

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 907

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

Read first time January 15, 2014

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal law; to amend sections 29-2246 and
2 47-619, Reissue Revised Statutes of Nebraska, sections
3 29-2252, 29-2261, 29-2269, 47-621, 47-624.01, 83-1,102,
4 and 83-1,107, Revised Statutes Cumulative Supplement,
5 2012, and sections 29-2204, 29-2257, and 83-1,135,
6 Revised Statutes Supplement, 2013; to define terms; to
7 state policy; to provide for terms of supervised release
8 at sentencing, reentry probation officers, and duties for
9 the Office of Probation Administration and Office of
10 Parole Administration; to provide additional programs for
11 community corrections; to require presentence
12 investigations as prescribed; to provide for reporting
13 centers as prescribed; to change provisions relating to
14 good time; to create and state intent relating to funding
15 for the Nebraska Center for Justice Research; to
16 eliminate archaic provisions; to harmonize provisions; to
17 repeal the original sections; and to outright repeal

1 sections 29-2208 and 29-2405, Reissue Revised Statutes of
2 Nebraska.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. It is the sentencing policy of the State of
2 Nebraska that:

3 (1) The primary objective of sentencing is to maintain
4 public safety and hold offenders accountable while reducing
5 recidivism and criminal behavior and improving outcomes for those
6 offenders who are sentenced;

7 (2) Reduction of recidivism and criminal behavior is a
8 key measure of performance of the criminal justice system;

9 (3) Sentencing judges shall consider the results of an
10 offender's risk and needs assessment included in the presentence
11 investigation and the likely impact of a potential sentence on the
12 reduction of the offender's potential future criminal behavior;

13 (4) All supervision and treatment programs provided for
14 offenders shall utilize evidence-based practices, as defined in
15 section 29-2246, to reduce the likelihood of future criminal
16 behaviors; and

17 (5) All supervision and treatment programs shall be
18 evaluated at regular intervals to measure and ensure reduction of
19 criminal behavior by offenders in the criminal justice system.

20 Sec. 2. Section 29-2204, Revised Statutes Supplement,
21 2013, is amended to read:

22 29-2204 (1) Except when a term of life imprisonment is
23 required by law, in imposing an indeterminate sentence upon an
24 offender the court shall:

25 ~~(a)(i) Until July 1, 1998, fix the minimum and maximum~~

1 ~~limits of the sentence to be served within the limits provided by~~
2 ~~law, except that when a maximum limit of life is imposed by the court~~
3 ~~for a Class IB felony, the minimum limit may be any term of years not~~
4 ~~less than the statutory mandatory minimum; and~~

5 ~~(ii) Beginning July 1, 1998:~~

6 ~~(A)~~ (a)(i) Fix the minimum and maximum limits of the
7 sentence to be served within the limits provided by law for any class
8 of felony other than a Class IV felony, except that when a maximum
9 limit of life is imposed by the court for a Class IB felony, the
10 minimum limit may be any term of years not less than the statutory
11 mandatory minimum. If the criminal offense is a Class IV felony, the
12 court shall fix the minimum and maximum limits of the sentence, but
13 the minimum limit fixed by the court shall not be less than the
14 minimum provided by law nor more than one-third of the maximum term
15 and the maximum limit shall not be greater than the maximum provided
16 by law; or

17 ~~(B)~~ (ii) Impose a definite term of years, in which event
18 the maximum term of the sentence shall be the term imposed by the
19 court and the minimum term shall be the minimum sentence provided by
20 law;

21 (b) Advise the offender on the record the time the
22 offender will serve on his or her minimum term before attaining
23 parole eligibility assuming that no good time for which the offender
24 will be eligible is lost; ~~and~~

25 (c) Advise the offender on the record the time the

1 offender will serve on his or her maximum term before attaining
2 mandatory release assuming that no good time for which the offender
3 will be eligible is lost; and -

4 (d) Advise the offender that a term of supervised release
5 may be imposed under section 3 of this act.

6 If any discrepancy exists between the statement of the
7 minimum limit of the sentence and the statement of parole eligibility
8 or between the statement of the maximum limit of the sentence and the
9 statement of mandatory release, the statements of the minimum limit
10 and the maximum limit shall control the calculation of the offender's
11 term. If the court imposes more than one sentence upon an offender or
12 imposes a sentence upon an offender who is at that time serving
13 another sentence, the court shall state whether the sentences are to
14 be concurrent or consecutive.

15 (2)(a) When the court is of the opinion that imprisonment
16 may be appropriate but desires more detailed information as a basis
17 for determining the sentence to be imposed than has been provided by
18 the presentence report required by section 29-2261, the court shall
19 commit an offender to the Department of Correctional Services for a
20 period not exceeding ninety days. The department shall conduct a
21 complete study of the offender during that time, inquiring into such
22 matters as his or her previous delinquency or criminal experience,
23 social background, capabilities, and mental, emotional, and physical
24 health and the rehabilitative resources or programs which may be
25 available to suit his or her needs. By the expiration of the period

1 of commitment or by the expiration of such additional time as the
2 court shall grant, not exceeding a further period of ninety days, the
3 offender shall be returned to the court for sentencing and the court
4 shall be provided with a written report of the results of the study,
5 including whatever recommendations the department believes will be
6 helpful to a proper resolution of the case. After receiving the
7 report and the recommendations, the court shall proceed to sentence
8 the offender in accordance with subsection (1) of this section. The
9 term of the sentence shall run from the date of original commitment
10 under this subsection.

