

NEBRASKA SENTENCING REFORM TASK FORCE
REPORT TO THE NEBRASKA LEGISLATURE
NOVEMBER 15, 2024
(2023, LB50, §19)

Executive Summary

The Nebraska Sentencing Task Force was created to study Nebraska’s criminal justice system and develop a “Nebraska way” for solving challenges relating to sentencing, including impacts on public safety and recidivism rates, and to help lead to comprehensive and thoughtful reform. The Nebraska criminal justice system is complex, with a vast number of stakeholders. To tackle the challenge, the Task Force took a wide lens, conducting public hearings, reviewing data, hearing from victims, released individuals, and other public and private stakeholders.

The Task Force recommends building on its work by focusing on three, high-impact areas for deep dive study and reform. First, a review of the system of supervised release, including parole and probation, to help improve outcomes, reduce recidivism, and equip those leaving custody to lead a productive life in society. Second, a review of those in short-term custody in Nebraska prisons, specifically RTC. This is a cohort that both creates acute capacity issues and presents unique challenges—and opportunities—for reform. Third, and finally, is a review of Nebraska’s sentencing structure itself.

Members of the Task Force will continue to work throughout 2025, focusing on these three issues in order—supervised release, short-timers, and then, finally sentencing. With a more narrow focus on these three areas over the course of 2025, the Task Force can have a deepened understanding of the opportunities for improvement that can be made while working together, along with stakeholders, to achieve desired policy outcomes.

I. Background

The Nebraska Sentencing Reform Task Force (“Task Force”) was created in 2023 with the passage of LB 50. The Task Force is charged with “identify[ing] and recommend[ing] changes to Nebraska’s criminal justice laws, policies, and practices to improve public safety and more effectively allocate Nebraska’s criminal justice system resources.”

LB 50 sets out the structure of the Task Force. The Task Force is made up of the following eleven members:

- Lieutenant Governor Joe Kelly as the Governor’s designee;
- Attorney General Mike Hilgers, who is Chair of the Task Force;
- Senators Justin Wayne, Terrell McKinney, and Carolyn Bosn, as the three members of the Judiciary Committee appointed by the Executive Board of the Legislative Council (Senator McKinney is the Vice-Chair of the Task Force);

- Douglas County Sheriff Aaron Hanson and Kearney Chief of Police Bryan Waugh are the two representatives of law enforcement as appointed by the Governor;
- Colfax County Attorney Bruce Prenda and Douglas County Attorney Don Kleine are the two county attorneys appointed by the Governor; and
- Douglas County Public Defender Tom Riley and Lincoln County Public Defender Robert Lindemeier are the criminal defense attorneys appointed by the Governor.

The Legislature gave the Task Force discretion in how to complete its work, but required two annual reports. The first annual report was submitted to the Legislature on November 15, 2023. The second annual report—this Report—is due to the Legislature on November 15, 2024.

After organizing, the Task Force established four subcommittees to facilitate the accomplishment of its statutory responsibilities and effectively obtain information necessary for the Task Force and its respective subcommittees.

The four subcommittees are:

- (1) Sentencing Reform (Senator Bosn, County Attorney Prenda, and Public Defender Riley);
- (2) Public Safety (Sheriff Hanson, Public Defender Lindemeier, and Chief Waugh);
- (3) Resource Allocation and Recidivism Reduction (Attorney General Hilgers, Lt. Governor Kelly, County Attorney Kleine, and Senator McKinney); and
- (4) Data Collection (Attorney General Hilgers, Lt. Governor Kelly, and Senator Wayne).

The Task Force held its inaugural meeting at 1:00 p.m. on October 27, 2023.

The Task Force developed a Strategic Plan to guide its work over the course of 2024. That plan is on file with the Nebraska Attorney General.

The Task Force held a number of public meetings. A number of these included meetings at which invited testimony was heard. Meetings at which testimony was heard include the following:

- September 13, 2024, Nebraska State Capitol (Probation & Parole)
- September 30, 2024, Nebraska State Capitol (NDCS Director)
- October 7, 2024, Nebraska State Penitentiary (NDCS Staff & Inmates)
- October 24, 2024, Nebraska State Capitol (Victims & Former Inmates)

In addition to meetings of the entire Task Force, the subcommittees also met on a number of different occasions. The public safety subcommittee, as an example, met with victims of violent crime.

In addition, the Task Force, and in particular members of the data collection subcommittee, worked together to collect data. This data was from a number of different sources, including from the Department of Corrections. It also includes research and additional articles. The data collected is also on file with the Nebraska Attorney General.

