

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1021

Introduced by Cavanaugh, M., 6; Dungan, 26; McKinney, 11.

Read first time January 05, 2024

Committee: Judiciary

1 A BILL FOR AN ACT relating to labor; to amend sections 29-2414, 29-2415,
2 29-2708, 47-208, and 48-1202, Reissue Revised Statutes of Nebraska,
3 and sections 83-183 and 83-183.01, Revised Statutes Cumulative
4 Supplement, 2022; to require city and county jails and the
5 Department of Correctional Services to pay inmates the minimum wage
6 for work by such inmates; to provide that such employees and inmates
7 are subject to the Wage and Hour Act; to define and redefine terms;
8 to provide for bank accounts for inmates; to change and eliminate
9 provisions relating to the distribution of wages earned by inmates;
10 to provide duties for the Jail Standards Board and the department;
11 to require payment of the minimum wage to state and political
12 subdivision employees; to eliminate obsolete and inconsistent
13 provisions relating to inmates of jails; to harmonize provisions; to
14 repeal the original sections; and to outright repeal sections
15 47-403, 47-404, and 47-406, Reissue Revised Statutes of Nebraska.
16 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 4 of this act:

2 (1) Administrator means:

3 (a) In the case of a county jail, the sheriff; and

4 (b) In the case of a city jail, the officer in charge of such jail;

5 (2) Inmate means a person serving a sentence who is committed to a
6 jail; and

7 (3) Jail includes a county jail as defined in section 47-117 and any
8 city jail as defined in section 47-207.

9 Sec. 2. (1) An inmate who is earning at least minimum wage and is
10 employed by the city, county, or any other person, shall have his or her
11 wages set aside by the administrator in a separate wage fund. The Jail
12 Standards Board shall adopt and promulgate rules and regulations which
13 will protect the inmate's rights to due process, provide for hearing as
14 necessary before the Crime Victim's Reparations Committee, and govern the
15 disposition of the inmate's gross monthly wages minus required payroll
16 deductions and payment of necessary work-related incidental expenses for
17 the purposes set forth in subsections (2) and (3) of this section.

18 (2)(a) Each administrator shall open a deposit account for any
19 county jail inmate earning wages as described in subsection (1) of this
20 section. The administrator shall deposit in such account twenty-five
21 percent of the inmate's net wages described in subsection (1) of this
22 section. The administrator shall hold the account in trust for the
23 inmate. Upon release from jail, the administrator shall transfer
24 ownership of the account solely to the inmate or the inmate's designee
25 and provide the inmate with an up-to-date statement of the balance of
26 such account and any documentation necessary to access such account.

27 (b) The administrator shall transfer twenty-five percent of the
28 inmate's net wages described in subsection (1) of this section to a
29 separate wage fund managed by the administrator. The fund shall enable
30 the inmate to make necessary purchases from the commissary. Amounts may
31 be transferred from such fund to the deposit account upon request of the

1 inmate.

2 (3) Of the net wages remaining after making the deposit and transfer
3 described in subsection (2) of this section, the inmate's net wages shall
4 be distributed:

5 (a) For the support of families and dependent relatives of the
6 inmate;

7 (b) For the discharge of any legal obligations, including judgments
8 for restitution as provided in section 4 of this act;

9 (c) For the purposes described in subsection (6) of section 3 of
10 this act; and

11 (d) For deposit in the Victim's Compensation Fund.

12 Sec. 3. (1) To establish good habits of work and responsibility, to
13 foster vocational training, and to reduce the cost of operating jail
14 facilities, inmates may be employed, eight hours per day, so far as
15 possible in constructive and diversified activities in the production of
16 goods, services, and foodstuffs to maintain the jail and inmates and for
17 other purposes authorized by law. To accomplish these purposes, the
18 administrator may establish and maintain industries and farms in
19 appropriate facilities and may enter into arrangements with any board or
20 agency of the state, any natural resources district, or any other
21 political subdivision, except that any arrangements entered into with
22 school districts, educational service units, community colleges, state
23 colleges, or universities shall include supervision provided by the jail,
24 for the employment of inmates for governmental purposes. Nothing in this
25 subsection shall be construed to effect a reduction in the number of work
26 release positions.

27 (2) Except when an inmate returns to the employment held at the time
28 of arrest, such employment shall not result in the displacement of
29 employed workers, be applied in skills, crafts, or trades in which there
30 is a surplus of available gainful labor in the locality, or impair
31 existing contracts for services, and the rates of pay and other

1 conditions of employment shall not be less than for work of similar
2 nature in the locality in which the work is to be performed.

