

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 642

Introduced by Brashear, 4

Read first time January 19, 2005

Committee: Judiciary

A BILL

1 FOR AN ACT relating to probation and parole; to amend sections
2 29-2249, 29-2251, 29-2253, 29-2256, 29-2262.04, 29-2265,
3 29-2270, 43-260, 43-2,113, 43-2411, 43-3001, 43-3505,
4 47-623, 47-624, 47-627, 47-628, 47-629, 68-1729, 68-1732,
5 83-170, 83-195, 83-1,100, 83-1,116, 83-1,119, 83-1,120,
6 83-1,128, and 83-932, Reissue Revised Statutes of
7 Nebraska, and sections 24-205, 24-227.01, 28-322 to
8 28-322.03, 29-2246, 29-2250, 29-2252, 29-2254, 29-2257,
9 29-2258, 29-2259, 29-2259.02, 29-2260.01, 29-2261,
10 29-2262, 29-2262.06, 29-2262.07, 29-2263, 29-2264,
11 29-2266, 29-2269, 29-2272, 29-2935, 29-4009, 29-4305,
12 81-1401, 81-1848, 83-1,107, and 83-1,107.01, Revised
13 Statutes Supplement, 2004; to change, transfer, and
14 eliminate provisions relating to the Nebraska Probation
15 Administration Act, the Nebraska Treatment and
16 Corrections Act, probation, and parole; to rename an act;
17 to change provisions relating to powers and duties,

1 funds, confidentiality, and penalties as prescribed; to
2 harmonize provisions; to provide an operative date; to
3 repeal the original sections; and to outright repeal
4 sections 83-1,100.01, 83-1,103, and 83-1,104, Reissue
5 Revised Statutes of Nebraska, and sections 83-1,102,
6 83-1,107.02, and 83-933, Revised Statutes Supplement,
7 2004.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-205, Revised Statutes Supplement,
2 2004, is amended to read:

3 24-205. The Supreme Court Education Fund is created.
4 The State Court Administrator shall administer the fund. The fund
5 shall consist of money remitted pursuant to section 33-154. The
6 fund shall only be used to aid in supporting the mandatory training
7 and education program for judges and employees of the Supreme
8 Court, Court of Appeals, district courts, separate juvenile courts,
9 county courts, and Nebraska Probation and Parole System as enacted
10 by rule of the Supreme Court. Any money in the fund available for
11 investment shall be invested by the state investment officer
12 pursuant to the Nebraska Capital Expansion Act and the Nebraska
13 State Funds Investment Act.

14 Sec. 2. Section 24-227.01, Revised Statutes Supplement,
15 2004, is amended to read:

16 24-227.01. The Supreme Court Automation Cash Fund is
17 created. The State Court Administrator shall administer the fund.
18 The fund shall only be used to support automation expenses of the
19 Supreme Court, Court of Appeals, district courts, separate juvenile
20 courts, county courts, and Nebraska Probation and Parole System
21 from the computer automation budget program. Any money in the fund
22 available for investment shall be invested by the state investment
23 officer pursuant to the Nebraska Capital Expansion Act and the
24 Nebraska State Funds Investment Act.

25 Sec. 3. Section 28-322, Revised Statutes Supplement,
26 2004, is amended to read:

27 28-322. For purposes of sections 28-322 to 28-322.03:

28 (1) Inmate, probationer, or parolee means any individual

1 confined in a facility operated by the Department of Correctional
 2 Services or a city or county correctional or jail facility or under
 3 probation or parole supervision; and

4 (2) Person means (a) an individual employed by the
 5 Department of Correctional Services or by the Office of Probation
 6 and Parole Administration, including any individual working in
 7 central administration of the department, any individual working
 8 under contract with the department, and any individual, other than
 9 an inmate's, a probationer's, or a parolee's spouse, to whom the
 10 department has authorized or delegated control over an inmate, a
 11 probationer, or a parolee or his or her ~~or an inmate's~~ activities,
 12 (b) an individual employed by a city or county correctional or jail
 13 facility, including any individual working in central
 14 administration of the city or county correctional or jail facility,
 15 any individual working under contract with the city or county
 16 correctional or jail facility, and any individual, other than an
 17 inmate's, a probationer's, or a parolee's spouse, to whom the city
 18 or county correctional or jail facility has authorized or delegated
 19 control over an inmate, a probationer, or a parolee or his or her
 20 ~~or an inmate's~~ activities and (c) an individual employed by the
 21 Office of Probation and Parole Administration who performs official
 22 duties within any facility operated by the Department of
 23 Correctional Services or a city or county correctional or jail
 24 facility.

25 Sec. 4. Section 28-322.01, Revised Statutes Supplement,
 26 2004, is amended to read:

27 28-322.01. A person commits the offense of sexual abuse
 28 of an inmate, a probationer, or a parolee if such person subjects

1 an inmate, a probationer, or a parolee to sexual penetration or
 2 sexual contact as those terms are defined in section 28-318. It is
 3 not a defense to a charge under this section that the inmate, a
 4 probationer, or a parolee consented to such sexual penetration or
 5 sexual contact.

6 Sec. 5. Section 28-322.02, Revised Statutes Supplement,
 7 2004, is amended to read:

8 28-322.02. Any person who subjects an inmate, a
 9 probationer, or a parolee to sexual penetration is guilty of sexual
 10 abuse of an inmate, a probationer, or a parolee in the first
 11 degree. Sexual abuse of an inmate, a probationer, or a parolee in
 12 the first degree is a Class III felony.

13 Sec. 6. Section 28-322.03, Revised Statutes Supplement,
 14 2004, is amended to read:

15 28-322.03. Any person who subjects an inmate, a
 16 probationer, or a parolee to sexual contact is guilty of sexual
 17 abuse of an inmate, a probationer, or a parolee in the second
 18 degree. Sexual abuse of an inmate, a probationer, or a parolee in
 19 the second degree is a Class IV felony.

20 Sec. 7. Section 29-2246, Revised Statutes Supplement,
 21 2004, is amended to read:

22 29-2246. ~~As used in~~ For purposes of the Nebraska
 23 Probation and Parole Administration Act and ~~sections~~ section
 24 43-2,123.01, ~~and 83-1,102 to 83-1,104,~~ unless the context otherwise
 25 requires:

26 (1) Association means the Nebraska District Court Judges
 27 Association;

28 (2) Court means a district court, county court, or

1 juvenile court, except a separate juvenile court;

2 (3) Office means the Office of Probation and Parole
3 Administration;

4 (4) Probation means a sentence under which a person found
5 guilty of a crime upon verdict or plea or adjudicated delinquent or
6 in need of special supervision is released by a court subject to
7 conditions imposed by the court and subject to supervision;

8 (5) Probationer means a person sentenced to probation;

9 (6) ~~Probation~~ Community corrections officer means an
10 employee of the system who supervises probationers or parolees and
11 conducts presentence, predisposition, or other investigations as
12 may be required by law or directed by a court in which he or she is
13 serving, except unpaid volunteers from the community;

14 (7) Juvenile probation officer means any probation
15 officer who supervises probationers of a separate juvenile court;

16 (8) Juvenile intake probation officer means an employee
17 of the system who is called upon by a ~~law enforcement~~ peace officer
18 in accordance with section 43-250 to make a decision regarding the
19 furtherance of a juvenile's detention;

20 (9) Chief ~~probation~~ community corrections officer means
21 the ~~probation~~ community corrections officer in charge of a
22 probation district;

23 (10) System means the Nebraska Probation and Parole
24 System; and

25 (11) Administrator means the probation and parole
26 administrator.

27 Sec. 8. Section 29-2249, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 29-2249. The Office of Probation and Parole
2 Administration is hereby created within the judicial branch of
3 government and directly responsible to the Supreme Court. The
4 office shall consist of the probation and parole administrator, the
5 Nebraska Probation and Parole System, and such other employees as
6 may be necessary to carry out the functions of the Nebraska
7 Probation and Parole System. On the operative date of this act,
8 all equipment, books, and other property in the possession of the
9 Office of Probation Administration and the Office of Parole
10 Administration are transferred to the Office of Probation and
11 Parole Administration as of such date.

12 Sec. 9. Section 29-2250, Revised Statutes Supplement,
13 2004, is amended to read:

14 29-2250. The office shall:

15 (1) Supervise and administer the system;

16 (2) Establish probation and parole policies and standards
17 for the system, with the concurrence of the Supreme Court; and

18 (3) Supervise offenders placed on probation or parole in
19 another state who are within the state pursuant to the Interstate
20 Compact for Adult Offender Supervision.

21 Sec. 10. Section 29-2251, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 29-2251. The Supreme Court shall appoint a probation and
24 parole administrator who shall be a person with appropriate
25 experience in the field of probation or parole or with training in
26 relevant disciplines at a recognized college or university and who
27 shall serve at the pleasure of the Supreme Court.

28 Sec. 11. Section 29-2252, Revised Statutes Supplement,

1 2004, is amended to read:

2 29-2252. The administrator shall:

3 (1) Supervise and administer the office;

4 (2) Establish and maintain policies, standards, and
5 procedures for the system, with the concurrence of the Supreme
6 Court;

7 (3) Prescribe and furnish such forms for records and
8 reports for the system as shall be deemed necessary for uniformity,
9 efficiency, and statistical accuracy;

10 (4) Establish minimum qualifications for employment as a
11 ~~probation~~ community corrections officer in this state and establish
12 and maintain such additional qualifications as he or she deems
13 appropriate for appointment to the system. Qualifications for
14 ~~probation~~ community corrections officers shall be established in
15 accordance with subsection (4) of section 29-2253. An ex-offender
16 released from a penal complex or a county jail may be appointed to
17 a position of deputy ~~probation or parole~~ community corrections
18 officer. Such ex-offender shall maintain a record free of arrests,
19 except for minor traffic violations, for one year immediately
20 preceding his or her appointment;

21 (5) Establish and maintain advanced periodic inservice
22 training requirements for the system;

23 (6) Cooperate with the Board of Parole and all agencies,
24 public or private, which are concerned with treatment or welfare of
25 persons on probation and parole;

26 (7) Organize and conduct training programs for ~~probation~~
27 community corrections officers;

28 (8) Collect, develop, and maintain statistical

1 information concerning probationers, probation and parole
2 practices, and the operation of the system;

3 (9) Interpret ~~the probation program~~ probation and parole
4 to the public with a view toward developing a broad base of public
5 support;