II. Task Force Review

A. Introduction

In recent years, public safety and criminal justice reform have become increasingly important issues to policymakers in Nebraska. Reform efforts have included a review of criminal sentencing, including the passage of LB605 in 2015, as well as other subsequent efforts in the Nebraska Legislature. Other efforts have attempted to address prison capacity issues, either by reducing inmate population or by increasing prison capacity.

The task force created by LB50 was designed, in part, to provide a “Nebraska way” to solving these issues. Its members included people with various perspectives on criminal justice, and included county attorneys, public defenders, law enforcement officers, and members of both the executive and legislative branches.

This report reflects some of the work undertaken by the Task Force, and it outlines a path forward in 2025. The report is only a starting point, but it finds opportunities for comprehensive reform that enhances public safety, reduces recidivism and incarceration rates, and saves taxpayer dollars.

The report will offer an overview of the current structure of Nebraska’s criminal justice system, detail the problems it faces across sentencing, probation, prisons, parole, and re-entry, and conclude with recommendations to serve as a starting point for further research and policy discussions.

B. Nebraska Criminal Justice System

1. Nebraska Department of Correctional Services

The Nebraska Department of Correctional Services (“NDCS”) operates nine separate facilities. Of these, three are minimum-security: two community corrections facilities and the Work Ethic Camp. Six are secure facilities, ranging from the Omaha Correctional Center, which houses medium and minimum-security units, to the Reception and Treatment Center in Lincoln, which specializes in high-security units and complex mental health cases. NDCS is in the process of building a new corrections facility, which will be located in northeast Lancaster County.

Maximum security units, such as those at the Nebraska State Penitentiary and the Tecumseh State Correctional Institution, house offenders with the highest risk of violence or serious infractions. Inmates serving the first four years of a life or de facto life sentence, those sentenced to death, and those serving the first two years of a sentence of at least 20 years are automatically

assigned to this security level.¹ Those who have been found guilty of certain violent offenses within the past 24 months and any current inmates believed to be engaged in trafficking are also classified for maximum security.² Notably, because intake facilities process all NDCS arrivals, these facilities must also be capable of providing for maximum-security offenders.

Medium security units, such as those at the Nebraska State Penitentiary or the Omaha Correctional Center, house offenders who have already served the first four years of a life sentence, the first two years of a sentence greater than 20 years, or those who have more than eight years before being eligible for parole.³ Current inmates who have escaped within ten years, illicitly possessed a cell phone within the previous nine months, or those with gang involvement are also designated for medium security.⁴

NDCS facilities have an aggregate design capacity of 4,059 and an aggregate operational capacity of 5,075.⁵ During the fourth quarter of the 2024 fiscal year, NDCS facilities saw an aggregate average daily population (“ADP”) of 5,872, or 115.7 percent of operational capacity and 144.67 percent of design capacity.⁶ The design capacity and operational capacity of each NDCS facility are listed below, along with the ADP for the fourth quarter of FY24:⁷

Average Daily Population (ADP) by Facility					
Facility	ADP	Operational Capacity	% of Operational Capacity	Design Capacity	% of Design Capacity
CCC-L	584	575	101.57%	460	126.96%
CCC-O	173	113	153.10%	90	192.22%
NCCW	312	344	90.70%	275	113.45%
NCYF	75	95	78.95%	76	98.68%
NSP	1251	1023	122.29%	818	152.93%
OCC	778	495	157.17%	396	196.46%
RTC	1477	1105	133.67%	884	167.08%
TSCI	1032	1200	86.00%	960	107.50%
WEC	190	125	152.00%	100	190.00%
Total	5872	5075	115.70%	4059	144.67%

Upon intake, offenders are transferred to either the Reception and Treatment Center, in the case of males, or the Nebraska Correctional Center for Women, in the case of females.⁸ Here, staff assess inmates to determine classification using the Static Risk and Offender Need Guide

¹ Hamilton, Zachary et al. (2024). *Nebraska Department of Correctional Services Classification and Crowding Project Technical Report*. Nebraska Center for Justice Research. University of Nebraska at Omaha, 12.

² Hamilton 12.

³ Hamilton 12.

⁴ Hamilton 12.

⁵ NDCS Quarterly Population Summary: FY24 Quarter 4. (Apr. — June 2024). Nebraska Department of Correctional Services.

https://corrections.nebraska.gov/sites/default/files/wysiwyg/fy_24_q4_qds.pdf, 1.

⁶ FY24 Q4 1.

⁷ Table courtesy of NDCS; FY24 Q4, 1.

⁸ Hamilton 6.

