

AMENDMENTS TO LB294

Introduced by Judiciary.

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

3 Section 1. Sections 1 to 5 of this act shall be known and may be
4 cited as the Human Trafficking Victims Civil Remedy Act.

5 Sec. 2. For purposes of the Human Trafficking Victims Civil Remedy
6 Act:

7 (1) Human trafficking means labor trafficking, labor trafficking of
8 a minor, sex trafficking, or sex trafficking of a minor, as those terms
9 are defined in section 28-830; and

10 (2) Trafficking victim has the same meaning as in section 28-830.

11 Sec. 3. (1) Any trafficking victim or his or her parent or legal
12 guardian who suffered or continues to suffer personal or psychological
13 injury as a result of such human trafficking may bring a civil action
14 against any person who knowingly (a) engaged in human trafficking of such
15 victim within this state or (b) aided or assisted with the human
16 trafficking of such victim within this state.

17 (2) A plaintiff who prevails in a civil action brought pursuant to
18 the Human Trafficking Victims Civil Remedy Act may recover his or her
19 actual damages plus any and all attorney's fees and costs reasonably
20 associated with the civil action. In addition to all other remedies
21 available under the act, the court may also award temporary, preliminary,
22 and permanent injunctive relief as the court deems necessary and
23 appropriate.

24 Sec. 4. Notwithstanding any other provision of law, any action to
25 recover damages under the Human Trafficking Victims Civil Remedy Act
26 shall be filed within ten years after the later of:

27 (1) The conclusion of any related criminal prosecution against the

1 person or persons from whom recovery is sought;

2 (2) The receipt of actual or constructive notice sent or given to
3 the trafficking victim or his or her parent or legal guardian by a member
4 of a law enforcement entity informing the victim or his or her parent or
5 legal guardian that the entity has identified the person who knowingly
6 (a) engaged in human trafficking of such victim or (b) aided or assisted
7 with the human trafficking of such victim;

8 (3) The time at which the human trafficking of the trafficking
9 victim, if he or she was eighteen years of age or older, ended; or

10 (4) The victim reaching the age of majority, if the victim was under
11 eighteen years of age at the time he or she was a victim of human
12 trafficking.

13 Sec. 5. In any action brought pursuant to the Human Trafficking
14 Victims Civil Remedy Act, a plaintiff may request to use a pseudonym
15 instead of his or her legal name in all court proceedings and records.
16 Upon finding that the use of a pseudonym is proper, the court shall
17 ensure that the pseudonym is used in all court proceedings and records.

18 Sec. 6. Section 21-2,212, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 21-2,212 (MBCA 15.10) (a) The registered agent of a foreign
21 corporation authorized to transact business in this state is the
22 corporation's agent for service of process, notice, or demand required or
23 permitted by law to be served on the foreign corporation. By being
24 authorized to transact business in this state, the foreign corporation's
25 agent for service of process also consents to service of process directed
26 to the foreign corporation's agent in this state for a search warrant
27 issued pursuant to sections ~~29-812 to 29-821~~ ~~28-807 to 28-829~~, or for any
28 other validly issued and properly served court order or subpoena,
29 including those authorized under sections 86-2,106 and section 86-2,112,
30 for records or documents that are in the possession of the foreign
31 corporation and are located inside or outside of this state. The consent

1 to service of a court order, subpoena, or search warrant applies to a
2 foreign corporation that is a party or nonparty to the matter for which
3 the court order, subpoena, or search warrant is sought.

4 (b) A foreign corporation may be served by registered or certified
5 mail, return receipt requested, addressed to the secretary of the foreign
6 corporation or the designated custodian of records at its principal
7 office shown in its application for a certificate of authority or in its
8 most recent biennial report if the foreign corporation:

9 (1) Has no registered agent or its registered agent cannot with
10 reasonable diligence be served;

11 (2) Has withdrawn from transacting business in this state under
12 section 21-2,213; or

13 (3) Has had its certificate of authority revoked under section
14 21-2,218.

15 (c) Service is perfected under subsection (b) of this section at the
16 earliest of:

17 (1) The date the foreign corporation receives the mail;

18 (2) The date shown on the return receipt, if signed on behalf of the
19 foreign corporation; or

20 (3) Five days after its deposit in the United States mail, as
21 evidenced by the postmark, if mailed postpaid and correctly addressed.

22 (d) This section does not prescribe the only means, or necessarily
23 the required means, of serving a foreign corporation.

24 Sec. 7. Section 21-20,177, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 21-20,177 (1) The registered agent of a foreign corporation
27 authorized to transact business in this state shall be the corporation's
28 agent for service of process, notice, or demand required or permitted by
29 law to be served on the foreign corporation. By being authorized to
30 transact business in this state, the foreign corporation's agent for
31 service of process shall also consent to service of process directed to

1 the foreign corporation's agent in Nebraska for a search warrant issued
2 pursuant to sections 29-812 to 29-821 ~~28-807 to 28-829~~, or for any other
3 validly issued and properly served court order or subpoena, including
4 those authorized under sections 86-2,106 and section 86-2,112, for
5 records or documents that are in the possession of the foreign
6 corporation and are located inside or outside of this state. The consent
7 to service of a court order, subpoena, or search warrant applies to a
8 foreign corporation that is a party or nonparty to the matter for which
9 the court order, subpoena, or search warrant is sought.

