

## LEGISLATIVE BILL 782

Approved By the Governor April 15, 1974

Introduced by Fellman, 4

AN ACT relating to jails; to state policy; to provide for a county board of corrections and a division of corrections in certain counties as prescribed; to amend section 23-1723, Revised Statutes Supplement, 1972; to enlarge the sheriff's office merit commission; to provide for status; and to provide an operative date.  
Be it enacted by the people of the State of Nebraska,

Section 1. It has been the declared policy of the State of Nebraska in the exercise of its police powers to foster and promote local control of local affairs. Highest ranking in this hierarchy of local matters is the supervision of law enforcement. The state provides a system of law enforcement and local officers carry out the functions thereof on a day-to-day basis within such system. When shifting populations and modern day trends make particular divisions of responsibilities obsolete, it is incumbent on the legislature to remedy such a situation when it arises on the county level. Because heavy concentrations of inhabitants in urban areas place too great a burden on the already heavy load of the office of sheriff and because modern day theories of criminal corrections in high population density areas are best balanced in a public forum of open ideas and debate, it is in the interest of the people of the State of Nebraska that the legislature establish a new structure of responsibility over the county jails in all counties having more than three hundred thousand inhabitants. Such a structure would enable county boards to constitute themselves as county boards of corrections in order to supply such open ideas and debate, while the sheriffs of such counties would be released to pursue more fully their primary duties as law enforcement officers.

Sec. 2. In each county having a population of three hundred thousand or more inhabitants, the county board shall also serve as the county board of corrections and shall have charge of the county jail and of all persons by law confined therein pursuant to sentence of any court. The sheriff shall have full charge of all persons prior to sentencing. Such county board of corrections shall comply with any rule prescribed by the district judges pursuant to sections 47-101 to 47-104.

Sec. 3. The county board shall meet as the county board of corrections within sixty days after the effective date of this act and shall meet at least once every sixty days thereafter. Such board of corrections shall hear arguments and make recommendations for the maintenance, supervision, control, and direction of the county jail.

Sec. 4. Each county board of corrections shall carry out the functions, duties, and responsibilities as provided in Chapter 47, article 1.

Sec. 5. To aid the county board of corrections in accomplishing the purposes of this act, there is hereby established the division of corrections under the jurisdiction of the board. The administrative officer of the division shall be the director of corrections, who shall be qualified by education, training, and experience to perform the duties of such position. The specific qualifications of the director of corrections shall be set forth in the rules of the sheriff's office merit commission. All other personnel shall be employed by the division under rules and examination procedures which shall be established by the merit commission. Any member of the classified service of the sheriff's office on the operative date of this act may transfer into the division of corrections with no break in continuous service or benefits to which he might have been entitled on such date, and any person who has so transferred may retransfer to the sheriff's office on the same basis. No person shall make such transfer more than once.

Sec. 6. That section 23-1723, Revised Statutes Supplement, 1972, be amended to read as follows:

23-1723. The sheriff's office merit commission shall consist of three five members. One member shall be a duly elected county official, appointed by the board of county commissioners. One member shall be a deputy sheriff, elected by the deputy sheriffs. One member shall be a member of the division of corrections, elected by the members of the division. The--third--member Two members shall be selected by the presiding judge of the judicial district encompassing such county and shall be a public representative who is a--resident representatives who are residents of the county and neither shall be an official nor of an employee of the county. The terms of office of members initially appointed or elected shall expire on January 1 of the first, second and third years following their appointment or election, as designated by the board of county commissioners. As the terms of initial members expire, their successors shall be appointed or elected for three-year terms in the same

manner as the initial members. The additional public representative provided for in this section shall serve until January 1, 1977, and the member from the division of corrections shall serve until January 1, 1978, and thereafter their successors shall be appointed or elected for three-year terms. Any vacancy shall be filled by appointment or election in the same manner as appointment or election of initial members. The commission shall have the power to declare vacant the position of any member who no longer meets the qualifications for election or appointment set out in this section.

Sec. 7. No person in the employ of the office of the sheriff shall be reduced in rank or pay, suspended, removed, or deprived of any benefits accrued as of the operative date of this act except as provided in the rules of the merit commission.

Sec. 8. All persons in the custody of the county sheriff pursuant to this act shall have reasonable access to the personnel of the division of corrections. Such personnel shall conduct interviews of such persons and provide assistance, counseling, and various educational and rehabilitation programs for such persons.

Sec. 9. The sheriff may, as he deems necessary, assign any special deputies provided by section 64-606.01 to the division of corrections for purposes of training.

Sec. 10. Except for purposes of section 3 of this act, this act shall become operative on January 1, 1975.

Sec. 11. That original section 23-1723, Revised Statutes Supplement, 1972, is repealed.