Revised (STRONG-R) survey, “the NDCS classification tool, an employment placement survey, and clinical assessments.”⁹

The individualized assessment tool designates a security level for each offender. Offenders may be assigned maximum, medium, minimum, or community security classifications. Once a classification has been determined, a case worker will propose an appropriate facility suitable to that classification level and in consideration of other individual factors, such as programming availability or health needs.¹⁰ The warden of the proposed facility will then approve the transfer before the offender is moved from the intake facility.

Offenders may be reassigned to a new security classification after intake. The reclassification tool assesses individual progress every six to twelve months. If facility staff determine an offender’s security classification has changed, a transfer is recommended to the Director’s Review Committee (DRC).¹¹ Even if the DRC approves, a transfer only occurs if permanent bed space is available in the destination facility.

An offender’s trajectory through NDCS changes and is not static, and the pathway through the system offers both opportunities for optimization as well as the possibilities for bottlenecks. As discussed further below, research reflects that the value of offenders being able to, where appropriate, gradually transfer from high-security facilities to low-security ones as progress improves, until eventually being granted parole and, finally, release.¹²

Just under half (45 percent) of all offenders incarcerated by NDCS are in minimum security or community facilities.¹³ For male offenders, 13 percent are classified for community security, 30 percent are classified for minimum, 29 percent for medium, and 25 percent for maximum (2 percent are presently awaiting classification, and 1 percent are under the Safekeeper designation). For female offenders, 25 percent are classified for community security, 36 percent for minimum, 18 percent for medium, and 15 percent for maximum, with 5 percent awaiting classification and 1 percent designated Safekeeper.¹⁴

The three-year recidivism rate for NDCS is presently 28.47 percent.¹⁵ 64.6 percent of revocations occur while an offender is on parole or under post-release supervision. Forty-two percent of revocations are due to technical violations of parole conditions, and 43.8 percent are due to new felonies (17.7 percent are felonies committed by current parolees). Recidivism rates are consistently lower for offenders with fewer prior arrests. One national study indicates that the 5-year recidivism rate for those with four or fewer prior arrests is about 50 percent, while those with five or more arrests have a 5-year recidivism rate of between 70-81 percent.¹⁶ When

⁹ Hamilton 6.

¹⁰ Hamilton 7.

¹¹ Hamilton 7.

¹² Hamilton 9.

¹³ FY24 Q4 2.

¹⁴ FY24 Q4 1.

¹⁵ FY24 Q4 3.

¹⁶ Antenangeli, Leonardo and Matthew Durose (2021). “Recidivism of Prisoners Released in 24 States in 2008: A 10-Year Follow-Up Period (2008-2018).” US Bureau of Justice Statistics.

comparing offenders convicted of the same offense, less time served correlates with a higher re-offense rate. This is especially true for violent crimes, for which longer sentences correlate with about a 25 percent reduction in recidivism.¹⁷

As part of the Task Force’s work, we identified three relevant populations for further study.

a. Past parole eligibility date

One significant portion of the population are the individuals held at Nebraska correctional facilities who are past their parole eligibility date but who have not been released on parole. It is from this subset of individuals who ultimately “jam out” – i.e., they complete their sentence without either post-release supervision or, possibly, having of the programming that can lead to lower recidivism rates.

This population is significant. According to recent data, this number is at least 20 percent of the entire prison population. Specifically, recent reporting reflects that the numbers past parole eligibility are approximately 501 people,¹⁸ and another 749 individuals will be eligible within the following year.

As discussed further below, this is perhaps one of the most fertile areas for reform. As recommended by the Task Force, a “deep dive” into the parole process and opportunities for growth would reveal likely significant opportunities for improvement. While a deep-dive is planned for 2025, a few preliminary notes can be made regarding the population here: According to a September 2024 NDCS report, over 93 percent of the parole eligible population—467 individuals—have completed the required programming for parole or are currently enrolled.¹⁹ Only 34 individuals have outstanding recommendations for clinical programs; half have attempted the programs but failed to complete them. Only ten individuals have refused or not accepted a spot in a program.²⁰ More than half—54.3 percent or 272 individuals—have already been paroled at least once and failed to re-enter society safely.²¹

b. Mental health

Next, the Task Force pulled information regarding mental health issues for the prison population.

According to the (de-identified data) reviewed by the Task Force, there are approximately 1,709 inmates with a serious mental health illness (SMI). SMIs include any of the following: Psychotic

¹⁷ Antenangeli.

¹⁸ Nebraska Department of Correctional Services. NDCS Parole Eligible Incarcerated (PEI) Population. September 27, 2024. Obviously, these numbers fluctuate frequently, if not daily.

