

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 390**

Introduced by Ashford, 20; at the request of the Governor.

Read first time January 13, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to state agencies; to amend sections 23-2802,  
2 29-2252, 29-2255, 29-2261, 29-2521.02, 47-101, 47-102,  
3 47-103, 47-104, 47-106, 47-108, 47-109, 47-110, 47-202,  
4 47-204, 47-205, 47-621, 47-622, 47-624, 47-624.01,  
5 47-627, 47-628, 47-629, 47-632, 47-634, 71-2453, 81-1403,  
6 81-1404, 81-1407, 81-1423, 81-1425, 83-1,102, and  
7 83-1,107.02, Reissue Revised Statutes of Nebraska, and  
8 sections 29-2262.07, 43-245, and 81-1447, Revised  
9 Statutes Cumulative Supplement, 2010; to eliminate the  
10 Jail Standards Board, the Community Corrections Council,  
11 the Probation and Parole Services Study Act, rules  
12 relating to jail standards, a penalty, and sentencing  
13 guidelines; to create and provide duties for the  
14 Community Corrections Division of the Nebraska Commission  
15 on Law Enforcement and Criminal Justice; to provide for a  
16 manual of guidelines relating to jail operations; to  
17 change powers, duties, and provisions relating to the

1 Nebraska Commission on Law Enforcement and Criminal  
2 Justice and the Office of Violence Prevention; to  
3 harmonize provisions; to provide an operative date; to  
4 repeal the original sections; to outright repeal sections  
5 47-105, 47-105.01, 47-116, 47-201, 47-203, 47-206,  
6 47-623, 47-625, 47-630, 47-631, 47-635, 47-636, 47-637,  
7 47-638, 47-639, 83-4,124, 83-4,125, 83-4,126, 83-4,127,  
8 83-4,128, 83-4,129, 83-4,130, 83-4,131, 83-4,132, and  
9 83-4,134, Reissue Revised Statutes of Nebraska, and  
10 section 83-4,133, Revised Statutes Cumulative Supplement,  
11 2010; and to declare an emergency.  
12 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 23-2802, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           23-2802 In each county having a population of one hundred  
4 fifty thousand or more inhabitants, the county board shall also serve  
5 as the county board of corrections, and in counties of less than one  
6 hundred fifty thousand inhabitants, the county board may choose to  
7 serve as the county board of corrections. Any such county board of  
8 corrections shall have charge of the county jail and correctional  
9 facilities and of all persons by law confined in such jail or  
10 correctional facilities. Such county board of corrections shall  
11 comply with ~~any rule prescribed by the Jail Standards Board pursuant~~  
12 ~~to sections 47-101 to 47-104. the manual developed pursuant to~~  
13 section 47-101.

14           Sec. 2. Section 29-2252, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           29-2252 The administrator shall:

17           (1) Supervise and administer the office;

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

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

23           (4) Establish minimum qualifications for employment as a  
24 probation officer in this state and establish and maintain such  
25 additional qualifications as he or she deems appropriate for

1 appointment to the system. Qualifications for probation officers  
2 shall be established in accordance with subsection (4) of section  
3 29-2253. An ex-offender released from a penal complex or a county  
4 jail may be appointed to a position of deputy probation or parole  
5 officer. Such ex-offender shall maintain a record free of arrests,  
6 except for minor traffic violations, for one year immediately  
7 preceding his or her appointment;

8 (5) Establish and maintain advanced periodic inservice  
9 training requirements for the system;

10 (6) Cooperate with all agencies, public or private, which  
11 are concerned with treatment or welfare of persons on probation;

12 (7) Organize and conduct training programs for probation  
13 officers;

14 (8) Collect, develop, and maintain statistical  
15 information concerning probationers, probation practices, and the  
16 operation of the system;

17 (9) Interpret the probation program to the public with a  
18 view toward developing a broad base of public support;

19 (10) Conduct research for the purpose of evaluating and  
20 improving the effectiveness of the system;

21 (11) Adopt and promulgate such rules and regulations as  
22 may be necessary or proper for the operation of the office or system;

23 (12) Transmit a report during each even-numbered year to  
24 the Supreme Court on the operation of the office for the preceding  
25 two calendar years which shall include a historical analysis of

1 probation officer workload, including participation in non-probation-  
2 based programs and services. The report shall be transmitted by the  
3 Supreme Court to the Governor and the Clerk of the Legislature;

4 (13) Administer the payment by the state of all salaries,  
5 travel, and actual and necessary expenses incident to the conduct and  
6 maintenance of the office;

7 (14) In consultation with the Community Corrections  
8 ~~Council, Division of the Nebraska Commission on Law Enforcement and~~  
9 Criminal Justice, use the funds provided under section 29-2262.07 to  
10 augment operational or personnel costs associated with the  
11 development, implementation, and evaluation of enhanced probation-  
12 based programs and non-probation-based programs and services in which  
13 probation personnel or probation resources are utilized pursuant to  
14 an interlocal agreement authorized by subdivision (16) of this  
15 section and to purchase services to provide such programs aimed at  
16 enhancing adult probationer or non-probation-based program  
17 participant supervision in the community and treatment needs of  
18 probationers and non-probation-based program participants. Enhanced  
19 probation-based programs include, but are not limited to, specialized  
20 units of supervision, related equipment purchases and training, and  
21 programs developed by or through the ~~council-division~~ that address a  
22 probationer's vocational, educational, mental health, behavioral, or  
23 substance abuse treatment needs;

24 (15) Ensure that any risk or needs assessment instrument  
25 utilized by the system be periodically validated;

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

6           (17) Exercise all powers and perform all duties necessary  
7 and proper to carry out his or her responsibilities.

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

11           Sec. 3. Section 29-2255, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           29-2255 Any interlocal agreement authorized by  
14 subdivision (16) of section 29-2252 shall require the political  
15 subdivision party to the agreement to provide sufficient resources to  
16 cover all costs associated with the participation of probation  
17 personnel or use of probation resources other than costs covered by  
18 funds provided pursuant to section 29-2262.07 or substance abuse  
19 treatment costs covered by funds appropriated to the Community  
20 ~~Corrections Council~~ Division of the Nebraska Commission on Law  
21 Enforcement and Criminal Justice for such purpose.

22           Sec. 4. Section 29-2261, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           29-2261 (1) Unless it is impractical to do so, when an  
25 offender has been convicted of a felony other than murder in the

1 first degree, the court shall not impose sentence without first  
2 ordering a presentence investigation of the offender and according  
3 due consideration to a written report of such investigation. When an  
4 offender has been convicted of murder in the first degree and (a) a  
5 jury renders a verdict finding the existence of one or more  
6 aggravating circumstances as provided in section 29-2520 or (b)(i)  
7 the information contains a notice of aggravation as provided in  
8 section 29-1603 and (ii) the offender waives his or her right to a  
9 jury determination of the alleged aggravating circumstances, the  
10 court shall not commence the sentencing determination proceeding as  
11 provided in section 29-2521 without first ordering a presentence  
12 investigation of the offender and according due consideration to a  
13 written report of such investigation.

14 (2) A court may order a presentence investigation in any  
15 case, except in cases in which an offender has been convicted of a  
16 Class IIIA misdemeanor, a Class IV misdemeanor, a Class V  
17 misdemeanor, a traffic infraction, or any corresponding city or  
18 village ordinance.

