

AMENDMENTS TO LB 63

Introduced by Judiciary.

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 28-101, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           28-101 Sections 28-101 to 28-1350 and sections 5, 16, and  
6 17 of this act shall be known and may be cited as the Nebraska  
7 Criminal Code.

8           Sec. 2. Section 28-111, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           28-111 Any person who commits one or more of the  
11 following criminal offenses against a person or a person's  
12 property because of the person's race, color, religion, ancestry,  
13 national origin, gender, sexual orientation, age, or disability  
14 or because of the person's association with a person of a  
15 certain race, color, religion, ancestry, national origin, gender,  
16 sexual orientation, age, or disability shall be punished by the  
17 imposition of the next higher penalty classification than the  
18 penalty classification prescribed for the criminal offense, unless  
19 such criminal offense is already punishable as a Class IB felony  
20 or higher classification: Manslaughter, section 28-305; assault  
21 in the first degree, section 28-308; assault in the second  
22 degree, section 28-309; assault in the third degree, section  
23 28-310; terroristic threats, section 28-311.01; stalking, section

1 28-311.03; kidnapping, section 28-313; false imprisonment in the  
2 first degree, section 28-314; false imprisonment in the second  
3 degree, section 28-315; sexual assault in the first degree,  
4 section 28-319; sexual assault in the second or third degree,  
5 section 28-320; sexual assault of a child, sections 28-319.01 and  
6 28-320.01; arson in the first degree, section 28-502; arson in the  
7 second degree, section 28-503; arson in the third degree, section  
8 28-504; criminal mischief, section 28-519; unauthorized application  
9 of graffiti, section 5 of this act; criminal trespass in the first  
10 degree, section 28-520; or criminal trespass in the second degree,  
11 section 28-521.

12           Sec. 3. Section 28-308, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           28-308 (1) A person commits the offense of assault in the  
15 first degree if he or she intentionally or knowingly causes serious  
16 bodily injury to another person.

17           (2) Assault in the first degree shall be a Class ~~III~~ II  
18 felony.

19           Sec. 4. Section 28-309, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           28-309 (1) A person commits the offense of assault in the  
22 second degree if he or she:

23           (a) Intentionally or knowingly causes bodily injury to  
24 another person with a dangerous instrument;

25           (b) Recklessly causes serious bodily injury to another  
26 person with a dangerous instrument; or

27           (c) While during confinement or in legal custody of

1 the Department of Correctional Services or in any county jail,  
2 unlawfully strikes or wounds another.

3 (2) Assault in the second degree shall be a Class ~~IIIA~~  
4 III felony.

5 Sec. 5. (1) Any person who knowingly and intentionally  
6 applies graffiti of any type on any building, public or private,  
7 or any other tangible property owned by any person, firm, or  
8 corporation or any public entity or instrumentality, without the  
9 express permission of the owner or operator of the property,  
10 commits the offense of unauthorized application of graffiti.

11 (2) Unauthorized application of graffiti is a Class III  
12 misdemeanor for a first offense and a Class IV felony for a second  
13 or subsequent offense.

14 (3) Upon conviction of an offense under this section, the  
15 court may, in addition to any other punishment imposed, order the  
16 defendant to clean up, repair, or replace the damaged property,  
17 keep the defaced property or another specified property in the  
18 community free of graffiti or other inscribed materials for up to  
19 one year, or order a combination of restitution and labor.

20 (4) Upon conviction of an offense under this section, the  
21 court may, in addition to any other punishment imposed, order the  
22 defendant to undergo counseling.

23 (5) Upon conviction of an offense under this section,  
24 the court may, in addition to any other punishment imposed, order  
25 the suspension of the defendant's operator's license for up to one  
26 year.

27 (6) For purposes of this section, graffiti means any

1 letter, word, name, number, symbol, slogan, message, drawing,  
2 picture, writing, or other mark of any kind visible to the public  
3 that is drawn, painted, chiseled, scratched, or etched on a rock,  
4 tree, wall, bridge, fence, gate, building, or other structure.  
5 Graffiti does not include advertising or any other letter, word,  
6 name, number, symbol, slogan, message, drawing, picture, writing,  
7 or other mark of any kind lawfully placed on property by an owner  
8 of the property, a tenant of the property, or an authorized agent  
9 for such owner or tenant.

10           Sec. 6. Section 28-929, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           28-929 (1) A person commits the offense of assault on an  
13 officer in the first degree if he or she intentionally or knowingly  
14 causes serious bodily injury to a peace officer, a probation  
15 officer, or an employee of the Department of Correctional Services  
16 while such officer or employee is engaged in the performance of his  
17 or her official duties.

18           (2) Assault on an officer in the first degree shall be a  
19 Class ~~II~~ ID felony.

20           Sec. 7. Section 28-930, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           28-930 (1) A person commits the offense of assault on an  
23 officer in the second degree if he or she:

24           (a) Intentionally or knowingly causes bodily injury with  
25 a dangerous instrument to a peace officer, a probation officer, or  
26 an employee of the Department of Correctional Services while such  
27 officer or employee is engaged in the performance of his or her

1 official duties; or

2 (b) Recklessly causes bodily injury with a dangerous  
3 instrument to a peace officer, a probation officer, or an employee  
4 of the Department of Correctional Services while such officer or  
5 employee is engaged in the performance of his or her official  
6 duties.

7 (2) Assault on an officer in the second degree shall be  
8 a Class ~~III~~ II felony.

9 Sec. 8. Section 28-1201, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 28-1201 For purposes of sections 28-1201 to ~~28-1212~~,  
12 28-1212.03 and section 16 of this act, unless the context otherwise  
13 requires:

14 (1) Firearm ~~shall mean~~ means any weapon which is designed  
15 to or may readily be converted to expel any projectile by the  
16 action of an explosive or frame or receiver of any such weapon;

17 (2) Fugitive from justice ~~shall mean~~ means any person who  
18 has fled or is fleeing from any peace officer to avoid prosecution  
19 or incarceration for a felony;

20 (3) Handgun means any firearm with a barrel less than  
21 sixteen inches in length or any firearm designed to be held and  
22 fired by the use of a single hand;

23 ~~(3)~~ (4) Juvenile shall mean means any person under the  
24 age of eighteen years;

25 ~~(4)~~ (5) Knife shall mean means any dagger, dirk, knife,  
26 or stiletto with a blade over three and one-half inches in length  
27 or any other dangerous instrument capable of inflicting cutting,

1 stabbing, or tearing wounds;

2 ~~(5)~~ (6) Knuckles and brass or iron knuckles ~~shall mean~~  
3 means any instrument that consists of finger rings or guards made  
4 of a hard substance and that is designed, made, or adapted for the  
5 purpose of inflicting serious bodily injury or death by striking a  
6 person with a fist enclosed in the knuckles;

7 ~~(6)~~ (7) Machine gun ~~shall mean~~ means any firearm,  
8 whatever its size and usual designation, that shoots automatically  
9 more than one shot, without manual reloading, by a single function  
10 of the trigger;

11 ~~(7)~~ (8) Short rifle ~~shall mean~~ means a rifle having a  
12 barrel less than sixteen inches long or an overall length of less  
13 than twenty-six inches; and

14 ~~(8)~~ (9) Short shotgun ~~shall mean~~ means a shotgun having  
15 a barrel or barrels less than eighteen inches long or an overall  
16 length of less than twenty-six inches.