11 (b) In order to encourage the use of this procedure in
12 appropriate cases, all costs incurred during the period the defendant
13 is held in a state institution under this subsection shall be a
14 responsibility of the state and the county shall be liable only for
15 the cost of delivering the defendant to the institution and the cost
16 of returning him or her to the appropriate court for sentencing or
17 such other disposition as the court may then deem appropriate.

18 (3) Except when a term of life is required by law,
19 whenever the defendant was under eighteen years of age at the time he
20 or she committed the crime for which he or she was convicted, the
21 court may, in its discretion, instead of imposing the penalty
22 provided for the crime, make such disposition of the defendant as the
23 court deems proper under the Nebraska Juvenile Code. Until October 1,
24 2013, prior to making a disposition which commits the juvenile to the
25 Office of Juvenile Services, the court shall order the juvenile to be

1 evaluated by the office if the juvenile has not had an evaluation
2 within the past twelve months.

3 Sec. 3. (1)(a) At sentencing the court may also impose a
4 term of supervised release. If a term of supervised release is
5 imposed as a part of the sentence, the term of supervised release
6 shall be a minimum of one year and a maximum of three years. The
7 sentence imposed, including supervised release, shall not exceed the
8 maximum sentence allowed by law. Supervised release imposed by the
9 court as a part of the sentence is not subject to good time.

10 (b) The term of supervised release begins on the day the
11 offender is released from imprisonment and runs concurrently with any
12 term of probation, supervised release, or parole to which the
13 offender is subject or becomes subject during the term of supervised
14 release. A term of supervised release does not run during any period
15 in which the offender is imprisoned in connection with a conviction
16 for a crime unless the imprisonment is for a period of less than
17 thirty consecutive days.

18 (c) Supervised release is not a substitute for a portion
19 of the offender's sentence of imprisonment but is an order of
20 supervision in addition to any term of imprisonment imposed by the
21 court. Supervised release is to provide assistance to offenders in
22 their transition from prison to community life and to ensure public
23 safety.

24 (2) The court shall order the conditions of supervised
25 release and provide the offender with the conditions of supervision

1 in writing that are sufficiently clear and specific to serve as a
2 guide for the offender's conduct and for the supervision that is
3 required. Conditions of supervised release shall (a) be reasonably
4 related to the nature and circumstances of the offense and the
5 offender's history, character, and rehabilitation, (b) act as a
6 deterrent to the offense, (c) involve no greater deprivation of
7 liberty of the offender than is reasonably necessary, (d) promote
8 public safety, and (e) be consistent with the sentencing policy of
9 the State of Nebraska set out in section 1 of this act. Supervised
10 release may include any condition of probation in section 29-2262 or
11 parole in sections 83-1,116 or 83-1,117, or other condition the court
12 considers appropriate, that meet the requirements of this subsection.
13 A condition of supervised release for an offender found guilty of a
14 violent crime shall be global positioning system monitoring for the
15 first ninety days of supervised release.

16 (3) Supervised release is administered by the Office of
17 Probation Administration in the same manner as probation except as
18 otherwise provided in this section.

19 (4) Notwithstanding subsection (1) of this section, a
20 court shall not impose a term of supervised release for an offender
21 subject to a final order of deportation or removal.

22 (5) Nothing in this section changes the requirements of a
23 sex offender under the Sex Offender Registration Act.

24 (6) For purposes of this section violent crime means
25 murder in the first degree, section 28-303; murder in the second

1 degree, section 28-304; manslaughter, section 28-305; assault in the
2 first degree, section 28-308; assault in the second degree, section
3 28-309; sexual assault in the first degree, section 28-319; sexual
4 assault of a child in the first degree, section 28-319.01; sexual
5 assault in the second degree, section 28-320; sexual assault of a
6 child in the second degree, section 28-320.01; sexual assault of a
7 child in the third degree, section 28-320.01; sexual abuse of an
8 inmate or parolee in the first degree, section 28-322.02; sexual
9 abuse of a protected individual in the first degree, section
10 28-322.04; domestic assault in the first or second degree, section
11 28-323; or robbery, section 28-324.

12 Sec. 4. Section 29-2246, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 29-2246 For purposes of the Nebraska Probation
15 Administration Act and sections 43-2,123.01 and 83-1,102 to 83-1,104
16 and sections 15 and 16 of this act, unless the context otherwise
17 requires:

18 ~~(1) Association means the Nebraska District Court Judges~~
19 ~~Association;~~

20 ~~(2) Court means a district court, county court, or~~
21 ~~juvenile court as defined in section 43-245;~~

22 ~~(3) Office means the Office of Probation Administration;~~

23 ~~(4) Probation means a sentence under which a person found~~
24 ~~guilty of a crime upon verdict or plea or adjudicated delinquent or~~
25 ~~in need of special supervision is released by a court subject to~~