19 (3) The presentence investigation and report shall  
20 include, when available, an analysis of the circumstances attending  
21 the commission of the crime, the offender's history of delinquency or  
22 criminality, physical and mental condition, family situation and  
23 background, economic status, education, occupation, and personal  
24 habits, and any other matters that the probation officer deems  
25 relevant or the court directs to be included. All local and state

1 police agencies and Department of Correctional Services adult  
2 correctional facilities shall furnish to the probation officer copies  
3 of such criminal records, in any such case referred to the probation  
4 officer by the court of proper jurisdiction, as the probation officer  
5 shall require without cost to the court or the probation officer.

6 Such investigation shall also include:

7 (a) Any written statements submitted to the county  
8 attorney by a victim; and

9 (b) Any written statements submitted to the probation  
10 officer by a victim.

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

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

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

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

19 (5) Before imposing sentence, the court may order the  
20 offender to submit to psychiatric observation and examination for a  
21 period of not exceeding sixty days or such longer period as the court  
22 determines to be necessary for that purpose. The offender may be  
23 remanded for this purpose to any available clinic or mental hospital,  
24 or the court may appoint a qualified psychiatrist to make the  
25 examination. The report of the examination shall be submitted to the

1 court.

2           (6) Any presentence report or psychiatric examination  
3 shall be privileged and shall not be disclosed directly or indirectly  
4 to anyone other than a judge, probation officers to whom an  
5 offender's file is duly transferred, the probation administrator or  
6 his or her designee, or others entitled by law to receive such  
7 information, including personnel and mental health professionals for  
8 the Nebraska State Patrol specifically assigned to sex offender  
9 registration and community notification for the sole purpose of using  
10 such report or examination for assessing risk and for community  
11 notification of registered sex offenders. For purposes of this  
12 subsection, mental health professional means (a) a practicing  
13 physician licensed to practice medicine in this state under the  
14 Medicine and Surgery Practice Act, (b) a practicing psychologist  
15 licensed to engage in the practice of psychology in this state as  
16 provided in section 38-3111, or (c) a practicing mental health  
17 professional licensed or certified in this state as provided in the  
18 Mental Health Practice Act. The court may permit inspection of the  
19 report or examination of parts thereof by the offender or his or her  
20 attorney, or other person having a proper interest therein, whenever  
21 the court finds it is in the best interest of a particular offender.  
22 The court may allow fair opportunity for an offender to provide  
23 additional information for the court's consideration.

24           (7) If an offender is sentenced to imprisonment, a copy  
25 of the report of any presentence investigation or psychiatric

1 examination shall be transmitted immediately to the Department of  
2 Correctional Services. Upon request, the Board of Parole or the  
3 Office of Parole Administration may receive a copy of the report from  
4 the department.

5 ~~(8) Notwithstanding subsection (6) of this section, the~~  
6 ~~Nebraska Commission on Law Enforcement and Criminal Justice under the~~  
7 ~~direction and supervision of the Chief Justice of the Supreme Court~~  
8 ~~shall have access to presentence investigations and reports for the~~  
9 ~~sole purpose of carrying out the study required under subdivision (7)~~  
10 ~~of section 81-1425. The commission shall treat such information as~~  
11 ~~confidential, and nothing identifying any individual shall be~~  
12 ~~released by the commission.~~

13 ~~(9)-(8)~~ Notwithstanding subsection (6) of this section,  
14 the Supreme Court or an agent of the Supreme Court acting under the  
15 direction and supervision of the Chief Justice shall have access to  
16 psychiatric examinations and presentence investigations and reports  
17 for research purposes. The Supreme Court and its agent shall treat  
18 such information as confidential and nothing identifying any  
19 individual shall be released.

20 Sec. 5. Section 29-2262.07, Revised Statutes Cumulative  
21 Supplement, 2010, is amended to read:

22 29-2262.07 The Probation Program Cash Fund is created.  
23 All funds collected pursuant to section 29-2262.06 shall be remitted  
24 to the State Treasurer for credit to the fund. Except as otherwise  
25 directed by the Supreme Court during the period from November 21,

1 2009, until June 30, 2011, the fund shall be utilized by the  
2 administrator, in consultation with the Community Corrections  
3 ~~Council, Division of the Nebraska Commission on Law Enforcement and~~  
4 Criminal Justice, for the purposes stated in subdivision (14) of  
5 section 29-2252, except that the State Treasurer shall, on or before  
6 June 30, 2011, on such date as directed by the budget administrator  
7 of the budget division of the Department of Administrative Services,  
8 transfer the amount set forth in Laws 2009, LB1, One Hundred First  
9 Legislature, First Special Session. Any money in the fund available  
10 for investment shall be invested by the state investment officer  
11 pursuant to the Nebraska Capital Expansion Act and the Nebraska State  
12 Funds Investment Act.

13           On July 15, 2010, the State Treasurer shall transfer  
14 three hundred fifty thousand dollars from the Probation Program Cash  
15 Fund to the Violence Prevention Cash Fund. The Office of Violence  
16 Prevention shall distribute such funds as soon as practicable after  
17 July 15, 2010, to organizations or governmental entities that have  
18 submitted violence prevention plans and that best meet the intent of  
19 reducing street and gang violence and reducing homicides and injuries  
20 caused by firearms.

21           Sec. 6. Section 29-2521.02, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           29-2521.02 ~~(1)~~—The Supreme Court shall within a  
24 reasonable time after July 22, 1978, review and analyze all cases  
25 involving criminal homicide committed on or after April 20, 1973.

1 Such review and analysis shall examine ~~(a)-(1)~~ the facts including  
2 mitigating and aggravating circumstances, ~~(b)-(2)~~ the charges filed,  
3 ~~(c)-(3)~~ the crime for which defendant was convicted, and ~~(d)-(4)~~ the  
4 sentence imposed. Such review shall be updated as new criminal  
5 homicide cases occur.

6 ~~(2) Following the transmittal of a report of the Nebraska~~  
7 ~~Commission on Law Enforcement and Criminal Justice pursuant to~~  
8 ~~subdivision (7) of section 81-1425 and subsequent reports updating~~  
9 ~~such report, the Supreme Court may take judicial notice of such~~  
10 ~~reports in undertaking the determinations required by sections~~  
11 ~~29-2521.01 to 29-2521.04.~~

12 Sec. 7. Section 43-245, Revised Statutes Cumulative  
13 Supplement, 2010, is amended to read:

14 43-245 For purposes of the Nebraska Juvenile Code, unless  
15 the context otherwise requires:

16 (1) Age of majority means nineteen years of age;

17 (2) Approved center means a center that has applied for  
18 and received approval from the Director of the Office of Dispute  
19 Resolution under section 25-2909;

20 (3) Civil citation means a noncriminal notice which  
21 cannot result in a criminal record and is described in section  
22 43-248.02;

23 (4) Cost or costs means (a) the sum or equivalent  
24 expended, paid, or charged for goods or services, or expenses  
25 incurred, or (b) the contracted or negotiated price;

1                   (5) Criminal street gang means a group of three or more  
2 people with a common identifying name, sign, or symbol whose group  
3 identity or purposes include engaging in illegal activities;

4                   (6) Criminal street gang member means a person who  
5 willingly or voluntarily becomes and remains a member of a criminal  
6 street gang;

7                   (7) Juvenile means any person under the age of eighteen;

8                   (8) Juvenile court means the separate juvenile court  
9 where it has been established pursuant to sections 43-2,111 to  
10 43-2,127 and the county court sitting as a juvenile court in all  
11 other counties. Nothing in the Nebraska Juvenile Code shall be  
12 construed to deprive the district courts of their habeas corpus,  
13 common-law, or chancery jurisdiction or the county courts and  
14 district courts of jurisdiction of domestic relations matters as  
15 defined in section 25-2740;