6 (10) Conduct research for the purpose of evaluating and
7 improving the effectiveness of the system;

8 (11) Adopt and promulgate such rules and regulations as
9 may be necessary or proper for the operation of the office or
10 system;

11 (12) Transmit a report during each even-numbered year to
12 the Supreme Court on the operation of the office for the preceding
13 two calendar years, which report shall be transmitted by the
14 Supreme Court to the Governor and the Clerk of the Legislature;

15 (13) Administer the payment by the state of all salaries,
16 travel, and actual and necessary expenses incident to the conduct
17 and maintenance of the office;

18 (14) In consultation with the Community Corrections
19 Council, use the funds provided under section 29-2262.07 to augment
20 operational or personnel costs associated with the development,
21 implementation, and evaluation of enhanced probation-based programs
22 and to purchase services to provide such programs aimed at
23 enhancing adult probationer supervision in the community and
24 treatment needs of probationers. Such enhanced probation-based
25 programs include, but are not limited to, specialized units of
26 supervision, related equipment purchases and training, and programs
27 developed by or through the council that address a probationer's
28 vocational, educational, mental health, behavioral, or substance

1 abuse treatment needs; ~~and~~

2 (15) Provide district judges and the Board of Parole with
3 any record of any probationer or parolee which the judges or the
4 board may require;

5 (16) Make recommendations to the Board of Parole in cases
6 of violation of conditions of parole, issue warrants for the arrest
7 of parole violators when so instructed by the board, notify the
8 Director of Correctional Services of determinations made by the
9 board, and upon instruction of the board, issue certificates of
10 parole and of parole revocation to the facilities and certificates
11 of discharge from parole to parolees; and

12 (17) Exercise all powers and perform all duties necessary
13 and proper to carry out his or her responsibilities.

14 Each member of the Legislature shall receive a copy of
15 the report required by subdivision (12) of this section by making a
16 request for it to the administrator.

17 Sec. 12. Section 29-2253, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 29-2253. (1) The administrator, with the concurrence of
20 the Supreme Court, shall divide the state into probation and parole
21 districts and may from time to time alter the boundaries of such
22 districts in order to maintain the most economical, efficient, and
23 effective utilization of the system.

24 (2) The administrator shall appoint temporary and
25 permanent ~~probation~~ community corrections officers and employees
26 for each ~~probation~~ district as may be required to provide adequate
27 probation and parole services.

28 (3) The administrator shall appoint a chief ~~probation~~

1 community corrections officer with the concurrence of the majority
2 of all judges within a ~~probation~~ district.

3 (4) The administrator shall, with the concurrence of all
4 of the separate juvenile court judges within each separate juvenile
5 court, (a) appoint for each separate juvenile court a chief
6 juvenile probation officer, any deputy juvenile probation officers
7 required, and such other employees as may be required to provide
8 adequate juvenile probation services for such court and (b) set the
9 salaries of such officers and employees. The chief and deputy
10 juvenile probation officers shall be selected with reference to
11 experience and understanding of problems of family life and child
12 welfare, juvenile delinquency, community organizations, and
13 training in the recognition and treatment of behavior disorders.

14 (5) The administrator may direct a ~~probation~~ community
15 corrections officer of one ~~probation~~ district to temporarily act as
16 ~~probation~~ community corrections officer for a court in another
17 ~~probation~~ district, and such ~~probation~~ community corrections
18 officer while so serving shall have all the powers and
19 responsibilities as if he or she were serving in the ~~probation~~
20 district to which he or she was originally appointed.

21 (6) The administrator, with the concurrence of the
22 Supreme Court, shall designate the location of the principal office
23 of the system within each ~~probation~~ district.

24 Sec. 13. Section 29-2254, Revised Statutes Supplement,
25 2004, is amended to read:

26 29-2254. The compact administrator appointed pursuant to
27 the Interstate Compact for Adult Offender Supervision shall
28 delegate to the ~~probation~~ administrator authority and

1 responsibility for:

2 (1) Implementation and administration of the compact as
3 it affects probationers and parolees; and

4 (2) Supervision of probationers and parolees either
5 sentenced to probation or parole within the state and supervised in
6 another state or placed on probation or parole in another state and
7 supervised within this state pursuant to the compact.

8 Sec. 14. Section 29-2256, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 29-2256. Nothing in ~~sections 29-2246 to 29-2268~~ the
11 Nebraska Probation and Parole Administration Act shall be construed
12 to prohibit any court or probation and parole office from utilizing
13 volunteers from the community for ~~probation~~ supervision, ~~PROVIDED,~~
14 of probationers and parolees if the volunteer program is supervised
15 by a full-time ~~probation~~ community corrections officer who meets
16 the minimum qualifications established by the office.

17 Sec. 15. Section 29-2257, Revised Statutes Supplement,
18 2004, is amended to read:

19 29-2257. The Nebraska Probation and Parole System is
20 established which shall consist of the ~~probation~~ administrator,
21 chief ~~probation~~ community corrections officers, ~~probation~~ community
22 corrections officers, and support staff. The system shall be
23 responsible for juvenile intake services, for presentence and other
24 probation investigations, and for the direct supervision of persons
25 placed on probation and parole. The system shall be sufficient in
26 size to assure that no ~~probation~~ community corrections officer
27 carries a caseload larger than is compatible with adequate
28 ~~probation~~ investigation or supervision. ~~Probation~~ Community

1 corrections officers shall be compensated with salaries
2 substantially equal to other state employees who have similar
3 responsibilities.

4 This provision for salary equalization shall apply only
5 to ~~probation~~ community corrections officers and support staff and
6 shall not apply to chief ~~probation~~ community corrections officers,
7 the ~~probation~~ administrator, the chief deputy administrator, the
8 deputy ~~probation~~ administrator, or any other similarly established
9 management positions.

10 Sec. 16. Section 29-2258, Revised Statutes Supplement,
11 2004, is amended to read:

12 29-2258. A ~~district~~ ~~probation~~ chief community
13 corrections officer shall:

14 (1) Conduct juvenile intake interviews and investigations
15 in accordance with section 43-253 utilizing a standardized juvenile
16 detention screening instrument described in section 43-260.01;

17 (2) Make presentence and other investigations, as may be
18 required by law or directed by a court in which he or she is
19 serving;

20 (3) Supervise probationers and parolees in accordance
21 with the rules and regulations of the office and the directions of
22 the sentencing court;

23 (4) Advise the sentencing court, or the Board of Parole,
24 as appropriate in accordance with the Nebraska Probation and Parole
25 Administration Act and ~~such~~ rules and regulations of the office, of
26 violations of the conditions of probation or parole by individual
27 probationers or parolees, as the case may be;

28 (5) Advise the sentencing court, or the Board of Parole,

1 as appropriate in accordance with the rules and regulations of the
2 office and the direction of the court or board, when the situation
3 of a probationer or parolee may require a modification of the
4 conditions of probation or parole or when a probationer's or
5 parolee's adjustment is such as to warrant termination of probation
6 or parole, as the case may be;

7 (6) Provide each probationer with a statement of the
8 period and conditions of his or her probation;

9 (7) Whenever necessary, exercise the power of arrest as
10 provided in section 29-2266;

11 (8) Establish procedures for the direction and guidance
12 of deputy ~~probation~~ community corrections officers under his or her
13 jurisdiction and advise such officers in regard to the most
14 effective performance of their duties;

15 (9) Supervise and evaluate deputy ~~probation~~ community
16 corrections officers under his or her jurisdiction;

17 (10) Delegate such duties and responsibilities to a
18 deputy ~~probation~~ community corrections officer as he or she deems
19 appropriate;

20 (11) Make such reports as required by the administrator,
21 the judges of the probation district in which he or she serves, the
22 Board of Parole, or the Supreme Court;

23 (12) Keep accurate and complete accounts of all money or
24 property collected or received from probationers and parolees and
25 give receipts therefor;

26 (13) Cooperate fully with and render all reasonable
27 assistance to other ~~probation~~ community corrections officers;

28 (14) In counties with a population of less than

1 twenty-five thousand people, participate in pretrial diversion
2 programs established pursuant to sections 29-3601 to 29-3604 and
3 juvenile pretrial diversion programs established pursuant to
4 sections 43-260.02 to 43-260.07 as requested by judges of the
5 probation and parole district in which he or she serves, except
6 that participation in such programs shall not require appointment
7 of additional personnel and shall be consistent with the ~~probation~~
8 community corrections officer's current caseload;

9 (15) Make investigations, prior to a committed offender's
10 release on parole, in cooperation with the Board of Parole, to
11 determine the adequacy of parole plans and make reasonable advance
12 preparation for release on parole;

13 (16) Assist parolees to comply with the conditions of
14 parole and to make a successful adjustment in the community;

15 (17) Supervise parolees by keeping informed of their
16 conduct and condition;

17 (18) Make such reports as required by the administrator
18 to determine the effectiveness of the parole system or the progress
19 of an individual parolee;

20 (19) Cooperate with social welfare agencies;

21 (20) Perform such other duties not inconsistent with the
22 Nebraska Probation and Parole Administration Act or the rules and
23 regulations of the office as a court may from time to time direct;
24 and

25 ~~(16)~~ (21) Exercise all powers and perform all duties
26 necessary and proper to carry out his or her responsibilities.

27 Sec. 17. Section 29-2259, Revised Statutes Supplement,
28 2004, is amended to read:

1 29-2259. (1) The salaries, actual and necessary
2 expenses, and expenses incident to the conduct and maintenance of
3 the office shall be paid by the state. Actual and necessary
4 expenses shall be paid as provided in sections 81-1174 to 81-1177.

5 (2) The salaries and actual and necessary travel expenses
6 of the probation service shall be paid by the state. Actual and
7 necessary expenses shall be paid as provided in sections 81-1174 to
8 81-1177.

9 (3) Except as provided in sections 29-2262 and 29-2262.04
10 or 83-1,107.01, the costs of drug testing and equipment incident to
11 the electronic surveillance of individuals on probation or parole
12 shall be paid by the state.

13 (4) The expenses incident to the conduct and maintenance
14 of the principal office within each probation and parole district
15 shall in the first instance be paid by the county in which it is
16 located, but such county shall be reimbursed for such expenses by
17 all other counties within the probation and parole district to the
18 extent and in the proportions determined by the Supreme Court based
19 upon population, number of investigations, and probation and parole
20 cases handled or upon such other basis as the Supreme Court deems
21 fair and equitable.