1 ~~conditions imposed by the court and subject to supervision;~~

2 ~~(5) Probationer means a person sentenced to probation;~~

3 ~~(6) Probation officer means an employee of the system who~~
4 ~~supervises probationers and conducts presentence, predisposition, or~~
5 ~~other investigations as may be required by law or directed by a court~~
6 ~~in which he or she is serving or performs such other duties as~~
7 ~~authorized pursuant to section 29-2258, except unpaid volunteers from~~
8 ~~the community;~~

9 ~~(7) Juvenile probation officer means any probation~~
10 ~~officer who supervises probationers of a separate juvenile court;~~

11 ~~(8) Juvenile intake probation officer means an employee~~
12 ~~of the system who is called upon by a law enforcement officer in~~
13 ~~accordance with section 43-250 to make a decision regarding the~~
14 ~~furtherance of a juvenile's detention;~~

15 ~~(9) Chief probation officer means the probation officer~~
16 ~~in charge of a probation district;~~

17 ~~(10) System means the Nebraska Probation System;~~

18 ~~(11) Administrator means the probation administrator;~~

19 ~~(12) Non probation based program or service means a~~
20 ~~program or service established within the district, county, or~~
21 ~~juvenile courts and provided to individuals not sentenced to~~
22 ~~probation who have been charged with or convicted of a crime for the~~
23 ~~purpose of diverting the individual from incarceration or to provide~~
24 ~~treatment for issues related to the individual's criminogenic needs.~~
25 ~~Non probation based programs or services include, but are not limited~~

1 ~~to, drug court programs and problem solving court programs~~
2 ~~established pursuant to section 24-1302 and the treatment of problems~~
3 ~~relating to substance abuse, mental health, sex offenses, or domestic~~
4 ~~violence; and~~

5 (1) Administrator means the probation administrator;

6 (2) Association means the Nebraska District Court Judges
7 Association;

8 (3) Chief probation officer means the probation officer
9 in charge of a probation district;

10 (4) Community supervision means:

11 (a) The placement of a defendant under supervision with
12 conditions imposed by a court for a specified period during which:

13 (i) Criminal proceedings are deferred without an
14 adjudication of guilt; or

15 (ii) A sentence of imprisonment or confinement,
16 imprisonment and fine, or confinement and fine is probated and the
17 imposition of sentence is suspended in whole or in part; or

18 (b) The placement of an offender under supervision after
19 release from prison or jail, with conditions imposed for a specified
20 period;

21 (5) Court means a district court, county court, or
22 juvenile court as defined in section 43-245;

23 (6) Evidenced-based practices means policies, procedures,
24 programs, and practices proven by scientific research to reliably
25 produce reduction in recidivism when implemented competently;

1 (7) Juvenile probation officer means any probation
2 officer who supervises probationers of a separate juvenile court or
3 county court sitting as a juvenile court;

4 (8) Juvenile intake probation officer means an employee
5 of the system who is called upon by a law enforcement officer in
6 accordance with section 43-250 to make a decision regarding the
7 furtherance of a juvenile's detention;

8 (9) Non-probation-based program or service means a
9 program or service established within the district, county, or
10 juvenile courts and provided to individuals not sentenced to
11 probation who have been charged with or convicted of a crime for the
12 purpose of diverting the individual from incarceration or to provide
13 treatment for issues related to the individual's criminogenic needs.
14 Non-probation-based programs or services include, but are not limited
15 to, pretrial diversion programs established pursuant to sections
16 29-3602 to 29-3609, juvenile pretrial diversion programs established
17 pursuant to sections 43-260.02 to 43-260.07, drug court programs and
18 problem solving court programs established pursuant to section
19 24-1302, and the treatment of problems relating to substance abuse,
20 mental health, sex offenses, or domestic violence;

21 (10) Office means the Office of Probation Administration;

22 (11) Probation means a sentence under which a person
23 found guilty of a crime upon verdict or plea or adjudicated
24 delinquent or in need of special supervision is released by a court
25 subject to conditions imposed by the court and subject to

1 supervision;

2 (12) Probation officer means an employee of the system
3 who supervises probationers and conducts presentence, predisposition,
4 or other investigations as may be required by law or directed by a
5 court in which he or she is serving or performs such other duties as
6 authorized pursuant to section 29-2258, except unpaid volunteers from
7 the community;

8 (13) Probationer means a person sentenced to probation;

9 (14) Reentry probation officer means a probation officer
10 with the additional powers and duties authorized under section 5 of
11 this act;

12 (15) Risk and needs assessment means an actuarial tool
13 scientifically proven to determine a person's risk to reoffend and
14 criminal risk factors, that when properly addressed, can reduce that
15 person's likelihood of committing future criminal behavior;

16 (16) Supervised individual means an individual placed on
17 probation by a court or serving a period of parole, placed on post-
18 release supervision from prison or jail, or subject to supervised
19 release;

20 (17) Supervised release means the term of supervision
21 imposed by a court at sentencing as provided in section 3 of this
22 act;

23 (18) System means the Nebraska Probation System;

24 (19) Transition plan means an individualized
25 accountability and behavior change strategy for a supervised

1 individual that: (a) Targets and prioritizes the specific criminal
2 risk factors of the individual based upon his or her assessment
3 results; (b) establishes a timetable for achieving specific
4 behavioral goals, including a schedule for payment of restitution,
5 child support, and other financial obligations; (c) is no more
6 burdensome than the conditions set forth by the sentencing judge and
7 incorporates the conditions set by the sentencing judge; and (d)
8 specifies positive and negative actions that will be taken in
9 response to the supervised individual's behaviors; and

10 (20) Treatment means targeted interventions that focus on
11 criminal risk factors in order to reduce the likelihood of criminal
12 behavior. Treatment options may include, but are not limited to,
13 community-based programs that are consistent with evidence-based
14 practices, cognitive-behavioral programs, faith-based programs,
15 inpatient and outpatient substance abuse or mental health programs,
16 and other available prevention and intervention programs that have
17 been scientifically proven to produce reductions in recidivism when
18 implemented competently. Treatment does not include medical services.