17 Sec. 9. Section 28-1202, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 28-1202 (1)(a) Except as otherwise provided in this  
20 section, any person who carries a weapon or weapons concealed on or  
21 about his or her person, such as a ~~revolver, pistol, bowie knife,~~  
22 ~~dirk or knife with a dirk blade attachment,~~ firearm, a knife, brass  
23 or iron knuckles, or any other deadly weapon, commits the offense  
24 of carrying a concealed weapon.

25 (b) It is an affirmative defense that the defendant was  
26 engaged in any lawful business, calling, or employment at the time  
27 he or she was carrying any weapon or weapons and the circumstances

1 in which such person was placed at the time were such as to justify  
2 a prudent person in carrying the weapon or weapons for the defense  
3 of his or her person, property, or family.

4 (2) This section does not apply to a person who is the  
5 holder of a valid permit issued under the Concealed Handgun Permit  
6 Act if the concealed weapon the defendant is carrying is a handgun,  
7 as defined in section 69-2429.

8 (3) Carrying a concealed weapon is a Class I misdemeanor.

9 (4) In the case of a second or subsequent conviction  
10 under this section, carrying a concealed weapon is a Class IV  
11 felony.

12 Sec. 10. Section 28-1204, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 28-1204 (1) Any person under the age of eighteen  
15 years who possesses a ~~pistol, revolver, or any other form of~~  
16 ~~short-barreled hand firearm~~ handgun commits the offense of unlawful  
17 possession of a ~~revolver.~~ handgun.

18 (2) ~~The provisions of this~~ This section shall ~~does~~  
19 not apply to the issuance of ~~such firearms~~ handguns to members  
20 of the armed forces of the United States, active or reserve,  
21 National Guard of this state, or Reserve Officers Training Corps,  
22 when on duty or training, or to the temporary loan of ~~pistols,~~  
23 ~~revolvers, or any other form of short-barreled firearms~~ handguns  
24 for instruction under the immediate supervision of a parent or  
25 guardian or adult instructor.

26 (3) Unlawful possession of a ~~revolver~~ handgun is a Class  
27 ~~III~~ I misdemeanor.

1                   Sec. 11. Section 28-1204.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   28-1204.01 (1) Any person who knowingly and intentionally  
4 does or attempts to sell, provide, loan, deliver, or in any other  
5 way transfer the possession of a firearm to a juvenile commits the  
6 offense of unlawful transfer of a firearm to a juvenile. The county  
7 attorney shall have a copy of the petition served upon the owner of  
8 the firearm, if known, in person or by registered or certified mail  
9 at his or her last-known address.

10                   (2) This section ~~shall~~ does not apply to the transfer  
11 of a firearm, other than the types specified in section 28-1204 a  
12 handgun, to a juvenile:

13                   (a) From a person related to such juvenile within the  
14 second degree of consanguinity or affinity if the transfer of  
15 physical possession of such firearm does not occur until such time  
16 as express permission has been obtained from the juvenile's parent  
17 or guardian;

18                   (b) For a legitimate and lawful sporting purpose; or

19                   (c) Who is under direct adult supervision in an  
20 appropriate educational program.

21                   (3) This section ~~shall apply~~ applies to the transfer of  
22 ~~any firearm described in section 28-1204,~~ a handgun, except as  
23 specifically provided in subsection (2) of section 28-1204.

24                   (4) Unlawful transfer of a firearm to a juvenile is a  
25 Class ~~IV~~ III felony.

26                   Sec. 12. Section 28-1204.04, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   28-1204.04 (1) Any person who possesses a firearm in a  
2 school, on school grounds, in a school-owned vehicle, or at a  
3 school-sponsored activity or athletic event shall be guilty of the  
4 offense of unlawful possession of a firearm on school grounds.  
5 Unlawful possession of a firearm on school grounds is a Class ~~II~~  
6 ~~misdemeanor~~. IV felony. This subsection shall not apply to (a)  
7 the issuance of firearms to or possession by members of the armed  
8 forces of the United States, active or reserve, National Guard of  
9 this state, or Reserve Officers Training Corps or peace officers  
10 or other duly authorized law enforcement officers when on duty  
11 or training, (b) firearms which may lawfully be possessed by the  
12 person receiving instruction, for instruction under the immediate  
13 supervision of an adult instructor, or (c) firearms contained  
14 within a private vehicle operated by a nonstudent adult which are  
15 not loaded and (i) are encased or (ii) are in a locked firearm  
16 rack that is on a motor vehicle. For purposes of this subsection,  
17 encased shall mean enclosed in a case that is expressly made for  
18 the purpose of containing a firearm and that is completely zipped,  
19 snapped, buckled, tied, or otherwise fastened with no part of the  
20 firearm exposed.

21                   (2) Any firearm possessed in violation of subsection (1)  
22 of this section in a school, on school grounds, in a school-owned  
23 vehicle, or at a school-sponsored activity or athletic event shall  
24 be confiscated without warrant by a peace officer or may be  
25 confiscated without warrant by school administrative or teaching  
26 personnel. Any firearm confiscated by school administrative or  
27 teaching personnel shall be delivered to a peace officer as soon as

1 practicable.

2 (3) Any firearm confiscated by or given to a peace  
3 officer pursuant to subsection (2) of this section shall be  
4 declared a common nuisance and shall be held by the peace officer  
5 prior to his or her delivery of the firearm to the property  
6 division of the law enforcement agency which employs the peace  
7 officer. The property division of such law enforcement agency shall  
8 hold such firearm for as long as the firearm is needed as evidence.  
9 After the firearm is no longer needed as evidence, it shall be  
10 destroyed in such manner as the court may direct.

11 (4) Whenever a firearm is confiscated and held pursuant  
12 to this section or section 28-1204.02, the peace officer who  
13 received such firearm shall cause to be filed within ten days after  
14 the confiscation a petition for destruction of such firearm. The  
15 petition shall be filed in the district court of the county in  
16 which the confiscation is made. The petition shall describe the  
17 firearm held, state the name of the owner, if known, allege the  
18 essential elements of the violation which caused the confiscation,  
19 and conclude with a prayer for disposition and destruction in such  
20 manner as the court may direct. At any time after the confiscation  
21 of the firearm and prior to court disposition, the owner of the  
22 firearm seized may petition the district court of the county in  
23 which the confiscation was made for possession of the firearm. The  
24 court shall release the firearm to such owner only if the claim  
25 of ownership can reasonably be shown to be true and either (a)  
26 the owner of the firearm can show that the firearm was taken from  
27 his or her property or place of business unlawfully or without

1 the knowledge and consent of the owner and that such property  
2 or place of business is different from that of the person from  
3 whom the firearm was confiscated or (b) the owner of the firearm  
4 is acquitted of the charge of unlawful possession of a ~~revolver~~  
5 handgun in violation of section 28-1204, unlawful transfer of  
6 a firearm to a juvenile, or unlawful possession of a firearm  
7 on school grounds. No firearm having significant antique value  
8 or historical significance as determined by the Nebraska State  
9 Historical Society shall be destroyed. If a firearm has significant  
10 antique value or historical significance, it shall be sold at  
11 auction and the proceeds deposited in the permanent school fund.  
12 remitted to the State Treasurer for distribution in accordance with  
13 Article VII, section 5, of the Constitution of Nebraska.

14 Sec. 13. Section 28-1205, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 28-1205 ~~(1)~~ (1)(a) Any person who uses a firearm, a  
17 knife, brass or iron knuckles, or any other deadly weapon to commit  
18 any felony which may be prosecuted in a court of this state ~~or who~~  
19 ~~unlawfully possesses a firearm, a knife, brass or iron knuckles, or~~  
20 ~~any other deadly weapon during the commission of any felony which~~  
21 ~~may be prosecuted in a court of this state commits the offense of~~  
22 ~~using~~ use of a deadly weapon to commit a felony.

