

AMENDMENTS TO LB631

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 83-190, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           83-190 (1) The members of the Board of Parole shall have terms of  
6 office of six years and until their successors are appointed. The  
7 successors shall be appointed in the same manner as provided for the  
8 members first appointed, and a vacancy occurring before expiration of a  
9 term of office shall be similarly filled for the unexpired term. A member  
10 of the board may be reappointed. The members of the board shall ~~may~~ be  
11 removed ~~only~~ for disability, neglect of duty, or malfeasance in office by  
12 the Board of Pardons after a hearing. The Board of Pardons shall promptly  
13 file in the office of the Secretary of State a complete statement of the  
14 charges, its findings and disposition, and a complete record of the  
15 proceedings.

16           (2) For purposes of this section, neglect of duty includes not  
17 attending a total of twelve full days of hearings of the Board of Parole  
18 within a calendar year. A member's failure to attend a hearing day shall  
19 not count toward such limit if the failure was due to a medical  
20 appointment that could not reasonably be rescheduled or delayed, a family  
21 emergency, illness, an act of God, or similar circumstances beyond the  
22 member's control.

23           Sec. 2. Section 83-196, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25           83-196 Four ~~Three~~ members of the Board of Parole are required to  
26 shall constitute a quorum in order to transact ~~for the purpose of~~  
27 ~~transacting~~ any official business. The decisions of the Board of Parole

1 shall be by majority vote. The board shall keep a record of its acts and  
2 shall notify the Director of Correctional Services of its decisions  
3 relating to offenders who are or have been committed.

4 Sec. 3. The Board of Parole shall adopt and promulgate rules and  
5 regulations that include:

6 (1) Clearly defined, easily understood written mission statements  
7 and strategic plans encompassing public safety and rehabilitation;

8 (2) Procedures to ensure that victims are appropriately notified and  
9 given the opportunity to provide input in the rulemaking process;

10 (3) A requirement that board members receive initial and ongoing  
11 training on cultural competency, implicit bias, an understanding of the  
12 historical perspective of how and why parole was created, the powers and  
13 duties of the board, and ethics. Such training shall address current  
14 suggested best practices and enhance and strengthen members'  
15 decisionmaking skills;

16 (4) A code of ethics for members of the board;

17 (5) Requirements and procedures for the board to incorporate  
18 evidence-based practices that reduce recidivism. This includes, but is  
19 not limited to, a requirement that the board measure performance outcomes  
20 and develop transparent, written criteria that shall be considered when  
21 making decisions on whether to grant or revoke parole and when setting  
22 the conditions of parole;

23 (6) Methods by which the board will enhance opportunities for the  
24 success of people released on parole by collaborating with partners  
25 within and outside of the criminal justice system, supporting the  
26 supervision of people released on parole in their communities, employing  
27 informal social controls, and enabling people released on parole to  
28 participate meaningfully in the supervision process; and

29 (7) Policies and standard practices that will assist in ensuring  
30 neutrality, impartiality, and objectivity as an integral part of the  
31 board's culture and practices.

1           Sec. 4. (1) This section applies to the Board of Parole whenever it  
2 makes a determination of whether to grant or deny parole, sets the  
3 conditions of parole, or determines the sanctions for a violation of  
4 parole.

5           (2) The board shall serve as an impartial, neutral, and objective  
6 decisionmaker and shall be insulated from undue influences of specific  
7 ideological views and positions and from predetermined conceptions of the  
8 desired outcomes of proceedings before the board.

9           (3) If the board collaborates with or receives input from other  
10 entities within the criminal justice system, the board shall do so in a  
11 manner that respects and reinforces impartiality, neutrality, and  
12 objectivity.

13           (4) The board shall consider all evidence regarding a committed  
14 offender in an impartial, neutral, and objective manner.