¹⁹ Nebraska Department of Correctional Services. NDCS Parole Eligible Incarcerated (PEI) Population. September 27, 2024.

²⁰ Nebraska Department of Correctional Services. NDCS Parole Eligible Incarcerated (PEI) Population. September 27, 2024.

²¹ Nebraska Department of Correctional Services. NDCS Parole Eligible Incarcerated (PEI) Population. September 27, 2024.

Disorder, Schizophrenia, Schizoaffective Disorder, Delusional Disorder, Bipolar Disorders, and Major Depressive Disorder (Severe). Any diagnosed mental disorder (excluding substance use disorders) currently associated with serious impairment in psychological, cognitive, or behavioral functioning that substantially interferes with the person's ability to meet the ordinary demands of living and requires an individualized treatment plan by a qualified mental health professional(s).

The most common SMIs are:

- Bipolar I Disorder (146)
- Bipolar II Disorder (134)
- Major Depressive Disorder (402)
- Schizoaffective Disorder, bipolar type (191)
- Schizophrenia (133)
- Unspecified Bipolar and Related Disorder (193)

Mental health is a problem inside and outside of prison. Study of this population may provide pathways for improvements, that increase the care within custody and decrease recidivism rates.

c. ICE detainees

A third distinct population is those that have "ICE detainees."

The U.S. Immigration and Customs Enforcement (ICE) places detainees on removable non-citizens who are arrested on criminal charges and in the custody of state or local law enforcement agencies. An ICE detainer requires the custodian law enforcement agency to notify ICE before the individual is released and to work with ICE to facilitate the transfer of the individual to federal custody. Federal law requires that an individual with an ICE detainer cannot be removed from the U.S. until after the completion of their prison sentence.²²

In 2023, ICE issued 125,358 detainees for non-citizens convicted of criminal activity. The majority of these convictions were for serious crimes, including: 50,918 assaults; 12,667 weapons offenses; 16, 578 burglaries and robberies; 6,264 sex offenses (not including assault); 6,088 sexual assaults; 2,922 kidnappings; and 2,384 homicides.²³

According to data provided by NDCS, there are 280 being detained in Nebraska prisons.

Most ICE detainees in NDCS custody are incarcerated for violent or drug offenses: 54 percent for sex offenses, 13.6 percent for homicide, 10.4 percent for assault, and 7.5 percent for drug offenses.

²² 8 U.S. Code Section 1231(a)(4)(A).

²³ ICE Fiscal Year 2023 Annual Report.

2. NDCS Programming

i. Clinical Programming

NDCS offers four clinical treatment programs: RSU-90, a 90-day residential substance abuse treatment; AMHRN, a 12-week anger management program; oHeLP, a 6-month outpatient sexual offense treatment; and iHeLP, a 12–18-month inpatient sexual offense treatment.²⁴ RSU-90 presently has 655 recommendations, AMHRN has 190, oHeLP has 510, and iHeLP has 288. Annually, NDCS had a successful completion rate of 83 percent across all clinical programs.²⁵ NDCS prioritizes treatment relative to an offender's release date. Those past their Parole Eligibility Date have the highest priority, those within three years of release have second priority, and those with greater than three years to their release date have the least priority.²⁶

ii. Non-Clinical Programming

NDCS lists six non-clinical programs: 7 Habits on the Inside, Getting it Right (GIR), Building Social Networks, Ideas for Better Communication, Understanding and Reducing Angry Feelings, and Unlocking Your Thinking. Two additional programs, Moral Reconation Therapy and Thinking for a Change, were discontinued this year.²⁷ Two thousand seven hundred thirty-five offenders participated in at least one non-clinical program in the fourth quarter of FY24, with an 84 percent success rate and a 4 percent failure rate (12 percent of participants withdrew). 7 Habits had 889 participants for the quarter and an 82 percent success rate; GIR had 158 at a 97.5 percent success rate; Social Networks had 702 at 85 percent; Better Communication had 955 at 84.2 percent; Angry Feelings had 724 at 86.7 percent; and Unlocking Your Thinking had 839 at 86.1 percent.

Over the last year, NCDS has had 40 offenders acquire a high school diploma and 118 receive a GED.²⁸ Over 300 offenders are enrolled in Adult Basic Education, and about 200 are enrolled in career and workforce readiness programs.

3. Probation

Probation and parole are distinct institutions that handle different constituencies. People on probation and parole, however, both experience supervision and the challenges of integrating into society following a criminal conviction. This section will discuss the unique structures of probation, followed by a section on the unique structure of parole, and a final section on re-entry that will discuss issues of employment, housing, and criminal records relevant to both populations.