10 (2) A foreign corporation may be served by registered or certified
11 mail, return receipt requested, addressed to the secretary of the foreign
12 corporation or the designated custodian of records at its principal
13 office shown in its application for a certificate of authority or in its
14 most recent annual report if the foreign corporation has:

15 (a) No registered agent or its registered agent cannot with
16 reasonable diligence be served;

17 (b) Withdrawn from transacting business in this state under section
18 21-20,178; or

19 (c) Had its certificate of authority revoked under section
20 21-20,180.

21 (3) Service shall be perfected under subsection (2) of this section
22 at the earliest of:

23 (a) The date the foreign corporation receives the mail;

24 (b) The date shown on the return receipt if signed on behalf of the
25 foreign corporation; or

26 (c) Five days after its deposit in the United States mail as
27 evidenced by the postmark if mailed postage prepaid and correctly
28 addressed.

29 (4) This section shall not be construed to prescribe the only means
30 or necessarily the required means of serving a foreign corporation.

31 Sec. 8. Section 27-413, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 27-413 For purposes of sections 27-414 and 27-415, offense of sexual
3 assault means sexual assault under section 28-319 or 28-320, sexual
4 assault of a child under section 28-319.01 or 28-320.01, sexual assault
5 by use of an electronic communication device under section 28-320.02,
6 sexual abuse of an inmate or parolee under sections 28-322.01 to
7 28-322.03, ~~and~~ sexual abuse of a protected individual under section
8 28-322.04, an attempt or conspiracy to commit any of the crimes listed in
9 this section, or the commission of or conviction for a crime in another
10 jurisdiction that is substantially similar to any crime listed in this
11 section.

12 Sec. 9. Section 28-801.01, Revised Statutes Cumulative Supplement,
13 2014, is amended to read:

14 28-801.01 (1) Any person who solicits another person not his or her
15 spouse to perform any act of sexual contact or sexual penetration, as
16 those terms are defined in section 28-318, in exchange for money or other
17 thing of value, commits solicitation of prostitution.

18 (2) Any person convicted of violating subsection (1) of this section
19 shall be punished as follows:

20 (a) If such person has had no prior convictions, such person shall
21 be guilty of a Class IV felony ~~I misdemeanor~~ and pay a fine of not less
22 than two hundred fifty dollars, unless the person solicited is under the
23 age of eighteen years, in which case such person violating this section
24 shall be guilty of a Class III IV felony. If the court places such person
25 on probation, such order of probation shall include in ~~as one of~~ its
26 conditions (i) ~~,~~ the payment of a fine of not less than two hundred fifty
27 dollars, (ii) that ~~and~~ such person shall satisfactorily attend and
28 complete an appropriate mental health and substance abuse assessment
29 conducted by a licensed mental health professional or substance abuse
30 professional authorized to complete such assessment, and (iii) that such
31 person shall satisfactorily attend and complete, at his or her own

1 expense, an educational program designed to educate participants on the
2 effect of prostitution on the participants' health, on the person
3 solicited, and on the community; and

4 (b) If such person has had one or more prior convictions, such
5 person shall be guilty of a Class ~~III~~ IV felony and pay a fine of not
6 less than five hundred dollars. If the court places such person on
7 probation, such order of probation shall include in ~~as one of~~ its
8 conditions (i) ~~the~~ payment of a fine of not less than five hundred
9 dollars, (ii) that ~~and~~ such person shall satisfactorily attend and
10 complete an appropriate mental health and substance abuse assessment
11 conducted by a licensed mental health professional or substance abuse
12 professional authorized to complete such assessment, and (iii) that such
13 person shall satisfactorily attend and complete, at his or her own
14 expense, an educational program designed to educate participants on the
15 effect of prostitution on the participants' health, on the person
16 solicited, and on the community.

17 ~~(3) It is an affirmative defense to prosecution under this section~~
18 ~~that such person was a trafficking victim as defined in section 28-830.~~

19 Sec. 10. Section 28-802, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 28-802 (1) A person commits pandering if such person:

22 (a) Entices another person to become a prostitute; or

23 (b) Procures or harbors therein an inmate for a house of
24 prostitution or for any place where prostitution is practiced or allowed;
25 or

26 (c) Inveigles, entices, persuades, encourages, or procures any
27 person to come into or leave this state for the purpose of prostitution
28 or debauchery; or

29 (d) Receives or gives or agrees to receive or give any money or
30 other thing of value for procuring or attempting to procure any person to
31 become a prostitute or commit an act of prostitution or come into this

1 state or leave this state for the purpose of prostitution or debauchery.

2 (2) Pandering is a Class ~~III~~ IV felony for a first offense, unless
3 the person being enticed, procured, harbored, or otherwise persuaded to
4 become a prostitute is under the age of eighteen years, in which case
5 pandering is a Class ~~II~~ III felony for a first offense. Pandering is a
6 Class ~~II~~ III felony for a second or subsequent offense.

7 Sec. 11. Section 28-804, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 28-804 (1) Any person who has or exercises control over the use of
10 any place which offers seclusion or shelter for the practice of
11 prostitution and who knowingly grants or permits the use of such place
12 for the purpose of prostitution commits the offense of keeping a place of
13 prostitution.