16                   (9) Juvenile detention facility ~~has the same meaning as~~  
17 ~~in section 83-4,125;~~ means an institution operated by one or more  
18 political subdivisions for the secure detention and treatment of  
19 persons younger than eighteen years of age, including persons under  
20 the jurisdiction of a juvenile court, who are serving a sentence  
21 pursuant to a conviction in a county or district court or who are  
22 detained while waiting disposition of charges against them. Juvenile  
23 detention facility does not include any institution operated by the  
24 Department of Correctional Services;

25                   (10) Mediator for juvenile offender and victim mediation

1 means a person who (a) has completed at least thirty hours of  
2 training in conflict resolution techniques, neutrality, agreement  
3 writing, and ethics set forth in section 25-2913, (b) has an  
4 additional eight hours of juvenile offender and victim mediation  
5 training, and (c) meets the apprenticeship requirements set forth in  
6 section 25-2913;

7 (11) Mental health facility means a treatment facility as  
8 defined in section 71-914 or a government, private, or state hospital  
9 which treats mental illness;

10 (12) Nonoffender means a juvenile who is subject to the  
11 jurisdiction of the juvenile court for reasons other than legally  
12 prohibited conduct, including, but not limited to, juveniles  
13 described in subdivision (3)(a) of section 43-247;

14 (13) Nonsecure detention means detention characterized by  
15 the absence of restrictive hardware, construction, and procedure.  
16 Nonsecure detention services may include a range of placement and  
17 supervision options, such as home detention, electronic monitoring,  
18 day reporting, drug court, tracking and monitoring supervision, staff  
19 secure and temporary holdover facilities, and group homes;

20 (14) Parent means one or both parents or a stepparent  
21 when such stepparent is married to the custodial parent as of the  
22 filing of the petition;

23 (15) Parties means the juvenile as described in section  
24 43-247 and his or her parent, guardian, or custodian;

25 (16) Except in proceedings under the Nebraska Indian

1 Child Welfare Act, relative means father, mother, grandfather,  
2 grandmother, brother, sister, stepfather, stepmother, stepbrother,  
3 stepsister, uncle, aunt, first cousin, nephew, or niece;

4 (17) Seal a record means that a record shall not be  
5 available to the public except upon the order of a court upon good  
6 cause shown;

7 (18) Secure detention means detention in a highly  
8 structured, residential, hardware-secured facility designed to  
9 restrict a juvenile's movement;

10 (19) Status offender means a juvenile who has been  
11 charged with or adjudicated for conduct which would not be a crime if  
12 committed by an adult, including, but not limited to, juveniles  
13 charged under subdivision (3)(b) of section 43-247 and sections  
14 53-180.01 and 53-180.02; and

15 (20) Traffic offense means any nonfelonious act in  
16 violation of a law or ordinance regulating vehicular or pedestrian  
17 travel, whether designated a misdemeanor or a traffic infraction.

18 Sec. 8. Section 47-101, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~47-101 The Jail Standards Board shall from time to time~~  
21 ~~as it may deem necessary prescribe, in writing, rules for the~~  
22 ~~regulation~~ (1) For purposes of sections 47-101 to 47-124 and 47-201  
23 to 47-208, director means the executive director of the Nebraska  
24 Commission on Law Enforcement and Criminal Justice.

25 (2) The director shall publish and distribute a manual of

1 recommended guidelines for the operation and government of the county  
2 jails and city jails upon the following subjects: ~~(1)~~-(a) The  
3 cleanliness of the jail and prisoners; ~~(2)~~-(b) the classification of  
4 prisoners in regard to sex, age, and crime, ~~and also~~ and persons with  
5 physical or mental disabilities; ~~(3)~~-(c) beds and clothing; ~~(4)~~-(d)  
6 warming, lighting, and ventilation of the jail; ~~(5)~~-(e) the  
7 employment of medical and surgical aid when necessary; ~~(6)~~-(f)  
8 employment, temperance, and instruction of the prisoners; ~~(7)~~-(g) the  
9 supplying of each prisoner with a Bible; ~~(8)~~-(h) the intercourse  
10 between prisoners and their counsel and other persons; ~~(9)~~-(i) the  
11 discipline of prisoners for violation of the rules of the jail; and  
12 ~~(10)~~-(j) such other matters as the ~~board~~ director may deem necessary  
13 to promote the welfare of the prisoners. The manual shall be  
14 developed in consultation with the Department of Correctional  
15 Services, the League of Nebraska Municipalities, the Nebraska  
16 Association of County Officials, the Nebraska County Sheriffs'  
17 Association or its successor, the office of Public Counsel, the  
18 Police Officers' Association of Nebraska or its successor, and the  
19 State Fire Marshal.

20           Sec. 9. Section 47-102, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           47-102 The Jail Standards Board ~~director~~ shall, ~~as soon~~  
23 ~~as may be, cause~~ deliver a copy of the rules to be delivered manual  
24 published pursuant to section 47-101 to the county boards. ~~It shall~~  
25 ~~be the duty of each county board forthwith to cause the same to be~~

1 ~~printed, to~~ Each county board shall furnish the sheriff of its county  
2 or ~~such other~~ the person as may be charged with the administrative  
3 direction of the jail with a copy of the ~~rules~~ manual for every room  
4 or cell of the jail, and ~~to forward~~ a copy of the ~~rules~~ manual by  
5 mail to the Auditor of Public Accounts, ~~who shall carefully file away~~  
6 ~~and preserve the same.~~ for filing and preservation.

7           Sec. 10. Section 47-103, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           47-103 The sheriff or ~~such other person as may be~~ charged  
10 with the administrative direction of the jail shall, immediately on  
11 the receipt of the ~~rules~~, ~~cause~~ manual published pursuant to section  
12 47-101, post a copy thereof to be posted up and continued in some  
13 conspicuous place in every room or cell of the jail.

14           Sec. 11. Section 47-104, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           47-104 The ~~Jail Standards Board~~ director may, as it may  
17 ~~deem~~ he or she deems necessary, amend the ~~rules~~, and ~~such amended~~  
18 ~~rules manual, and the amended manual shall be printed and disposed of~~  
19 by the county board and the sheriff or ~~such other person as may be~~  
20 charged with the administrative direction of the jail ~~in the same~~  
21 ~~manner as is directed by~~ as provided in sections 47-102 and 47-103.

22           Sec. 12. Section 47-106, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           47-106 The sheriff or ~~such other person as may be~~ charged  
25 with the administrative direction of the jail shall procure, at the

1 expense of the proper county, a suitable book to be called the jail  
2 register, in which he or she shall enter (1) the name of each  
3 prisoner, ~~with~~ and the date and cause of his or her commitment, (2)  
4 the date or manner of his or her discharge, (3) what sickness, if  
5 any, has prevailed in the jail during the year and if known, what  
6 were the causes of such disease, (4) ~~whether any or what~~ any labor  
7 ~~has been performed~~ by the prisoners, and the value thereof, (5) the  
8 habits of the prisoners as to personal cleanliness, diet, and order,  
9 (6) the operations of the rules and directions prescribed by the ~~Jail~~  
10 ~~Standards Board, manual published pursuant to section 47-101,~~ (7) the  
11 means furnished prisoners of literary, moral, and religious  
12 instruction, and of labor, and (8) all other matters required by the  
13 ~~rules,~~ manual or in the discretion of such person deemed proper. The  
14 sheriff or ~~such~~ other person as ~~may be~~ charged with the  
15 administrative direction of the jail shall carefully keep and  
16 preserve the jail register in his or her office and at the expiration  
17 of his or her office shall deliver the same to the successor in  
18 office.

