

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 220

Introduced by Ibach, 44.

Read first time January 10, 2023

Committee:

- 1 A BILL FOR AN ACT relating to pardons; to amend sections 81-1850 and
- 2 83-1,127, Reissue Revised Statutes of Nebraska; to change provisions
- 3 relating to notices required to be given to crime victims and the
- 4 Board of Pardons' powers and duties; and to repeal the original
- 5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-1850, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-1850 (1) Upon request of the victim and at the time of conviction
4 of the offender, the county attorney of the jurisdiction in which a
5 person is convicted of a felony shall forward to the Board of Parole, the
6 Department of Correctional Services, the county corrections agency, or
7 the Department of Health and Human Services the name and address of any
8 victim, as defined in section 29-119, of the convicted person. The board,
9 the Department of Correctional Services, the county corrections agency,
10 or the Department of Health and Human Services shall include the name in
11 the file of the convicted person, but the name shall not be part of the
12 public record of any parole hearings of the convicted person. Any victim,
13 including a victim who has waived his or her right to notification at the
14 time of conviction, may request the notification prescribed in this
15 section, as applicable, by sending a written request to the board, the
16 Department of Correctional Services, the county corrections agency, or
17 the Department of Health and Human Services any time after the convicted
18 person is incarcerated and until the convicted person is no longer under
19 the jurisdiction of the board, the county corrections agency, or the
20 Department of Correctional Services or, if the person is under the
21 jurisdiction of the Department of Health and Human Services, within the
22 three-year period after the convicted person is no longer under the
23 jurisdiction of the board, the county corrections agency, or the
24 Department of Correctional Services.

25 (2) A victim whose name appears in the file of the convicted person
26 shall be notified by the Board of Parole:

27 (a) Within ninety days after conviction of an offender, of the
28 tentative date of release and the earliest parole eligibility date of
29 such offender;

30 (b) Of any parole hearings or proceedings;

31 (c) Of any decision of the Board of Parole;

1 (d) When a convicted person who is on parole is returned to custody
2 because of parole violations; and

3 (e) If the convicted person has been adjudged a mentally disordered
4 sex offender or is a convicted sex offender, when such person is released
5 from custody or treatment.

6 Such notification shall be given in person, by telecommunication, or
7 by mail.

8 (3) A victim whose name appears in the file of the convicted person
9 shall be notified by the Department of Correctional Services or a county
10 corrections agency:

11 (a) When a convicted person is granted a furlough or release from
12 incarceration for twenty-four hours or longer or any transfer of the
13 convicted person to community status;

14 (b) When a convicted person is released into community-based
15 programs, including educational release and work release programs. Such
16 notification shall occur at the beginning and termination of any such
17 program;

18 (c) When a convicted person escapes or does not return from a
19 granted furlough or release and again when the convicted person is
20 returned into custody;

21 (d) When a convicted person is discharged from custody upon
22 completion of his or her sentence. Such notice shall be given at least
23 thirty days before discharge, when practicable;

24 (e) Of the (i) department's calculation of the earliest parole
25 eligibility date of the prisoner with all potential good time or
26 disciplinary credits considered if the sentence exceeds ninety days or
27 (ii) county corrections agency's calculation of the earliest release date
28 of the prisoner. The victim may request one notice of the calculation
29 described in this subdivision. Such information shall be mailed not later
30 than thirty days after receipt of the request;

31 (f) Of any reduction in the prisoner's minimum sentence; and

1 (g) Of the victim's right to submit a statement as provided in
2 section 81-1848.