14 (2) Keeping a place of prostitution is a Class IV felony ~~&~~
15 ~~misdemeanor~~, unless any person using such place for the practice of
16 prostitution is under the age of eighteen years, in which case any person
17 convicted of keeping a place of prostitution shall be guilty of a Class
18 III ~~IV~~ felony.

19 Sec. 12. Section 28-831, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 28-831 (1) Any person who engages in labor trafficking of a minor or
22 sex trafficking of a minor is guilty of a Class II felony, if the actor
23 uses overt force or the threat of force or the trafficking victim has not
24 yet attained the age of sixteen years. Any person who otherwise engages
25 in labor trafficking of a minor or sex trafficking of a minor is guilty
26 of a Class IIA felony.

27 (2) Any person who engages in labor trafficking or sex trafficking
28 by inflicting or threatening to inflict serious personal injury, as
29 defined in section 28-318, on another person or physically restrains or
30 threatens to physically restrain another person, is guilty of a Class IIA
31 felony. Any person who otherwise engages in labor trafficking or sex

1 ~~trafficking is guilty of a Class III felony.~~

2 ~~(3) Any person who knowingly benefits from or participates in a~~
3 ~~venture which has, as part of the venture, an act that is in violation of~~
4 ~~this section, is guilty of a Class IIIA felony.~~

5 ~~(1) No person shall knowingly engage in labor trafficking or sex~~
6 ~~trafficking.~~

7 ~~(2) If an actor knowingly engages in labor trafficking or sex~~
8 ~~trafficking by:~~

9 ~~(a) Inflicting or threatening to inflict serious personal injury, as~~
10 ~~defined by section 28-318, on another person, the actor is guilty of a~~
11 ~~Class III felony;~~

12 ~~(b) Physically restraining or threatening to physically restrain the~~
13 ~~other person, the actor is guilty of a Class III felony;~~

14 ~~(c) Abusing or threatening to abuse the legal process against~~
15 ~~another person to cause arrest or deportation for violation of federal~~
16 ~~immigration law, the actor is guilty of a Class IV felony;~~

17 ~~(d) Controlling or threatening to control another person's access to~~
18 ~~a controlled substance listed in Schedule I, II or III of section 28-405,~~
19 ~~the actor is guilty of a Class IV felony;~~

20 ~~(e) Exploiting another person's substantial functional impairment as~~
21 ~~defined in section 28-368 or substantial mental impairment as defined in~~
22 ~~section 28-369, the actor is guilty of a Class IV felony;~~

23 ~~(f) Knowingly destroying, concealing, removing, confiscating, or~~
24 ~~possessing any actual or purported passport or other immigration~~
25 ~~document, or any other actual or purported government identification~~
26 ~~document, of the other person, the actor is guilty of a Class IV felony;~~
27 ~~or~~

28 ~~(g) Causing or threatening to cause financial harm to another~~
29 ~~person, including debt bondage, the actor is guilty of a Class I~~
30 ~~misdemeanor.~~

31 ~~(3) No person shall engage in labor trafficking of a minor or sex~~

1 ~~trafficking of a minor. An actor who engages in labor trafficking of a~~
2 ~~minor or sex trafficking of a minor shall be punished as follows:~~

3 ~~(a) In cases in which the actor uses overt force or the threat of~~
4 ~~force against the trafficking victim, the actor is guilty of a Class II~~
5 ~~felony;~~

6 ~~(b) In cases in which the trafficking victim has not attained the~~
7 ~~age of fifteen years, the actor is guilty of a Class II felony; or~~

8 ~~(c) In cases involving a trafficking victim between the ages of~~
9 ~~fifteen and eighteen years, and the actor does not use overt force or~~
10 ~~threat of force against the trafficking victim, the actor is guilty of a~~
11 ~~Class III felony.~~

12 ~~(4) Any person who benefits, financially or by receiving anything of~~
13 ~~value, from participation in a venture which has, as part of the venture,~~
14 ~~an act that is in violation of this section, is guilty of a Class IV~~
15 ~~felony.~~

16 Sec. 13. Section 29-812, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 29-812 A search warrant authorized by sections 29-812 to 29-821 may
19 be issued by any judge of the county court, district court, Court of
20 Appeals, or Supreme Court for execution anywhere within the State of
21 Nebraska or for service upon any publicly or privately held corporation,
22 partnership, or other legal entity located within or outside the State of
23 Nebraska. A similar search warrant authorized by such sections may be
24 issued, subject to section 24-519, by any clerk magistrate within the
25 county in which the property sought is located.

26 Sec. 14. Section 29-815, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 29-815 (1) The warrant must be executed and returned within ten
29 days after its date. The officer taking property under the warrant shall
30 give to the person from whom or from whose premises the property was
31 taken a copy of the warrant and a receipt for the property or shall leave

1 the copy and the receipt at the place from which the property was taken.
2 The return shall be made promptly and shall be accompanied by a written
3 inventory of any property taken. The inventory shall be made in the
4 presence of the applicant for the warrant and the person from whose
5 possession or premises the property was taken if they are present, or in
6 the presence of at least one credible witness other than the applicant
7 for the warrant or the person from whose possession or premises the
8 property was taken, and shall be verified by the officer. The judge or
9 magistrate shall deliver a copy of the inventory upon request to the
10 person from whom or from whose premises the property was taken and to the
11 applicant for the warrant.

