to give the Director of Correctional Services director or the Board of Pardons any authority, power, or responsibility over the ~~board; its employees; Board of Parole~~ or the exercise of its functions under the provisions of ~~this the~~ act.

Sec. 2. That section 83-191, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-191. The members of the Board of Parole shall devote full time to their duties with such board and shall not engage in any other business or profession or hold any other public office. No member shall, at the time of his or her appointment or during his or her tenure, serve as the representative of any political party or of any executive committee or governing body thereof or as an executive officer or employee of any political party, organization, association, or committee. Each member of the board shall receive an annual salary to be fixed by the Governor. On and after July 1, 1993, such salaries shall be paid in equal

monthly portions.

Sec. 3. That section 83-192, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-192. The Board of Parole shall:

(1) Determine the time of release on parole of committed offenders eligible for such release;

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

(3) Determine the time of discharge from parole;

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

(5) Serve in an advisory capacity to the ~~Director of Correctional Services~~ director in administering parole services within any facility and in the community;

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

(7) Conduct research for the purpose of evaluating and improving the effectiveness of the parole system;

(8) Recommend parole legislation to the Governor;

(9) Review the record of every committed offender as follows:

(a) If a committed offender has a parole eligibility date within five years of his or her date of incarceration, ~~such offender's~~ his or her record shall be reviewed annually;

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

(c) If a committed offender has a parole eligibility date which is more than ten but not more than thirty years from his or her date of incarceration, ~~such offender's~~ his or her record shall be reviewed

during the first year of incarceration, every five years thereafter until he or she is within five years of his or her earliest parole eligibility date, and annually thereafter;

(d) If a committed offender has a parole eligibility date which is more than thirty years from his or her date of incarceration, such offender's his or her record shall be reviewed during his or her first, tenth, and twentieth year of incarceration, and when he or she is within five years of his or her earliest parole eligibility date, such offender's his or her record shall be reviewed annually; and

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

Such review shall include the circumstances of the offender's offense, the presentence investigation report, his or her the committed offender's previous social history and criminal record, his or her conduct, employment, and attitude during commitment, and the reports of such physical and mental examinations as have been made. The board shall meet with such committed offender and counsel him or her concerning his or her progress and his or her prospects for future parole.

The review schedule shall be based on court-imposed sentences or statutory minimum sentences, whichever is are greater. Nothing in such schedule shall prohibit the Board of Parole board from reviewing a committed offender's case at any time;

(10) Make rules and regulations for its own administration and operation; and

(11) Appoint and remove all employees of the board and delegate appropriate powers and duties to them; and

(12) Exercise all powers and perform all duties necessary and proper in carrying out its responsibilities under this act the Nebraska Treatment and Corrections Act.

The provisions of this section shall not prohibit an a committed offender from requesting that the Board of Parole board review his or her record, except that the board shall not be required to review an a committed offender's record more than once a year.

Sec. 4. That section 83-1,100, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,100. There is hereby created within the Department of Correctional Services department the Office of Parole Administration, which shall be charged with the administration of parole services in the community. The Office of Parole Administration office shall consist of the Parole Administrator, the field parole service, and such all other employees as may be necessary to carry out its functions office staff. The office shall be responsible for the following:

(1) The administration of parole services in the community;

(2) The maintenance of all records and files associated with the Board of Parole;

(3) Provision of available administrative staff support to the Board of Pardons and the Board of Parole to assist in carrying out their duties; and

(4) The daily supervision and training of staff members.

Nothing in this section shall be construed to prohibit the office from maintaining daily records and files associated with the Board of Pardons.

Sec. 5. That section 83-1,113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,113. The Board of Parole, and its employees, shall have access at all reasonable times to any committed offender over whom the board may have jurisdiction, and shall have means provided them for communication with and observing the committed offender. The board shall be furnished such reports as it may require concerning the conduct and character of any committed offender committed to the Department of Correctional Services and any other information deemed pertinent by the board in determining whether an a committed offender should be paroled.

Sec. 6. That section 83-1,127, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,127. The Board of Pardons shall:

(1) Exercise the pardon authority as defined in section 83-170 for all criminal offenses except treason and cases of impeachment;

(2) Make rules and regulations for its own administration and operation;

(3) Appoint and remove all employees of the Board of Pardons and delegate appropriate powers and duties to them;

~~(4)~~ Consult with the Board of Parole concerning applications for the exercise of pardon authority; and

~~(5)~~ (4) Exercise all powers and perform all duties necessary and proper in carrying out its responsibilities under the provisions of this act the Nebraska Treatment and Corrections Act.

Sec. 7. All equipment, books, files, records, and other property in the possession of the Board of Pardons and the Board of Parole, except records maintained by the Secretary of State, on the operative date of this act are hereby transferred to the Office of Parole Administration as of such date.

Sec. 8. The department, subject to available resources, shall provide the following services to the Board of Pardons and the Board of Parole at no expense to such boards:

(1) All accounting, budgeting, and payroll services;

(2) Administrative staff support;

(3) Furnished office space;

(4) Necessary operating expenses; and

(5) Necessary capital outlay.

Sec. 9. That section 83-1,135, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,135. Sections 83-170 to 83-1,135 and sections 7 and 8 of this act shall be known and may be cited as the Nebraska Treatment and Corrections Act.

Sec. 10. This act shall become operative on November 1, 1992.

Sec. 11. That original sections 83-188, 83-191, 83-192, 83-1,100, 83-1,113, 83-1,127, and 83-1,135, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 12. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.