23 ~~(2)(a)~~ (b) Use of a deadly weapon, other than a firearm,  
24 to commit a felony is a Class ~~III~~ II felony.

25 ~~(b)~~ (c) Use of a deadly weapon, which is a firearm, to  
26 commit a felony is a Class ~~II~~ IC felony.

27 (2)(a) Any person who possesses a firearm, a knife, brass

1 or iron knuckles, or a destructive device during the commission of  
2 any felony which may be prosecuted in a court of this state commits  
3 the offense of possession of a deadly weapon during the commission  
4 of a felony.

5 (b) Possession of a deadly weapon, other than a firearm,  
6 during the commission of a felony is a Class III felony.

7 (c) Possession of a deadly weapon, which is a firearm,  
8 during the commission of a felony is a Class II felony.

9 (3) The crimes defined in this section shall be treated  
10 as separate and distinct offenses from the felony being committed,  
11 and sentences imposed under this section shall be consecutive to  
12 any other sentence imposed.

13 (4) Possession of a deadly weapon may be proved through  
14 evidence demonstrating either actual or constructive possession of  
15 a firearm, a knife, brass or iron knuckles, or a destructive device  
16 during, immediately prior to, or immediately after the commission  
17 of a felony.

18 (5) For purposes of this section:

19 (a) Destructive device has the same meaning as in section  
20 28-1213; and

21 (b) Use of a deadly weapon includes the discharge,  
22 employment, or visible display of any part of a firearm, a knife,  
23 brass or iron knuckles, any other deadly weapon, or a destructive  
24 device during, immediately prior to, or immediately after the  
25 commission of a felony or communication to another indicating the  
26 presence of a firearm, a knife, brass or iron knuckles, any other  
27 deadly weapon, or a destructive device during, immediately prior

1 to, or immediately after the commission of a felony, regardless  
2 of whether such firearm, knife, brass or iron knuckles, deadly  
3 weapon, or destructive device was discharged, actively employed, or  
4 displayed.

5           Sec. 14. Section 28-1206, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           28-1206 (1) Any person who possesses ~~any~~ a firearm, a  
8 knife, or brass or iron knuckles and who has previously been  
9 convicted of a felony, who has been convicted within the past seven  
10 years of a misdemeanor crime of domestic violence, ~~or~~ who is a  
11 fugitive from justice, or who is the subject of a current and  
12 validly issued domestic violence protection order and is knowingly  
13 violating such order, commits the offense of possession of a deadly  
14 weapon by a ~~felon or a fugitive from justice.~~ prohibited person.

15           (2) ~~Such~~ The felony conviction may have been had in any  
16 court in the United States, the several states, territories, or  
17 possessions, or the District of Columbia.

18           (3) (a) Possession of a deadly weapon ~~other than a firearm~~  
19 ~~by a felon or a fugitive from justice~~ is a Class IV knife or brass  
20 or iron knuckles by a prohibited person is a Class III felony.

21           (b) Possession of a deadly weapon ~~which is a firearm~~ by a  
22 ~~felon or a fugitive from justice~~ is a Class III prohibited person  
23 is a Class ID felony for a first offense and a Class IB felony for  
24 a second or subsequent offense.

25           (4) (a) (i) For purposes of this section, misdemeanor crime  
26 of domestic violence means:

27           (A) (I) A crime that is classified as a misdemeanor under

1 the laws of the United States or the District of Columbia or the  
2 laws of any state, territory, possession, or tribe;

3 (II) A crime that has, as an element, the use or  
4 attempted use of physical force or the threatened use of a deadly  
5 weapon; and

6 (III) A crime that is committed by another against his  
7 or her spouse, his or her former spouse, a person with whom he or  
8 she has a child in common whether or not they have been married or  
9 lived together at any time, or a person with whom he or she is or  
10 was involved in a dating relationship as defined in section 28-323;  
11 or

12 (B) (I) Assault in the third degree under section  
13 28-310, stalking under subsection (1) of section 28-311.04, false  
14 imprisonment in the second degree under section 28-315, or first  
15 offense domestic assault in the third degree under subsection (1)  
16 of section 28-323 or any attempt or conspiracy to commit one of  
17 these offenses; and

18 (II) The crime is committed by another against his or her  
19 spouse, his or her former spouse, a person with whom he or she has  
20 a child in common whether or not they have been married or lived  
21 together at any time, or a person with whom he or she is or was  
22 involved in a dating relationship as defined in section 28-323.

23 (ii) A person shall not be considered to have been  
24 convicted of a misdemeanor crime of domestic violence unless:

25 (A) The person was represented by counsel in the case  
26 or knowingly and intelligently waived the right to counsel in the  
27 case; and

1           (B) In the case of a prosecution for a misdemeanor crime  
2 of domestic violence for which a person was entitled to a jury  
3 trial in the jurisdiction in which the case was tried, either:

4           (I) The case was tried to a jury; or

5           (II) The person knowingly and intelligently waived the  
6 right to have the case tried to a jury.

7           (b) For purposes of this section, subject of a current  
8 and validly issued domestic violence protection order pertains to  
9 a current court order that was validly issued pursuant to section  
10 28-311.09 or 42-924 or that meets or exceeds the criteria set forth  
11 in section 28-311.10 regarding protection orders issued by a court  
12 in another state, territory, possession, or tribe.

13           Sec. 15. Section 28-1212.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           28-1212.02 Any person who unlawfully and intentionally  
16 discharges a firearm at an inhabited dwelling house, occupied  
17 building, occupied motor vehicle, occupied aircraft, inhabited  
18 motor home as defined in section 71-4603, or inhabited camper unit  
19 as defined in section 60-1801 shall be guilty of a Class III ~~ID~~ ID  
20 felony.

21           Sec. 16. Any person, within the territorial boundaries  
22 of any city, incorporated village, or county containing a city of  
23 the metropolitan class or primary class, who unlawfully, knowingly,  
24 and intentionally or recklessly discharges a firearm, while in or  
25 in the proximity of any motor vehicle that such person has just  
26 exited, at or in the general direction of any person, dwelling,  
27 building, structure, occupied motor vehicle, occupied aircraft,

1 inhabited motor home as defined in section 71-4603, or inhabited  
2 camper unit as defined in section 60-1801, is guilty of a Class IC  
3 felony.