12 (2) The return and inventory required by subsection (1) of this
13 section may be submitted to the magistrate or judge in person or by
14 facsimile or other electronic means.

15 Sec. 15. Section 43-250, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 43-250 (1) A peace officer who takes a juvenile into temporary
18 custody under section 29-401 or subdivision (1), (4), or (5) of section
19 43-248 shall immediately take reasonable measures to notify the
20 juvenile's parent, guardian, custodian, or relative and shall proceed as
21 follows:

22 (a) The peace officer may release a juvenile taken into temporary
23 custody under section 29-401 or subdivision (1) or (4) of section 43-248;

24 (b) The peace officer may require a juvenile taken into temporary
25 custody under section 29-401 or subdivision (1) or (4) of section 43-248
26 to appear before the court of the county in which such juvenile was taken
27 into custody at a time and place specified in the written notice prepared
28 in triplicate by the peace officer or at the call of the court. The
29 notice shall also contain a concise statement of the reasons such
30 juvenile was taken into custody. The peace officer shall deliver one copy
31 of the notice to such juvenile and require such juvenile or his or her

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

9 (c) The peace officer may retain temporary custody of a juvenile
10 taken into temporary custody under section 29-401 or subdivision (1),
11 (4), or (5) of section 43-248 and deliver the juvenile, if necessary, to
12 the probation officer and communicate all relevant available information
13 regarding such juvenile to the probation officer. The probation officer
14 shall determine the need for detention of the juvenile as provided in
15 section 43-260.01. Upon determining that the juvenile should be placed in
16 a secure or nonsecure placement and securing placement in such secure or
17 nonsecure setting by the probation officer, the peace officer shall
18 implement the probation officer's decision to release or to detain and
19 place the juvenile. When secure detention of a juvenile is necessary,
20 such detention shall occur within a juvenile detention facility except:

21 (i) When a juvenile described in subdivision (1) or (2) of section
22 43-247, except for a status offender, is taken into temporary custody
23 within a metropolitan statistical area and where no juvenile detention
24 facility is reasonably available, the juvenile may be delivered, for
25 temporary custody not to exceed six hours, to a secure area of a jail or
26 other facility intended or used for the detention of adults solely for
27 the purposes of identifying the juvenile and ascertaining his or her
28 health and well-being and for safekeeping while awaiting transport to an
29 appropriate juvenile placement or release to a responsible party;

30 (ii) When a juvenile described in subdivision (1) or (2) of section
31 43-247, except for a status offender, is taken into temporary custody

1 outside of a metropolitan statistical area and where no juvenile
2 detention facility is reasonably available, the juvenile may be
3 delivered, for temporary custody not to exceed twenty-four hours
4 excluding nonjudicial days and while awaiting an initial court
5 appearance, to a secure area of a jail or other facility intended or used
6 for the detention of adults solely for the purposes of identifying the
7 juvenile and ascertaining his or her health and well-being and for
8 safekeeping while awaiting transport to an appropriate juvenile placement
9 or release to a responsible party;

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

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

21 (v) If, within the time limits specified in subdivision (1)(c)(i) or
22 (1)(c)(ii) of this section, a felony charge is filed against the juvenile
23 as an adult in county or district court, he or she may be securely held
24 in a jail or other facility intended or used for the detention of adults
25 beyond the specified time limits;

26 (vi) A status offender or nonoffender taken into temporary custody
27 shall not be held in a secure area of a jail or other facility intended
28 or used for the detention of adults. Until January 1, 2013, a status
29 offender accused of violating a valid court order may be securely
30 detained in a juvenile detention facility longer than twenty-four hours
31 if he or she is afforded a detention hearing before a court within

1 twenty-four hours, excluding nonjudicial days, and if, prior to a
2 dispositional commitment to secure placement, a public agency, other than
3 a court or law enforcement agency, is afforded an opportunity to review
4 the juvenile's behavior and possible alternatives to secure placement and
5 has submitted a written report to the court; and

6 (vii) A juvenile described in subdivision (1) or (2) of section
7 43-247, except for a status offender, may be held in a secure area of a
8 jail or other facility intended or used for the detention of adults for
9 up to six hours before and six hours after any court appearance.

10 (2) When a juvenile is taken into temporary custody pursuant to
11 subdivision (2) or (7) of section 43-248, the peace officer shall deliver
12 the custody of such juvenile to the Department of Health and Human
13 Services which shall make a temporary placement of the juvenile in the
14 least restrictive environment consistent with the best interests of the
15 juvenile as determined by the department. The department shall supervise
16 such placement and, if necessary, consent to any necessary emergency
17 medical, psychological, or psychiatric treatment for such juvenile. The
18 department shall have no other authority with regard to such temporary
19 custody until or unless there is an order by the court placing the
20 juvenile in the custody of the department. If the peace officer delivers
21 temporary custody of the juvenile pursuant to this subsection, the peace
22 officer shall make a full written report to the county attorney within
23 twenty-four hours of taking such juvenile into temporary custody. If a
24 court order of temporary custody is not issued within forty-eight hours
25 of taking the juvenile into custody, the temporary custody by the
26 department shall terminate and the juvenile shall be returned to the
27 custody of his or her parent, guardian, custodian, or relative.