15           Sec. 5. Section 83-1,114, Revised Statutes Supplement, 2023, is  
16 amended to read:

17           83-1,114 (1) Whenever the board considers the release of a committed  
18 offender who is eligible for release on parole, it shall order his or her  
19 release unless it is of the opinion that his or her release should be  
20 deferred because:

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

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

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

27           (d) Subject to subsection (3) of this section, his ~~His~~ or her  
28 continued correctional treatment, medical care, or vocational or other  
29 training in the facility will substantially enhance his or her capacity  
30 to lead a law-abiding life when released at a later date.

31           (2) In making its determination regarding a committed offender's

1 release on parole, the board shall give consideration to the decision  
2 guidelines as set forth in its rules and regulations and shall take into  
3 account each of the following factors:

4 (a) The adequacy of the offender's parole plan, including  
5 sufficiency of residence, employment history, and employability;

6 (b) The offender's prior criminal record, including the nature and  
7 circumstances, dates, and frequency of previous offenses;

8 (c) The offender's institutional behavior;

9 (d) The offender's previous experience on parole and how recent such  
10 experience is;

11 (e) Whether the offender has completed a risk and needs assessment  
12 completed pursuant to section 83-192; and

13 (f) Any testimony or written statement by a victim as provided in  
14 section 81-1848.

15 (3) Parole shall not be denied for a committed offender solely  
16 because the department did not offer or delayed programming due to  
17 operational issues, including staffing shortages, maintenance issues, or  
18 lack of funding.

19 Sec. 6. Section 83-1,135, Revised Statutes Supplement, 2023, is  
20 amended to read:

21 83-1,135 Sections 83-170 to 83-1,135.05 and sections 3 and 4 of this  
22 act shall be known and may be cited as the Nebraska Treatment and  
23 Corrections Act.

24 Sec. 7. Section 83-962, Revised Statutes Cumulative Supplement,  
25 2022, is amended to read:

26 83-962 (1) ~~A Until July 1, 2020, the Governor may declare a~~  
27 ~~correctional system overcrowding emergency whenever the director~~  
28 ~~certifies that the department's inmate population is over one hundred~~  
29 ~~forty percent of design capacity. Beginning July 1, 2020, a correctional~~  
30 system overcrowding emergency shall exist whenever the director certifies  
31 that the department's inmate population is over one hundred forty percent

1 of design capacity. The director shall so certify within thirty days  
2 after the date on which the population first exceeds one hundred forty  
3 percent of design capacity.

4 (2) During a correctional system overcrowding emergency, the board  
5 shall immediately consider or reconsider committed offenders eligible for  
6 parole who have not been released on parole.

7 (3) Upon such consideration or reconsideration, and for all other  
8 consideration of committed offenders eligible for parole while the  
9 correctional system overcrowding emergency is in effect, the board shall  
10 order the release of each committed offender unless it is of the opinion  
11 that such release should be deferred because:

12 (a) The board has determined that it is more likely than not that  
13 the committed offender will not conform to the conditions of parole;

14 (b) The board has determined that release of the committed offender  
15 would have a very significant and quantifiable effect on institutional  
16 discipline; or

17 (c) The board has determined that there is a very substantial risk  
18 that the committed offender will commit a violent act against a person.

19 (4) In making the determination regarding the risk that a committed  
20 offender will not conform to the conditions of parole, the board shall  
21 take into account the factors set forth in subsection (2) of section  
22 83-1,114 and shall comply with the requirements of subsection (3) of  
23 section 83-1,114 and section 4 of this act.

24 (5) The board shall continue granting parole to offenders under this  
25 section until the director certifies that the population is at  
26 operational capacity. The director shall so certify within thirty days  
27 after the date on which the population first reaches operational  
28 capacity.

29 Sec. 8. Original sections 83-190 and 83-196, Reissue Revised  
30 Statutes of Nebraska, section 83-962, Revised Statutes Cumulative  
31 Supplement, 2022, and sections 83-1,114 and 83-1,135, Revised Statutes

- 1 Supplement, 2023, are repealed.
- 2       Sec. 9. Since an emergency exists, this act takes effect when
- 3 passed and approved according to law.