19 Sec. 13. Section 47-108, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 47-108 ~~It shall be the duty of the~~ The district court in  
22 its charge to the grand jury ~~to~~ shall inform the jury of the  
23 provisions of sections 47-101 to 47-~~116~~ 47-115 and all rules, plans,  
24 or regulations established by the Jail Standards Board relating to  
25 county jails and prison discipline. the guidelines in the manual

1 published pursuant to section 47-101.

2           Sec. 14. Section 47-109, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           47-109 The grand jury of each county in this state may,  
5 while in attendance, visit the jail, examine its state and condition,  
6 and examine and inquire into the discipline and treatment of  
7 prisoners, and their habits, diet, and accommodations. If the grand  
8 jury visits a jail, it shall ~~be its duty to~~ report to the court in  
9 writing, ~~whether the rules of the Jail Standards Board have been~~  
10 ~~faithfully kept and observed, or~~ whether any of the provisions of  
11 sections 47-101 to ~~47-116, 47-115~~ have been violated, pointing out  
12 particularly in what the violation, if any, consists. ~~It shall also~~  
13 ~~be the duty of the~~ The county board of each county of this state ~~to~~  
14 shall visit the jail of its county once during each of its sessions  
15 in January, April, July, and October of each year.

16           Sec. 15. Section 47-110, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           47-110 ~~It shall be the duty of the~~ The county board, at  
19 the expense of the respective counties, shall ~~to~~ provide suitable  
20 means for warming the jail and its cells or apartments and provide  
21 frames and mattresses for beds and ~~such~~ other permanent fixtures and  
22 repairs as ~~may be prescribed by the Jail Standards Board.~~ needed. The  
23 county board ~~shall have power to~~ may appoint a physician to the jail  
24 when it deems it necessary and shall pay to such physician an annual  
25 or other salary as it may think reasonable and proper, which salary

1 shall be drawn out of the county treasury. Such medical officer, or  
2 any physician or surgeon who is employed in the jail, shall make a  
3 report in writing whenever required by the county board, ~~Jail~~  
4 ~~Standards Board~~, or grand jury.

5 Sec. 16. Section 47-202, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 47-202 The ~~Jail Standards Board~~ director shall ~~cause~~  
8 deliver a copy of the ~~rules to be delivered~~ manual published pursuant  
9 to section 47-101 to the mayor or chief officer of the  
10 municipalities, and ~~it shall be the duty of~~ such mayor or other chief  
11 officer ~~to cause~~ shall furnish a copy of the ~~same to be furnished~~  
12 manual to the person in charge of the prison or jail, ~~to file~~ a copy  
13 with the clerk of the municipality, and ~~to further cause post~~ a copy  
14 ~~to be conspicuously posted~~ in the prison or jail.

15 Sec. 17. Section 47-204, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 47-204 The officer in charge of any municipal jail shall  
18 keep a written record which shall show the name of each person  
19 confined, the date of the commencement and termination of his or her  
20 confinement, the nature of the charge against him or her, and the  
21 medical service provided. ~~Such officer shall keep such further~~  
22 ~~records as may be prescribed by the rules of the Jail Standards~~  
23 ~~Board.~~ The records ~~so kept~~ shall be subject to the inspection of any  
24 person and to the public generally and shall be kept for ~~such~~ the  
25 periods of time ~~as may be prescribed~~ by the rules of the State

1 Records Administrator.

2           Sec. 18. Section 47-205, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           47-205 The officer in charge of any municipal jail shall,  
5 on or before the first day of February of each year, for the  
6 preceding calendar year, ~~and at such other times as he or she may be~~  
7 ~~required by the Jail Standards Board,~~ make out a written report and  
8 ~~cause file~~ copies to be filed with the city clerk and the clerk of  
9 the district court of the county where such municipality is located.  
10 Such report shall contain a summary of the records required to be  
11 kept by the officer as provided in section 47-204. ~~and such other~~  
12 ~~data and matters as may be required by the Jail Standards Board.~~

13           Sec. 19. Section 47-621, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           47-621 For purposes of the Community Corrections Act:

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

1 health, alcohol, and drug treatment, and participating in specialized  
2 programs that exist within the community, and (d) offers community  
3 supervision options, including, but not limited to, drug treatment,  
4 mental health programs, and day reporting centers; and

5 ~~(2) Council means the Community Corrections Council;~~

6 ~~(3)—(2) Director means the executive director of the~~  
7 ~~Community Corrections Council; Nebraska Commission on Law Enforcement~~  
8 ~~and Criminal Justice;~~

9 (3) Division means the Community Corrections Division;

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

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

17 Sec. 20. Section 47-622, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 47-622 The Legislature declares that the policy of the  
20 State of Nebraska is that there shall be a coordinated effort to (1)  
21 establish community correctional programs across the state in order  
22 to divert adult felony offenders from the prison system and (2)  
23 provide necessary supervision and services to adult felony offenders  
24 with the goal of reducing the probability of criminal behavior while  
25 maintaining public safety. To further such policy, the Community

1 ~~Corrections Council~~Division is created. ~~For administrative support~~  
2 ~~and budgetary purposes only, the council shall be~~ within the Nebraska  
3 Commission on Law Enforcement and Criminal Justice. The director  
4 shall appoint and remove employees of the division and delegate  
5 appropriate powers and duties to such employees.

6 Sec. 21. Section 47-624, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 47-624 The ~~council~~division shall:

9 (1) Develop standards for eligible community correctional  
10 facilities and programs in which offenders can participate, taking  
11 into consideration the following factors:

12 (a) Qualifications of staff;

13 (b) Suitability of programs;

14 (c) Offender needs;

15 (d) Probation population;

16 (e) Parole population; and

17 (f) Other applicable criminal justice data;

18 (2) Develop and implement a plan to establish statewide  
19 operation and use of a continuum of community correctional facilities  
20 and programs;

21 (3) Develop, in consultation with the probation  
22 administrator and the Parole Administrator, standards for the use of  
23 community correctional facilities and programs by the Nebraska  
24 Probation System and the parole system;

25 (4) Collaborate with the Office of Probation

1 Administration, the Office of Parole Administration, and the  
2 Department of Correctional Services on the development of additional  
3 reporting centers as set forth in section 47-624.01;

4 (5) Analyze and mandate the consistent use of offender  
5 risk assessment tools;

6 (6) Educate the courts, the Board of Parole, criminal  
7 justice system stakeholders, and the general public about the  
8 availability and use of community correctional facilities and  
9 programs;

10 (7) Enter into contracts, if necessary, for carrying out  
11 the purposes of the Community Corrections Act;

12 (8) In order to ensure adequate funding for substance  
13 abuse treatment programs for probationers, consult with the probation  
14 administrator as provided in section 29-2262.07 and develop or assist  
15 with the development of programs as provided in subdivision (14) of  
16 section 29-2252;

17 (9) In order to ensure adequate funding for substance  
18 abuse treatment programs for parolees, consult with the Office of  
19 Parole Administration as provided in section 83-1,107.02 and develop  
20 or assist with the development of programs as provided in subdivision  
21 (8) of section 83-1,102;