4           Sec. 17. (1) A person commits the offense of unlawful  
5 membership recruitment into an organization or association when he  
6 or she knowingly and intentionally coerces, intimidates, threatens,  
7 or inflicts bodily harm upon another person in order to entice  
8 that other person to join or prevent that other person from  
9 leaving any organization, group, enterprise, or association whose  
10 members, individually or collectively, engage in or have engaged  
11 in any of the following criminal acts for the benefit of, at the  
12 direction of, or on behalf of the organization, group, enterprise,  
13 or association or any of its members:

14           (a) Robbery under section 28-324;

15           (b) Arson in the first, second, or third degree under  
16 section 28-502, 28-503, or 28-504, respectively;

17           (c) Burglary under section 28-507;

18           (d) Murder in the first degree, murder in the second  
19 degree, or manslaughter under section 28-303, 28-304, or 28-305,  
20 respectively;

21           (e) Violations of the Uniform Controlled Substances Act  
22 that involve possession with intent to deliver, distribution,  
23 delivery, or manufacture of a controlled substance;

24           (f) Unlawful use, possession, or discharge of a firearm  
25 or other deadly weapon under sections 28-1201 to 28-1212.03 and  
26 section 16 of this act;

27           (g) Assault in the first degree or assault in the second

1 degree under section 28-308 or 28-309, respectively;

2 (h) Assault on an officer in the first, second, or  
3 third degree under section 28-929, 28-930, or 28-931, respectively,  
4 or assault on an officer using a motor vehicle under section  
5 28-931.01;

6 (i) Theft by unlawful taking or disposition under section  
7 28-511;

8 (j) Theft by receiving stolen property under section  
9 28-517;

10 (k) Theft by deception under section 28-512;

11 (l) Theft by extortion under section 28-513;

12 (m) Kidnapping under section 28-313;

13 (n) Any forgery offense under sections 28-602 to 28-605;

14 (o) Criminal impersonation under section 28-608;

15 (p) Tampering with a publicly exhibited contest under  
16 section 28-614;

17 (q) Unauthorized use of a financial transaction device or  
18 criminal possession of a financial transaction device under section  
19 28-620 or 28-621, respectively;

20 (r) Pandering under section 28-802;

21 (s) Bribery, bribery of a witness, or bribery of a juror  
22 under section 28-917, 28-918, or 28-920, respectively;

23 (t) Tampering with a witness or an informant or jury  
24 tampering under section 28-919;

25 (u) Unauthorized application of graffiti under section 5  
26 of this act;

27 (v) Dogfighting, cockfighting, bearbaiting, or pitting an

1 animal against another under section 28-1005; or

2 (w) Promoting gambling in the first degree under section  
3 28-1102.

4 (2) Unlawful membership recruitment into an organization  
5 or association is a Class IV felony.

6 Sec. 18. Section 29-401, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 29-401 Every sheriff, deputy sheriff, marshal, deputy  
9 marshal, security guard, police officer, or peace officer as  
10 defined in subdivision (15) of section 49-801 shall arrest and  
11 detain any person found violating any law of this state or any  
12 legal ordinance of any city or incorporated village until a legal  
13 warrant can be obtained, except that (1) any such law enforcement  
14 officer taking a juvenile under the age of eighteen years into his  
15 or her custody for any violation herein defined shall proceed as  
16 set forth in sections 43-248, 43-248.01, 43-250, 43-251, 43-251.01,  
17 and 43-253 and (2) the court in which the juvenile is to appear  
18 shall not accept a plea from the juvenile until finding that the  
19 parents of the juvenile have been notified or that reasonable  
20 efforts to notify such parents have been made as provided in  
21 section 43-253.

22 Sec. 19. Section 29-901, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 29-901 Any bailable defendant shall be ordered released  
25 from custody pending judgment on his or her personal recognizance  
26 unless the judge determines in the exercise of his or her  
27 discretion that such a release will not reasonably assure the

1 appearance of the defendant as required or that such a release  
2 could jeopardize the safety and maintenance of evidence or  
3 victims, witnesses, or other persons in the community. When such  
4 determination is made, the judge shall either in lieu of or in  
5 addition to such a release impose the first of the following  
6 conditions of release which will reasonably assure the appearance  
7 of the person for trial or, if no single condition gives that  
8 assurance, any combination of the following conditions:

9 (1) Place the defendant in the custody of a designated  
10 person or organization agreeing to supervise the defendant;

11 (2) Place restrictions on the travel, association, or  
12 place of abode of the defendant during the period of such release;

13 (3) Require, at the option of any bailable defendant,  
14 either of the following:

15 (a) The execution of an appearance bond in a specified  
16 amount and the deposit with the clerk of the court in cash of a  
17 sum not to exceed ten percent of the amount of the bond, ninety  
18 percent of such deposit to be returned to the defendant upon the  
19 performance of the appearance or appearances and ten percent to be  
20 retained by the clerk as appearance bond costs, except that when  
21 no charge is subsequently filed against the defendant or if the  
22 charge or charges which are filed are dropped before the appearance  
23 of the defendant which the bond was to assure, the entire deposit  
24 shall be returned to the defendant. If the bond is subsequently  
25 reduced by the court after the original bond has been posted, no  
26 additional appearance bond costs shall be retained by the clerk.  
27 The difference in the appearance bond costs between the original

1 bond and the reduced bond shall be returned to the defendant.  
2 In no event shall the deposit be less than twenty-five dollars.  
3 Whenever jurisdiction is transferred from a court requiring an  
4 appearance bond under this subdivision to another state court, the  
5 transferring court shall transfer the ninety percent of the deposit  
6 remaining after the appearance bond costs have been retained. No  
7 further costs shall be levied or collected by the court acquiring  
8 jurisdiction; or

9 (b) The execution of a bail bond with such surety or  
10 sureties as shall seem proper to the judge or, in lieu of such  
11 surety or sureties, at the option of such person, a cash deposit  
12 of such sum so fixed, conditioned for his or her appearance before  
13 the proper court, to answer the offense with which he or she may be  
14 charged and to appear at such times thereafter as may be ordered  
15 by the proper court. The cash deposit shall be returned to the  
16 defendant upon the performance of all appearances.

17 If the amount of bail is deemed insufficient by the  
18 court before which the offense is pending, the court may order  
19 an increase of such bail and the defendant shall provide the  
20 additional undertaking, written or cash, to secure his or her  
21 release. All recognizances in criminal cases shall be in writing  
22 and be continuous from term to term until final judgment of the  
23 court in such cases and shall also extend, when the court has  
24 suspended execution of sentence for a limited time, as provided  
25 in section 29-2202, or, when the court has suspended execution of  
26 sentence to enable the defendant to apply for a writ of error  
27 to the Supreme Court or Court of Appeals, as provided in section

1 29-2301, until the period of suspension has expired. When two or  
2 more indictments or informations are returned against the same  
3 person at the same term of court, the recognizance given may be  
4 made to include all offenses charged therein. Each surety on such  
5 recognizance shall be required to justify under oath in a sum  
6 twice the amount of such recognizance and give the description  
7 of real estate owned by him or her of a value above encumbrance  
8 equal to the amount of such justification and shall name all other  
9 cases pending in which he or she is a surety. No one shall be  
10 accepted as surety on recognizance aggregating a sum in excess of  
11 his or her equity in the real estate, but such recognizance shall  
12 not constitute a lien on the real estate described therein until  
13 judgment is entered thereon against such surety; or

14 (4) Impose any other condition deemed reasonably  
15 necessary to assure appearances as required, including a condition  
16 requiring that the defendant return to custody after specified  
17 hours.

18 Sec. 20. Section 29-901.01, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 29-901.01 In determining which condition or conditions of  
21 release shall reasonably assure appearance and deter possible  
22 threats to the safety and maintenance of evidence, victims,  
23 witnesses, or other persons in the community, the judge shall,  
24 on the basis of available information, take into account the  
25 nature and circumstances of the offense charged, including any  
26 information to indicate that the defendant might engage in  
27 additional criminal activity or pose a threat to himself or

1 herself, yet to be collected evidence, alleged victims, potential  
2 witnesses, or members of the general public, the defendant's  
3 family ties, employment, financial resources, character and mental  
4 condition, the length of ~~his~~ the defendant's residence in the  
5 community, ~~his~~ the defendant's record of convictions, and ~~his~~ the  
6 defendant's record of appearances at court proceedings or of flight  
7 to avoid prosecution or of failure to appear at court proceedings.