The Adult Probation Services Division of Nebraska's Judicial Branch manages and supervises people sentenced to probation. People on probation are sentenced to a period of supervision

²⁴ FY24 Q4 5.

²⁵ FY24 Q4 7.

²⁶ FY24 Q4 5.

²⁷ FY24 Q4 8.

²⁸ FY24 Q4 9.

instead of incarceration, or post-release supervision (PRS), following release from prison or jail. The caseload of Adult Probation Services in FY 2024 includes 13,884 people, of which 1,291 are on post-release supervision.²⁹ Most individuals on post-release supervision, 69 percent, were released from prison, while 31 percent were released from jails.³⁰ 87 percent of people on post-release supervision are high or very high risk.³¹

The resource intensity for people on post-release supervision is substantially higher than that of those on traditional probation, at \$14.90 per person per day compared to \$3.81 per person per day for traditional probation.³² These additional costs include several types of vouchers intended to support the rehabilitation and reintegration of the population. Approximately 75.6 percent of those funds, \$2 million, are used for transitional housing, 17.7 percent, \$480,000, were for treatment services, and the remainder for evaluations (4.9 percent) and other services like electronic and GPS monitoring (1.9 percent).³³ It needs to be clarified from available data the degree to which electronic and GPS monitoring is used regarding the percentage of probation and post-release supervision population.

Individuals on probation, as part of a problem-solving court or otherwise, are evaluated according to a risk-needs assessment, which is then used to develop an individualized plan to be managed by a probation officer. Nebraska has increasingly emphasized intensive supervision since 2006, which not only requires an individual to check in periodically with a probation officer but also submit to particular evaluations and programs, including drug tests, vocational training, employment services, and mental health therapy.

Statistics published by Nebraska's Adult Probation Services Division demonstrate that completing probation correlates with a significant decrease in the risk of recidivating. While the statewide three-year recidivism rate is almost 29 percent, the three-year recidivism rate for adults who have been successfully discharged from probation is only 19 percent. Within this cohort of offenders, 74 percent of subsequent offenses were committed by individuals already categorized as high or very high risk.³⁴

More than two-thirds of probation cases are completed successfully—69 percent.³⁵ Of the 31 percent of cases not completed, more than half are not revoked to jail or prison. Of those

²⁹ Nebraska Probation Post-release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

³⁰ Nebraska Probation Post-Release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

³¹ Nebraska Probation Post-Release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

³² Nebraska Probation Post-Release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

³³ Nebraska Probation Post-Release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

³⁴ Problem-Solving Courts Quarterly Report (2024). State of Nebraska Judicial Branch: Adult Probation Services Department, 8.

³⁵ Nebraska Probation Post-Release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

revoked, 64 percent were due to new crimes committed while on supervision, and 36 percent were for technical violations.³⁶ A technical violation is defined as a parolee's activities or behaviors which create the opportunity for re-offending or diminish the effectiveness of parole supervision resulting in a violation of an original condition of parole"³⁷.

Three-quarters of revoked people—1,368 cases in FY 2024—are sent to county jails, with 20 percent sent to prison, and the remainder offered another resolution.³⁸ The three-year recidivism rate following successful completion of probation in Nebraska is approximately 19 percent, and 74 percent of those offenders were high or very high-risk levels while previously on probation.³⁹ The recidivism rate for the post-release supervision population is higher than both traditional probation and parole, at 27 percent.⁴⁰

4. Board of Parole

The Nebraska Board of Parole oversees the processes by which incarcerated people are granted or denied parole, subpoenaed or issued warrants for violations, and revoked to prison. In 2023-24, the five members of the Board of Parole reviewed 2,899 offender cases, held 1,622 hearings, and revoked 299 individuals back to prison.⁴¹ The Board granted parole in 62 percent of cases heard and revoked 18 percent of those paroled.

The Board of Parole processes most releases from prison. Only 16.86 percent of the releases from prison in 2023 were mandatory discharges—individuals who have completed their entire sentence and were discharged directly from a facility rather than while on parole.⁴² But the Board of Parole has interacted with nearly all of these individuals, and just under half of the mandatory discharge population—44 percent—were previously paroled at least once but were revoked to prison during supervision. Those individuals attempted parole an average of 1.73 times before completing their sentence in custody.