22 ~~(10) If necessary to perform the duties of the council,~~  
23 ~~hire, contract for, or otherwise obtain the services of consultants,~~  
24 ~~researchers, aides, and other necessary support staff;~~

25 ~~(11)~~ (10) Study substance abuse and mental health

1 treatment services in and related to the criminal justice system,  
2 recommend improvements, and evaluate the implementation of  
3 improvements;

4 ~~(12)~~—(11) Research and evaluate existing community  
5 corrections facilities and programs, within the limits of available  
6 funding;

7 ~~(13)~~—(12) Develop standardized definitions of outcome  
8 measures for community corrections facilities and programs,  
9 including, but not limited to, recidivism, employment, and substance  
10 abuse;

11 ~~(14)~~—(13) Report annually to the Legislature and the  
12 Governor on the development and performance of community corrections  
13 facilities and programs. The report shall include the following:

14 (a) A description of community corrections facilities and  
15 programs, endorsed by the ~~council,~~ division, currently serving  
16 offenders in Nebraska, which includes the following information:

17 (i) The target population and geographic area served by  
18 each facility or program, eligibility requirements, and the total  
19 number of offenders utilizing the facility or program over the past  
20 year;

21 (ii) Services provided to offenders at the facility or in  
22 the program;

23 (iii) The costs of operating the facility or program and  
24 the cost per offender; and

25 (iv) The funding sources for the facility or program;

1 (b) The progress made in expanding community corrections  
2 facilities and programs statewide and an analysis of the need for  
3 additional community corrections services;

4 (c) An analysis of the impact community corrections  
5 facilities and programs have on the number of offenders incarcerated  
6 within the Department of Correctional Services; and

7 (d) The recidivism rates and outcome data for  
8 probationers, parolees, and problem-solving-court clients  
9 participating in community corrections programs;

10 ~~(15)~~ (14) Grant funds to entities including local  
11 governmental agencies, nonprofit organizations, and behavioral health  
12 services which will support the intent of the act; ~~and~~

13 (15) Administer contracts entered into by the division  
14 with community correctional facilities or programs;

15 (16) Establish and administer grants, projects, and  
16 programs for the operation of the division; and

17 ~~(16)~~ (17) Perform such other duties as may be necessary  
18 to carry out the policy of the state established in the act.

19 Sec. 22. Section 47-624.01, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

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

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

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

10           ~~(2) The council shall submit the reporting center~~  
11 ~~expansion plan to the chairperson of the Sentencing and Recidivism~~  
12 ~~Task Force, as created in Legislative Resolution 171, One Hundred~~  
13 ~~First Legislature, First Session, 2009, by December 1, 2010. The plan~~  
14 ~~shall be implemented as state funding allows until each district~~  
15 ~~court judicial district has at least one reporting center.~~

16           Sec. 23. Section 47-627, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           47-627 The ~~executive director of the Nebraska Commission~~  
19 ~~on Law Enforcement and Criminal Justice~~ director shall develop and  
20 maintain a uniform crime data analysis system in Nebraska which shall  
21 include, but need not be limited to, the number of offenses, arrests,  
22 charges, probation admissions, probation violations, probation  
23 discharges, admissions to and discharges from the Department of  
24 Correctional Services, parole reviews, parole hearings, releases on  
25 parole, parole violations, and parole discharges. The data shall be

1 categorized by statutory crime. The data shall be collected from the  
2 Board of Parole, the State Court Administrator, the Department of  
3 Correctional Services, the Office of Parole Administration, the  
4 Office of Probation Administration, the Nebraska State Patrol,  
5 counties, local law enforcement, and any other entity associated with  
6 criminal justice. The ~~council, the director, division~~ and the Supreme  
7 Court shall have access to such data to implement the Community  
8 Corrections Act. ~~and to develop guidelines pursuant to section~~  
9 ~~47-630.~~

10           Sec. 24. Section 47-628, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           47-628 (1) A sentencing judge may sentence an offender to  
13 probation conditioned upon community correctional programming.  
14 ~~pursuant to section 47-630 and the guidelines developed by the~~  
15 ~~Supreme Court.~~

16           (2) A sentence to a community correctional program or  
17 facility shall be imposed as a condition of probation pursuant to the  
18 Nebraska Probation Administration Act. The court may modify the  
19 sentence of an offender serving a sentence in a community  
20 correctional program in the same manner as if the offender had been  
21 placed on probation.

22           (3) The Office of Probation Administration shall utilize  
23 community correctional facilities and programs as appropriate.

24           Sec. 25. Section 47-629, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   47-629 (1) The Board of Parole may parole an offender to  
2 a community correctional facility or program pursuant to guidelines  
3 developed by the ~~council~~. division.

4                   (2) The Department of Correctional Services and the  
5 Office of Parole Administration shall utilize community correctional  
6 facilities and programs as appropriate.

7                   Sec. 26. Section 47-632, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9                   47-632 (1) The Community Corrections Uniform Data  
10 Analysis Cash Fund is created. Except as provided in subsection (2)  
11 of this section, the fund shall be ~~established for administrative~~  
12 ~~purposes only~~ within the Nebraska Commission on Law Enforcement and  
13 Criminal Justice, shall be administered by the ~~executive director of~~  
14 ~~the Community Corrections Council, division,~~ and shall only be used  
15 to support operations costs and analysis relating to the  
16 implementation and coordination of the uniform analysis of crime data  
17 pursuant to the Community Corrections Act, including associated  
18 information technology projects, ~~as specifically approved by the~~  
19 ~~executive director of the Community Corrections Council~~. The fund  
20 shall consist of money collected pursuant to section 47-633.

21                   (2) Transfers may be made from the fund to the General  
22 Fund at the direction of the Legislature.

23                   (3) Any money in the Community Corrections Uniform Data  
24 Analysis Cash Fund available for investment shall be invested by the  
25 state investment officer pursuant to the Nebraska Capital Expansion

1 Act and the Nebraska State Funds Investment Act.

2 Sec. 27. Section 47-634, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 47-634 For a local entity to receive funds under the  
5 Community Corrections Act, the ~~council~~ division shall ensure there is  
6 a local advisory committee made up of a broad base of community  
7 members concerned with the justice system. Submission of a detailed  
8 plan including a budget, program standards, and policies as developed  
9 by the local advisory committee ~~will~~ shall be required as set forth  
10 by the ~~council~~ division. Such funds shall be used for the  
11 implementation of the recommendations of the ~~council~~ division, the  
12 expansion of sentencing options, the education of the public, the  
13 provision of supplemental community-based corrections programs, and  
14 the promotion of coordination between state and county community-  
15 based corrections programs.

16 Sec. 28. Section 71-2453, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-2453 (1) Prescription drugs or devices which have been  
19 dispensed pursuant to a valid prescription and delivered to a  
20 Department of Correctional Services facility, a criminal detention  
21 facility, a juvenile detention facility, or a jail for administration  
22 to a prisoner or detainee held at such facility or jail, but which  
23 are not administered to such prisoner or detainee, may be returned to  
24 the dispensing pharmacy under contract with the facility or jail for  
25 credit or for relabeling and redispensing and administration to

1 another prisoner or detainee held at such facility or jail pursuant  
2 to a valid prescription as provided in this section.

3 (2)(a) The decision to accept return of a dispensed  
4 prescription drug or device for credit or for relabeling and  
5 redispensing rests solely with the pharmacist at the contracting  
6 pharmacy.