8           Sec. 21. Section 29-1912, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           29-1912 (1) When a defendant is charged with a felony or  
11 when a defendant is charged with a misdemeanor or a violation of  
12 a city or village ordinance for which imprisonment is a possible  
13 penalty, he or she may request the court where the case is to be  
14 tried, at any time after the filing of the indictment, information,  
15 or complaint to order the prosecuting attorney to permit the  
16 defendant to inspect and copy or photograph:

17           (a) The defendant's statement, if any. For purposes of  
18 this subdivision statement shall mean a written statement made by  
19 the defendant and signed or otherwise adopted or approved by him or  
20 her, or a stenographic, mechanical, electrical, or other recording,  
21 or a transcription thereof, which is a substantially verbatim  
22 recital of an oral statement made by the defendant to an agent  
23 of the prosecution, state, or political subdivision thereof, and  
24 recorded contemporaneously with the making of such oral statement;

25           (b) The defendant's prior criminal record, if any;

26           (c) The defendant's recorded testimony before a grand  
27 jury;

1           (d) The names and addresses of witnesses on whose  
2 evidence the charge is based;

3           (e) The results and reports of physical or mental  
4 examinations, and of scientific tests, or experiments made in  
5 connection with the particular case, or copies thereof; and

6           (f) Documents, papers, books, accounts, letters,  
7 photographs, objects, or other tangible things of whatsoever kind  
8 or nature which could be used as evidence by the prosecuting  
9 authority;—

10           (g) The known criminal history of a jailhouse witness;

11           (h) Any deal, promise, inducement, or benefit that  
12 the prosecuting attorney or any person acting on behalf of the  
13 prosecuting attorney has knowingly made or may make in the future  
14 to the jailhouse witness;

15           (i) The specific statements allegedly made by the  
16 defendant against whom the jailhouse witness will testify and the  
17 time, place, and manner of the defendant's disclosures;

18           (j) The case name and jurisdiction of any criminal cases  
19 known to the prosecuting attorney in which a jailhouse witness  
20 testified about statements made by another criminal defendant that  
21 were disclosed to the jailhouse witness while he or she was a  
22 jailhouse witness and whether the jailhouse witness received any  
23 deal, promise, inducement, or benefit in exchange for or subsequent  
24 to such testimony; and

25           (k) Any occasion known to the prosecuting attorney in  
26 which the jailhouse witness recanted testimony about statements  
27 made by another criminal defendant that were disclosed to the

1 jailhouse witness while he or she was a jailhouse witness and, if  
2 any are known, a transcript or copy of such recantation.

3 (2) The court may issue such an order pursuant to  
4 the provisions of this section. In the exercise of its judicial  
5 discretion the court shall consider among other things whether:

6 (a) The request is material to the preparation of the  
7 defense;

8 (b) The request is not made primarily for the purpose of  
9 harassing the prosecution or its witnesses;

10 (c) The request, if granted, would not unreasonably delay  
11 the trial of the offense and an earlier request by the defendant  
12 could not have reasonably been made;

13 (d) There is no substantial likelihood that the request,  
14 if granted, would preclude a just determination of the issues at  
15 the trial of the offense; or

16 (e) The request, if granted, would not result in the  
17 possibility of bodily harm to, or coercion of, witnesses.

18 (3) Whenever the court refuses to grant an order pursuant  
19 to the provisions of this section, it shall render its findings in  
20 writing together with the facts upon which the findings are based.

21 (4) Whenever the prosecuting attorney believes that the  
22 granting of an order under the provisions of this section will  
23 result in the possibility of bodily harm to witnesses or that  
24 witnesses will be coerced, the court may permit him or her to make  
25 such a showing in the form of a written statement to be inspected  
26 by the court alone. The statement shall be sealed and preserved  
27 in the records of the court to be made available to the appellate

1 court in the event of an appeal by the defendant.

2 (5) For purposes of subdivisions (l)(g) through (k) of  
3 this section, jailhouse witness means a person in the physical  
4 custody of any jail or correctional institution as (a) an accused  
5 defendant, (b) a convicted defendant awaiting sentencing, or (c)  
6 a convicted defendant serving a jail sentence, at the time the  
7 statements the jailhouse witness will testify about were disclosed.

8 Sec. 22. Section 29-2320, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 29-2320 Whenever a defendant is found guilty of a felony  
11 following a trial or the entry of a plea of guilty or tendering a  
12 plea of nolo contendere, the prosecuting attorney charged with the  
13 prosecution of such defendant or the Attorney General may appeal  
14 the sentence imposed if ~~such attorney reasonably believes,~~ there is  
15 a reasonable belief, based on all of the facts and circumstances of  
16 the particular case, that the sentence is excessively lenient.

17 Sec. 23. Section 29-2321, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 29-2321 (1) Appeals under section 29-2320 sections  
20 29-2320 to 29-2325 shall be taken, by either the Attorney General  
21 or the prosecuting attorney, as follows:

22 (a) If the appeal is filed by the Attorney General, a  
23 notice of appeal shall be filed in the district court within twenty  
24 days after imposition of the sentence. A copy of the notice of  
25 appeal shall be sent to either the defendant or counsel for the  
26 defendant; or

27 ~~(1) Within ten days of the~~ (b) If the prosecuting

1 attorney wishes to file the appeal, he or she, within ten days  
2 after imposition of the sentence, the prosecuting attorney shall  
3 request the approval of from the Attorney General to proceed with  
4 such the appeal. A copy of such the request for approval shall be  
5 sent to the defendant or counsel for the defendant.†

6 (2) If the Attorney General approves the request  
7 described in subdivision ~~(1)~~ (1)(b) of this section, the  
8 prosecuting attorney shall file a notice of appeal indicating such  
9 approval in the district court. Such notice of appeal must be filed  
10 within twenty days of the imposition of sentence. A copy of the  
11 notice of appeal shall be sent to the defendant or counsel for the  
12 defendant.†

13 (3) If the Attorney General does not approve the request  
14 described in subdivision ~~(1)~~ (1)(b) of this section, an appeal  
15 under sections 29-2320 to 29-2325 shall not be permitted.† and

16 (4) In addition to such notice of appeal, the docket fee  
17 required by section 33-103 shall be deposited with the clerk of the  
18 district court.

19 (5) Upon compliance with the requirements of this  
20 section, the appeal shall proceed as provided by law for appeals to  
21 the Court of Appeals.

22 Sec. 24. Section 43-245, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-245 For purposes of the Nebraska Juvenile Code, unless  
25 the context otherwise requires:

- 26 (1) Age of majority means nineteen years of age;  
27 (2) Approved center means a center that has applied for

1 and received approval from the Director of the Office of Dispute  
2 Resolution under section 25-2909;

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

6 (4) Criminal street gang means a group of three or more  
7 people with a common identifying name, sign, or symbol whose group  
8 identity or purposes include engaging in illegal activities;

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

12 ~~(4)~~ (6) Juvenile means any person under the age of  
13 eighteen;

14 ~~(5)~~ (7) Juvenile court means the separate juvenile court  
15 where it has been established pursuant to sections 43-2,111 to  
16 43-2,127 and the county court sitting as a juvenile court in all  
17 other counties. Nothing in the Nebraska Juvenile Code shall be  
18 construed to deprive the district courts of their habeas corpus,  
19 common-law, or chancery jurisdiction or the county courts and  
20 district courts of jurisdiction of domestic relations matters as  
21 defined in section 25-2740;

22 ~~(6)~~ (8) Juvenile detention facility has the same meaning  
23 as in section 83-4,125;