22 (5) Each county shall provide office space and necessary
23 facilities for ~~probation~~ community corrections officers performing
24 their official duties and shall bear the costs incident to
25 maintenance of such offices other than salaries, travel expenses,
26 and data processing and word processing hardware and software that
27 is provided on the state computer network.

28 (6) The cost of interpreter services for deaf and hard of

1 hearing persons and for persons unable to communicate the English
2 language shall be paid by the state with money appropriated to the
3 Supreme Court. Interpreter services shall include auxiliary aids
4 for deaf and hard of hearing persons as defined in section 20-151
5 and interpreters to assist persons unable to communicate the
6 English language as defined in section 25-2402. Interpreter
7 services shall be provided under this section for the purposes of
8 conducting a presentence investigation and for ongoing supervision
9 by a ~~probation~~ community corrections officer of such persons placed
10 on probation or parole.

11 (7) The ~~probation~~ administrator shall prepare a budget
12 and request for appropriations for the office and shall submit such
13 request to the Supreme Court and with its approval to the
14 appropriate authority in accordance with law.

15 Sec. 18. Section 29-2259.02, Revised Statutes
16 Supplement, 2004, is amended to read:

17 29-2259.02. The State Probation Contractual Services
18 Cash Fund is created. The fund shall consist only of payments
19 received by the state pursuant to contractual agreements with local
20 political subdivisions for probation services provided by the
21 Office of Probation and Parole Administration. The fund shall only
22 be used to pay for probation services provided by the ~~Office of~~
23 ~~Probation Administration~~ office to local political subdivisions
24 which enter into contractual agreements with the ~~Office of~~
25 ~~Probation Administration~~ office. The fund shall be administered by
26 the ~~probation~~ administrator. Any money in the fund available for
27 investment shall be invested by the state investment officer
28 pursuant to the Nebraska Capital Expansion Act and the Nebraska

1 State Funds Investment Act.

2 Sec. 19. Section 29-2260.01, Revised Statutes
3 Supplement, 2004, is amended to read:

4 29-2260.01. It is the intent of the Legislature to
5 ensure that a consistent and objective method of juvenile intake
6 occur throughout the state for juveniles held in temporary custody
7 by a law enforcement officer, in accordance with section 43-250, to
8 avoid either inappropriate or unnecessary detention of juveniles
9 which may result in inordinately high detention rates, overcrowding
10 of local detention facilities, excessive detention costs for
11 counties, and adverse consequences for the juvenile, the juvenile's
12 family, or the community. Juvenile intake services shall be
13 administered by ~~probation~~ community corrections officers acting as
14 juvenile probation intake officers and shall be available to all
15 juvenile courts in the state, both county courts sitting as
16 juvenile courts and separate juvenile courts. Such ~~probation~~
17 community corrections officers shall be appointed by the ~~probation~~
18 administrator and designated within respective probation and parole
19 districts based upon the need for such services as the ~~probation~~
20 administrator determines. In order to adequately provide juvenile
21 intake services statewide and in accordance with the Juvenile
22 Detention and Probation Services Implementation Team Interim Report
23 and Recommendations filed with the Legislature December 15, 2000,
24 it is the intent of the Legislature to appropriate funds to the
25 system to provide seven additional ~~probation~~ community corrections
26 officers to act in the capacity of juvenile probation intake
27 officers.

28 Sec. 20. Section 29-2261, Revised Statutes Supplement,

1 2004, is amended to read:

2 29-2261. (1) Unless it is impractical to do so, when an
3 offender has been convicted of a felony other than murder in the
4 first degree, the court shall not impose sentence without first
5 ordering a presentence investigation of the offender and according
6 due consideration to a written report of such investigation. When
7 an offender has been convicted of murder in the first degree and
8 (a) a jury renders a verdict finding the existence of one or more
9 aggravating circumstances as provided in section 29-2520 or (b) (i)
10 the information contains a notice of aggravation as provided in
11 section 29-1603 and (ii) the offender waives his or her right to a
12 jury determination of the alleged aggravating circumstances, the
13 court shall not commence the sentencing determination proceeding as
14 provided in section 29-2521 without first ordering a presentence
15 investigation of the offender and according due consideration to a
16 written report of such investigation.

17 (2) A court may order a presentence investigation in any
18 case, except in cases in which an offender has been convicted of a
19 Class IIIA misdemeanor, a Class IV misdemeanor, a Class V
20 misdemeanor, a traffic infraction, or any corresponding city or
21 village ordinance.

22 (3) The presentence investigation and report shall
23 include, when available, an analysis of the circumstances attending
24 the commission of the crime, the offender's history of delinquency
25 or criminality, physical and mental condition, family situation and
26 background, economic status, education, occupation, and personal
27 habits, and any other matters that the ~~probation~~ community
28 corrections officer deems relevant or the court directs to be

1 included. All local and state police agencies and Department of
2 Correctional Services adult correctional facilities shall furnish
3 to the ~~probation~~ community corrections officer copies of such
4 criminal records, in any such case referred to the ~~probation~~
5 community corrections officer by the court of proper jurisdiction,
6 as the ~~probation~~ community corrections officer shall require
7 without cost to the court or the ~~probation~~ community corrections
8 officer.

9 Such investigation shall also include:

10 (a) Any written statements submitted to the county
11 attorney by a victim; and

12 (b) Any written statements submitted to the ~~probation~~
13 community corrections officer by a victim.

14 (4) If there are no written statements submitted to the
15 ~~probation~~ community corrections officer, he or she shall certify to
16 the court that:

17 (a) He or she has attempted to contact the victim; and

18 (b) If he or she has contacted the victim, such officer
19 offered to accept the written statements of the victim or to reduce
20 such victim's oral statements to writing.

21 For purposes of subsections (3) and (4) of this section,
22 the term victim shall be as defined in section 29-119.

23 (5) Before imposing sentence, the court may order the
24 offender to submit to psychiatric observation and examination for a
25 period of not exceeding sixty days or such longer period as the
26 court determines to be necessary for that purpose. The offender
27 may be remanded for this purpose to any available clinic or mental
28 hospital, or the court may appoint a qualified psychiatrist to make

1 the examination. The report of the examination shall be submitted
2 to the court.

3 (6) Any presentence report or psychiatric examination
4 shall be privileged and shall not be disclosed directly or
5 indirectly to anyone other than a judge, ~~probation~~ community
6 corrections officers to whom an offender's file is duly
7 transferred, the ~~probation~~ administrator or his or her designee, or
8 others entitled by law to receive such information, including
9 personnel and mental health professionals for the Nebraska State
10 Patrol specifically assigned to sex offender registration and
11 community notification for the sole purpose of using such report or
12 examination for assessing risk and for community notification of
13 registered sex offenders. For purposes of this subsection, mental
14 health professional means (a) a practicing physician licensed to
15 practice medicine in this state under the provisions of section
16 71-102, (b) a practicing psychologist licensed to engage in the
17 practice of psychology in this state as provided in section
18 71-1,206.14, or (c) a practicing mental health professional
19 licensed or certified in this state as provided in section
20 71-1,333. The court may permit inspection of the report or
21 examination of parts thereof by the offender or his or her
22 attorney, or other person having a proper interest therein,
23 whenever the court finds it is in the best interest of a particular
24 offender. The court may allow fair opportunity for an offender to
25 provide additional information for the court's consideration.

26 (7) If an offender is sentenced to imprisonment, a copy
27 of the report of any presentence investigation or psychiatric
28 examination shall be transmitted immediately to the Department of

1 Correctional Services. Upon request, the Board of Parole ~~or the~~
2 ~~Office of Parole Administration~~ may receive a copy of the report
3 from the department.

4 (8) Notwithstanding subsection (6) of this section, the
5 Nebraska Commission on Law Enforcement and Criminal Justice under
6 the direction and supervision of the Chief Justice of the Supreme
7 Court shall have access to presentence investigations and reports
8 for the sole purpose of carrying out the study required under
9 subdivision (7) of section 81-1425. The commission shall treat
10 such information as confidential, and nothing identifying any
11 individual shall be released by the commission.

12 (9) Notwithstanding subsection (6) of this section, the
13 Supreme Court or an agent of the Supreme Court acting under the
14 direction and supervision of the Chief Justice shall have access to
15 psychiatric examinations and presentence investigations and reports
16 for research purposes. The Supreme Court and its agent shall treat
17 such information as confidential and nothing identifying any
18 individual shall be released.

19 Sec. 21. Section 29-2262, Revised Statutes Supplement,
20 2004, is amended to read:

21 29-2262. (1) When a court sentences an offender to
22 probation, it shall attach such reasonable conditions as it deems
23 necessary or likely to insure that the offender will lead a
24 law-abiding life. No offender shall be sentenced to probation if
25 he or she is deemed to be a habitual criminal pursuant to section
26 29-2221.

27 (2) The court may, as a condition of a sentence of
28 probation, require the offender:

- 1 (a) To refrain from unlawful conduct;
- 2 (b) To be confined periodically in the county jail or to
3 return to custody after specified hours but not to exceed (i) for
4 misdemeanors, the lesser of ninety days or the maximum jail term
5 provided by law for the offense and (ii) for felonies, one hundred
6 eighty days;
- 7 (c) To meet his or her family responsibilities;
- 8 (d) To devote himself or herself to a specific employment
9 or occupation;
- 10 (e) To undergo medical or psychiatric treatment and to
11 enter and remain in a specified institution for such purpose;
- 12 (f) To pursue a prescribed secular course of study or
13 vocational training;
- 14 (g) To attend or reside in a facility established for the
15 instruction, recreation, or residence of persons on probation;
- 16 (h) To refrain from frequenting unlawful or disreputable
17 places or consorting with disreputable persons;
- 18 (i) To possess no firearm or other dangerous weapon if
19 convicted of a felony, or if convicted of any other offense, to
20 possess no firearm or other dangerous weapon unless granted written
21 permission by the court;
- 22 (j) To remain within the jurisdiction of the court and to
23 notify the court or the ~~probation~~ community corrections officer of
24 any change in his or her address or his or her employment and to
25 agree to waive extradition if found in another jurisdiction;
- 26 (k) To report as directed to the court or a ~~probation~~
27 community corrections officer and to permit the officer to visit
28 his or her home;

1 (l) To pay a fine in one or more payments as ordered;

2 (m) To pay for tests to determine the presence of drugs
3 or alcohol, psychological evaluations, offender assessment screens,
4 and rehabilitative services required in the identification,
5 evaluation, and treatment of offenders if such offender has the
6 financial ability to pay for such services;

7 (n) To perform community service as outlined in sections
8 29-2277 to 29-2279 under the direction of his or her ~~probation~~
9 community corrections officer;

10 (o) To be monitored by an electronic surveillance device
11 or system and to pay the cost of such device or system if the
12 offender has the financial ability;

13 (p) To participate in a community correctional facility
14 or program as provided in the Community Corrections Act;

15 (q) To successfully complete an incarceration work camp
16 program as determined by the Department of Correctional Services;

17 (r) To satisfy any other conditions reasonably related to
18 the rehabilitation of the offender;

19 (s) To make restitution as described in sections 29-2280
20 and 29-2281; or

21 (t) To pay for all costs imposed by the court, including
22 court costs and the fees imposed pursuant to section 29-2262.06.