7 (b) A dispensed prescription drug or device shall be  
8 properly stored and in the control of the facility or jail at all  
9 times prior to the return of the drug or device for credit or for  
10 relabeling and redispensing. The drug or device shall be returned in  
11 the original and unopened labeled container dispensed by the  
12 pharmacist with the tamper-evident seal intact, and the container  
13 shall bear the expiration date or calculated expiration date and lot  
14 number of the drug or device.

15 (c) A prescription drug or device shall not be returned  
16 or relabeled and redispensed under this section if the drug or device  
17 is a controlled substance or if the relabeling and redispensing is  
18 otherwise prohibited by law.

19 (3) For purposes of this section:

20 (a) Administration has the definition found in section  
21 38-2807;

22 (b) Calculated expiration date has the definition found  
23 in subdivision (3)(a) of section 71-2421;

24 (c) Criminal detention facility ~~has the definition found~~  
25 ~~in section 83-4,125;~~ means any institution operated by one or more

1 political subdivisions for the careful keeping or rehabilitative  
2 needs of adult or juvenile criminal offenders or those persons being  
3 detained while awaiting disposition of charges against them. Criminal  
4 detention facility does not include any institution operated by the  
5 Department of Correctional Services. Criminal detention facilities  
6 shall be classified as follows:

7 (i) Type I Facilities means criminal detention facilities  
8 used for the detention of persons for not more than twenty-four  
9 hours, excluding nonjudicial days;

10 (ii) Type II Facilities means criminal detention  
11 facilities used for the detention of persons for not more than  
12 ninety-six hours, excluding nonjudicial days; and

13 (iii) Type III Facilities shall mean criminal detention  
14 facilities used for the detention of persons beyond ninety-six hours;

15 (d) Department of Correctional Services facility has the  
16 definition of facility found in section 83-170;

17 (e) Dispense or dispensing has the definition found in  
18 section 38-2817;

19 (f) Jail has the definition found in section 47-117;

20 (g) Juvenile detention facility ~~has the definition found~~  
21 ~~in section 83-4,125;~~ means an institution operated by a political  
22 subdivision or political subdivisions for the secure detention and  
23 treatment of persons younger than eighteen years of age, including  
24 persons under the jurisdiction of a juvenile court, who are serving a  
25 sentence pursuant to a conviction in a county or district court or

1 who are detained while waiting disposition of charges against them.  
2 Juvenile detention facility does not include any institution operated  
3 by the Department of Correctional Services;

4 (h) Prescription has the definition found in section  
5 38-2840; and

6 (i) Prescription drug or device has the definition found  
7 in section 38-2841.

8 (4) ~~The Jail Standards Board,~~ Nebraska Commission on Law  
9 Enforcement and Criminal Justice, in consultation with the Board of  
10 Pharmacy, shall adopt and promulgate rules and regulations relating  
11 to the return of dispensed prescription drugs or devices for credit,  
12 relabeling, or redispensing under this section, including, but not  
13 limited to, rules and regulations relating to (a) education and  
14 training of persons authorized to administer the prescription drug or  
15 device to a prisoner or detainee, (b) the proper storage and  
16 protection of the drug or device consistent with the directions  
17 contained on the label or written drug information provided by the  
18 pharmacist for the drug or device, (c) limits on quantity to be  
19 dispensed, (d) transferability of drugs or devices for prisoners or  
20 detainees between facilities, (e) container requirements, (f)  
21 establishment of a drug formulary, and (g) fees for the dispensing  
22 pharmacy to accept the returned drug or device.

23 (5) Any person or entity which exercises reasonable care  
24 in accepting, distributing, or dispensing prescription drugs or  
25 devices under this section or rules and regulations adopted and

1 promulgated under this section shall be immune from civil or criminal  
2 liability or professional disciplinary action of any kind for any  
3 injury, death, or loss to person or property relating to such  
4 activities.

5           Sec. 29. Section 81-1403, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           81-1403 Subject to review and approval by the commission,  
8 the council shall:

9           (1) Adopt and promulgate rules and regulations for law  
10 enforcement pre-certification, certification, continuing education,  
11 and training requirements. Such rules and regulations may include the  
12 authority to impose a fine on any individual, political subdivision,  
13 or agency who or which violates such rules and regulations. The fine  
14 for each separate violation of any rule or regulation shall not  
15 exceed either (a) a one-time maximum fine of five hundred dollars or  
16 (b) a maximum fine of one hundred dollars per day until the  
17 individual, political subdivision, or agency complies with such rules  
18 or regulations. All fines collected pursuant to this subdivision  
19 shall be remitted to the State Treasurer for ~~credit to the permanent~~  
20 ~~school fund;~~ distribution in accordance with Article VII, section 5,  
21 of the Constitution of Nebraska;

22           (2) Adopt and promulgate rules and regulations for the  
23 operation of the training center;

24           (3) Recommend to the executive director of the commission  
25 the names of persons to be appointed to the position of director of

1 the training center;  ~~, delegate appropriate powers and duties to and~~  
2  ~~provide direct supervision of the director, and when warranted~~  
3  ~~recommend to the commission that the director be removed for cause;~~

4 (4) Establish requirements for satisfactory completion of  
5 pre-certification programs, certification programs, and advanced  
6 training programs;

7 (5) Issue certificates or diplomas attesting satisfactory  
8 completion of pre-certification programs, certification programs, and  
9 advanced training programs;

10 (6) Revoke or suspend such certificates or diplomas  
11 according to rules and regulations established by the council for  
12 reasons which shall include, but not be limited to, (a) incompetence,  
13 (b) neglect of duty, (c) physical, mental, or emotional incapacity,  
14 and (d) final conviction of or pleading guilty or nolo contendere to  
15 a felony. The rules and regulations shall provide for revocation of a  
16 certificate holder's certificate without a hearing upon his or her  
17 final conviction of or pleading guilty or nolo contendere to a  
18 felony. For purposes of this subdivision, felony means a crime  
19 punishable by imprisonment for a term of more than one year or a  
20 crime committed outside of Nebraska which would be punishable by  
21 imprisonment for a term of more than one year if committed in  
22 Nebraska. The rules and regulations shall include a procedure for  
23 hearing appeals of any person who feels that the revocation or  
24 suspension of his or her certificate or diploma was in error;

25 (7) Set the tuition and fees for the training center and

1 all officers of other training academies not employed by that  
2 training academy's agency. The tuition and fees set for the training  
3 center pursuant to this subdivision shall be adjusted annually  
4 pursuant to the training center budget approved by the Legislature.  
5 All other tuition and fees shall be set in order to cover the costs  
6 of administering sections 81-1401 to 81-1414. All tuition and fees  
7 shall be remitted to the State Treasurer for credit to the Nebraska  
8 Law Enforcement Training Center Cash Fund;

9 (8) Annually certify any training academies providing a  
10 basic course of law enforcement training which complies with the  
11 qualifications and standards promulgated by the council and offering  
12 training that meets or exceeds training that is offered by the  
13 training center. The council shall set the maximum and minimum  
14 applicant enrollment figures for training academies training non-  
15 agency officers;

16 (9) Extend the programs of the training center throughout  
17 the state on a regional basis;

18 (10) Establish the qualifications and standards and  
19 provide the training required by section 81-1439; and

20 (11) Do all things necessary to carry out the purpose of  
21 the training center, except that functional authority for budget and  
22 personnel matters shall remain with the commission.

