

LEGISLATIVE BILL 816

Approved by the Governor February 7, 1992

Introduced by Chambers, 11

AN ACT relating to correctional services; to amend sections 83-1,107, 83-1,108, 83-1,109, 83-1,110, 83-1,118, 83-1,122, 83-1,123, and 83-1,125, Reissue Revised Statutes of Nebraska, 1943, and section 83-170, Revised Statutes Supplement, 1990; to define and redefine terms; to change and eliminate provisions relating to good time; to change a provision relating to parole revocation; to harmonize provisions; and to repeal the original sections, and also section 83-1,107.01, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 83-170, Revised Statutes Supplement, 1990, be amended to read as follows:

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

(1) Administrator shall mean the Parole Administrator;

(2) Board shall mean the Board of Parole;

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

~~(3)~~ (4) Department shall mean the Department of Correctional Services;

(5) Director shall mean the Director of Correctional Services;

(6) Facility shall mean any prison, reformatory, training school, reception center, community guidance center, group home, or other institution operated by the Department of Correctional Services department;

~~(4)~~ (7) Good time shall mean any reduction of sentence granted pursuant to sections 83-1,107 and 83-1,108;

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

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

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

(7) (11) Parole term shall mean the time from release on parole to the completion of the maximum term, reduced by parole time granted pursuant to section 83-1,108 and good behavior good time granted under sections 83-1,107 and 83-1,107-01; good time; and

(8) (12) Person committed to the department shall mean any person sentenced or committed to a facility within the department;

(9) Department shall mean the Department of Correctional Services;

(10) Director shall mean the Director of Correctional Services; and

(11) Good time shall mean any reduction of sentence granted pursuant to sections 83-1,107, 83-1,107-01, and 83-1,108-

Sec. 2. That section 83-1,107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,107. (1) The chief executive officer of a facility shall reduce for good behavior the term of a committed offender as follows: Two months on the first year; two months on the second year; three months on the third year; four months for each succeeding year of his by six months for each year of the offender's term and pro rata for any part thereof which is less than a year. The total of all such reductions shall be credited from the date of sentence, which shall include any term of confinement prior to sentence and commitment as provided pursuant to section 83-1,106, and shall be deducted:

(a) From his the minimum term, to determine the date of his eligibility for release on parole; and

(b) From his the maximum term, to determine the date when his discharge from the custody of the state becomes mandatory.

(2) While the offender is in the custody of the Department of Correctional Services department, reductions of such terms may be forfeited, withheld, and restored by the chief executive officer of the facility, with the approval of the director after the offender has been consulted regarding the charges of misconduct.

(3) While the offender is in the custody of the Board of Parole board, reductions of such terms may be forfeited, withheld, and restored by the Parole Administrator administrator with the approval of the director after the offender has been consulted regarding the charges of misconduct or breach of the conditions of his parole. In addition, the Board of Parole board may recommend such forfeitures of good time to the director.

(4) Good time or other reductions of sentence granted under the provisions of any law prior to August 24, 1975 the effective date of this act, may be forfeited, withheld, or restored in accordance with the terms of this act the Nebraska Treatment and Corrections Act.

Sec. 3. That section 83-1,108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,108. (1) The Board of Parole board shall reduce_ for good conduct in conformity with the conditions of his parole, a parolee's parole term by two days for each month of such term. The total of such reductions shall be deducted from his the maximum term, less good-time reductions granted under the provisions of sections 83-1,107 and 83-1,107-01 good time granted pursuant to section 83-1,107, to determine the date when his discharge from parole becomes mandatory.

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

Sec. 4. That section 83-1,109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,109. The chief executive officer of a facility shall regularly report all reductions of prison terms for good behavior and faithful performance of duties, good time and all forfeitures, withholdings, and restorations of such reductions good time to the Director of Correctional Services director. On the basis of such report, the director shall inform the Board of Parole board and the Parole Administrator administrator of all committed offenders who are expected to become eligible for release on parole within the next three months.

Sec. 5. That section 83-1,110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,110. (1) Every committed offender shall

be eligible for release on parole upon completion of his the minimum term less reductions granted in accordance with this act good time. A committed offender shall be eligible for parole prior to the expiration of the minimum term whenever the sentencing judge or his the judge's successor in office shall give his gives approval for the parole of such offender.