3 (3) The Jail Standards Board shall adopt and promulgate rules and
4 regulations governing the hours, the conditions of labor, and the rates
5 of compensation of inmates. In determining the rates of compensation,
6 such regulations may take into consideration the quantity and quality of
7 the work performed by such person, whether or not such work was performed
8 during regular working hours, the skill required for its performance, and
9 the economic value of similar work outside of jails.

10 (4) The Jail Standards Board shall adopt and promulgate rules and
11 regulations which will protect inmates' rights to due process and govern
12 the collection of restitution as provided in section 4 of this act.

13 (5) The administrator may invest the earnings of an inmate. Any
14 accrued interest thereon shall be credited to such inmate's deposit
15 account established under section 2 of this act.

16 (6) The administrator may reimburse the city or county from the
17 wages of an inmate for:

18 (a) The actual value of property belonging to the city, county, or
19 any other person intentionally or recklessly destroyed by an inmate
20 during his or her commitment;

21 (b) The actual value of the damage or loss incurred as a result of
22 unauthorized use of property belonging to the city, county, or any other
23 person by an inmate;

24 (c) The actual cost to the city or county for injuries or other
25 damages caused by intentional acts of an inmate; and

26 (d) The reasonable costs incurred in returning such inmate to the
27 facility to which he or she is committed in the event of his or her
28 escape.

29 (7) No inmate shall be required to engage in excessive labor, and no
30 inmate shall be required to perform any work for which he or she is
31 declared unfit by a physician designated by the administrator. No inmate

1 who performs labor or work pursuant to this section shall be required to
2 wear manacles, shackles, or other restraints.

3 Sec. 4. (1) The Jail Standards Board, in consultation with the
4 State Court Administrator, shall adopt and promulgate rules and
5 regulations to provide an effective process for the transfer of funds for
6 the purpose of satisfying restitution orders.

7 (2) A sentencing order requiring an inmate to pay restitution shall
8 be treated as a court order authorizing the administrator to withhold and
9 transfer funds for the purpose of satisfying a restitution order.

10 (3) This section applies to funds in the wage fund of any inmate
11 confined in a jail on or after the effective date of this act.

12 (4) The Jail Standards Board shall report annually to the
13 Legislature on the collection of restitution from wage funds. The report
14 shall include the total number of inmates with restitution judgments, the
15 total number of inmates with wage funds, the total number of inmates with
16 both, the number of payments made to either victims or clerks of the
17 court, the average amount of payments, and the total amount of
18 restitution collected. The report shall be submitted electronically.

19 (5) Each administrator shall report annually to the Jail Standards
20 Board, in a form and manner as prescribed by the board, such information
21 as is necessary to make the report required by subsection (4) of this
22 section.

23 Sec. 5. Section 29-2414, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 29-2414 For the purpose of enabling the county board of any county
26 in this state to employ in a profitable manner all persons who have
27 heretofore been or may hereafter be sentenced to imprisonment ~~hard labor~~
28 in the jail of the county, the board, or a majority of them, shall have
29 power to designate the place where the persons so sentenced shall work,
30 and to make all proper and needful regulations and provisions for the
31 profitable employment of such convicts, and for their safe custody during

1 such employment. The county jail is hereby declared to extend to any
2 stone quarry, road or other place that shall be designated by the county
3 board for the employment of such convicts.

4 Sec. 6. Section 29-2415, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 29-2415 It shall be the duty of the county board to make the
7 contracts for the employment of convicts as specified in section 29-2414,
8 and the sheriff of the county, or such other person as may be charged
9 with the administrative direction of the jail, shall collect the proceeds
10 of all such labor and proceed as directed in sections 1 to 4 of this
11 act , ~~and after paying the board of such convicts and the expenses~~
12 ~~incident to such labor, to pay the balance to the county treasurer within~~
13 ~~ten days.~~

14 Sec. 7. Section 29-2708, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 29-2708 All money arising from fines and recognizances shall be
17 credited by the county treasurer to the county school fund except as
18 provided by Article VII, section 5, Constitution of Nebraska, and and
19 subject to sections 1 to 4 of this act, the costs and proceeds of jail
20 labor shall be credited to the county general fund. Whenever any costs in
21 any criminal case are paid from the county treasury, such payment shall
22 be made from the county general fund; and when any warrant is drawn by
23 the county clerk upon the treasurer of the county for the payment of such
24 costs, a true record of the same and the definite purpose of every such
25 warrant shall be recorded in the clerk's office showing the cause in
26 which such costs are paid.