23 Any administrative fine imposed under this section shall  
24 constitute a debt to the State of Nebraska which may be collected by  
25 lien foreclosure or sued for and recovered in any proper form of

1 action by the office of the Attorney General in the name of the State  
2 of Nebraska in the district court of the county where the final  
3 agency action was taken. All fines imposed by the council shall be  
4 remitted to the State Treasurer for ~~credit to the permanent school~~  
5 ~~fund.~~ distribution in accordance with Article VII, section 5, of the  
6 Constitution of Nebraska.

7 Sec. 30. Section 81-1404, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 81-1404 The director of the Nebraska Law Enforcement  
10 Training Center shall devote full time to the duties of the office  
11 and shall not engage in any other business or profession or hold any  
12 other state public office. The director shall be responsible to the  
13 executive director of the commission ~~through the council~~ for the  
14 operation of the training center and the conducting of training  
15 programs. The director of the training center shall:

16 (1) Appoint and remove for cause such employees as may be  
17 necessary for the operation of the training center and delegate  
18 appropriate powers and duties to them;

19 (2) Conduct research for the purpose of evaluating and  
20 improving the effectiveness of law enforcement training programs;

21 (3) Consult with the council on all matters pertaining to  
22 training schools and training academies;

23 (4) Supervise the administration of the pre-certification  
24 competency test;

25 (5) Ensure that all council rules and regulations with

1 respect to law enforcement pre-certification, certification,  
2 continuing education, and training requirements are implemented and  
3 followed, and in that capacity, act as the director of standards for  
4 the council;

5 (6) Advise the council concerning the operation of the  
6 training center, the requirements, as set by the council, for all  
7 training schools and training academies, and the formulation of  
8 training policies and regulations; and

9 (7) Issue diplomas to students who successfully complete  
10 the prescribed basic course of study.

11 Sec. 31. Section 81-1407, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 81-1407 (1) The Nebraska Police Standards Advisory  
14 Council shall consist of seven members appointed by the Governor. Six  
15 of the members shall be full-time officers or employees of a law  
16 enforcement agency and shall include one representative chief of  
17 police or his or her designee from a city of the metropolitan or  
18 primary class, a representative chief of police or his or her  
19 designee from a city of the first class, a representative chief of  
20 police or his or her designee from a city of the second class or  
21 village, a county sheriff or his or her designee from a county having  
22 a population of forty thousand or more, a county sheriff or his or  
23 her designee from a county having a population of forty thousand or  
24 less, and a member of the Nebraska State Patrol. The seventh member  
25 shall be a ~~member of the Jail Standards Board or a person from the~~

1 public at large. The representative chief of police or his or her  
2 designee from a city of the metropolitan or primary class shall not  
3 be a regular member of the commission.

4 (2) The members of the council shall serve for terms of  
5 four years each. Of the members first appointed, one shall serve for  
6 a term of one year, one shall serve for a term of two years, one  
7 shall serve for a term of three years, and two shall serve for terms  
8 of four years from January 1 next succeeding their appointment.  
9 Within ninety days after July 16, 1994, the Governor shall appoint  
10 the two additional members who shall serve for terms of four years  
11 from January 1 next succeeding their appointment. A member may be  
12 reappointed at the expiration of his or her term. Any vacancy  
13 occurring otherwise than by expiration of a term shall be filled, for  
14 the remainder of the unexpired term, in the same manner as the  
15 original appointment. The council shall select one of its members as  
16 chairperson.

17 (3) No member of the council shall serve beyond the time  
18 when he or she holds the office or employment by reason of which he  
19 or she was initially eligible for appointment. A member may be  
20 removed from the council for cause upon notice and an opportunity to  
21 be heard at a public hearing before the Governor. After the hearing,  
22 the Governor shall file in the office of the Secretary of State a  
23 complete statement of the charges, his or her findings and  
24 disposition, together with a complete record of the proceedings.

25 Sec. 32. Section 81-1423, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-1423 The commission shall have authority to:

3 (1) Adopt and promulgate rules and regulations for its  
4 organization and internal management and rules and regulations  
5 governing the exercise of its powers and the fulfillment of its  
6 purposes under sections 81-1415 to 81-1426;

7 (2) Delegate to one or more of its members such powers  
8 and duties as it may deem proper;

9 (3) Coordinate and jointly pursue its activities with the  
10 Governor's Policy Research Office;

11 (4) Appoint and abolish such advisory committees as may  
12 be necessary for the performance of its functions and delegate  
13 appropriate powers and duties to them;

14 (5) Plan improvements in the administration of criminal  
15 justice and promote their implementation;

16 (6) Make or encourage studies of any aspect of the  
17 administration of criminal justice;

18 (7) Conduct research and stimulate research by public and  
19 private agencies which shall be designed to improve the  
20 administration of criminal justice;

21 (8) Coordinate activities relating to the administration  
22 of criminal justice among agencies of state and local government;

23 (9) Cooperate with the federal and other state  
24 authorities concerning the administration of criminal justice;

25 (10) Accept and administer loans, grants, and donations

1 from the United States, its agencies, the State of Nebraska, its  
2 agencies, and other sources, public and private, for carrying out any  
3 of its functions, except that no communications equipment shall be  
4 acquired and no approval for acquisition of communications equipment  
5 shall be granted without receiving the written approval of the  
6 Director of Communications of the office of Chief Information  
7 Officer;

8           (11) Enter into contracts, leases, and agreements  
9 necessary, convenient, or desirable for carrying out its purposes and  
10 the powers granted under sections 81-1415 to 81-1426 with agencies of  
11 state or local government, corporations, or persons;

12           (12) Acquire, hold, and dispose of personal property in  
13 the exercise of its powers;

14           (13) Conduct random annual audits of criminal justice  
15 agencies to verify the accuracy and completeness of criminal history  
16 record information maintained by such agencies and to determine  
17 compliance with laws and regulations dealing with the dissemination,  
18 security, and privacy of criminal history information;

19           (14) Do all things necessary to carry out its purposes  
20 and for the exercise of the powers granted in sections 81-1415 to  
21 81-1426, except that no activities or transfers or expenditures of  
22 funds available to the commission shall be inconsistent with  
23 legislative policy as reflected in substantive legislation,  
24 legislative intent legislation, or appropriations legislation;

25           (15) Exercise budgetary and administrative control over

1 the Crime Victim's Reparations Committee; and ~~and the Jail Standards~~  
2 ~~Board;~~

3 ~~(16) Appoint and remove for cause the director of the~~  
4 ~~Nebraska Law Enforcement Training Center;~~

5 ~~(17) Provide budgetary and administrative support to the~~  
6 ~~Community Corrections Council; and~~

7 ~~(18)-(16)~~ Do all things necessary to carry out sections  
8 81-1843 to 81-1851.