(2) Every committed offender sentenced to consecutive terms, whether received at the same time or at any time during the original sentence, shall be eligible for release on parole when he shall have the offender has served the total of the minimum terms, less reductions granted in accordance with the provisions of this act good time. The maximum terms shall be added to compute the new maximum term, which, less reductions granted in accordance with the provisions of this act good time, shall determine the date when his discharge from the custody of the state becomes mandatory.

Sec. 6. That section 83-1,118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

(3) The Board of Parole board shall discharge a parolee from parole when the time served in the custody of the Department of Correctional Services department and the time served on parole equals equal the maximum term less all good-time reductions granted in accordance with the provisions of sections 83-170, 83-1,107 to 83-1,111, 83-1,118, and 83-1,126-01 good time.

(4) The Department of Correctional Services department shall discharge a legal committed offender from the custody of the department when the time served in the facility equals the maximum term less all good-time reductions granted in accordance with the provisions of sections 83-170, 83-1,107 to 83-1,111, 83-1,118, and 83-1,126-01 good time.

(5) Whenever any committed offender shall have has completed the lawful requirements of his the sentence, the Director of Correctional Services director shall issue a certificate of discharge to such the offender, and such the certificate shall restore the

civil rights of such ~~committed~~ the offender as though a pardon had been issued.

Sec. 7. That section 83-1,122, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,122. If the ~~Board of Parole~~ board finds that the parolee did violate a condition of his parole but is of the opinion that revocation of parole is not appropriate, the board may order that:

(1) The parolee receive a reprimand and warning;

(2) Parole supervision and reporting be intensified;

(3) ~~Reductions for good behavior while on parole~~ Good time granted pursuant to section 83-1,108 be forfeited or withheld; or

(4) The parolee be required to conform to one or more additional conditions of parole which may be imposed in accordance with the ~~provisions of this act~~ Nebraska Treatment and Corrections Act.

Sec. 8. That section 83-1,123, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,123. (1) A parolee whose parole is revoked shall: ~~(a) Be recommitted for the remainder of his maximum prison term, deducting the period served on parole prior to the violation; and (b) be treated as an escaped prisoner until apprehended and returned to the Department of Correctional Services be recommitted to the department until discharge from the custody of the state becomes mandatory or until reparaled by the board.~~

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

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

(4) Except in the case of a parolee who has left the jurisdiction or his ~~or her~~ place of residence, action revoking a parolee's parole and recommitting ~~him~~ the parolee for violation of the conditions of parole must be taken before the expiration of ~~his~~ the parole term less ~~reductions for good behavior~~ good time. A parolee who has left the jurisdiction or his ~~or her~~ place of residence shall be treated as a parole violator and, when he is apprehended, shall be subject to recommitment or to supervision for the balance of ~~his~~

the parole term as of the date of his the violation.

Sec. 9. That section 83-1,125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(2) If the authority notifies the Parole Administrator administrator that it intends to execute such writ the warrant or detainer when the prisoner offender is released, the Parole Administrator administrator shall advise the authority concerned of the sentence under which the offender is held, the time of parole eligibility, any decision of the Board of Parole board relating to the offender, and of the nature of his the offender's adjustment during imprisonment, and shall give reasonable notice to such authority of the offender's release date.

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

(4) If a person paroled to a warrant or detainer is thereafter sentenced and placed on probation, or released on parole in another jurisdiction, prior to the expiration of his the parole term less reduction for good behavior good time in this state, the Board of Parole board may permit him the person to serve the remainder of his the parole term, or such part thereof as the board may determine, concurrently with his the person's new probation or parole term. Such concurrent terms may be served in either of the two jurisdictions, and supervision shall be administered in accordance with the provisions of section 29-2637.

Sec. 10. That original sections 83-1,107,

83-1,108, 83-1,109, 83-1,110, 83-1,118, 83-1,122, 83-1,123, and 83-1,125, Reissue Revised Statutes of Nebraska, 1943, and section 83-170, Revised Statutes Supplement, 1990, and also section 83-1,107.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.