23 (3) In all cases in which the offender is guilty of
24 violating section 28-416, a condition of probation shall be
25 mandatory treatment and counseling as provided by such section.

26 Sec. 22. Section 29-2262.04, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 29-2262.04. Selected offenders in intensive supervision

1 probation programs shall receive the highest level of supervision
2 that is provided to probationers. Such programs may include, but
3 shall not be limited to, highly restricted activities, daily
4 contact between the offender and the ~~probation~~ community
5 corrections officer, monitored curfew, home visitation, employment
6 visitation and monitoring, drug and alcohol screening, treatment
7 referrals and monitoring, and restitution and community service.
8 Selected offenders monitored by an electronic device or system
9 shall be required to pay the cost of such a device or system if the
10 offender has the financial ability. It is the intent of the
11 Legislature that such programs shall minimize any risk to the
12 public.

13 Sec. 23. Section 29-2262.06, Revised Statutes
14 Supplement, 2004, is amended to read:

15 29-2262.06. (1) Except as otherwise provided in this
16 section, whenever a district court or county court sentences an
17 adult offender to probation, the court shall require the
18 probationer to pay a one-time administrative enrollment fee and
19 thereafter a monthly probation programming fee.

20 (2) The court shall establish the administrative
21 enrollment fee and monthly probation programming fees as follows:

22 (a) Adult probationers placed on either probation or
23 intensive supervision probation shall pay a one-time administrative
24 enrollment fee of thirty dollars. The fee shall be paid in a lump
25 sum upon the beginning of probation supervision;

26 (b) Adult probationers placed on probation shall pay a
27 monthly probation programming fee of twenty-five dollars, not later
28 than the tenth day of each month, for the duration of probation;

1 and

2 (c) Adult probationers placed on intensive supervision
3 probation shall pay a monthly probation programming fee of
4 thirty-five dollars, not later than the tenth day of each month,
5 for the duration of probation.

6 (3) The court shall waive payment of the monthly
7 probation programming fees in whole or in part if after a hearing a
8 determination is made that such payment would constitute an undue
9 hardship on the offender due to limited income, employment or
10 school status, or physical or mental handicap. Such waiver shall
11 be in effect only during the period of time that the probationer is
12 unable to pay his or her monthly probation programming fee.

13 (4) If a probationer defaults in the payment of monthly
14 probation programming fees or any installment thereof, the court
15 may revoke his or her probation for nonpayment, except that
16 probation shall not be revoked nor shall the offender be imprisoned
17 for such nonpayment if the probationer is financially unable to
18 make the payment, if he or she so states to the court in writing
19 under oath, and if the court so finds after a hearing.

20 (5) If the court determines that the default in payment
21 described in subsection (4) of this section was not attributable to
22 a deliberate refusal to obey the order of the court or to failure
23 on the probationer's part to make a good faith effort to obtain the
24 funds required for payment, the court may enter an order allowing
25 the probationer additional time for payment, reducing the amount of
26 each installment, or revoking the fees or the unpaid portion in
27 whole or in part.

28 (6) No probationer shall be required to pay more than one

1 monthly probation programming fee per month.

2 (7) The imposition of monthly probation programming fees
3 in this section shall be considered separate and apart from the
4 fees described in subdivisions (2)(m) and (o) of section 29-2262.

5 (8) Any adult probationer received for supervision
6 pursuant to section 29-2637 or the Interstate Compact for Adult
7 Offender Supervision shall be assessed both a one-time
8 administrative enrollment fee and monthly probation programming
9 fees during the period of time the probationer is actively
10 supervised by Nebraska probation authorities.

11 (9) ~~The~~ Until the operative date of this act, the
12 probationer shall pay the fees described in this section to the
13 clerk of the court, and the ~~The~~ clerk of the court shall remit
14 all fees so collected to the State Treasurer for credit to the
15 Probation Program Cash Fund. On and after the operative date of
16 this act, the probationer shall pay the fees described in this
17 section to the Office of Probation and Parole Administration, and
18 the office shall remit all fees to the State Treasurer for credit
19 to the Probation and Parole Program Cash Fund.

20 Sec. 24. Section 29-2262.07, Revised Statutes
21 Supplement, 2004, is amended to read:

22 29-2262.07. The Probation and Parole Program Cash Fund
23 is created. All funds collected pursuant to ~~section~~ sections
24 29-2262.06 and 83-1,107.01 shall be remitted to the State Treasurer
25 for credit to the fund. The fund shall be utilized by the
26 administrator, in consultation with the Community Corrections
27 Council, for the purposes stated in subdivision (14) of section
28 29-2252. Any money in the Probation Program Cash Fund and the

1 Parole Program Cash Fund on the operative date of this act shall be
2 transferred to the Probation and Parole Program Cash Fund on such
3 date. Any money in the fund available for investment shall be
4 invested by the state investment officer pursuant to the Nebraska
5 Capital Expansion Act and the Nebraska State Funds Investment Act.

6 Sec. 25. Section 29-2263, Revised Statutes Supplement,
7 2004, is amended to read:

8 29-2263. (1) When a court has sentenced an offender to
9 probation, the court shall specify the term of such probation which
10 shall be not more than five years upon conviction of a felony or
11 second offense misdemeanor and two years upon conviction of a first
12 offense misdemeanor. The court, on application of a ~~probation~~
13 community corrections officer or of the offender or on its own
14 motion, may discharge an offender at any time.

15 (2) During the term of probation, the court on
16 application of a ~~probation~~ community corrections officer or of the
17 offender, or its own motion, may modify or eliminate any of the
18 conditions imposed on the offender or add further conditions
19 authorized by section 29-2262. This subsection does not preclude a
20 ~~probation~~ community corrections officer from imposing
21 administrative sanctions with the offender's full knowledge and
22 consent as authorized by subsection (2) of section 29-2266.

23 (3) Upon completion of the term of probation, or the
24 earlier discharge of the offender, the offender shall be relieved
25 of any obligations imposed by the order of the court and shall have
26 satisfied the sentence for his or her crime.

27 (4) Whenever a probationer disappears or leaves the
28 jurisdiction of the court without permission, the time during which

1 he or she keeps his or her whereabouts hidden or remains away from
2 the jurisdiction of the court shall be added to the original term
3 of probation.

4 Sec. 26. Section 29-2264, Revised Statutes Supplement,
5 2004, is amended to read:

6 29-2264. (1) Whenever any person is placed on probation
7 by a court and satisfactorily completes the conditions of his or
8 her probation for the entire period or is discharged from probation
9 prior to the termination of the period of probation, the sentencing
10 court shall issue an order releasing the offender from probation.
11 Such order in all felony cases shall provide notice that the
12 person's voting rights are not restored upon completion of
13 probation. The order shall include information on restoring such
14 civil rights through the pardon process, including application to
15 and hearing by the Board of Pardons.

16 (2) Whenever any person is convicted of a misdemeanor or
17 felony and is placed on probation by the court or is sentenced to a
18 fine only, he or she may, after satisfactory fulfillment of the
19 conditions of probation for the entire period or after discharge
20 from probation prior to the termination of the period of probation
21 and after payment of any fine, petition the sentencing court to set
22 aside the conviction.

23 (3) In determining whether to set aside the conviction,
24 the court shall consider:

25 (a) The behavior of the offender after sentencing;

26 (b) The likelihood that the offender will not engage in
27 further criminal activity; and

28 (c) Any other information the court considers relevant.

1 (4) The court may grant the offender's petition and issue
2 an order setting aside the conviction when in the opinion of the
3 court the order will be in the best interest of the offender and
4 consistent with the public welfare. The order shall:

5 (a) Nullify the conviction; and

6 (b) Remove all civil disabilities and disqualifications
7 imposed as a result of the conviction.

8 (5) The setting aside of a conviction in accordance with
9 the Nebraska Probation and Parole Administration Act shall not:

10 (a) Require the reinstatement of any office, employment,
11 or position which was previously held and lost or forfeited as a
12 result of the conviction;

13 (b) Preclude proof of a plea of guilty whenever such plea
14 is relevant to the determination of an issue involving the rights
15 or liabilities of someone other than the offender;

16 (c) Preclude proof of the conviction as evidence of the
17 commission of the misdemeanor or felony whenever the fact of its
18 commission is relevant for the purpose of impeaching the offender
19 as a witness, except that the order setting aside the conviction
20 may be introduced in evidence;

21 (d) Preclude use of the conviction for the purpose of
22 determining sentence on any subsequent conviction of a criminal
23 offense;

24 (e) Preclude the proof of the conviction as evidence of
25 the commission of the misdemeanor or felony in the event an
26 offender is charged with a subsequent offense and the penalty
27 provided by law is increased if the prior conviction is proved;

28 (f) Preclude the proof of the conviction to determine

1 whether an offender is eligible to have a subsequent conviction set
2 aside in accordance with the Nebraska Probation and Parole
3 Administration Act; or

4 (g) Preclude use of the conviction as evidence of
5 commission of the misdemeanor or felony for purposes of determining
6 whether an application filed or a license issued under sections
7 71-1901 to 71-1905 or the Child Care Licensing Act or a certificate
8 issued under sections 79-806 to 79-815 should be denied, suspended,
9 or revoked.

10 (6) Except as otherwise provided for the notice in
11 subsection (1) of this section, this section shall be retroactive
12 in application and shall apply to all persons, otherwise eligible
13 in accordance with the provisions of this section, whether
14 convicted prior to, on, or subsequent to June 11, 1993.

15 Sec. 27. Section 29-2265, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 29-2265. (1) Whenever an offender is placed on probation
18 and will reside in a location outside the jurisdiction of the
19 sentencing court, the sentencing court may:

20 (a) Retain jurisdiction over the probationer and the
21 subject matter of the action; or

22 (b) Transfer jurisdiction over the probationer and the
23 subject matter of the action to an appropriate court in the
24 judicial district in which the probationer will reside.