The parole process begins when an offender is classified during intake by NDCS. The custody level and programming recommendations assigned to offenders are critical criteria guiding the Board's decision-making. A portion of the Board will conduct a preliminary review to determine whether an individual is likely to be granted parole based on a range of considerations: statutory factors, program progress, misconduct reports, and behavioral health assessments.

³⁶ Nebraska Probation Post-Release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

³⁷ Parolee; violation of parole; parole officer; administrative sanction; report to Board of Parole; action of board, Neb. Rev. Stat. §83-1,119 (2018).

³⁸ Nebraska Probation Post-Release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

³⁹ Nebraska Probation Post-Release Supervision and Adult Probation Quarterly Report. Nebraska Judicial Branch, Adult Probation Services Division. September 2024.

⁴⁰ Nebraska Probation Post-release Supervision FY 2024 Report. Nebraska Judicial Branch Adult Probation Services Division.

⁴¹ Nebraska Board of Parole FY 23-24 Snapshot.

⁴² Nebraska 2023 Mandatory Discharges.

Board Reviews occur at different times depending on an offender's parole eligibility date. If eligible upon arrival to an NDCS facility, the Board Review is scheduled within two months; otherwise, the Board Review is set for three years before the offender's parole eligibility date. The outcome of Board Reviews can be: (1) defer to future review, (2) set a Board hearing date, or (3) defer to mandatory discharge. If a Board public hearing date is set, the Board may conduct several informal interviews and review an offender's program progress reports. During this period, the Board retains discretion in changing or canceling the hearing date.

The Board of Parole makes its parole decisions in public hearings in which three affirmative votes are required to grant an offender parole. The Board considers decision guidelines, statutory factors, misconduct reports, clinical programming completion, behavioral health assessments, and the offender's presentation at the hearing. The Board may deny parole if it believes the individual presents a substantial risk of not conforming to the conditions of parole or that the individual's capacity to lead a law-abiding life will be substantially improved if the individual continues correctional treatment in custody. The Board of Parole may review its decisions when parole officers find probable cause and may revoke a paroled offender back to prison.

Approximately 18 percent of parolees from 2020 were revoked within three years, of which more than half were revoked for technical violations.⁴³ New felonies account for only 4 percent of the crimes committed within three years. Those who do fail parole, however, are among the most likely to end up in the mandatory discharge category due to repeated parole failure.

The impact of parole violators on prison population does appear to be significant.⁴⁴ Recent research indicates that higher prison population is not shared across all NDCS facilities but is concentrated in three facilities, including the reception facility at RTC. Parole violators make up a significant portion of the population at RTC, and many of them do not have a long enough duration of incarceration for the violation to justify transfer to a new facility. Instead, parole violators and individuals who enter NDCS custody with significant time served from pre-trial detention spend much of their sentence completing intake assessments.⁴⁵

The parole process is intended as the primary method by which incarcerated people safely exit the prison system and re-enter the community with proper support and supervision. Yet, Nebraska's parole process presents several challenges and complications. One comprehensive review of Nebraska's prison and parole operations, referred to the Board of Parole's approval process as "a noteworthy bottleneck" contributing to overcrowding in NDCS facilities.⁴⁶

⁴³ Nebraska 2023 Mandatory Discharges.

⁴⁴ Hamilton, Z. et al. (2024). "Nebraska Department of Correctional Services Classification and Crowding Project Technical Report," *Nebraska Center for Justice Research*.

⁴⁵ Hamilton, Z. et al. (2024). "Nebraska Department of Correctional Services Classification and Crowding Project Technical Report," *Nebraska Center for Justice Research*.

⁴⁶ Hamilton, Z. et al. (2024). "Nebraska Department of Correctional Services Classification and Crowding Project Technical Report," *Nebraska Center for Justice Research*.

Most individuals in NDCS custody still need to be eligible for parole. According to a recent report, 9 percent of the population—501 people—is past their parole eligibility date and still in custody.⁴⁷

Of the nine percent of the NDCS population that is parole-eligible, there are several barriers to release. Over 93 percent of this population—467 individuals—have completed the required programming for parole or are currently enrolled.⁴⁸ Only 34 individuals have outstanding recommendations for clinical programs; half have attempted the programs but failed to complete them. More than half—54.3 percent or 272 individuals—have already been paroled at least once and failed to re-enter society safely.⁴⁹ The demonstrated history of these individuals on parole understandably erodes the confidence of the Board of Parole in their future success.

A development in this agency occurred in the 2024 legislative session with the passage of LB631. This bill moved the Parole Agency under the umbrella of the Department of Correctional Services. This is still in progress.