19 Sec. 5. (1) The position of reentry probation officer is
20 created within the Office of Probation Administration. Such officer
21 has authority, including sanctioning authority, over supervised
22 individuals. Duties of a reentry probation officer include:

23 (a) Making recommendations to the sentencing judge
24 concerning the amenability of an offender for community supervision,
25 the conditions of probation, parole, or supervised release, the

1 availability of resources, and other pertinent information;

2 (b) Working with the Department of Correctional Services
3 as provided in section 16 of this act to ensure a successful
4 transition plan;

5 (c) Providing supervision for supervised individuals
6 transitioning back to the community;

7 (d) Facilitating the supervised individual's transitional
8 needs of housing and employment, including facilitating a supervised
9 individual's access to and participation in job training services in
10 the community;

11 (e) Utilizing global positioning systems and other
12 monitoring technology as needed during the first ninety days of
13 supervision;

14 (f) Conducting risk and needs assessments;

15 (g) Engaging supervised individuals in reporting centers
16 and service centers for services as identified by a risk and needs
17 assessment or other evaluation;

18 (h) Facilitating access to mental health services and
19 assisting with applications for health care coverage or ensuring that
20 the offender knows how to apply for and obtain health care coverage;
21 and

22 (i) Beginning medicaid enrollment, if eligible, to ensure
23 that the offender has access to medicaid close to the time of the
24 offender's release or soon thereafter.

25 (2) A reentry probation officer may carry a handgun while

1 engaged in his or her duties.

2 Sec. 6. Section 29-2252, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 29-2252 The administrator shall:

5 (1) Supervise and administer the office, including
6 supervision of probation, supervised release, and other programs and
7 services as authorized by law;

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

10 (3) Prescribe and furnish such forms for records and
11 reports for the system as shall be deemed necessary for uniformity,
12 efficiency, and statistical accuracy;

13 (4) Establish minimum qualifications for employment as a
14 probation officer in this state and establish and maintain such
15 additional qualifications as he or she deems appropriate for
16 appointment to the system. Qualifications for probation officers
17 shall be established in accordance with subsection (4) of section
18 29-2253. An ex-offender released from a penal complex or a county
19 jail may be appointed to a position of deputy probation or parole
20 officer. Such ex-offender shall maintain a record free of arrests,
21 except for minor traffic violations, for one year immediately
22 preceding his or her appointment;

23 (5) Establish and maintain advanced periodic inservice
24 training requirements for the system;

25 (6) Cooperate with all agencies, public or private, which

1 are concerned with treatment or welfare of persons on probation and
2 supervised release;

3 (7) Organize and conduct training programs for probation
4 officers and supervised release;

5 (8) Collect, develop, and maintain statistical
6 information concerning probationers, probation practices, and the
7 operation of the system;

8 (9) Interpret the probation program and supervised
9 release to the public with a view toward developing a broad base of
10 public support;

11 (10) Conduct research for the purpose of evaluating and
12 improving the effectiveness of the system;

13 (11) Adopt and promulgate rules and regulations pursuant
14 to section 9 of this act and such other rules and regulations as may
15 be necessary or proper for the operation of the office or system;

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

25 (13) Administer the payment by the state of all salaries,

1 travel, and actual and necessary expenses incident to the conduct and
2 maintenance of the office;

3 (14) Use the funds provided under section 29-2262.07 to
4 augment operational or personnel costs associated with the
5 development, implementation, and evaluation of enhanced probation-
6 based programs and non-probation-based programs and services in which
7 probation personnel or probation resources are utilized pursuant to
8 an interlocal agreement authorized by subdivision (16) of this
9 section and to purchase services to provide such programs aimed at
10 enhancing adult probationer or non-probation-based program
11 participant supervision in the community and treatment needs of
12 probationers and non-probation-based program participants. Enhanced
13 probation-based programs include, but are not limited to, specialized
14 units of supervision, related equipment purchases and training, and
15 programs that address a probationer's vocational, educational, mental
16 health, behavioral health, or substance abuse treatment needs;

17 (15) Ensure that any risk ~~or~~ and needs assessment
18 instrument utilized by the system be periodically validated;

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

24 (17) Collaborate with the Community Corrections Division
25 of the Nebraska Commission on Law Enforcement and Criminal Justice

1 and the Office of Parole Administration to develop rules governing
2 the participation of parolees in community corrections programs
3 operated by the Office of Probation Administration; and

4 (18) Exercise all powers and perform all duties necessary
5 and proper to carry out his or her responsibilities.