24 ~~(7)~~ (9) Mediator for juvenile offender and victim  
25 mediation means a person who (a) has completed at least thirty  
26 hours of training in conflict resolution techniques, neutrality,  
27 agreement writing, and ethics set forth in section 25-2913, (b) has

1 an additional eight hours of juvenile offender and victim mediation  
2 training, and (c) meets the apprenticeship requirements set forth  
3 in section 25-2913;

4 ~~(8)~~ (10) Mental health facility means a treatment  
5 facility as defined in section 71-914 or a government, private, or  
6 state hospital which treats mental illness;

7 ~~(9)~~ (11) Nonoffender means a juvenile who is subject  
8 to the jurisdiction of the juvenile court for reasons other  
9 than legally prohibited conduct, including, but not limited to,  
10 juveniles described in subdivision (3)(a) of section 43-247;

11 ~~(10)~~ (12) Nonsecure detention means detention  
12 characterized by the absence of restrictive hardware, construction,  
13 and procedure. Nonsecure detention services may include a range  
14 of placement and supervision options, such as home detention,  
15 electronic monitoring, day reporting, drug court, tracking and  
16 monitoring supervision, staff secure and temporary holdover  
17 facilities, and group homes;

18 ~~(11)~~ (13) Parent means one or both parents or a  
19 stepparent when such stepparent is married to the custodial parent  
20 as of the filing of the petition;

21 ~~(12)~~ (14) Parties means the juvenile as described in  
22 section 43-247 and his or her parent, guardian, or custodian;

23 ~~(13)~~ (15) Except in proceedings under the Nebraska Indian  
24 Child Welfare Act, relative means father, mother, grandfather,  
25 grandmother, brother, sister, stepfather, stepmother, stepbrother,  
26 stepsister, uncle, aunt, first cousin, nephew, or niece;

27 ~~(14)~~ (16) Secure detention means detention in a highly

1 structured, residential, hardware-secured facility designed to  
2 restrict a juvenile's movement;

3 ~~(15)~~ (17) Status offender means a juvenile who has been  
4 charged with or adjudicated for conduct which would not be a crime  
5 if committed by an adult, including, but not limited to, juveniles  
6 charged under subdivision (3)(b) of section 43-247 and sections  
7 53-180.01 and 53-180.02; and

8 ~~(16)~~ (18) Traffic offense means any nonfelonious act in  
9 violation of a law or ordinance regulating vehicular or pedestrian  
10 travel, whether designated a misdemeanor or a traffic infraction.

11 Sec. 25. Section 43-250, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 43-250 A peace officer who takes a juvenile into  
14 temporary custody under section 29-401 or 43-248 or pursuant  
15 to a legal warrant of arrest shall immediately take reasonable  
16 measures to notify the juvenile's parent, guardian, custodian, or  
17 relative and shall proceed as follows:

18 (1) The peace officer shall release such juvenile;

19 (2) The peace officer shall prepare in triplicate a  
20 written notice requiring the juvenile to appear before the juvenile  
21 court of the county in which such juvenile was taken into custody  
22 at a time and place specified in the notice or at the call of the  
23 court. The notice shall also contain a concise statement of the  
24 reasons such juvenile was taken into custody. The peace officer  
25 shall deliver one copy of the notice to such juvenile and require  
26 such juvenile or his or her parent, guardian, other custodian,  
27 or relative, or both, to sign a written promise that such signer

1 will appear at the time and place designated in the notice. Upon  
2 the execution of the promise to appear, the peace officer shall  
3 immediately release such juvenile. The peace officer shall, as  
4 soon as practicable, file one copy of the notice with the county  
5 attorney and, when required by the juvenile court, also file a copy  
6 of the notice with the juvenile court or the officer appointed by  
7 the court for such purpose;

8 (3) While retaining temporary custody, the peace officer  
9 shall communicate all relevant available information regarding such  
10 juvenile to the probation officer and shall deliver the juvenile,  
11 if necessary, to the probation officer. The probation officer shall  
12 determine the need for detention of the juvenile as provided in  
13 section 43-260.01. Upon determining that the juvenile should be  
14 placed in a secure or nonsecure placement and securing placement  
15 in such secure or nonsecure setting by the probation officer, the  
16 peace officer shall implement the probation officer's decision to  
17 release or to detain and place the juvenile. When secure detention  
18 of a juvenile is necessary, such detention shall occur within a  
19 juvenile detention facility except:

20 (a) When a juvenile described in subdivision (1) or  
21 (2) of section 43-247, except for a status offender, is taken  
22 into temporary custody within a metropolitan statistical area and  
23 where no juvenile detention facility is reasonably available, the  
24 juvenile may be delivered, for temporary custody not to exceed  
25 six hours, to a secure area of a jail or other facility intended  
26 or used for the detention of adults solely for the purposes of  
27 identifying the juvenile and ascertaining his or her health and

1 well-being and for safekeeping while awaiting transport to an  
2 appropriate juvenile placement or release to a responsible party;

3 (b) When a juvenile described in subdivision (1) or (2)  
4 of section 43-247, except for a status offender, is taken into  
5 temporary custody outside of a metropolitan statistical area and  
6 where no juvenile detention facility is reasonably available, the  
7 juvenile may be delivered, for temporary custody not to exceed  
8 twenty-four hours excluding nonjudicial days and while awaiting an  
9 initial court appearance, to a secure area of a jail or other  
10 facility intended or used for the detention of adults solely for  
11 the purposes of identifying the juvenile and ascertaining his  
12 or her health and well-being and for safekeeping while awaiting  
13 transport to an appropriate juvenile placement or release to a  
14 responsible party;

15 (c) Whenever a juvenile is held in a secure area of  
16 any jail or other facility intended or used for the detention  
17 of adults, there shall be no verbal, visual, or physical contact  
18 between the juvenile and any incarcerated adult and there shall be  
19 adequate staff to supervise and monitor the juvenile's activities  
20 at all times. This subdivision shall not apply to a juvenile  
21 charged with a felony as an adult in county or district court if he  
22 or she is sixteen years of age or older;

23 (d) If a juvenile is under sixteen years of age or is a  
24 juvenile as described in subdivision (3) of section 43-247, he or  
25 she shall not be placed within a secure area of a jail or other  
26 facility intended or used for the detention of adults;

27 (e) If, within the time limits specified in subdivision

1 (3) (a) or (3) (b) of this section, a felony charge is filed against  
2 the juvenile as an adult in county or district court, he or she may  
3 be securely held in a jail or other facility intended or used for  
4 the detention of adults beyond the specified time limits;

5 (f) A status offender or nonoffender taken into temporary  
6 custody shall not be held in a secure area of a jail or other  
7 facility intended or used for the detention of adults. A status  
8 offender accused of violating a valid court order may be securely  
9 detained in a juvenile detention facility longer than twenty-four  
10 hours if he or she is afforded a detention hearing before a  
11 court within twenty-four hours, excluding nonjudicial days, and if,  
12 prior to a dispositional commitment to secure placement, a public  
13 agency, other than a court or law enforcement agency, is afforded  
14 an opportunity to review the juvenile's behavior and possible  
15 alternatives to secure placement and has submitted a written report  
16 to the court; and

17 (g) A juvenile described in subdivision (1) or (2) of  
18 section 43-247, except for a status offender, may be held in a  
19 secure area of a jail or other facility intended or used for the  
20 detention of adults for up to six hours before and six hours after  
21 any court appearance;

22 (4) When a juvenile is taken into temporary custody  
23 pursuant to subdivision (3) of section 43-248, the peace officer  
24 shall deliver the custody of such juvenile to the Department of  
25 Health and Human Services which shall make a temporary placement of  
26 the juvenile in the least restrictive environment consistent with  
27 the best interests of the juvenile as determined by the department.