25 (2) When a court determines to transfer jurisdiction
26 under subdivision (1)(b) of this section, it shall:

27 (a) Obtain the concurrence of the court to which transfer
28 is to be made;

1 (b) File a certified transcript of the action out of
2 which the probationer's conviction arose with the clerk of the
3 court to which jurisdiction is transferred; and

4 (c) Furnish the chief ~~probation~~ community corrections
5 officer of the district in which the probationer will reside with a
6 copy of any presentence investigation.

7 (3) Upon the filing of the transcript in accordance with
8 subdivision (2)(b) of this section, the court making the transfer
9 shall have no further jurisdiction of the subject matter of the
10 action or over the probationer. The court to which jurisdiction is
11 transferred shall immediately enter an order placing the
12 transferred probationer on probation under such conditions as it
13 may deem appropriate in accordance with the Nebraska Probation and
14 Parole Administration Act.

15 (4) When a court retains jurisdiction under subdivision
16 (1)(a) of this section and the probationer will reside in a
17 different probation and parole district from that of the sentencing
18 court, the court may notify the chief ~~probation~~ community
19 corrections officer in the probation and parole district in which
20 the probationer will reside to supervise such probationer under the
21 terms of the probation order and in accordance with the Nebraska
22 Probation and Parole Administration Act.

23 Sec. 28. Section 29-2266, Revised Statutes Supplement,
24 2004, is amended to read:

25 29-2266. (1) For purposes of this section:

26 (a) Administrative sanction means additional probation
27 requirements imposed upon a probationer by his or her ~~probation~~
28 community corrections officer, with the full knowledge and consent

1 of the probationer, designed to hold the probationer accountable
2 for substance abuse or noncriminal violations of conditions of
3 probation, including:

4 (i) Counseling or reprimand by his or her ~~probation~~
5 community corrections officer;

6 (ii) Increased supervision contact requirements;

7 (iii) Increased substance abuse testing;

8 (iv) Referral for substance abuse or mental health
9 evaluation or other specialized assessment, counseling, or
10 treatment;

11 (v) Imposition of a designated curfew for a period not to
12 exceed thirty days;

13 (vi) Community service for a specified number of hours
14 pursuant to sections 29-2277 to 29-2279;

15 (vii) Travel restrictions to stay within his or her
16 county of residence or employment unless otherwise permitted by the
17 supervising ~~probation~~ community corrections officer; and

18 (viii) Restructuring court-imposed financial obligations
19 to mitigate their effect on the probationer;

20 (b) Noncriminal violation means a probationer's
21 activities or behaviors which create the opportunity for
22 re-offending or diminish the effectiveness of probation supervision
23 resulting in a violation of an original condition of probation,
24 including:

25 (i) Moving traffic violations;

26 (ii) Failure to report to his or her ~~probation~~ community
27 corrections officer;

28 (iii) Leaving the jurisdiction of the court or leaving

1 the state without the permission of the court or his or her
2 ~~probation~~ community corrections officer;

3 (iv) Failure to work regularly or attend training or
4 school;

5 (v) Failure to notify his or her ~~probation~~ community
6 corrections officer of change of address or employment;

7 (vi) Frequenting places where controlled substances are
8 illegally sold, used, distributed, or administered;

9 (vii) Failure to perform community service as directed;
10 and

11 (viii) Failure to pay fines, court costs, restitution, or
12 any fees imposed pursuant to section 29-2262.06 as directed; and

13 (c) Substance abuse violation means a probationer's
14 activities or behaviors associated with the use of chemical
15 substances or related treatment services resulting in a violation
16 of an original condition of probation, including:

17 (i) Positive breath test for the consumption of alcohol
18 if the offender is required to refrain from alcohol consumption;

19 (ii) Positive urinalysis for the illegal use of drugs;

20 (iii) Failure to report for alcohol testing or drug
21 testing; and

22 (iv) Failure to appear for or complete substance abuse or
23 mental health treatment evaluations or inpatient or outpatient
24 treatment.

25 (2) Whenever a ~~probation~~ community corrections officer
26 has reasonable cause to believe that a probationer has committed or
27 is about to commit a substance abuse violation or noncriminal
28 violation while on probation, but that the probationer will not

1 attempt to leave the jurisdiction and will not place lives or
2 property in danger, the ~~probation~~ community corrections officer
3 shall either:

4 (a) Impose one or more administrative sanctions with the
5 approval of his or her chief ~~probation~~ community corrections
6 officer or such chief's designee. The decision to impose
7 administrative sanctions in lieu of formal revocation proceedings
8 rests with the ~~probation~~ community corrections officer and his or
9 her chief ~~probation~~ community corrections officer or such chief's
10 designee and shall be based upon the probationer's risk level, the
11 severity of the violation, and the probationer's response to the
12 violation. If administrative sanctions are to be imposed, the
13 probationer shall acknowledge in writing the nature of the
14 violation and agree upon the administrative sanction. The
15 probationer has the right to decline to acknowledge the violation;
16 and if he or she declines to acknowledge the violation, the
17 ~~probation~~ community corrections officer shall take action pursuant
18 to subdivision (2)(b) of this section. A copy of the report shall
19 be submitted to the county attorney of the county where probation
20 was imposed; or

21 (b) Submit a written report to the sentencing court, with
22 a copy to the county attorney of the county where probation was
23 imposed, outlining the nature of the probation violation and
24 ~~request~~ requesting that formal revocation proceedings be instituted
25 against the probationer.

26 (3) Whenever a ~~probation~~ community corrections officer
27 has reasonable cause to believe that a probationer has violated or
28 is about to violate a condition of probation other than a substance

1 abuse violation or noncriminal violation and that the probationer
2 will not attempt to leave the jurisdiction and will not place lives
3 or property in danger, the ~~probation~~ community corrections officer
4 shall submit a written report to the sentencing court, with a copy
5 to the county attorney of the county where probation was imposed,
6 outlining the nature of the probation violation.

7 (4) Whenever a ~~probation~~ community corrections officer
8 has a reasonable cause to believe that a probationer has violated
9 or is about to violate a condition of his or her probation and that
10 the probationer will attempt to leave the jurisdiction or will
11 place lives or property in danger, the ~~probation~~ community
12 corrections officer shall arrest the probationer without a warrant
13 and may call on any peace officer for assistance. Whenever a
14 probationer is arrested, with or without a warrant, he or she shall
15 be detained in a jail or other detention facility.

16 (5) Immediately after arrest and detention pursuant to
17 subsection (4) of this section, the ~~probation~~ community corrections
18 officer shall notify the county attorney of the county where
19 probation was imposed and submit a written report of the reason for
20 such arrest and of any violation of probation. After prompt
21 consideration of such written report, the county attorney shall:

22 (a) Order the probationer's release from confinement; or

23 (b) File with the sentencing court a motion or
24 information to revoke the probation.

25 (6) Whenever a county attorney receives a report from a
26 ~~probation~~ community corrections officer that a probationer has
27 violated a condition of probation, the county attorney may file a
28 motion or information to revoke probation.

1 (7) The administrator shall adopt and promulgate rules
2 and regulations to carry out this section.

3 Sec. 29. Section 29-2269, Revised Statutes Supplement,
4 2004, is amended to read:

5 29-2269. Sections 29-2246 to 29-2269 shall be known and
6 may be cited as the Nebraska Probation and Parole Administration
7 Act.

8 Sec. 30. Section 29-2270, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 29-2270. Any individual who is less than nineteen years
11 of age and who is subject to the supervision of a juvenile
12 probation officer or ~~an adult probation~~ a community corrections
13 officer pursuant to an order of the district court, county court,
14 or juvenile court shall, as a condition of probation, be required
15 to:

16 (1) Attend school to obtain vocational training or to
17 achieve an appropriate educational level as prescribed by the
18 probation officer after consultation with the school the individual
19 attends or pursuant to section 29-2272. If the individual fails to
20 attend school regularly, maintain appropriate school behavior, or
21 make satisfactory progress as determined by the juvenile probation
22 officer or community corrections officer after consultation with
23 the school and the individual does not meet the requirements of
24 subdivision (2) of this section, the district court, county court,
25 or juvenile court shall take appropriate action to enforce, modify,
26 or revoke its order granting probation; or

27 (2) Attend an on-the-job training program or secure and
28 maintain employment. If the individual fails to attend the program

1 or maintain employment and does not meet the requirements of
2 subdivision (1) of this section, the district court, county court,
3 or juvenile court shall take appropriate action to enforce, modify,
4 or revoke its order granting probation.

5 Sec. 31. Section 29-2272, Revised Statutes Supplement,
6 2004, is amended to read:

7 29-2272. (1) If the individual chooses to meet the
8 requirements of section 29-2270 by attending a public school and
9 the individual has previously been expelled from school, prior to
10 the readmission of the individual to the school, school officials
11 shall meet with the individual's juvenile probation officer or
12 community corrections officer and assist in developing conditions
13 of probation that will provide specific guidelines for behavior and
14 consequences for misbehavior at school as well as educational
15 objectives that must be achieved. The district court, county
16 court, or juvenile court shall review the conditions of probation
17 for the individual and may continue the expulsion or return the
18 individual to school under the agreed conditions.

19 (2) The school board may expel the individual for
20 subsequent actions as provided in section 79-267.

21 (3) The individual shall be screened by the school to
22 which he or she is admitted for possible disabilities and, if the
23 screening so indicates, be referred for evaluation for possible
24 placement in a special education program.

25 Sec. 32. Section 29-2935, Revised Statutes Supplement,
26 2004, is amended to read:

27 29-2935. For purposes of evaluating the treatment
28 process, the Office of Probation and Parole Administration, the

1 Department of Correctional Services, the Board of Parole, and the
2 designated aftercare treatment programs shall allow appropriate
3 access to data and information as requested by the Department of
4 Health and Human Services.