C. Task Force Data Inputs

The Task Force gathered and study a number of various data inputs, including reports, studies, and the similar data sources. In addition to this data, the Task Force held several public hearings, at which the Task Force heard invited testimony.

1. Committee Meeting Review

The Task Force held 4 hearings prior to completing this report to solicit the input of experts and impacted individuals:

September 13, 2024, Nebraska State Capitol (Probation & Parole)
September 30, 2024, Nebraska State Capitol (NDCS Director)
October 7, 2024, Nebraska State Penitentiary (NDCS Staff & Inmates)
October 24, 2024, Nebraska State Capitol (Victims & Former Inmates)

2. Re-entry research and data

As the Task Force heard from testifiers, people discharged from prison or on probation often face steep obstacles in re-entering society. Lack of employment and access to housing in particular complicate the efforts of individuals who are rebuilding their lives under vulnerable conditions. It is during re-entry and parole that systems of support, informal accountability, and opportunity can make the difference between an offender transforming into a law-abiding and productive citizen and someone who recidivates.

⁴⁷ Nebraska Department of Correctional Services. NDCS Parole Eligible Incarcerated (PEI) Population. September 27, 2024.

⁴⁸ Nebraska Department of Correctional Services. NDCS Parole Eligible Incarcerated (PEI) Population. September 27, 2024.

⁴⁹ Nebraska Department of Correctional Services. NDCS Parole Eligible Incarcerated (PEI) Population. September 27, 2024.

Perhaps the number one issue for re-entry for the Task Force is employment. That is backed up by research, which indicates that employment is widely considered to be the most essential factor in an individual's success following release from prison.⁵⁰ Employment, especially higher wage employment, significantly reduces an individual's chances of reoffending by easing the burden of financial obligations, providing for basic necessities, and fostering pro-social networks.⁵¹ The Missouri Department of Corrections found that even sporadic employment reduced the chances of re-offense by two-thirds.⁵² Programs that improve employment outcomes through education or vocational training are also associated with positive outcomes. Studies of the effects of those programs suggest that a significant portion of the impact can be attributed to improved employment opportunities and higher wages.⁵³

The second, and equally critical area for study is housing. Formerly incarcerated people, including testifiers in front of the Task Force, consistently identify housing as both essential to their success and difficult to secure.⁵⁴ This population faces some of the highest risks of homelessness. Formerly incarcerated people are ten times as likely to be homeless as the general public.⁵⁵ Lack of housing presents several challenges for people leaving prison. Individuals experiencing housing instability may turn to friends or family for temporary accommodation, which could encourage former offenders to reintegrate into fraught personal relationships or even criminogenic networks.⁵⁶

Predictably, an individual's risk of becoming homeless is highest soon after release—an estimated 11.4 percent of people exiting prison use a homeless shelter within the first two years of release, and the greatest portion use shelters within the first 30 days.⁵⁷ Approximately half of the people in homeless shelters have been to prison, with one in five having left within the last three years.⁵⁸ The concentration of formerly incarcerated people around homeless shelters compounds the criminogenic risks already presented by housing instability. As a result, homeless individuals are hundreds of times more likely to commit crimes ranging from robbery, burglary,

⁵¹ Lageson, S., and C. Uggen (2013). "How Work Affects Crime and Crime Affects Work over the Life Course." In *Handbook of Life Course Criminology: Emerging Trends and Directions for Future Research*, edited by C. L. Gibson and D. M. Krohm, 201–212. New York: Springer.

⁵² Missouri Reentry Process. Missouri Department of Corrections.

⁵³ Lance Lochner and Enrico Moretti, "The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports," *American Economic Review* 94, no. 1, March 2004.

⁵⁴ Garland, B., Wodahl, E. J., & Mayfield, J. (2010) "Prisoner Reentry in a small metropolitan community: obstacles and policy recommendations. *Criminal Justice Policy Review*, 22, 90-10.

⁵⁵ Gillespie, Sarah and Samantha Batko. (2020). "Five Charts that Explain the Homelessness-Jail Cycle—and How to Break It," *The Urban Institute*.

⁵⁶ Benioff Homelessness and Housing Initiative. (2023). "Toward a New Understanding: The California Statewide Study of People Experiencing Homelessness." *University of California San Francisco*.

⁵⁷ Remster, Brianna. (2017). "A Life Course Analysis of Homeless Shelter Use Among the Formerly Incarcerated," *Justice Quarterly*. 36:3.