1 The department shall supervise such placement and, if necessary,  
2 consent to any necessary emergency medical, psychological, or  
3 psychiatric treatment for such juvenile. The department shall have  
4 no other authority with regard to such temporary custody until or  
5 unless there is an order by the court placing the juvenile in the  
6 custody of the department. If the peace officer delivers temporary  
7 custody of the juvenile pursuant to this subdivision, the peace  
8 officer shall make a full written report to the county attorney  
9 within twenty-four hours of taking such juvenile into temporary  
10 custody. If a court order of temporary custody is not issued  
11 within forty-eight hours of taking the juvenile into custody,  
12 the temporary custody by the department shall terminate and the  
13 juvenile shall be returned to the custody of his or her parent,  
14 guardian, custodian, or relative; e

15 (5) If the peace officer takes the juvenile into  
16 temporary custody pursuant to subdivision (4) of section 43-248,  
17 the peace officer may place the juvenile at a mental health  
18 facility for evaluation and emergency treatment or may deliver  
19 the juvenile to the Department of Health and Human Services as  
20 provided in subdivision (4) of this section. At the time of the  
21 admission or turning the juvenile over to the department, the  
22 peace officer responsible for taking the juvenile into custody  
23 shall execute a written certificate as prescribed by the Department  
24 of Health and Human Services which will indicate that the peace  
25 officer believes the juvenile to be mentally ill and dangerous,  
26 a summary of the subject's behavior supporting such allegations,  
27 and that the harm described in section 71-908 is likely to occur

1 before proceedings before a juvenile court may be invoked to  
2 obtain custody of the juvenile. A copy of the certificate shall be  
3 forwarded to the county attorney. The peace officer shall notify  
4 the juvenile's parents, guardian, custodian, or relative of the  
5 juvenile's placement; ~~or-~~

6 (6) A juvenile taken into custody pursuant to a legal  
7 warrant of arrest shall be delivered to the probation officer who  
8 shall determine the need for detention of the juvenile as provided  
9 in section 43-260.01. If detention is not required, the juvenile  
10 may be released without bond if such release is in the best  
11 interests of the juvenile, the safety of the community is not at  
12 risk, and the court that issued the warrant is notified that the  
13 juvenile has been taken into custody.

14 In determining the appropriate temporary placement of a  
15 juvenile under this section, the peace officer shall select the  
16 placement which is least restrictive of the juvenile's freedom so  
17 long as such placement is compatible with the best interests of the  
18 juvenile and the safety of the community.

19 Sec. 26. Section 43-276, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 43-276 In cases coming within subdivision (1) of section  
22 43-247, when there is concurrent jurisdiction, or subdivision  
23 (2) or (4) of section 43-247, when the juvenile is under the  
24 age of sixteen years, the county attorney shall, in making  
25 the determination whether to file a criminal charge, file a  
26 juvenile court petition, offer juvenile pretrial diversion, or  
27 offer mediation, consider: (1) The type of treatment such juvenile

1 would most likely be amenable to; (2) whether there is evidence  
2 that the alleged offense included violence or was committed in  
3 an aggressive and premeditated manner; (3) the motivation for the  
4 commission of the offense; (4) the age of the juvenile and the ages  
5 and circumstances of any others involved in the offense; (5) the  
6 previous history of the juvenile, including whether he or she had  
7 been convicted of any previous offenses or adjudicated in juvenile  
8 court, and, if so, whether such offenses were crimes against the  
9 person or relating to property, and other previous history of  
10 antisocial behavior, if any, including any patterns of physical  
11 violence; (6) the sophistication and maturity of the juvenile as  
12 determined by consideration of his or her home, school activities,  
13 emotional attitude and desire to be treated as an adult, pattern  
14 of living, and whether he or she has had previous contact with law  
15 enforcement agencies and courts and the nature thereof; (7) whether  
16 there are facilities particularly available to the juvenile court  
17 for treatment and rehabilitation of the juvenile; (8) whether the  
18 best interests of the juvenile and the security of the public may  
19 require that the juvenile continue in secure detention or under  
20 supervision for a period extending beyond his or her minority and,  
21 if so, the available alternatives best suited to this purpose;  
22 (9) whether the victim agrees to participate in mediation; (10)  
23 whether there is a juvenile pretrial diversion program established  
24 pursuant to sections 43-260.02 to 43-260.07; (11) whether the  
25 juvenile has been convicted of or has acknowledged unauthorized use  
26 or possession of a firearm; (12) whether a juvenile court order has  
27 been issued for the juvenile pursuant to section 43-2,106.03; (13)

1 whether the juvenile is a criminal street gang member; and ~~(13)~~  
2 (14) such other matters as the county attorney deems relevant to  
3 his or her decision.

4           Sec. 27. Section 69-2404, Revised Statutes Cumulative  
5 Supplement, 2008, is amended to read:

6           69-2404 Any person desiring to purchase, lease, rent,  
7 or receive transfer of a handgun shall apply with the chief of  
8 police or sheriff of the applicant's place of residence for a  
9 certificate. The application may be made in person or by mail.  
10 The application form and certificate shall be made on forms  
11 approved by the Superintendent of Law Enforcement and Public  
12 Safety. The application shall include the applicant's full name,  
13 ~~social security number,~~ address, date of birth, and country of  
14 citizenship. If the applicant is not a United States citizen, the  
15 application shall include the applicant's place of birth and his  
16 or her alien or admission number. If the application is made in  
17 person, the applicant shall also present a current Nebraska motor  
18 vehicle operator's license, state identification card, or military  
19 identification card, or if the application is made by mail, the  
20 application form shall describe the license or card used for  
21 identification and be notarized by a notary public who has verified  
22 the identification of the applicant through such a license or card.  
23 An applicant shall receive a certificate if he or she is twenty-one  
24 years of age or older and is not prohibited from purchasing or  
25 possessing a handgun by 18 U.S.C. 922. A fee of five dollars shall  
26 be charged for each application for a certificate to cover the cost  
27 of a criminal history record check.

1           Sec. 28. Section 69-2407, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           69-2407 A certificate issued in accordance with section  
4 69-2404 shall contain the holder's name, ~~social security number,~~  
5 address, and date of birth and the effective date of the  
6 certificate. A certificate shall authorize the holder to acquire  
7 any number of handguns during the period that the certificate  
8 is valid. The certificate shall be valid throughout the state  
9 and shall become invalid three years after its effective date.  
10 If the chief of police or sheriff who issued the certificate  
11 determines that the applicant has become disqualified for the  
12 certificate under section 69-2404, he or she may immediately  
13 revoke the certificate and require the holder to surrender the  
14 certificate immediately. Revocation may be appealed pursuant to  
15 section 69-2406.