5 Sec. 33. Section 29-4009, Revised Statutes Supplement,
6 2004, is amended to read:

7 29-4009. Information obtained under the Sex Offender
8 Registration Act shall be confidential, except that:

9 (1) Information shall be disclosed to law enforcement
10 agencies for law enforcement purposes;

11 (2) Information may be disclosed to governmental agencies
12 conducting confidential background checks for employment purposes;

13 (3) Information concerning the address or whereabouts of
14 the person required to register may be disclosed to the victim or
15 victims of such person; and

16 (4) The Nebraska State Patrol, any law enforcement
17 agency, and any ~~probation or parole~~ community corrections officer
18 may release relevant information that is necessary to protect the
19 public concerning a specific person required to register, except
20 that the identity of a victim of an offense that requires
21 registration shall not be released. Release of such information
22 shall conform with the rules and regulations adopted and
23 promulgated by the Nebraska State Patrol pursuant to section
24 29-4013.

25 Sec. 34. Section 29-4305, Revised Statutes Supplement,
26 2004, is amended to read:

27 29-4305. On or before July 1, 2005, all law enforcement
28 agencies, prosecuting attorneys, and the Office of Probation and

1 Parole Administration shall develop, adopt, promulgate, and
2 implement written policies and procedures regarding crimes between
3 intimate partners as defined in section 28-323.

4 Sec. 35. Section 43-260, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-260. The Office of Probation and Parole
7 Administration shall prepare and distribute to ~~probation~~ community
8 corrections officers a standardized juvenile detention screening
9 instrument. The types of risk factors to be included as well as
10 the format of this standardized juvenile detention screening
11 instrument shall be determined by the office. The standardized
12 juvenile detention screening instrument shall be used as an
13 assessment tool statewide ~~by probation officers~~ under section
14 43-260.01 in order to determine if detention of the juvenile is
15 necessary and, if so, whether secure or nonsecure detention is
16 indicated. ~~Probation~~ Community corrections officers trained to
17 administer the juvenile detention screening instrument shall act as
18 juvenile intake probation officers. Only duly trained ~~probation~~
19 community corrections officers shall be authorized to administer
20 the juvenile detention screening instrument.

21 Sec. 36. Section 43-2,113, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-2,113. (1) In counties ~~where~~ in which a separate
24 juvenile court is established, the county board of the county shall
25 provide suitable rooms and offices for the accommodation of the
26 judge of the separate juvenile court and the officers and employees
27 appointed by such judge or by the probation and parole
28 administrator pursuant to subsection (4) of section 29-2253. Such

1 separate juvenile court and the judge, officers, and employees of
2 ~~such court~~ shall have the same and exclusive jurisdiction, powers,
3 and duties that are prescribed in the Nebraska Juvenile Code,
4 concurrent jurisdiction under section 83-223, and such other
5 jurisdiction, powers, and duties as specifically provided by law.

6 (2) A juvenile court created in a separate juvenile court
7 judicial district or a county court sitting as a juvenile court in
8 all other counties shall have and exercise jurisdiction within such
9 juvenile court judicial district or county court judicial district
10 with the county court and district court in all matters arising
11 under Chapter 42, article 3, when the care, support, custody, or
12 control of minor children under the age of eighteen years is
13 involved. Such cases shall be filed in the county court and
14 district court and may, with the consent of the juvenile judge, be
15 transferred to the docket of the separate juvenile court or county
16 court.

17 (3) All orders issued by a separate juvenile court or a
18 county court which provide for child support or spousal support as
19 defined in section 42-347 shall be governed by sections 42-347 to
20 42-381 and 43-290 relating to such support. Certified copies of
21 such orders shall be filed by the clerk of the separate juvenile or
22 county court with the clerk of the district court who shall
23 maintain a record as provided in subsection (6) of section 42-364.
24 There shall be no fee charged for the filing of such certified
25 copies.

26 Sec. 37. Section 43-2411, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 43-2411. (1) The Nebraska Coalition for Juvenile Justice

1 is created. As provided in the federal act, there shall be no less
2 than fifteen nor more than thirty-three members of the coalition.
3 The coalition members shall be appointed by the Governor and shall
4 include:

5 (a) The Administrator of the Office of Juvenile Services;

6 (b) The Director of Health and Human Services or his or
7 her designee;

8 (c) The Commissioner of Education or his or her designee;

9 (d) The executive director of the Nebraska Commission on
10 Law Enforcement and Criminal Justice or his or her designee;

11 (e) The Executive Director of the Nebraska Association of
12 County Officials or his or her designee;

13 (f) The probation and parole administrator of the Office
14 of Probation and Parole Administration or his or her designee;

15 (g) One county commissioner or supervisor;

16 (h) One police chief;

17 (i) One sheriff;

18 (j) One separate juvenile court judge;

19 (k) One county court judge;

20 (l) One representative of mental health professionals who
21 works directly with juveniles;

22 (m) Three representatives, one from each congressional
23 district, from community-based, private nonprofit organizations who
24 work with juvenile offenders and their families;

25 (n) One volunteer who works with juvenile offenders or
26 potential juvenile offenders;

27 (o) One person who works with an alternative to
28 incarceration program for juveniles;

1 (p) The director or his or her designee from a youth
2 rehabilitation and treatment center;

3 (q) The director or his or her designee from a secure
4 youth confinement facility;

5 (r) The director or his or her designee from a staff
6 secure youth confinement facility;

7 (s) At least five members who are under twenty-four years
8 of age when appointed;

9 (t) One person who works directly with juveniles who have
10 learning or emotional difficulties or are abused or neglected;

11 (u) One member of the Nebraska Commission on Law
12 Enforcement and Criminal Justice;

13 (v) One county attorney; and

14 (w) One public defender.

15 (2) The terms of members appointed pursuant to
16 subdivisions (1)(g) through (1)(w) of this section shall be three
17 years, except that the terms of the initial members of the
18 coalition shall be staggered so that one-third of the members are
19 appointed for terms of one year, one-third for terms of two years,
20 and one-third for terms of three years, as determined by the
21 Governor. A majority of the coalition members, including the
22 chairperson, shall not be full-time employees of federal, state, or
23 local government. At least one-fifth of the coalition members
24 shall be under the age of twenty-four at the time of appointment.
25 Any vacancy on the coalition shall be filled by appointment by the
26 Governor. The coalition shall select a chairperson, a
27 vice-chairperson, and such other officers as it deems necessary.

28 (3) Members of the coalition shall be reimbursed for

1 their actual and necessary expenses pursuant to sections 81-1174 to
2 81-1177.

3 (4) The coalition may appoint task forces or
4 subcommittees to carry out its work. Task force and subcommittee
5 members shall have knowledge of, responsibility for, or interest in
6 an area related to the duties of the coalition.

7 Sec. 38. Section 43-3001, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-3001. (1) Notwithstanding any other provision of law
10 regarding the confidentiality of records and when not prohibited by
11 the federal Privacy Act of 1974, as amended, juvenile court records
12 and any other pertinent information that may be in the possession
13 of school districts, county attorneys, law enforcement agencies,
14 ~~state probation personnel, state probation and parole personnel,~~
15 youth detention facilities, medical personnel, treatment or
16 placement programs, the Department of Health and Human Services,
17 the Department of Correctional Services, the Office of Probation
18 and Parole Administration, the State Foster Care Review Board,
19 child abuse and neglect investigation teams, child abuse and
20 neglect treatment teams, or other multidisciplinary teams for
21 abuse, neglect, or delinquency concerning a child who is in the
22 custody of the state may be shared with individuals and agencies
23 who have been identified in a court order authorized by this
24 section.

25 (2) In any judicial proceeding concerning a child who is
26 currently, or who may become at the conclusion of the proceeding, a
27 ward of the court or state or under the supervision of the court,
28 an order may be issued which identifies individuals and agencies

1 who shall be allowed to receive otherwise confidential information
2 concerning the juvenile for legitimate and official purposes. The
3 individuals and agencies who may be identified in the court order
4 are the child's attorney or guardian ad litem, the parents'
5 attorney, foster parents, appropriate school personnel, county
6 attorneys, authorized court personnel, law enforcement agencies,
7 ~~state probation personnel, state~~ probation and parole personnel,
8 youth detention facilities, medical personnel, treatment or
9 placement programs, the Department of Health and Human Services,
10 the Office of Juvenile Services, the Department of Correctional
11 Services, the Office of Probation and Parole Administration, the
12 State Foster Care Review Board, child abuse and neglect
13 investigation teams, child abuse and neglect treatment teams, and
14 other multidisciplinary teams for abuse, neglect, or delinquency.
15 Unless the order otherwise states, the order shall be effective
16 until the child leaves the custody of the state or until a new
17 order is issued.

18 (3) All information acquired by an individual or agency
19 pursuant to this section shall be confidential and shall not be
20 disclosed except to other persons who have a legitimate and
21 official interest in the information and are identified in the
22 court order issued pursuant to this section with respect to the
23 child in question. A person who receives such information or who
24 cooperates in good faith with other individuals and agencies
25 identified in the appropriate court order by providing information
26 or records about a child shall be immune from any civil or criminal
27 liability. The provisions of this section granting immunity from
28 liability shall not be extended to any person alleged to have

1 committed an act of child abuse or neglect.

2 (4) Any person who publicly discloses information
3 received pursuant to this section shall be guilty of a Class III
4 misdemeanor.

5 Sec. 39. Section 43-3505, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-3505. Each county may:

8 (1) Establish a local juvenile justice advisory committee
9 for the purpose of meeting quarterly to discuss trends and issues
10 related to juvenile offenders and service needs. Such committee
11 should include representation from the courts, law enforcement,
12 community service providers, schools, detention or shelter care,
13 county elected and administrative officials, probation and parole
14 officials, health and human services representatives, and state
15 officials or agency representatives. The committee should discuss
16 state and local policy initiatives, use of detention and other
17 regional services, commitment to state custody, and impacts of
18 policy initiatives and trends on county juvenile justice systems.
19 Notwithstanding any other provision of law regarding the
20 confidentiality of records, information from the various
21 representative agencies can be shared about juveniles under their
22 supervision for the purposes of this subdivision. The information
23 shared shall be in the form of statistical data which does not
24 disclose the identity of any particular individual;

25 (2) Collect and review data on an ongoing basis to
26 understand the service needs of the juvenile offender population;
27 and

28 (3) Compile, review, and forward county level data

1 collected pursuant to section 43-3506.

2 Sec. 40. Section 47-623, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 47-623. (1) The council shall include the following
5 voting members:

6 (a) The executive director of the Nebraska Commission on
7 Law Enforcement and Criminal Justice;

8 (b) The Director of Correctional Services;

9 (c) The chairperson of the Board of Parole;

10 (d) The Probation and Parole Administrator; and

11 (e) Seven members appointed by the Governor with the
12 approval of a majority of the Legislature, consisting of: One
13 representative from a list of persons nominated by the Nebraska
14 Criminal Defense Attorneys Association; one representative from a
15 list of persons nominated by the Nebraska County Attorneys
16 Association; one full-time officer or employee of a law enforcement
17 agency; one mental health and substance abuse professional; and
18 from each congressional district, one provider of community-based
19 behavioral health services.