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

9 Sec. 7. Section 29-2257, Revised Statutes Supplement,
10 2013, is amended to read:

11 29-2257 The Nebraska Probation System is established
12 which shall consist of the probation administrator, chief probation
13 officers, reentry probation officers, probation officers, and support
14 staff. The system shall be responsible for juvenile intake services,
15 for preadjudication juvenile supervision services under section
16 43-254 beginning October 1, 2013, for presentence and other probation
17 investigations, for the direct supervision of persons placed on
18 probation, parole, or supervised release, and for non-probation-based
19 programs and services authorized by an interlocal agreement pursuant
20 to subdivision (16) of section 29-2252. The system shall be
21 sufficient in size to assure that no probation officer carries a
22 caseload larger than is compatible with adequate probation
23 investigation or supervision. Probation officers shall be compensated
24 with salaries substantially equal to other state employees who have
25 similar responsibilities.

1 This provision for salary equalization shall apply only
2 to probation officers, reentry probation officers, and support staff
3 and shall not apply to chief probation officers, the probation
4 administrator, the chief deputy administrator, the deputy probation
5 administrator, or any other similarly established management
6 positions.

7 Sec. 8. Section 29-2261, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

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

25 (2) A court may order a presentence investigation in any

1 other case, except in cases in which an offender has been convicted
2 of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V
3 misdemeanor, a traffic infraction, or any corresponding city or
4 village ordinance. The offender, or an offender's attorney, cannot
5 waive a presentence investigation that is required by this section.

6 (3) All presentence investigations shall utilize
7 evidence-based practices. The presentence investigation and report
8 shall include, when available, an analysis of the circumstances
9 attending the commission of the crime, the offender's history of
10 delinquency or criminality, physical and mental condition, family
11 situation and background, economic status, education, occupation, and
12 personal habits, and any other matters that the probation officer
13 deems relevant or the court directs to be included. All local and
14 state police agencies and Department of Correctional Services adult
15 correctional facilities shall furnish to the probation officer copies
16 of such criminal records, in any such case referred to the probation
17 officer by the court of proper jurisdiction, as the probation officer
18 shall require without cost to the court or the probation officer.

19 Such investigation shall also include:

20 (a) Any written statements submitted to the county
21 attorney by a victim; and

22 (b) Any written statements submitted to the probation
23 officer by a victim.

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

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

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

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

7 (5) Before imposing sentence, the court may order the
8 offender to submit to psychiatric observation and examination for a
9 period of not exceeding sixty days or such longer period as the court
10 determines to be necessary for that purpose. The offender may be
11 remanded for this purpose to any available clinic or mental hospital,
12 or the court may appoint a qualified psychiatrist to make the
13 examination. The report of the examination shall be submitted to the
14 court.

15 (6) Any presentence report or psychiatric examination
16 shall be privileged and shall not be disclosed directly or indirectly
17 to anyone other than a judge, probation officers to whom an
18 offender's file is duly transferred, the probation administrator or
19 his or her designee, or others entitled by law to receive such
20 information, including personnel and mental health professionals for
21 the Nebraska State Patrol specifically assigned to sex offender
22 registration and community notification for the sole purpose of using
23 such report or examination for assessing risk and for community
24 notification of registered sex offenders. For purposes of this
25 subsection, mental health professional means (a) a practicing

1 physician licensed to practice medicine in this state under the
2 Medicine and Surgery Practice Act, (b) a practicing psychologist
3 licensed to engage in the practice of psychology in this state as
4 provided in section 38-3111, or (c) a practicing mental health
5 professional licensed or certified in this state as provided in the
6 Mental Health Practice Act. The court may permit inspection of the
7 report or examination of parts thereof by the offender or his or her
8 attorney, or other person having a proper interest therein, whenever
9 the court finds it is in the best interest of a particular offender.
10 The court may allow fair opportunity for an offender to provide
11 additional information for the court's consideration.

12 (7) If an offender is sentenced to imprisonment, a copy
13 of the report of any presentence investigation or psychiatric
14 examination shall be transmitted immediately to the Department of
15 Correctional Services. Upon request, the Board of Parole or the
16 Office of Parole Administration ~~may~~ shall receive a copy of the
17 report from the department.

18 (8) Notwithstanding subsection (6) of this section, the
19 Supreme Court or an agent of the Supreme Court acting under the
20 direction and supervision of the Chief Justice shall have access to
21 psychiatric examinations and presentence investigations and reports
22 for research purposes. The Supreme Court and its agent shall treat
23 such information as confidential, and nothing identifying any
24 individual shall be released.

25 Sec. 9. The administrator shall adopt and promulgate

1 rules and regulations that require the supervision and treatment of
2 supervised individuals in accordance with evidence-based practices.

3 Such rules and regulations shall, at a minimum, include:

4 (1) The administration of a risk and needs assessment on
5 all supervised individuals at regular intervals to determine their
6 criminal risk factors and to identify intervention targets;

7 (2) Use of assessment scores and other objective criteria
8 throughout the period of community supervision to determine the risk
9 level and program needs of each supervised individual;

10 (3) Caseload size guidelines that are based on the number
11 and risk levels of supervised individuals, taking into account office
12 resources and employee workload, with prioritization of supervision
13 and program resources for supervised individuals who are at higher
14 risk to reoffend;

15 (4) Definitions of various risk levels to apply to
16 supervised individuals during the period of community supervision;

17 (5) Development of a case plan for each supervised
18 individual who is assessed to be moderate-to-high risk based on the
19 risk and needs assessment that targets the criminal risk factors
20 identified in the assessment, is responsive to individual
21 characteristics, and provides supervision according to such case
22 plan;

23 (6) Implementation of swift, certain, and proportionate
24 sanctions that a reentry probation officer shall apply in response to
25 a supervised individual's noncompliant behaviors; and

1 (7) Establishment of protocols and standards that assess
2 the degree to which policies, procedures, programs, interventions,
3 and practices relating to offender recidivism reduction, whether
4 utilized by the office or contract or referral agencies, are
5 evidence-based.