16           Sec. 29. Section 69-2410, Revised Statutes Cumulative  
17 Supplement, 2008, is amended to read:

18           69-2410 No importer, manufacturer, or dealer licensed  
19 pursuant to 18 U.S.C. 923 shall sell or deliver any handgun  
20 to another person other than a licensed importer, manufacturer,  
21 dealer, or collector until he or she has:

22           (1) (a) Inspected a valid certificate issued to such  
23 person pursuant to sections 69-2401, 69-2403 to 69-2408, and  
24 69-2409.01; and

25           (b) Inspected a valid identification containing a  
26 photograph of such person which appropriately and completely  
27 identifies such person; or

1           (2) (a) Obtained a completed consent form from the  
2 potential buyer or transferee, which form shall be established by  
3 the Nebraska State Patrol and provided by the licensed importer,  
4 manufacturer, or dealer. The form shall include the name, address,  
5 date of birth, gender, race, ~~social security number or other~~  
6 ~~identification number~~, and country of citizenship of such potential  
7 buyer or transferee. If the potential buyer or transferee is not a  
8 United States citizen, the completed consent form shall contain the  
9 potential buyer's or transferee's place of birth and his or her  
10 alien or admission number;

11           (b) Inspected a valid identification containing a  
12 photograph of the potential buyer or transferee which appropriately  
13 and completely identifies such person;

14           (c) Requested by toll-free telephone call or other  
15 electromagnetic communication that the Nebraska State Patrol  
16 conduct a criminal history record check; and

17           (d) Received a unique approval number for such inquiry  
18 from the Nebraska State Patrol indicating the date and number on  
19 the consent form.

20           Sec. 30. Section 69-2430, Revised Statutes Cumulative  
21 Supplement, 2008, is amended to read:

22           69-2430 (1) Application for a permit to carry a concealed  
23 handgun shall be made in person at any Nebraska State Patrol  
24 Troop Headquarters or office provided by the patrol for purposes  
25 of accepting such an application. The applicant shall present a  
26 current Nebraska motor vehicle operator's license, Nebraska-issued  
27 state identification card, or military identification card

1 and shall submit two legible sets of fingerprints for a  
2 criminal history record information check pursuant to section  
3 69-2431. The application shall be made on a form prescribed  
4 by the Superintendent of Law Enforcement and Public Safety.  
5 The application shall state the applicant's full name, ~~social~~  
6 ~~security number~~, motor vehicle operator's license number or  
7 state identification card number, address, and date of birth and  
8 contain the applicant's signature and shall include space for the  
9 applicant to affirm that he or she meets each and every one of  
10 the requirements set forth in section 69-2433. The applicant shall  
11 attach to the application proof of training and proof of vision as  
12 required in subdivision (3) of section 69-2433.

13 (2) A person applying for a permit to carry a concealed  
14 handgun who gives false information or offers false evidence of his  
15 or her identity is guilty of a Class IV felony.

16 (3) The permit to carry a concealed handgun shall be  
17 issued by the Nebraska State Patrol within five business days after  
18 completion of the applicant's criminal history record information  
19 check, if the applicant has complied with this section and has met  
20 all the requirements of section 69-2433.

21 (4) An applicant denied a permit to carry a concealed  
22 handgun may appeal to the district court of the judicial district  
23 of the county in which he or she resides or the county in which  
24 he or she applied for the permit pursuant to the Administrative  
25 Procedure Act.

26 Sec. 31. There is established within the Nebraska  
27 Commission on Law Enforcement and Criminal Justice the Office

1 of Violence Prevention. The office shall consist of a director,  
2 appointed by the Governor. There also is established an advisory  
3 council to the Office of Violence Prevention. The members of the  
4 advisory council shall be appointed by the Governor and serve  
5 at his or her discretion. The advisory council shall consist of  
6 six members and, of those members, each congressional district,  
7 as such districts existed on the effective date of this act,  
8 shall have at least one member on the council. The Governor shall  
9 consider appointing members representing the following areas, if  
10 practicable: Two members representing local government; two members  
11 representing law enforcement; one member representing community  
12 advocacy; and one member representing education with some expertise  
13 in law enforcement and juvenile crime. Members of the advisory  
14 council shall serve for terms of four years. A member may be  
15 reappointed at the expiration of his or her term. Any vacancy  
16 occurring other than by expiration of a term shall be filled for  
17 the remainder of the unexpired term in the same manner as the  
18 original appointment.

19           Sec. 32. Notwithstanding any other provision of law,  
20 membership on the advisory council to the Office of Violence  
21 Prevention shall not disqualify any member from holding his or her  
22 office or position or cause the forfeiture thereof.

23           Sec. 33. Members of the advisory council to the Office  
24 of Violence Prevention shall serve without compensation but may  
25 be reimbursed for their actual and necessary expenses incurred in  
26 the performance of their duties as provided in sections 81-1174 to  
27 81-1177.

1           Sec. 34. (1) The Office of Violence Prevention and its  
2 director shall be administered and supervised, respectively, by  
3 the Nebraska Commission on Law Enforcement and Criminal Justice.  
4 Among its responsibilities, the Office of Violence Prevention  
5 and its director shall be responsible for developing, fostering,  
6 promoting, and assessing violence prevention programs. To  
7 accomplish this mission, the duties of the director shall include,  
8 but not be limited to: Program fundraising, program evaluation,  
9 coordination of programs, and assistance with the administration  
10 and distribution of funds to violence prevention programs.

11           (2) The advisory council to the Office of  
12 Violence Prevention shall meet at least quarterly. Among its  
13 responsibilities, the advisory council shall recommend to the  
14 commission rules and regulations regarding program fundraising,  
15 program evaluation, coordination of programs, and the criteria used  
16 to assess and award funds to violence prevention programs. Priority  
17 for funding shall be given to communities and organizations  
18 seeking to implement violence prevention programs which appear  
19 to have the greatest benefit to the state and which have, as  
20 goals, the reduction of street and gang violence and the reduction  
21 of homicides and injuries caused by firearms. The duties of  
22 the advisory council shall include, but not be limited to,  
23 receiving applications for violence prevention funds, evaluating  
24 such applications, and making recommendations to the commission  
25 regarding the merits of each application and the amount of  
26 any funds that should be awarded. If any funds are awarded  
27 to a violence prevention program, the advisory council shall

1 continuously monitor how such funds are being used by the  
2 program, conduct periodic evaluations of such programs, assess the  
3 progress and success regarding the stated goals of each program  
4 awarded funds, and recommend to the commission any modification,  
5 continuation, or discontinuation of funding.

6           Sec. 35. The Violence Prevention Cash Fund is created.  
7 The fund shall be administered by the Nebraska Commission of Law  
8 Enforcement and Criminal Justice. The State Treasurer shall credit  
9 to the fund such money as is transferred to the fund by the  
10 Legislature, donated as gifts, bequests, or other contributions  
11 to such fund from public or private entities, and made available  
12 by any department or agency of the United States if so directed  
13 by such department or agency. Any money in the fund available  
14 for investment shall be invested by the state investment officer  
15 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
16 State Funds Investment Act.

17           Sec. 36. If any section in this act or any part of any  
18 section is declared invalid or unconstitutional, the declaration  
19 shall not affect the validity or constitutionality of the remaining  
20 portions.

21           Sec. 37. Original sections 28-101, 28-111, 28-308,  
22 28-309, 28-929, 28-930, 28-1201, 28-1202, 28-1204, 28-1204.01,  
23 28-1204.04, 28-1205, 28-1206, 28-1212.02, 29-401, 29-901,  
24 29-901.01, 29-1912, 29-2320, 29-2321, 43-245, 43-250, 43-276,  
25 and 69-2407, Reissue Revised Statutes of Nebraska, and sections  
26 69-2404, 69-2410, and 69-2430, Revised Statutes Cumulative  
27 Supplement, 2008, are repealed.

1                   Sec. 38. The following sections are outright repealed:  
2 Sections 29-1928, 29-1929, and 29-2262.01, Reissue Revised Statutes  
3 of Nebraska.

4                   Sec. 39. Since an emergency exists, this act takes effect  
5 when passed and approved according to law.