28 (3) If the peace officer takes the juvenile into temporary custody
29 pursuant to subdivision (3) of section 43-248, the peace officer may
30 place the juvenile at a mental health facility for evaluation and
31 emergency treatment or may deliver the juvenile to the Department of

1 Health and Human Services as provided in subsection (2) of this section.
2 At the time of the admission or turning the juvenile over to the
3 department, the peace officer responsible for taking the juvenile into
4 custody pursuant to subdivision (3) of section 43-248 shall execute a
5 written certificate as prescribed by the Department of Health and Human
6 Services which will indicate that the peace officer believes the juvenile
7 to be mentally ill and dangerous, a summary of the subject's behavior
8 supporting such allegations, and that the harm described in section
9 71-908 is likely to occur before proceedings before a juvenile court may
10 be invoked to obtain custody of the juvenile. A copy of the certificate
11 shall be forwarded to the county attorney. The peace officer shall notify
12 the juvenile's parents, guardian, custodian, or relative of the
13 juvenile's placement.

14 (4) When a juvenile is taken into temporary custody pursuant to
15 subdivision (6) of section 43-248, the peace officer shall deliver the
16 juvenile to the enrolled school of such juvenile.

17 (5) A juvenile taken into custody pursuant to a legal warrant of
18 arrest shall be delivered to a probation officer who shall determine the
19 need for detention of the juvenile as provided in section 43-260.01. If
20 detention is not required, the juvenile may be released without bond if
21 such release is in the best interests of the juvenile, the safety of the
22 community is not at risk, and the court that issued the warrant is
23 notified that the juvenile had been taken into custody and was released.

24 (6) In determining the appropriate temporary placement of a juvenile
25 under this section, the peace officer shall select the placement which is
26 least restrictive of the juvenile's freedom so long as such placement is
27 compatible with the best interests of the juvenile and the safety of the
28 community.

29 Sec. 16. Section 43-1303, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 43-1303 (1) The office shall maintain the statewide register of all

1 foster care placements occurring within the state, and there shall be a
2 monthly report made to the registry of all foster care placements by the
3 Department of Health and Human Services, any child-placing agency, or any
4 court in a form as developed by the office in consultation with
5 representatives of entities required to make such reports. For each child
6 entering and leaving foster care, such monthly report shall consist of
7 identifying information, placement information, ~~and~~ the plan or
8 permanency plan developed by the person or court in charge of the child
9 pursuant to section 43-1312, and information on whether any such child
10 was a person immune from criminal prosecution under subsection (5) of
11 section 28-801 or was considered a trafficking victim as defined in
12 subdivision (16) of section 28-830. The department and every court and
13 child-placing agency shall report any foster care placement within three
14 working days. The report shall contain the following information:

15 (a) Child identification information, including name, social
16 security number, date of birth, gender, race, and religion;

17 (b) Identification information for parents and stepparents,
18 including name, social security number, address, and status of parental
19 rights;

20 (c) Placement information, including initial placement date, current
21 placement date, and the name and address of the foster care provider;

22 (d) Court status information, including which court has
23 jurisdiction, initial custody date, court hearing date, and results of
24 the court hearing;

25 (e) Agency or other entity having custody of the child;

26 (f) Case worker; and

27 (g) Permanency plan objective.

28 (2)(a) The office shall designate a local board to conduct foster
29 care file audit case reviews for each case of children in foster care
30 placement.

31 (b) The office may adopt and promulgate rules and regulations for

1 the following:

2 (i) Establishment of training programs for local board members which
3 shall include an initial training program and periodic inservice training
4 programs;

5 (ii) Development of procedures for local boards;

6 (iii) Establishment of a central record-keeping facility for all
7 local board files, including foster care file audit case reviews;

8 (iv) Accumulation of data and the making of annual reports on
9 children in foster care. Such reports shall include (A) personal data on
10 length of time in foster care, (B) number of placements, (C) frequency
11 and results of foster care file audit case reviews and court review
12 hearings, (D) number of children supervised by the foster care programs
13 in the state annually, (E) trend data impacting foster care, services,
14 and placements, (F) analysis of the data, and (G) recommendations for
15 improving the foster care system in Nebraska;

16 (v) To the extent not prohibited by section 43-1310, evaluation of
17 the judicial and administrative data collected on foster care and the
18 dissemination of such data to the judiciary, public and private agencies,
19 the department, and members of the public; and

20 (vi) Manner in which the office shall determine the appropriateness
21 of requesting a court review hearing as provided for in section 43-1313.

22 (3) A local board shall send a written report to the office for each
23 foster care file audit case review conducted by the local board. A court
24 shall send a written report to the office for each foster care review
25 hearing conducted by the court.

26 (4) The office shall report and make recommendations to the
27 Legislature, department, local boards, and county welfare offices. Such
28 reports and recommendations shall include, but not be limited to, the
29 annual judicial and administrative data collected on foster care pursuant
30 to subsections (2) and (3) of this section and the annual evaluation of
31 such data. The report and recommendations submitted to the Legislature

1 shall be submitted electronically. In addition, the office shall provide
2 copies of such reports and recommendations to each court having the
3 authority to make foster care placements. The executive director of the
4 office or his or her designees from the office may visit and observe
5 foster care facilities in order to ascertain whether the individual
6 physical, psychological, and sociological needs of each foster child are
7 being met. The executive director shall also provide, at a time specified
8 by the Health and Human Services Committee of the Legislature, regular
9 electronic updates regarding child welfare data and information at least
10 quarterly, and a fourth-quarter report which shall be the annual report.
11 The executive director shall include issues, policy concerns, and
12 problems which have come to the office and the executive director from
13 analysis of the data. The executive director shall recommend alternatives
14 to the identified problems and related needs of the office and the foster
15 care system to the committee. The Health and Human Services Committee
16 shall coordinate and prioritize data and information requests submitted
17 to the office by members of the Legislature. The annual report of the
18 office shall be completed by December 1 each year, beginning December 1,
19 2012, and shall be submitted electronically to the committee.