6 Sec. 10. Section 29-2269, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 29-2269 Sections 29-2246 to 29-2269 and sections 3, 5,
9 and 9 of this act shall be known and may be cited as the Nebraska
10 Probation Administration Act.

11 Sec. 11. Section 47-619, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 47-619 Sections 47-619 to 47-634 and section 13 of this
14 act shall be known and may be cited as the Community Corrections Act.

15 Sec. 12. Section 47-621, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 47-621 For purposes of the Community Corrections Act:

18 (1) Community correctional facility or program means a
19 community-based or community-oriented facility or program which (a)
20 is operated either by the state or by a contractor which may be a
21 unit of local government or a nongovernmental agency, (b) may be
22 designed to provide residential accommodations for adult offenders,
23 (c) provides programs and services to aid adult offenders in
24 obtaining and holding regular employment, enrolling in and
25 maintaining participation in academic courses, participating in

1 vocational training programs, utilizing the resources of the
2 community to meet their personal and family needs, obtaining mental
3 health, alcohol, and drug treatment, and participating in specialized
4 programs that exist within the community, including specialized
5 substance abuse programs and targeted intensive supervision, and (d)
6 offers community supervision and service options, including, but not
7 limited to, drug treatment, mental health programs, ~~and~~ day reporting
8 centers, reporting centers, and service centers;

9 (2) Director means the executive director of the Nebraska
10 Commission on Law Enforcement and Criminal Justice;

11 (3) Division means the Community Corrections Division of
12 the Nebraska Commission on Law Enforcement and Criminal Justice;

13 (4) Nongovernmental agency means any person, private
14 nonprofit agency, corporation, association, labor organization, or
15 entity other than the state or a political subdivision of the state;
16 and

17 (5) Unit of local government means a county, city,
18 village, or entity established pursuant to the Interlocal Cooperation
19 Act or the Joint Public Agency Act.

20 Sec. 13. (1) Beginning December 1, 2016, and every year
21 thereafter, the Office of Probation Administration and the Office of
22 Parole Administration shall submit to the Governor, the Legislature,
23 and the Supreme Court a comprehensive report and summary of efforts
24 to implement evidence-based practices, as defined in section 29-2246
25 and required by sections 9 and 17 of this act, to reduce recidivism

1 in the criminal justice system.

2 (2) The report shall include at a minimum:

3 (a) The percentage of supervised individuals, as defined
4 in section 29-2246, being supervised in accordance with evidence-
5 based practices;

6 (b) The percentage of state funds expended by each office
7 for programs that have evidence-based practices;

8 (c) A list of all programs being used and identifying
9 which have evidence-based practices;

10 (d) Specification of supervision policies, procedures,
11 programs, and practices that were created, modified, or eliminated;
12 and

13 (e) Each office's recommendations for any additional
14 collaboration with other state, regional, or local public agencies,
15 private entities, or faith-based and community organizations.

16 (3) Reports and summaries submitted under this section
17 shall be available to the public on each office's web site.

18 Sec. 14. Section 47-624.01, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 47-624.01 (1) The division shall collaborate with the
21 Office of Probation Administration, the Office of Parole
22 Administration, and the Department of Correctional Services in
23 ~~developing a plan for the implementation and funding of~~
24 implementation of reporting centers in Nebraska. The reporting
25 centers shall be funded by the state.

1 (2) ~~The plan shall include recommended locations for~~
2 There shall be at least one reporting center in each district court
3 judicial district, ~~that currently lacks such a center and shall~~
4 ~~prioritize the recommendations for additional reporting centers based~~
5 ~~upon need.~~

6 (3) ~~The plan shall also identify and prioritize the need~~
7 ~~for expansion of Existing reporting centers in those district court~~
8 ~~judicial districts which currently have a reporting center but that~~
9 ~~have an unmet need needs~~ for additional reporting center services due
10 to capacity, distance, or demographic factors shall be expanded.

11 (4) Each reporting center will provide, contract for, or
12 utilize a voucher service program for mental health services access
13 for those on probation or under supervised release.

14 (5) The Office of Probation Administration, the Office of
15 Parole Administration, and the Department of Correctional Services
16 shall work collaboratively to develop a plan for the expansion of
17 reporting centers. The plan shall be developed and delivered to the
18 chairpersons of the Judiciary, Health and Human Services, and
19 Appropriations Committees of the Legislature by February 15, 2015.