20 (2) The council shall include the following nonvoting
21 members:

22 (a) The State Court Administrator;

23 (b) ~~The probation administrator;~~

24 ~~(c)~~ Two members of the Legislature, appointed by the
25 Executive Board of the Legislative Council; and

26 ~~(d)~~ (c) Two judges of the district court, appointed by
27 the Chief Justice of the Supreme Court.

28 (3) The terms of office for members initially appointed

1 under subdivision (1)(e) of this section shall be three years.
2 Upon completion of the initial terms of such members, the Governor
3 shall appoint a representative from law enforcement and a mental
4 health and substance abuse professional for terms of one year, a
5 representative of the Nebraska Criminal Defense Attorneys
6 Association, one provider of community-based behavioral health
7 services from the first congressional district, and one provider of
8 community-based behavioral health services from the third
9 congressional district for terms of two years, and a representative
10 of the Nebraska County Attorneys Association and a provider of
11 community-based behavioral health services from the second
12 congressional district for terms of three years. Succeeding
13 appointees shall be appointed for terms of three years. An
14 appointee to a vacancy occurring from an unexpired term shall serve
15 out the term of his or her predecessor. Members whose terms have
16 expired shall continue to serve until their successors have been
17 appointed and qualified.

18 (4) The council shall by majority vote elect a
19 chairperson from among the members of the council.

20 (5) The members of the council shall be reimbursed for
21 their actual and necessary expenses incurred while engaged in the
22 performance of their official duties as provided in sections
23 81-1174 to 81-1177.

24 Sec. 41. Section 47-624, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 47-624. The council shall:

27 (1) Develop standards for eligible community correctional
28 facilities and programs in which offenders can participate through

1 probation and parole, taking into consideration the following
2 factors:

3 (a) Qualifications of staff;

4 (b) Suitability of programs;

5 (c) Offender needs;

6 (d) Probation population;

7 (e) Parole population; and

8 (f) Other applicable criminal justice data;

9 (2) Develop and implement a plan to establish statewide
10 operation and use of a continuum of community correctional
11 facilities and programs;

12 (3) Develop, in consultation with the probation and
13 parole administrator, and the Parole Administrator, standards for
14 the use of community correctional facilities and programs by the
15 Nebraska Probation and Parole System; and the parole system;

16 (4) Develop, recommend, and review sentencing guidelines
17 for adoption by the Supreme Court as set forth in section 47-630;

18 (5) Analyze and mandate the consistent use of offender
19 risk assessment tools;

20 (6) Develop standards for eligibility of probationers and
21 parolees in certain community correctional facilities and programs;

22 (7) Educate the courts and the Board of Parole about the
23 availability and use of community correctional facilities and
24 programs;

25 (8) Enter into contracts, if necessary, for carrying out
26 the purposes of the Community Corrections Act;

27 (9) In order to ensure adequate funding for substance
28 abuse treatment programs for probationers and parolees, consult

1 with the probation and parole administrator as provided in ~~section~~
2 sections 29-2262.07 and 83-1,107.02 and develop or assist with the
3 development of programs as provided in subdivision (14) of section
4 29-2252;

5 (10) In order to ensure adequate funding for substance
6 abuse treatment programs for parolees, consult with the Office of
7 Parole Administration as provided in ~~section 83-1,107.02~~ and
8 develop or assist with the development of programs as provided in
9 ~~subdivision (8) of section 83-1,102,~~

10 ~~(11)~~ If necessary to perform the duties of the council,
11 hire, contract for, or otherwise obtain the services of
12 consultants, researchers, aides, and other necessary support staff;
13 and

14 ~~(12)~~ (11) Perform such other duties as may be necessary
15 to carry out the policy of the state established in the act.

16 Sec. 42. Section 47-627, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 47-627. The executive director of the Nebraska
19 Commission on Law Enforcement and Criminal Justice shall develop
20 and maintain a uniform crime data analysis system in Nebraska which
21 shall include, but need not be limited to, the number of offenses,
22 arrests, charges, probation admissions, probation violations,
23 probation discharges, admissions to and discharges from the
24 Department of Correctional Services, parole reviews, parole
25 hearings, releases on parole, parole violations, and parole
26 discharges. The data shall be categorized by statutory crime. The
27 data shall be collected from the Board of Parole, the State Court
28 Administrator, the Department of Correctional Services, the Office

1 of Probation and Parole Administration, ~~the Office of Probation~~
2 ~~Administration~~, the Nebraska State Patrol, counties, local law
3 enforcement, and any other entity associated with criminal justice.
4 The council, the chief, and the Supreme Court shall have access to
5 such data to develop guidelines pursuant to section 47-630.

6 Sec. 43. Section 47-628, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 47-628. (1) A sentencing judge may sentence an offender
9 to probation conditioned upon community correctional programming
10 pursuant to section 47-630 and the guidelines developed by the
11 Supreme Court.

12 (2) A sentence to a community correctional program or
13 facility shall be imposed as a condition of probation pursuant to
14 the Nebraska Probation and Parole Administration Act. The court
15 may modify the sentence of an offender serving a sentence in a
16 community correctional program in the same manner as if the
17 offender had been placed on probation.

18 (3) The Office of Probation and Parole Administration
19 shall utilize community correctional facilities and programs as
20 appropriate with respect to probationers.

21 Sec. 44. Section 47-629, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 47-629. (1) The Board of Parole may parole an offender
24 to a community correctional facility or program pursuant to
25 guidelines developed by the council.

26 (2) The ~~Department of Correctional Services and the~~
27 Office of Probation and Parole Administration shall utilize
28 community correctional facilities and programs as appropriate with

1 respect to parolees.

2 Sec. 45. Section 68-1729, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 68-1729. The Governor shall commission a study of
5 creating human services regions with boundaries which are common to
6 all state agencies. The study shall review the effectiveness of
7 the boundaries of the human services regions existing on July 16,
8 1994. The Governor shall assign this study to the Commissioner of
9 Education, the Director of Health and Human Services, the Director
10 of Regulation and Licensure, the Director of Finance and Support,
11 the Director of Economic Development, the Director of Labor, the
12 Director of Administrative Services, the Director of Correctional
13 Services, the Tax Commissioner, the ~~Probation Administrator~~
14 probation and parole administrator, the executive director of the
15 Nebraska Commission on Law Enforcement and Criminal Justice, and
16 the Director of Policy Research. The study shall also allow for
17 participation of other persons from the public and private sectors
18 representing all geographical areas of Nebraska.

19 Sec. 46. Section 68-1732, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 68-1732. It is the intent of the Legislature that the
22 Department of Health and Human Services Regulation and Licensure,
23 the Department of Health and Human Services, the State Department
24 of Education, the Department of Labor, the Department of Health and
25 Human Services Finance and Support, the Office of Probation and
26 Parole Administration, the Department of Correctional Services, and
27 the Department of Economic Development will have integrated
28 programs and policies when serving a common customer.

1 Organizational mergers and operating agreements shall be developed
2 within state government which bring together the state's
3 community-based child-serving and family-serving resources in the
4 areas of health care services, social services, mental health
5 services, developmental disabilities services, juvenile justice,
6 and education. Such actions shall eliminate the need for the
7 public to understand the differing roles, responsibilities, and
8 services of the agencies enumerated in this section and their
9 affiliates.

10 Sec. 47. Section 81-1401, Revised Statutes Supplement,
11 2004, is amended to read:

12 81-1401. For purposes of sections 81-1401 to 81-1414,
13 unless the context otherwise requires:

14 (1) Commission means the Nebraska Commission on Law
15 Enforcement and Criminal Justice;

16 (2) Council means the Nebraska Police Standards Advisory
17 Council;

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

21 (4) Law enforcement agency means the police department or
22 the town marshal in incorporated municipalities, the office of
23 sheriff in unincorporated areas, and the Nebraska State Patrol;

24 (5) (a) Law enforcement officer means any person who is
25 responsible for the prevention or detection of crime or the
26 enforcement of the penal, traffic, or highway laws of the state or
27 any political subdivision of the state for more than one hundred
28 hours per year and is authorized by law to make arrests and

1 includes, but is not limited to:

2 (i) A full-time or part-time member of the Nebraska State
3 Patrol;

4 (ii) A county sheriff;

5 (iii) A full-time or part-time employee of a county
6 sheriff's office;

7 (iv) A full-time or part-time employee of a municipal or
8 village police agency; or

9 (v) A full-time employee of an organized and paid fire
10 department of any city of the metropolitan class who is an
11 authorized arson investigator and whose duties consist of
12 determining the cause, origin, and circumstances of fires or
13 explosions while on duty in the course of an investigation;

14 (b) Law enforcement officer does not include employees of
15 the Department of Correctional Services, ~~probation~~ community
16 corrections officers under the Nebraska Probation and Parole
17 System, ~~parole officers appointed by the Parole Administrator,~~
18 employees of the Department of Property Assessment and Taxation
19 under section 77-704, or employees of the Department of Revenue
20 under section 77-366; and

21 (c) A law enforcement officer shall possess a valid law
22 enforcement officer certificate or diploma, as established by the
23 council, in order to be vested with the authority of this section,
24 but this subdivision does not prohibit an individual from receiving
25 a conditional appointment as an officer pursuant to subsection (2)
26 of section 81-1414;

27 (6) Director means the director of the Nebraska Law
28 Enforcement Training Center;

1 (7) Training academy means the training center or such
2 other council-approved law enforcement training facility operated
3 and maintained by a law enforcement agency which offers
4 certification training that meets or exceeds the certification
5 training curriculum of the training center;

6 (8) Training center means the Nebraska Law Enforcement
7 Training Center; and

8 (9) Training school means a public or private institution
9 of higher education, including the University of Nebraska, the
10 Nebraska state colleges, and the community colleges of this state,
11 that offers training in a council-approved pre-certification
12 course.