20 Sec. 17. Section 86-2,108, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 86-2,108 (1)(a) A governmental entity acting under subsection (2) of
23 section 86-2,106 shall (i) when a court order is sought, include in the
24 application a request, which the court shall grant, for an order delaying
25 the notification required under such subsection for a period not to
26 exceed ninety days if the court determines that there is reason to
27 believe that notification of the existence of the court order may have an
28 adverse result or (ii) when an administrative subpoena is obtained, delay
29 the notification required under such subsection for a period not to
30 exceed ninety days upon the execution of a written certification of a
31 supervisory official that there is reason to believe that notification of

1 the existence of the subpoena may have an adverse result.

2 (b) For purposes of this section:

3 (i) Adverse result means:

4 (A) Endangering the life or physical safety of an individual;

5 (B) Flight from prosecution;

6 (C) Destruction of or tampering with evidence;

7 (D) Intimidation of potential witnesses; or

8 (E) Otherwise seriously jeopardizing an investigation or unduly
9 delaying a trial; and

10 (ii) Supervisory official means the investigative agent in charge,
11 the assistant investigative agent in charge, an equivalent of an
12 investigating agency's headquarters or regional office, the chief
13 prosecuting attorney, the first assistant prosecuting attorney, or an
14 equivalent of a prosecuting attorney's headquarters or regional office.

15 (c) The governmental entity shall maintain a true copy of
16 certification under subdivision (a)(ii) of this subsection.

17 (d) Extensions of the delay of notification provided in sections
18 86-2,106 and 86-2,107 of up to ninety days each may be granted by the
19 court upon application, or by certification by a governmental entity, but
20 only in accordance with subsection (2) of this section.

21 (e) Upon expiration of the period of delay of notification under
22 subdivision (a) or (d) of this subsection, the governmental entity shall
23 serve upon or deliver by registered or first-class mail to the customer
24 or subscriber a copy of the process or request together with notice that:

25 (i) States with reasonable specificity the nature of the law
26 enforcement inquiry; and

27 (ii) Informs such customer or subscriber:

28 (A) That information maintained for such customer or subscriber by
29 the provider named in such process or request was supplied to or
30 requested by that governmental entity and the date on which the supplying
31 or request took place;

1 (B) That notification of such customer or subscriber was delayed;

2 (C) What governmental entity or court made the certification or
3 determination pursuant to which that delay was made; and

4 (D) Which provision of sections 86-2,104 to 86-2,109 allowed such
5 delay.

6 (2) A governmental entity acting under section 86-2,106, except as
7 provided in ~~when it is not required to notify the subscriber or customer~~
8 ~~under subdivision (2)(a) of section 86-2,106 or to the extent that it may~~
9 ~~delay such notice pursuant to~~ subsection (1) of this section, may apply
10 to a court for an order commanding a provider of electronic communication
11 service or remote computing service to whom a warrant, subpoena, or court
12 order is directed, for such period as the court deems appropriate, not to
13 notify any other person of the existence of the warrant, subpoena, or
14 court order. The court shall enter such an order if it determines that
15 there is reason to believe that notification of the existence of the
16 warrant, subpoena, or court order will result in an adverse result.

17 Sec. 18. Section 86-2,112, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 86-2,112 (1) The Attorney General or any county attorney may
20 administer oaths and affirmations, subpoena witnesses and compel their
21 attendance, take evidence, and require the production of records
22 including books, papers, documents, and tangible things which constitute
23 or contain evidence relevant or material to the investigation or
24 enforcement of the laws of this state when it reasonably appears that
25 such action is necessary and proper. The attendance of witnesses and the
26 production of records shall be required from any place within the State
27 of Nebraska and service of subpoenas may be made upon any publicly or
28 privately held corporation, partnership or other legal entity located
29 within or outside the State of Nebraska. Witnesses summoned by the
30 Attorney General or a county attorney shall be paid the same fees that
31 are paid witnesses in the courts of the State of Nebraska and mileage at

1 the rate provided in section 81-1176.

2 (2) The Attorney General or a county attorney may apply to a court
3 for an order commanding the person or entity to which a subpoena is
4 directed not to notify any other person of the existence of the subpoena.
5 The court shall enter such an order if it determines that there is reason
6 to believe that notification of the existence of the subpoena will result
7 in an adverse result, as such term is defined in section 86-2,108.

8 Sec. 19. (1) In addition to any other civil or criminal penalties
9 provided by law, any property used in the commission of a violation of
10 section 28-831 may be forfeited through a civil proceeding as provided in
11 this section.