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

22 83-1,102 The Parole Administrator shall:

23 (1) Supervise and administer the Office of Parole
24 Administration;

25 (2) Establish and maintain policies, standards, and

1 procedures for the field parole service and the community supervision
2 of sex offenders pursuant to section 83-174.03;

3 (3) Divide the state into parole districts and appoint
4 district parole officers, deputy parole officers, if required, and
5 such other employees as may be required to carry out adequate parole
6 supervision of all parolees, adequate probation supervision of
7 probationers as ordered by district judges, prescribe their powers
8 and duties, and obtain office quarters for staff in each district as
9 may be necessary;

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

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

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

25 (7) Organize and conduct training programs for the

1 district parole officers and other employees;

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

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

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

16 Sec. 16. Section 83-1,107, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 83-1,107 (1)(a) Within sixty days after initial
19 classification and assignment of any offender committed to the
20 department, all available information regarding such committed
21 offender shall be reviewed and a committed offender department-
22 approved personalized program plan document shall be drawn up. The
23 document shall specifically describe the department-approved
24 personalized program plan and the specific goals the department
25 expects the committed offender to achieve. The document shall also

1 contain a realistic schedule for completion of the department-
2 approved personalized program plan. The department-approved
3 personalized program plan shall be fully explained to the committed
4 offender. The department shall provide programs to allow compliance
5 by the committed offender with the department-approved personalized
6 program plan.

7 Programming may include, but is not limited to:

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

10 (ii) Substance abuse treatment;

11 (iii) Mental health and psychiatric treatment, including
12 criminal personality programming;

13 (iv) Constructive, meaningful work programs; and

14 (v) Any other program deemed necessary and appropriate by
15 the department.

16 (b) A modification in the department-approved
17 personalized program plan may be made to account for the increased or
18 decreased abilities of the committed offender or the availability of
19 any program. Any modification shall be made only after notice is
20 given to the committed offender. The department may not impose
21 disciplinary action upon any committed offender solely because of the
22 committed offender's failure to comply with the department-approved
23 personalized program plan, but such failure may be considered by the
24 board in its deliberations on whether or not to grant parole to a
25 committed offender.

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

4 (b) In addition to reductions granted in subdivision (2)
5 (a) of this section, the department shall reduce the term of a
6 committed offender by three days on the first day of each month
7 following a twelve-month period of incarceration within the
8 department during which the offender has not been found guilty of (i)
9 a Class I or Class II offense or (ii) more than three Class III
10 offenses under the department's disciplinary code. Reductions earned
11 under this subdivision shall not be subject to forfeit or withholding
12 by the department.

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

19 (d) If the offender commits an act while incarcerated,
20 which results in a conviction of the offender for an act other than
21 the committing act, the offender shall not be entitled to earn good
22 time on the subsequent conviction. If the offender commits an act
23 that results in administrative confinement or segregation, the
24 offender shall not be entitled to earn good time for the time the
25 offender is in segregation but may be entitled access to programming

1 while in administrative confinement or segregation.

2 (3) While the offender is in the custody of the
3 department, reductions of terms granted pursuant to subdivision (2)
4 (a) of this section may be forfeited, withheld, and restored by the
5 chief executive officer of the facility with the approval of the
6 director after the offender has been notified regarding the charges
7 of misconduct.

8 (4) The department shall make treatment programming
9 available to committed offenders as provided in section 83-1,110.01
10 and shall include continuing participation in such programming as
11 part of each offender's parolee personalized program plan.

12 (5)(a) Within thirty days after any committed offender
13 has been paroled, all available information regarding such parolee
14 shall be reviewed and a parolee personalized program plan document
15 shall be drawn up and approved by the Office of Parole
16 Administration. The document shall specifically describe the approved
17 personalized program plan and the specific goals the office expects
18 the parolee to achieve. The document shall also contain a realistic
19 schedule for completion of the approved personalized program plan.
20 The approved personalized program plan shall be fully explained to
21 the parolee. During the term of parole, the parolee shall comply with
22 the approved personalized program plan and the office shall provide
23 programs to allow compliance by the parolee with the approved
24 personalized program plan.

25 Programming may include, but is not limited to:

1 (i) Academic and vocational education;
2 (ii) Substance abuse treatment;
3 (iii) Mental health and psychiatric treatment, including
4 criminal personality programming;
5 (iv) Constructive, meaningful work programs;
6 (v) Community service programs; and
7 (vi) Any other program deemed necessary and appropriate
8 by the office.

9 (b) A modification in the approved personalized program
10 plan may be made to account for the increased or decreased abilities
11 of the parolee or the availability of any program. Any modification
12 shall be made only after notice is given to the parolee. Intentional
13 failure to comply with the approved personalized program plan by any
14 parolee as scheduled for any year, or pro rata part thereof, shall
15 cause disciplinary action to be taken by the office resulting in the
16 forfeiture of up to a maximum of three months' good time for the
17 scheduled year.

18 (6) While the offender is in the custody of the board,
19 reductions of terms granted pursuant to subdivision (2)(a) of this
20 section may be forfeited, withheld, and restored by the administrator
21 with the approval of the director after the offender has been
22 notified regarding the charges of misconduct or breach of the
23 conditions of parole. In addition, the board may recommend such
24 forfeitures of good time to the director.

25 (7) Good time or other reductions of sentence granted

1 under the provisions of any law prior to July 1, 1996, may be
2 forfeited, withheld, or restored in accordance with the terms of the
3 Nebraska Treatment and Corrections Act.