27 Sec. 8. Section 47-208, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 47-208 The governing board of every city and village may employ at
30 labor on the public streets and other public improvements, persons
31 confined in the jail of such city or village, as the case may be, on

1 account of conviction for violation of statutes or ordinances. The
2 governing board shall prescribe rules and regulations governing
3 employment and safekeeping, and determine what compensation, ~~if any,~~ such
4 prisoners shall receive for their services, subject to the Wage and Hour
5 Act and sections 1 to 4 of this act.

6 Sec. 9. Section 48-1202, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 48-1202 For purposes of the Wage and Hour Act, unless the context
9 otherwise requires:

10 (1) Employ includes ~~shall include~~ to permit to work;

11 (2) Employer includes ~~shall include~~ any individual, partnership,
12 limited liability company, association, corporation, business trust,
13 legal representative, or organized group of persons employing four or
14 more employees at any one time except for seasonal employment of not more
15 than twenty weeks in any calendar year, acting directly or indirectly in
16 the interest of an employer in relation to an employee. Employer includes
17 the State of Nebraska and its political subdivisions, but shall not
18 include the United States, ~~the state, or any political subdivision~~
19 ~~thereof;~~

20 (3) Employee includes ~~shall include~~ any individual employed by any
21 employer, including committed offenders or inmates employed by the
22 Department of Correctional Services or a jail, but shall not include:

23 (a) Any individual employed in agriculture;

24 (b) Any individual employed as a baby-sitter in or about a private
25 home;

26 (c) Any individual employed in a bona fide executive,
27 administrative, or professional capacity or as a superintendent or
28 supervisor;

29 (d) Any individual employed by the United States ~~or by the state or~~
30 ~~any political subdivision thereof;~~

31 (e) An individual serving as a member of a governmental board,

1 council, commission, or committee of state or local government, or as a
2 member of any entity described in subdivision (1)(a) of section 84-1409;

3 (f) An individual whose wages are specifically set by another
4 statute;

5 (g) (e) Any individual engaged in the activities of an educational,
6 charitable, religious, or nonprofit organization when the employer-
7 employee relationship does not in fact exist or when the services
8 rendered to such organization are on a voluntary basis;

9 (h) (f) Apprentices and learners otherwise provided by law;

10 (i) (g) Veterans in training under supervision of the United States
11 Department of Veterans Affairs;

12 (j) (h) A child in the employment of his or her parent or a parent
13 in the employment of his or her child; or

14 (k) (i) Any person who, directly or indirectly, is receiving any
15 form of federal, state, county, or local aid or welfare and who is
16 physically or mentally disabled and employed in a program of
17 rehabilitation, who shall receive a wage at a level consistent with his
18 or her health, efficiency, and general well-being;

19 (4) Occupational classification means shall mean a classification
20 established by the Dictionary of Occupational Titles prepared by the
21 United States Department of Labor; and

22 (5) Wages means shall mean all remuneration for personal services,
23 including commissions and bonuses and the cash value of all remunerations
24 in any medium other than cash.

25 Sec. 10. Section 83-183, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 83-183 (1) To establish good habits of work and responsibility, to
28 foster vocational training, and to reduce the cost of operating the
29 facilities, persons committed to the department shall be employed, eight
30 hours per day, so far as possible in constructive and diversified
31 activities in the production of goods, services, and foodstuffs to

1 maintain the facilities, for state use, and for other purposes authorized
2 by law. To accomplish these purposes, the director may establish and
3 maintain industries and farms in appropriate facilities and may enter
4 into arrangements with any other board or agency of the state, any
5 natural resources district, or any other political subdivision, except
6 that any arrangements entered into with school districts, educational
7 service units, community colleges, state colleges, or universities shall
8 include supervision provided by the department, for the employment of
9 persons committed to the department for state or governmental purposes.
10 Nothing in this subsection shall be construed to effect a reduction in
11 the number of work release positions.

12 (2) The director shall make rules and regulations governing the
13 hours, the conditions of labor, and the rates of compensation of persons
14 committed to the department. In determining the rates of compensation,
15 such regulations may take into consideration the quantity and quality of
16 the work performed by such person, whether or not such work was performed
17 during regular working hours, the skill required for its performance, and
18 the economic value of similar work outside of correctional facilities.

19 ~~(3) Except as provided in section 83-183.01, wage payments to a~~
20 ~~person committed to the department shall be set aside by the chief~~
21 ~~executive officer of the facility in a separate fund. The fund shall~~
22 ~~enable such person committed to the department to contribute to the~~
23 ~~support of his or her dependents, if any, to make necessary purchases~~
24 ~~from the commissary, to set aside sums to be paid to him or her at the~~
25 ~~time of his or her release from the facility, and to pay restitution if~~
26 ~~restitution is required.~~

27 (3) (4) The director shall adopt and promulgate rules and
28 regulations which will protect the committed offender's rights to due
29 process and govern the collection of restitution as provided in section
30 83-184.01.