9 Sec. 33. Section 81-1425, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 81-1425 The executive director of the commission shall:

12 (1) Supervise and be responsible for the administration  
13 of the policies established by the commission;

14 (2) Establish a ~~Jail Standards subdivision~~ Community  
15 Corrections Division within the commission and establish,  
16 consolidate, or abolish any ~~other~~ administrative subdivision within  
17 the commission and appoint and remove for cause the heads thereof,  
18 and delegate appropriate powers and duties to them;

19 (3) Establish and administer projects and programs for  
20 the operation of the commission;

21 (4) Appoint and remove employees of the commission and  
22 delegate appropriate powers and duties to them;

23 (5) Make rules and regulations for the management and the  
24 administration of policies of the commission and the conduct of  
25 employees under his or her jurisdiction;

1           (6) Collect, develop, maintain, and analyze statistical  
2 information, records, and reports as the commission may determine  
3 relevant to its functions, including, but not limited to, the  
4 statistical information set forth in section 47-627;

5           ~~(7) Prior to August 1, 2001, review and analyze all cases~~  
6 ~~involving criminal homicide committed on or after April 20, 1973. The~~  
7 ~~review and analysis shall examine (a) the facts, including mitigating~~  
8 ~~and aggravating circumstances, (b) to the extent such can be~~  
9 ~~ascertained, the race, gender, religious preference, and economic~~  
10 ~~status of the defendant and of the victim, (c) the charges filed, (d)~~  
11 ~~the result of the judicial proceeding in each case, and (e) the~~  
12 ~~sentence imposed. Upon the completion of such review, the report of~~  
13 ~~such shall be transmitted to the Governor, the Clerk of the~~  
14 ~~Legislature, and the Chief Justice of the Supreme Court. The review~~  
15 ~~and analysis shall be updated as new cases of criminal homicide~~  
16 ~~occur. The commission shall update such report annually to the~~  
17 ~~parties named in this subdivision;~~

18           ~~(8)-(7)~~ Transmit monthly to the commission a report of  
19 the operations of the commission for the preceding calendar month;

20           ~~(9)-(8)~~ Execute and carry out the provisions of all  
21 contracts, leases, and agreements authorized by the commission with  
22 agencies of federal, state, or local government, corporations, or  
23 persons;

24           ~~(10)-(9)~~ Perform such additional duties as may be  
25 assigned to him or her by the commission, by the chairperson of the

1 commission, or by law; ~~and~~

2 (10) Appoint and remove for cause the director of the  
3 Nebraska Law Enforcement Training Center;

4 (11) Appoint and remove for cause the director of the  
5 Office of Violence Prevention; and

6 ~~(11)~~(12) Exercise all powers and perform all duties  
7 necessary and proper in carrying out his or her responsibilities.

8 Sec. 34. Section 81-1447, Revised Statutes Cumulative  
9 Supplement, 2010, is amended to read:

10 81-1447 (1) There is established within the Nebraska  
11 Commission on Law Enforcement and Criminal Justice the Office of  
12 Violence Prevention. The office shall consist of a director,  
13 appointed by the Governor. ~~executive director of the Nebraska~~  
14 Commission on Law Enforcement and Criminal Justice, and other  
15 necessary support staff. There also is established an advisory  
16 council to the Office of Violence Prevention. The members of the  
17 advisory council shall be appointed by the Governor and serve at his  
18 or her discretion. The advisory council shall consist of six members  
19 and, of those members, each congressional district, as such districts  
20 existed on May 28, 2009, shall have at least one member on the  
21 council. The Governor shall consider appointing members representing  
22 the following areas, if practicable: Two members representing local  
23 government; two members representing law enforcement; one member  
24 representing community advocacy; and one member representing  
25 education with some expertise in law enforcement and juvenile crime.

1           (2) Members of the advisory council shall serve for terms  
2 of four years. A member may be reappointed at the expiration of his  
3 or her term. Any vacancy occurring other than by expiration of a term  
4 shall be filled for the remainder of the unexpired term in the same  
5 manner as the original appointment.

6           Sec. 35. Section 83-1,102, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           83-1,102 The Parole Administrator shall:

9           (1) Supervise and administer the Office of Parole  
10 Administration;

11           (2) Establish and maintain policies, standards, and  
12 procedures for the field parole service and the community supervision  
13 of sex offenders pursuant to section 83-174.03;

14           (3) Divide the state into parole districts and appoint  
15 district parole officers, deputy parole officers, if required, and  
16 such other employees as may be required to carry out adequate parole  
17 supervision of all parolees, adequate probation supervision of  
18 probationers as ordered by district judges, prescribe their powers  
19 and duties, and obtain office quarters for staff in each district as  
20 may be necessary;

21           (4) Cooperate with the Board of Parole, the courts, the  
22 Community Corrections Council, Division of the Nebraska Commission on  
23 Law Enforcement and Criminal Justice, and all other agencies, public  
24 and private, which are concerned with the treatment or welfare of  
25 persons on parole;

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

3                   (6) Make recommendations to the Board of Parole or  
4 district judge in cases of violation of the conditions of parole or  
5 probation, issue warrants for the arrest of parole or probation  
6 violators when so instructed by the board or district judge, notify  
7 the Director of Correctional Services of determinations made by the  
8 board, and upon instruction of the board, issue certificates of  
9 parole and of parole revocation to the facilities and certificates of  
10 discharge from parole to parolees;

11                  (7) Organize and conduct training programs for the  
12 district parole officers and other employees;

13                  (8) In consultation with the Community Corrections  
14 ~~Council, Division,~~ use the funds provided under section 83-1,107.02  
15 to augment operational or personnel costs associated with the  
16 development, implementation, and evaluation of enhanced parole-based  
17 programs and purchase services to provide such programs aimed at  
18 enhancing adult parolee supervision in the community and treatment  
19 needs of parolees. Such enhanced parole-based programs include, but  
20 are not limited to, specialized units of supervision, related  
21 equipment purchases and training, and programs developed by or  
22 through the ~~council~~division that address a parolee's vocational,  
23 educational, mental health, behavioral, or substance abuse treatment  
24 needs;

25                  (9) Ensure that any risk or needs assessment instrument

1 utilized by the system be periodically validated; and

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

4 Sec. 36. Section 83-1,107.02, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 83-1,107.02 The Parole Program Cash Fund is created. All  
7 funds collected pursuant to section 83-1,107.01 shall be remitted to  
8 the State Treasurer for credit to the fund. The fund shall be  
9 utilized by the Office of Parole Administration, in consultation with  
10 the Community Corrections Council, ~~Division~~, for the purposes stated  
11 in subdivision (8) of section 83-1,102. Any money in the fund  
12 available for investment shall be invested by the state investment  
13 officer pursuant to the Nebraska Capital Expansion Act and the  
14 Nebraska State Funds Investment Act.

15 Sec. 37. This act becomes operative on July 1, 2011.

16 Sec. 38. Original sections 23-2802, 29-2252, 29-2255,  
17 29-2261, 29-2521.02, 47-101, 47-102, 47-103, 47-104, 47-106, 47-108,  
18 47-109, 47-110, 47-202, 47-204, 47-205, 47-621, 47-622, 47-624,  
19 47-624.01, 47-627, 47-628, 47-629, 47-632, 47-634, 71-2453, 81-1403,  
20 81-1404, 81-1407, 81-1423, 81-1425, 83-1,102, and 83-1,107.02,  
21 Reissue Revised Statutes of Nebraska, and sections 29-2262.07,  
22 43-245, and 81-1447, Revised Statutes Cumulative Supplement, 2010,  
23 are repealed.

24 Sec. 39. The following sections are outright repealed:  
25 Sections 47-105, 47-105.01, 47-116, 47-201, 47-203, 47-206, 47-623,

1 47-625, 47-630, 47-631, 47-635, 47-636, 47-637, 47-638, 47-639,  
2 83-4,124, 83-4,125, 83-4,126, 83-4,127, 83-4,128, 83-4,129, 83-4,130,  
3 83-4,131, 83-4,132, and 83-4,134, Reissue Revised Statutes of  
4 Nebraska, and section 83-4,133, Revised Statutes Cumulative  
5 Supplement, 2010.

6           Sec. 40. Since an emergency exists, this act takes effect  
7 when passed and approved according to law.