12 (a) The following property shall be subject to civil forfeiture if
13 used or intended for use as an instrumentality in or used in furtherance
14 of a violation of section 28-831:

15 (i) Conveyances, including aircraft, vehicles or vessels;

16 (ii) Books, records, telecommunication equipment, or computers;

17 (iii) Money or weapons;

18 (iv) Everything of value furnished, or intended to be furnished, in
19 exchange for an act in violation and all proceeds traceable to the
20 exchange;

21 (v) Negotiable instruments and securities;

22 (vi) Any property, real or personal, directly or indirectly acquired
23 or received in a violation or as an inducement to violate;

24 (vii) Any property traceable to proceeds from a violation; and

25 (viii) Any real property, including any right, title and interest in
26 the whole of or any part of any lot or tract of land used in furtherance
27 of a violation of section 28-831.

28 (b)(i) No property used by any person as a common carrier in the
29 transaction of business as a common carrier is subject to forfeiture
30 under this section unless it appears that the owner or other person in
31 charge of the property is a consenting party or privy to a violation of

1 section 28-831;

2 (ii) No property is subject to forfeiture under this section by
3 reason of any act or omission proved by the owner thereof to have been
4 committed or omitted without his or her knowledge or consent. If the
5 confiscating authority has reason to believe that the property is a
6 leased or rented property, then the confiscating authority shall notify
7 the owner of the property within five days after the confiscation or
8 within five days after forming reason to believe that the property is
9 leased or rented property;

10 (iii) Forfeiture of property encumbered by a bona fide security
11 interest is subject to the interest of the secured party if such party
12 neither had knowledge of nor consented to the act or omission.

13 (2) No property shall be forfeited under this section, to the extent
14 of the interest of an owner, by reason of any act or omission established
15 by the owner to have been committed or omitted without his or her
16 knowledge or consent.

17 (3) Seizure without process may be made if the seizure is incident
18 to an arrest or a search under a search warrant.

19 (4)(a) When any property is seized under this section, proceedings
20 shall be instituted within a reasonable period of time from the date of
21 seizure or the subject property shall be immediately returned to the
22 party from whom seized.

23 (b) A petition for forfeiture shall be filed by the Attorney General
24 or a county attorney in the name of the State of Nebraska, and may be
25 filed in the county in which the seizure is made, the county in which the
26 criminal prosecution is brought, or the county in which the owner of the
27 seized property is found. Forfeiture proceedings may be brought in the
28 district court or the county court. A copy of the petition shall be
29 served upon the following persons by service of process in the same
30 manner as in civil cases:

31 (i) The owner of the property, if address is known;

1 (ii) Any secured party who has registered a lien or filed a
2 financing statement as provided by law, if the identity of the secured
3 party can be ascertained by the entity filing the petition by making a
4 good faith effort to ascertain the identity of the secured party;

5 (iii) Any other bona fide lienholder or secured party or other
6 person holding an interest in the property in the nature of a security
7 interest of whom the seizing law enforcement agency has actual knowledge;
8 and

9 (iv) Any person in possession of property subject to forfeiture at
10 the time that it was seized.

11 (5) If the property is a motor vehicle susceptible of titling under
12 the Motor Vehicle Certificate of Title Act or a vessel susceptible of
13 titling under the State Boat Act and, if there is any reasonable cause to
14 believe that the motor vehicle or vessel has been titled, inquiry of the
15 Department of Motor Vehicles shall be made as to what the records of the
16 department show as to who is the record owner of the motor vehicle or
17 vessel and who, if anyone, holds any lien or security interest that
18 affects the motor vehicle or vessel.

19 (6) If the property is a motor vehicle or vessel and is not titled
20 in the State of Nebraska, then an attempt shall be made to ascertain the
21 name and address of the person in whose name the motor vehicle or vessel
22 is licensed, and if the motor vehicle or vessel is licensed in a state
23 which has in effect a certificate of title law, inquiry of the
24 appropriate agency of that state shall be made as to what the records of
25 the agency show as to who is the record owner of the motor vehicle or
26 vessel and who, if anyone, holds any lien, security interest or other
27 instrument in the nature of a security device that affects the motor
28 vehicle or vessel.

29 (7) If the property is of a nature that a financing statement is
30 required by the laws of this state to be filed to perfect a security
31 interest affecting the property and if there is any reasonable cause to

1 believe that a financing statement covering the security interest has
2 been filed under the laws of this state, inquiry shall be made as to what
3 the records show as to who is the record owner of the property and who,
4 if anyone, has filed a financing statement affecting the property.

5 (8) If the property is an aircraft or part thereof and if there is
6 any reasonable cause to believe that an instrument in the nature of a
7 security device affects the property, inquiry shall be made as to what
8 the records of the Federal Aviation Administration show as to who is the
9 record owner of the property and who, if anyone, holds an instrument in
10 the nature of a security device which affects the property.

11 (9) If the answer to an inquiry states that the record owner of the
12 property is any person other than the person who was in possession of it
13 when it was seized, or states that any person holds any lien,
14 encumbrance, security interest, other interest in the nature of a
15 security interest, mortgage, or deed of trust that affects the property,
16 the record owner and also any lienholder, secured party, other person who
17 holds an interest in the property in the nature of a security interest,
18 or holder of an encumbrance, mortgage, or deed of trust that affects the
19 property is to be named in the petition of forfeiture and is to be served
20 with process in the same manner as in civil cases.

