

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 133**

Introduced by Pansing Brooks, 28; Brewer, 43; Wayne, 13.

Read first time January 10, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act;
- 2 to amend sections 83-182.01 and 83-1,114, Revised Statutes
- 3 Cumulative Supplement, 2018; to change provisions relating to
- 4 structured programming and deferral of parole as prescribed; to
- 5 harmonize provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 83-182.01, Revised Statutes Cumulative  
2 Supplement, 2018, is amended to read:

3           83-182.01 (1) Structured programming shall be planned for all adult  
4 persons committed to the department. The structured programming shall  
5 include any of the following: Work programs;    vocational training;     
6 behavior management and modification;    money management;    and substance  
7 abuse awareness, counseling, or treatment. Programs and treatment  
8 services shall address:

9           (a) Behavioral impairments, severe emotional disturbances, and other  
10 mental health or psychiatric disorders;

11           (b) Drug and alcohol use and addiction;

12           (c) Health and medical needs;

13           (d) Education and related services;

14           (e) Counseling services for persons committed to the department who  
15 have been physically or sexually abused;

16           (f) Work ethic and structured work programs;

17           (g) The development and enhancement of job acquisition skills and  
18 job performance skills; and

19           (h) Cognitive behavioral intervention.

20           Structured programming may also include classes and activities  
21 organized by inmate self-betterment clubs, cultural clubs, and other  
22 inmate-led or volunteer-led groups.

23           (2) The goal of such structured programming is to provide the skills  
24 necessary for the person committed to the department to successfully  
25 return to his or her home or community or to a suitable alternative  
26 community upon his or her release from the adult correctional facility.  
27 The Legislature recognizes that many inmate self-betterment clubs and  
28 cultural clubs help achieve this goal by providing constructive  
29 opportunities for personal growth.

30           (3) If a person committed to the department refuses to participate  
31 in the structured programming described in subsection (1) of this

1 section, he or she shall be subject to disciplinary action, except that a  
2 person committed to the department who refuses to participate in  
3 structured programming consisting of classes and activities organized by  
4 inmate self-betterment clubs, cultural clubs, or other inmate-led or  
5 volunteer-led groups shall not be subject to disciplinary action.

6 (4) Any person committed to the department who is qualified by  
7 reason of education, training, or experience to teach academic or  
8 vocational classes may be given the opportunity to teach such classes to  
9 committed offenders as part of the structured programming described in  
10 this section.

11 (5) The department shall evaluate the quality of programs funded by  
12 the department. The evaluation shall focus on whether program  
13 participation reduces recidivism. Subject to the availability of funding,  
14 the department may contract with an independent contractor or academic  
15 institution for each program evaluation. Each program evaluation shall be  
16 standardized and shall include a site visit, interviews with key staff,  
17 interviews with offenders, group observation, if applicable, and review  
18 of materials used for the program. The evaluation shall include adherence  
19 to concepts that are linked with program effectiveness, such as program  
20 procedures, staff qualifications, and fidelity to the program model of  
21 delivering offender assessment and treatment. Each program evaluation  
22 shall also include feedback to the department concerning program  
23 strengths and weaknesses and recommendations for better adherence to  
24 evidence-based programming.

25 (6) Within thirty days after receiving a notice of deferred parole  
26 under subsection (3) of section 83-1,114, the department shall provide  
27 the committed offender an opportunity to enroll in the earliest offered  
28 treatment or programming as recommended by the board. If the committed  
29 offender refuses to enroll or participate in such treatment or  
30 programming, the department shall obtain a written statement from the  
31 committed offender in which the committed offender expresses his or her

1 refusal and any reasons relevant to his or her decision. The department  
2 shall provide the written statement to the office of Inspector General of  
3 the Nebraska Correctional System. If the committed offender refuses to  
4 provide such written statement or reasons, the department shall document  
5 in writing its attempts to obtain such written statement or reasons. An  
6 annual report shall also be provided by the department to the office  
7 regarding any committed offender whose parole was deferred with all  
8 relevant information on treatment and programming received, refusals to  
9 enroll or participate in treatment and programming, and the reasons for  
10 such refusals.

11       Sec. 2. Section 83-1,114, Revised Statutes Cumulative Supplement,  
12 2018, is amended to read:

13       83-1,114 (1) Whenever the board considers the release of a committed  
14 offender who is eligible for release on parole, it shall order his or her  
15 release unless it is of the opinion that his or her release should be  
16 deferred because:

17       (a) There is a substantial risk that he or she will not conform to  
18 the conditions of parole;

19       (b) His or her release would depreciate the seriousness of his or  
20 her crime or promote disrespect for law;

21       (c) His or her release would have a substantially adverse effect on  
22 institutional discipline; or

23       (d) His or her continued correctional treatment, medical care, or  
24 vocational or other training in the facility will substantially enhance  
25 his or her capacity to lead a law-abiding life when released at a later  
26 date.

27       (2) In making its determination regarding a committed offender's  
28 release on parole, the board shall give consideration to its decision  
29 guidelines as set forth in its rules and regulations and shall take into  
30 account each of the following factors:

31       (a) The offender's personality, including his or her maturity,

1 stability, and sense of responsibility and any apparent development in  
2 his or her personality which may promote or hinder his or her conformity  
3 to law;

4 (b) The adequacy of the offender's parole plan;

5 (c) The offender's ability and readiness to assume obligations and  
6 undertake responsibilities;

7 (d) The offender's intelligence and training;

8 (e) The offender's family status and whether he or she has relatives  
9 who display an interest in him or her or whether he or she has other  
10 close and constructive associations in the community;

11 (f) The offender's employment history, his or her occupational  
12 skills, and the stability of his or her past employment;

13 (g) The type of residence, neighborhood, or community in which the  
14 offender plans to live;

15 (h) The offender's past use of narcotics or past habitual and  
16 excessive use of alcohol;

17 (i) The offender's mental or physical makeup, including any  
18 disability or handicap which may affect his or her conformity to law;

19 (j) The offender's prior criminal record, including the nature and  
20 circumstances, dates, and frequency of previous offenses;

21 (k) The offender's attitude toward law and authority;

22 (l) The offender's conduct in the facility, including particularly  
23 whether he or she has taken advantage of the opportunities for self-  
24 improvement, whether he or she has been punished for misconduct within  
25 six months prior to his or her hearing or reconsideration for parole  
26 release, whether any reductions of term have been forfeited, and whether  
27 such reductions have been restored at the time of hearing or  
28 reconsideration;

29 (m) The offender's behavior and attitude during any previous  
30 experience of probation or parole and how recent such experience is;

31 (n) The risk and needs assessment completed pursuant to section

1 83-192; and

2 (o) Any other factors the board determines to be relevant.

3 (3) If the board determines that the release of a committed offender  
4 should be deferred, the board shall inform the department within ten  
5 business days after such deferment. Such notice shall be in writing and  
6 shall state the reasons for the deferment. The board shall also describe  
7 in such notice any programming or treatment which the board determines  
8 the committed offender should complete in order to enhance his or her  
9 likelihood of release upon later consideration by the board. A copy of  
10 such notice shall be provided to the committed offender at the time it is  
11 served to the department.

12 Sec. 3. Original sections 83-182.01 and 83-1,114, Revised Statutes  
13 Cumulative Supplement, 2018, are repealed.