31 (4) (5) The director may authorize the chief executive officer to

1 invest the earnings of a person committed to the department. Any accrued
2 interest thereon shall be credited to such person's fund.

3 (5) Subject to section 83-183.01, the ~~(6)~~ The director may authorize
4 the chief executive officer to reimburse the state from the wages ~~wage~~
5 ~~fund~~ of a person committed to the department for:

6 (a) The actual value of property belonging to the state or any other
7 person intentionally or recklessly destroyed by such person committed to
8 the department during his or her commitment;

9 (b) The actual value of the damage or loss incurred as a result of
10 unauthorized use of property belonging to the state or any other person
11 by such person committed to the department;

12 (c) The actual cost to the state for injuries or other damages
13 caused by intentional acts of such person committed to the department;
14 and

15 (d) The reasonable costs incurred in returning such person committed
16 to the department to the facility to which he or she is committed in the
17 event of his or her escape.

18 (6) ~~(7)~~ No person committed to the department shall be required to
19 engage in excessive labor, and no such person shall be required to
20 perform any work for which he or she is declared unfit by a physician
21 designated by the director. No person who performs labor or work pursuant
22 to this section shall be required to wear manacles, shackles, or other
23 restraints.

24 ~~(8) The director may authorize that a portion of the earnings of a~~
25 ~~person committed to the department be retained by that person for~~
26 ~~personal use.~~

27 Sec. 11. Section 83-183.01, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 83-183.01 (1) A person committed to the department, who is earning
30 at least minimum wage and is employed by the department or any other
31 person ~~pursuant to sections 81-1827 and 83-183~~, shall have his or her

1 wages set aside by the chief executive officer of the facility in a
2 separate wage fund. The director shall adopt and promulgate rules and
3 regulations which will protect the committed person's inmate's rights to
4 due process, provide for hearing as necessary before the Crime Victim's
5 Reparations Committee, and govern the disposition of a committed confined
6 person's gross monthly wage minus required payroll deductions and payment
7 of necessary work-related incidental expenses for the ~~following~~ purposes
8 set forth in subsections (2) and (3) of this section. ÷

9 (2)(a) The department shall open a deposit account for any committed
10 offender earning wages as described in subsection (1) of this section.
11 The department shall deposit in such account twenty-five percent of the
12 committed offender's net wages described in subsection (1) of this
13 section. The department shall hold the deposit account in trust for the
14 committed offender. Upon release from commitment to the department, the
15 department shall transfer ownership of the account solely to the
16 committed offender or the offender's designee and provide the committed
17 offender with an up-to-date statement of the balance of such account and
18 any documentation necessary to access such account.

19 (b) The department shall transfer twenty-five percent of the
20 committed offender's net wages described in subsection (1) of this
21 section to a separate wage fund managed by the department. The fund shall
22 enable the committed offender to make necessary purchases from the
23 commissary. Amounts may be transferred from such fund to the deposit
24 account upon request of the committed offender.

25 (3) Of the net wages remaining after making the deposit and transfer
26 described in subsection (2) of this section, the committed offender's net
27 wages shall be distributed:

28 (a) ~~(1)~~ For the support of families and dependent relatives of the
29 respective inmates;

30 (b) ~~(2)~~ For the discharge of any legal obligations, including
31 judgments for restitution as provided in section 83-184.01;

- 1 (c) For the purposes described in subsection (5) of section 83-183;
2 and
3 ~~(3) To pay all or a part of the cost of their board, room, clothing,~~
4 ~~medical, dental, and other correctional services;~~
5 ~~(4) To provide for funds payable to the person committed to the~~
6 ~~department upon his or her release;~~
7 ~~(5) For the actual value of state property intentionally or~~
8 ~~willfully and wantonly destroyed by such person during his or her~~
9 ~~commitment;~~
10 ~~(6) For reasonable costs incurred in returning such person to the~~
11 ~~facility to which he or she is committed in the event of escape; and~~
12 (d) ~~(7)~~ For deposit in the Victim's Compensation Fund.

13 Sec. 12. Original sections 29-2414, 29-2415, 29-2708, 47-208, and
14 48-1202, Reissue Revised Statutes of Nebraska, and sections 83-183 and
15 83-183.01, Revised Statutes Cumulative Supplement, 2022, are repealed.

16 Sec. 13. The following sections are outright repealed: Sections
17 47-403, 47-404, and 47-406, Reissue Revised Statutes of Nebraska.