4 Sec. 17. While the committed offender is still
5 incarcerated and within ninety days before the first parole
6 eligibility date of the offender, the department shall conduct a risk
7 and needs assessment of the committed offender and share the results
8 with the reentry probation officer within thirty days after
9 completion. The department shall work with the Office of Probation
10 Administration and the reentry probation officer to ensure that a
11 successful transition plan is in place for the committed offender.
12 The office and the reentry probation officer shall have appropriate
13 access to the committed offender to create the transition plan, and
14 the department shall provide the office with a copy of the most
15 recent risk and needs assessment prior to the committed offender's
16 release from the department.

17 Sec. 18. The administrator shall adopt and promulgate
18 rules and regulations that require the supervision and treatment of
19 parolees in accordance with evidence-based practices. Such rules and
20 regulations shall, at a minimum, include the factors listed in
21 section 9 of this act applied to parolees.

22 Sec. 19. Section 83-1,135, Revised Statutes Supplement,
23 2013, is amended to read:

24 83-1,135 Sections 83-170 to 83-1,135 and sections 17 and
25 18 of this act shall be known and may be cited as the Nebraska

1 Treatment and Corrections Act.

2 Sec. 20. The Legislature finds that Nebraska's juvenile
3 and adult criminal justice systems are in need of accountability,
4 improvements, and increased public safety measures. Nebraska is
5 committed to improving the health and well-being of children,
6 families, and adults throughout the justice system. It is the intent
7 of the Legislature to create a permanent Nebraska Center for Justice
8 Research in order to assist policymakers, particularly those in the
9 Legislature, in making informed judgments about important, long-term
10 issues facing the State of Nebraska.

11 Sec. 21. (1) In collaboration with the University of
12 Nebraska, the Nebraska Center for Justice Research is created for the
13 purposes of:

14 (a) Reducing recidivism;

15 (b) Increasing public safety;

16 (c) Increasing efficiency in the administration of
17 justice;

18 (d) Identifying, assessing, and providing treatment
19 options for individuals with mental illness in the criminal justice
20 system; and

21 (e) Improving the overall system of justice within the
22 State of Nebraska.

23 (2) The Nebraska Center for Justice Research will be
24 located on the campuses of the University of Nebraska at Omaha and
25 the University of Nebraska Medical Center.

1 (3) The Nebraska Center for Justice Research shall be
2 jointly administered by the Legislature and the University of
3 Nebraska.

4 Sec. 22. The Nebraska Center for Justice Research shall
5 have a board of directors consisting of the chairpersons of the
6 Judiciary Committee of the Legislature, the Health and Human Services
7 Committee of the Legislature, and the Executive Board of the
8 Legislative Council, two members of the Legislature elected at large
9 by the members of the Legislature, and two members appointed by the
10 President of the University of Nebraska.

11 Sec. 23. In order to achieve the goals set forth in
12 section 21 of this act, the Nebraska Center for Justice Research
13 shall:

14 (a) Complete the tasks assigned to it by the Executive
15 Board of the Legislative Council;

16 (b) Initiate, sponsor, conduct, and publish research that
17 is directly useful to policymakers;

18 (c) Evaluate Nebraska's criminal and juvenile justice
19 systems;

20 (d) Work closely with legislators and other policymakers
21 in the development of policy and legislation in all areas of
22 behavioral health, juvenile justice, and the adult criminal justice
23 system;

24 (e) Benefit the state's policymakers by making available
25 to them timely, useful, and practical research products of the very

1 highest quality;

2 (f) Manage reviews and evaluations of technical and
3 scientific topics as they relate to major long-term issues facing the
4 state;

5 (g) Engage in the collection of data;

6 (h) Evaluate and identify evidence-based or promising
7 practices for coordinating care and improving outcomes for
8 individuals in the criminal justice system;

9 (i) Provide recommendations for strategically enhancing
10 the utilization of evidence-based practices for prevention, early
11 intervention, and treatment for mental and behavioral health problems
12 in youth and adults in the criminal justice systems; and

13 (j) Collaborate with other institutions and
14 organizations, including other universities, research institutes,
15 nonprofit organizations, state or federal entities, and any policy
16 research and advocacy institutes to carry out sections 19 to 23 of
17 this act.

18 Sec. 24. No later than December 1, 2015, and no later
19 than December 1 of every year thereafter, the Nebraska Center for
20 Justice Research shall prepare a report of its activities under
21 sections 20 to 24 of this act. The report shall be filed
22 electronically with the Clerk of the Legislature and shall be
23 provided to any member of the Legislature upon request.

24 Sec. 25. It is the intent of the Legislature to
25 appropriate one million dollars per year to the Nebraska Center for

1 Justice Research to carry out its duties under sections 19 to 23 of
2 this act and any additional tasks assigned to it by the Executive
3 Board of the Legislature.

4 Sec. 26. Original sections 29-2246 and 47-619, Reissue
5 Revised Statutes of Nebraska, sections 29-2252, 29-2261, 29-2269,
6 47-621, 47-624.01, 83-1,102, and 83-1,107, Revised Statutes
7 Cumulative Supplement, 2012, and sections 29-2204, 29-2257, and
8 83-1,135, Revised Statutes Supplement, 2013, are repealed.

9 Sec. 27. The following sections are outright repealed:
10 Sections 29-2208 and 29-2405, Reissue Revised Statutes of Nebraska.