⁵⁸ Kurtz, Devon. (2023). "Finding a Home on the Outside," *City Journal*.

arson, and assault than the general population.⁵⁹ Homeless individuals are also between 9 and 27 times as likely to be the victims of serious crimes.⁶⁰

In addition to employment and housing is programming. Programming is a critical tool that correctional facilities can use to encourage progress and combat idleness. Recent studies have indicated that participation in labor and programming while incarcerated increases post-release employment by 15 percent while reducing recidivism by 5 percent and premature mortality by 15 percent.⁶¹

Educational programs have a significant impact on recidivism. Offenders who complete educational programs reduce their risk of recidivating by 43 percent, which translates to an overall reduction in recidivism of 13 percent.⁶² This is especially true for post-secondary education programming. Acquiring a post-secondary degree significantly improves the average inmate's number of hours worked and overall wage post-release; both factors are anti-criminogenic.

III. Next Steps

The Task Force had a productive tenure working together. The Task Force was highly cooperative, and engaged on finding solutions that matter, are durable, and that can form a “Nebraska way” for solving problems.

There are three areas that the Task Force recommends continuing in 2025, with an explicit goal of bringing possible reform for the 2026 legislative session. The Task Force recommends handling these issues in the following order.

First, the Task Force recommends a deep dive into improving Nebraska's system of post-release supervision. The Task Force uniformly believes that there is a significant opportunity to be made for prisoners' re-entry into society.

Areas of review would include, as an example:

- Marketable employment for released individuals, including, but not limited to, review of industry expansion, training and certifications, occupational licensing reform, and other means of improving high quality employment after release;
- Deeper dive into a local re-entry court concept to address those ready to re-enter society early;

⁵⁹ Stephan, Summer. (2022). “DA Shares First-of-Its Kind Crime Data, Proposes Three-point Plan to Address Intersection of Crime and Homelessness,” *Office of the District Attorney County of San Diego*

⁶⁰ Stephan, Summer. (2022). “DA Shares First-of-Its Kind Crime Data, Proposes Three-point Plan to Address Intersection of Crime and Homelessness,” *Office of the District Attorney County of San Diego*.

⁶¹ Duwe, Grant, Valerie Clark, and Susan McNeeley (2023). “The Association Between Idleness and Post-Release Employment, Recidivism and Mortality.” The Minnesota Department of Corrections.

⁶² Davis, Lois et al. (2013). “Evaluating the Effectiveness of Correctional Education: A Meta-analysis of Programs That Provide Education to Incarcerated Adults,” RAND.

- Review of Nebraska’s transitional housing system, including review of currently available resources, capacity, and outcomes;
- Review of the system for preparation of inmates for the basics of re-entering society, such as how to prepare inmates for handling the transition, such as education on how to pay bills, the basics of insurance, leases, payment methods, and the like;
- Review of relevant transitional agencies and stakeholders, including use of state and local funds, and analysis of transitional ecosystem;
- Review of parole process, including understanding reasons for rejections, identifying primary reasons for “jam outs,” and other possible reforms;
- Review of programming availability for those who are not yet parole eligible, and study whether expanded access to programming would help improve results and reduce recidivism;
- Review of reciprocal flow of relationships between corrections, parole, probation, and law enforcement;
- Review of the post-release supervision structure and qualifications, specifically regarding their impact on public safety and victims.

Second, and after review of the supervised release system, the Task Force recommends a review of the issue of “short-timers” within the system.

“Short timers,” or inmates incarcerated for less than one year, are one of the biggest bottlenecks within the correctional system. This population puts a significant burden on RTC, hampering the ability of prison staff to provide the necessary programming and work release opportunities to the entire incarcerated population.

A review could include, but would not be limited to:

- Alternatives to RTC, including electronic monitoring and jails, for offenders whose time served will be less than a year due to pre-trial jail stays;
- Analysis of short-timer populations, and study whether alternative means of handling those populations are available;
- Study bottlenecks within RTC and the short-timer population more generally, including review of opportunities to remove roadblocks or craft alternative ways of handling short-timers;
- Analysis of impacts on public safety.

Last, a comprehensive review of the sentencing structure is recommended. This could include the following:

- Review of the possible outcomes of determinate vs indeterminate sentencing;
- Review of sentencing for consistency between crimes;
- Review of sentencing for consistency across the state;
- Evaluation of sentencing structures and in custody incentives, including use of unearned and earned good time;
- Review of impact on victims, including, but not limited to, having certainty or clarity in sentencing;
- Review of optimal sentencing structures for various purposes, including public safety and recidivism;
- Review of strategies used by other states for addressing escapees, and absconders.
- Consideration of other recommendations from the committee, including, but not limited to, ideas from the subcommittees.

Respectfully submitted this 15th day of November 2024.

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