3 (4) A victim whose name appears in the file of a convicted person
4 shall be notified by the Department of Health and Human Services:

5 (a) When a person convicted of an offense listed in subsection (5)
6 of this section becomes the subject of a petition pursuant to the
7 Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act
8 prior to his or her discharge from custody upon the completion of his or
9 her sentence or within thirty days after such discharge. The county
10 attorney who filed the petition shall notify the Department of
11 Correctional Services of such petition. The Department of Correctional
12 Services shall forward the names and addresses of victims appearing in
13 the file of the convicted person to the Department of Health and Human
14 Services;

15 (b) When a person under a mental health board commitment pursuant to
16 subdivision (a) of this subsection escapes from an inpatient facility
17 providing board-ordered treatment and again when the person is returned
18 to an inpatient facility;

19 (c) When a person under a mental health board commitment pursuant to
20 subdivision (a) of this subsection is discharged or has a change in
21 disposition from inpatient board-ordered treatment;

22 (d) When a person under a mental health board commitment pursuant to
23 subdivision (a) of this subsection is granted a furlough or release for
24 twenty-four hours or longer; and

25 (e) When a person under a mental health board commitment pursuant to
26 subdivision (a) of this subsection is released into educational release
27 programs or work release programs. Such notification shall occur at the
28 beginning and termination of any such program.

29 (5) Subsection (4) of this section applies to persons convicted of
30 at least one of the following offenses which is also alleged to be the
31 recent act or threat underlying the commitment of such persons as

1 mentally ill and dangerous or as dangerous sex offenders as defined in
2 section 83-174.01:

3 (a) Murder in the first degree pursuant to section 28-303;

4 (b) Murder in the second degree pursuant to section 28-304;

5 (c) Kidnapping pursuant to section 28-313;

6 (d) Assault in the first degree pursuant to section 28-308;

7 (e) Assault in the second degree pursuant to section 28-309;

8 (f) Sexual assault in the first degree pursuant to section 28-319;

9 (g) Sexual assault in the second degree pursuant to section 28-320;

10 (h) Sexual assault of a child in the first degree pursuant to
11 section 28-319.01;

12 (i) Sexual assault of a child in the second or third degree pursuant
13 to section 28-320.01;

14 (j) Stalking pursuant to section 28-311.03; or

15 (k) An attempt, solicitation, or conspiracy to commit an offense
16 listed in subdivisions (a) through (j) of this subsection.

17 (6) A victim whose name appears in the file of a convicted person
18 shall be notified, via certified mail, by the Board of Pardons:

19 (a) Of any pardon or commutation proceedings at least ninety
20 calendar days prior to the proceedings; and

21 (b) If a pardon or commutation has been granted within ten days
22 after such granting.

23 (7) The Board of Parole, the Department of Correctional Services,
24 the Department of Health and Human Services, and the Board of Pardons
25 shall adopt and promulgate rules and regulations as needed to carry out
26 this section.

27 (8) The victim's address and telephone number maintained by the
28 Department of Correctional Services, the Department of Health and Human
29 Services, the county corrections agency, or the Board of Parole pursuant
30 to subsection (1) of this section shall be exempt from disclosure under
31 public records laws and federal freedom of information laws, as such laws

1 existed on January 1, 2004.

2 Sec. 2. Section 83-1,127, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 83-1,127 The Board of Pardons shall:

5 (1) Exercise the pardon authority as defined in section 83-170 for
6 all criminal offenses except treason and cases of impeachment;

7 (2) Adopt and promulgate Make rules and regulations for its own
8 administration and operation;

9 (3) Appoint and remove its employees as prescribed by the State
10 Personnel System and delegate appropriate powers and duties to them;

11 (4) Consult with the Board of Parole concerning applications for the
12 exercise of pardon authority;

13 (5) Consult with the Department of Motor Vehicles concerning
14 applications received from the department pursuant to section 60-6,209
15 for the exercise of pardon authority; and

16 (6) Exercise all powers and perform all duties necessary and proper
17 in carrying out its responsibilities under the provisions of the Nebraska
18 Treatment and Corrections Act.

19 Sec. 3. Original sections 81-1850 and 83-1,127, Reissue Revised
20 Statutes of Nebraska, are repealed.