21 (10) If the owner of the property cannot be found and served with a
22 copy of the petition of forfeiture, or if no person was in possession of
23 the property subject to forfeiture at the time that it was seized and the
24 owner of the property is unknown, there shall be filed with the clerk of
25 the court in which the proceeding is pending an affidavit to such effect,
26 whereupon the clerk of the court shall publish notice of the hearing
27 addressed to "the Unknown Owner of, " filling in the blank
28 space with a reasonably detailed description of the property subject to
29 forfeiture. Service by publication shall be completed in the same manner
30 as is provided in the code of civil procedure for the service of process
31 in civil actions in the district courts of this state.

1 (11) No proceedings instituted pursuant to this section shall
2 proceed to hearing unless the judge conducting the hearing is satisfied
3 that this section has been complied with. Any answer received from an
4 inquiry required by this section shall be introduced into evidence at the
5 hearing.

6 (12)(a) An owner of property that has been seized shall file an
7 answer within thirty days after the completion of service of process. If
8 an answer is not filed, the court shall hear evidence that the property
9 is subject to forfeiture and forfeit the property to the seizing law
10 enforcement agency. If an answer is filed, a time for hearing on
11 forfeiture shall be set within thirty days after filing the answer or at
12 the succeeding term of court if court would not be in session within
13 thirty days after filing the answer. The court may postpone the
14 forfeiture hearing to a date past the time any criminal action is pending
15 against the owner upon request of any party.

16 (b) If the owner of the property has filed an answer denying that
17 the property is subject to forfeiture, then the burden is on the
18 petitioner to prove that the property is subject to forfeiture. However,
19 if an answer has not been filed by the owner of the property, the
20 petition for forfeiture may be introduced into evidence and is prima
21 facie evidence that the property is subject to forfeiture. The burden of
22 proof placed upon the petitioner in regard to property forfeited under
23 this section shall be by a preponderance of the evidence.

24 (c) At the hearing any claimant of any right, title, or interest in
25 the property may prove his or her lien, encumbrance, security interest,
26 other interest in the nature of a security interest, mortgage, or deed of
27 trust to be bona fide and created without knowledge or consent that the
28 property was to be used so as to cause the property to be subject to
29 forfeiture.

30 (d) If it is found that the property is subject to forfeiture, then
31 the judge shall forfeit the property. However, if proof at the hearing

1 discloses that the interest of any bona fide lienholder, secured party,
2 other person holding an interest in the property in the nature of a
3 security interest, or any holder of a bona fide encumbrance, mortgage, or
4 deed of trust is greater than or equal to the present value of the
5 property, the court shall order the property released to him. If the
6 interest is less than the present value of the property and if the proof
7 shows that the property is subject to forfeiture, the court shall order
8 the property forfeited.

9 (13) Unless otherwise provided in this section, all personal
10 property which is forfeited under this section shall be liquidated and,
11 after deduction of court costs and the expense of liquidation, the
12 proceeds shall be remitted to the State Treasurer for credit to the Human
13 Trafficking Victim Assistance Fund.

14 (14) All money forfeited under this section shall be deposited and
15 credited in the same manner as provided in subsection (13) of this
16 section.

17 (15) All real estate forfeited under this section shall be sold to
18 the highest bidder at a public auction for cash, the auction to be
19 conducted by the county sheriff, or his or her designee, at such place,
20 on such notice, and in accordance with the same procedure, as far as
21 practicable, as is required in the case of sales of land under execution
22 at law. The proceeds of the sale shall first be applied to the cost and
23 expense in administering and conducting the sale, then to the
24 satisfaction of all mortgages, deeds of trust, liens, and encumbrances of
25 record on the property. The remaining proceeds shall be forwarded and
26 deposited in the same manner as provided in subsection (13) of this
27 section.

28 (16) The civil forfeiture procedure set forth in this section is the
29 sole remedy of any claimant, and no court shall have jurisdiction to
30 interfere therewith by replevin, injunction, supersedeas, or in any other
31 manner.

1 Sec. 20. The Human Trafficking Victim Assistance Fund is created.
2 The fund shall contain the amounts remitted pursuant to section 19 of
3 this act and money donated as gifts, bequests, or other contributions
4 from public or private entities. Funds made available by any department
5 or agency of the United States may also be credited to the fund, if so
6 directed by such department or agency. The fund shall be administered by
7 the Nebraska Commission on Law Enforcement and Criminal Justice. All
8 money credited to such fund shall be used to support care, treatment, and
9 other services for victims of human trafficking and commercial sexual
10 exploitation of a child. Any money in the fund available for investment
11 shall be invested by the state investment officer pursuant to the
12 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
13 Act.

14 Sec. 21. Sections 6, 22, and 24 of this act become operative on
15 January 1, 2017. The other sections of this act become operative on their
16 effective date.

17 Sec. 22. Original section 21-2,212, Revised Statutes Cumulative
18 Supplement, 2014, is repealed.

19 Sec. 23. Original sections 21-20,177, 29-812, 29-815, 86-2,108, and
20 86-2,112, Reissue Revised Statutes of Nebraska, and sections 27-413,
21 28-801.01, 28-802, 28-804, 28-831, 43-250, and 43-1303, Revised Statutes
22 Cumulative Supplement, 2014, are repealed.

23 Sec. 24. The following section is outright repealed: Section
24 21-20,177, Reissue Revised Statutes of Nebraska, as amended by this
25 legislative bill.