13 Sec. 48. Section 81-1848, Revised Statutes Supplement,
14 2004, is amended to read:

15 81-1848. (1) Victims as defined in section 29-119 shall
16 have the following rights:

17 (a) To examine information which is a matter of public
18 record and collected by criminal justice agencies on individuals
19 consisting of identifiable descriptions and notations of issuance
20 of arrest warrants, arrests, detentions, indictments, charges by
21 information, and other formal criminal charges. Such information
22 shall include any disposition arising from such arrests, charges,
23 sentencing, correctional supervision, and release, but shall not
24 include intelligence or investigative information;

25 (b) To receive from the county attorney advance
26 reasonable notice of any scheduled court proceedings and notice of
27 any changes in that schedule;

28 (c) To be present throughout the entire trial of the

1 defendant, unless the victim is to be called as a witness or the
2 court finds sequestration of the victim necessary for a fair trial.
3 If the victim is to be called as a witness, the court may order the
4 victim to be sequestered;

5 (d) To be notified by the county attorney by any means
6 reasonably calculated to give prompt actual notice of the
7 following:

8 (i) The crimes for which the defendant is charged, the
9 defendant's bond, and the time and place of any scheduled court
10 proceedings;

11 (ii) The final disposition of the case;

12 (iii) The crimes for which the defendant was convicted;

13 (iv) The victim's right to make a written or oral impact
14 statement to be used in the ~~probation~~ community corrections
15 officer's preparation of a presentence investigation report
16 concerning the defendant;

17 (v) The address and telephone number of the probation and
18 parole office which is to prepare the presentence investigation
19 report;

20 (vi) That a presentence investigation report and any
21 statement by the victim included in such report will be made
22 available to the defendant unless exempted from disclosure by order
23 of the court; and

24 (vii) The victim's right to submit a written impact
25 statement at the sentencing proceeding or to read his or her impact
26 statement submitted pursuant to subdivision (1)(d)(iv) of this
27 section at the sentencing proceeding;

28 (e) To be notified by the county attorney by any means

1 reasonably calculated to give prompt actual notice of the time and
2 place of any subsequent judicial proceedings if the defendant was
3 acquitted on grounds of insanity;

4 (f) To be notified as provided in section 81-1850, to
5 testify before the Board of Parole or submit a written statement
6 for consideration by the board, and to be notified of the decision
7 of and any action taken by the board; and

8 (g) To submit a written statement for consideration at
9 any conditional release proceedings, Board of Parole proceedings,
10 pardon proceedings, or commutation proceedings. Conditional
11 release proceeding means a proceeding convened pursuant to a
12 Department of Correctional Services' decision to grant a furlough
13 from incarceration for twenty-four hours or longer or a release
14 into community-based programs, including educational release and
15 work release.

16 (2) Victims and witnesses of crimes shall have the
17 following rights:

18 (a) To be informed on all writs of subpoena or notices to
19 appear that they are entitled to apply for and may receive a
20 witness fee;

21 (b) To be notified that a court proceeding to which they
22 have been subpoenaed will not go on as scheduled in order to save
23 the person an unnecessary trip to court;

24 (c) To receive protection from harm and threats of harm
25 arising out of their cooperation with law enforcement and
26 prosecution efforts and to be provided with information as to the
27 level of protection available;

28 (d) To be informed of financial assistance and other

1 social services available as a result of being a witness or a
2 victim of a crime, including information on how to apply for the
3 assistance and services;

4 (e) To be informed of the procedure to be followed in
5 order to apply for and receive any witness fee to which they are
6 entitled;

7 (f) To be provided, whenever possible, a secure waiting
8 area during court proceedings that does not require them to be in
9 close proximity to defendants and families and friends of
10 defendants;

11 (g) To have any stolen or other personal property
12 expeditiously returned by law enforcement agencies when no longer
13 needed as evidence. If feasible, all such property, except
14 weapons, currency, contraband, property subject to evidentiary
15 analysis, and property the ownership of which is disputed, shall be
16 returned to the person within ten days after being taken;

17 (h) To be provided with appropriate employer intercession
18 services to insure that employers of victims and witnesses will
19 cooperate with the criminal justice process in order to minimize an
20 employee's loss of pay and other benefits resulting from court
21 appearances;

22 (i) To be entitled to a speedy disposition of the case in
23 which they are involved as a victim or witness in order to minimize
24 the length of time they must endure the stress of their
25 responsibilities in connection with the matter;

26 (j) To be informed by the county attorney of the final
27 disposition of a felony case in which they were involved and to be
28 notified pursuant to section 81-1850 whenever the defendant in such

1 case is released from custody; and

2 (k) To have the family members of all homicide victims
3 afforded all of the rights under subsection (2) of this section and
4 services analogous to those provided under section 81-1847.

5 Sec. 49. Section 83-170, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 83-170. ~~As used in~~ For purposes of the Nebraska
8 Treatment and Corrections Act, unless the context otherwise
9 requires:

10 (1) Administrator ~~shall mean the Parole Administrator~~
11 means the probation and parole administrator;

12 (2) Board ~~shall mean~~ means the Board of Parole;

13 (3) Committed offender ~~shall mean~~ means any person who,
14 under any provision of law, is sentenced or committed to a facility
15 operated by the department or is sentenced or committed to the
16 department other than a person adjudged to be as described in
17 subdivision (1), (2), (3)(b), or (4) of section 43-247 by a
18 juvenile court;

19 (4) Department ~~shall mean~~ means the Department of
20 Correctional Services;

21 (5) Director ~~shall mean~~ means the Director of
22 Correctional Services;

23 (6) Facility ~~shall mean~~ means any prison, reformatory,
24 training school, reception center, community guidance center, group
25 home, or other institution operated by the department;

26 (7) Good time ~~shall mean~~ means any reduction of sentence
27 granted pursuant to sections 83-1,107 and 83-1,108;

28 (8) Maximum term ~~shall mean~~ means the maximum sentence

1 provided by law or the maximum sentence imposed by a court,
2 whichever is shorter;

3 (9) Minimum term ~~shall mean~~ means the minimum sentence
4 provided by law or the minimum sentence imposed by a court,
5 whichever is longer;

6 (10) Pardon authority ~~shall mean~~ means the power to remit
7 fines and forfeitures and to grant respites, reprieves, pardons, or
8 commutations;

9 (11) Parole term ~~shall mean~~ means the time from release
10 on parole to the completion of the maximum term, reduced by good
11 time; and

12 (12) Person committed to the department ~~shall mean~~ means
13 any person sentenced or committed to a facility within the
14 department.

15 Sec. 50. Section 83-195, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 83-195. In the performance of its duties, the Board of
18 Parole, or any member thereof, shall have the power to issue
19 subpoenas, to compel the attendance of witnesses and the production
20 of books, papers, and other documents pertinent to the subject of
21 an inquiry, and to administer oaths and take the testimony of
22 persons under oath. Subpoenas so issued may be served by any
23 sheriff, constable, police officer, ~~parole~~ community corrections
24 officer, or peace officer in the same manner as similar process in
25 the district court. Any person who knowingly testifies falsely,
26 submits any false affidavit or deposition, fails to appear when
27 subpoenaed, or fails or refuses to produce such material pursuant
28 to the subpoena shall be subject to the same orders and penalties

1 to which a person before the district court is subject. Any
 2 district court of this state, upon application by the board, may
 3 compel the attendance of such witnesses, the production of such
 4 material, and the giving of testimony before the board by an
 5 attachment for contempt or otherwise in the same manner as
 6 production of evidence may be compelled before such court. Every
 7 person shall attend as a witness when subpoenaed anywhere within
 8 the state and shall be entitled to the same fees, if requested, as
 9 a witness in the district court and mileage as provided in section
 10 81-1176 for state employees. Fees, mileage, and actual expense, if
 11 any, necessarily incurred in securing the attendance of witnesses
 12 shall be paid by the board.

13 Sec. 51. Section 83-1,100, Reissue Revised Statutes of
 14 Nebraska, is amended to read:

15 83-1,100. ~~There is hereby created within the department~~
 16 ~~the Office of Parole Administration. The office shall consist of~~
 17 ~~the Parole Administrator, the field parole service, and all other~~
 18 ~~office staff. The office~~ The Board of Parole shall be responsible
 19 for the following:

20 (1) The administration of parole services in the
 21 ~~community,~~

22 ~~(2)~~ The maintenance of all records and files associated
 23 with the Board of Parole; and

24 ~~(3)~~ (2) The daily supervision and training of staff
 25 members of the office.

26 Nothing in this section shall be construed to prohibit
 27 the office from maintaining maintenance of daily records and files
 28 associated with the Board of Pardons.

1 Sec. 52. Section 83-1,107, Revised Statutes Supplement,
2 2004, is amended to read:

3 83-1,107. (1) (a) Within sixty days after initial
4 classification and assignment of any offender committed to the
5 department, all available information regarding such committed
6 offender shall be reviewed and a committed offender
7 department-approved personalized program plan document shall be
8 drawn up. The document shall specifically describe the
9 department-approved personalized program plan and the specific
10 goals the department expects the committed offender to achieve.
11 The document shall also contain a realistic schedule for completion
12 of the department-approved personalized program plan. The
13 department-approved personalized program plan shall be fully
14 explained to the committed offender. The department shall provide
15 programs to allow compliance by the committed offender with the
16 department-approved personalized program plan.

17 Programming may include, but is not limited to:

18 (i) Academic and vocational education, including teaching
19 such classes by qualified offenders;

20 (ii) Substance abuse treatment;

21 (iii) Mental health and psychiatric treatment, including
22 criminal personality programming;

23 (iv) Constructive, meaningful work programs; and

24 (v) Any other program deemed necessary and appropriate by
25 the department.

26 (b) A modification in the department-approved
27 personalized program plan may be made to account for the increased
28 or decreased abilities of the committed offender or the

1 availability of any program. Any modification shall be made only
2 after notice is given to the committed offender. The department may
3 not impose disciplinary action upon any committed offender solely
4 because of the committed offender's failure to comply with the
5 department-approved personalized program plan, but such failure may
6 be considered by the board in its deliberations on whether or not
7 to grant parole to a committed offender.

8 (2) The department shall reduce the term of a committed
9 offender by six months for each year of the offender's term and pro
10 rata for any part thereof which is less than a year.

11 The total reductions shall be credited from the date of
12 sentence, which shall include any term of confinement prior to
13 sentence and commitment as provided pursuant to section 83-1,106,
14 and shall be deducted from the maximum term, to determine the date
15 when discharge from the custody of the state becomes mandatory.

16 (3) While the offender is in the custody of the
17 department, reductions of terms granted pursuant to subsection (2)
18 of this section may be forfeited, withheld, and restored by the
19 chief executive officer of the facility with the approval of the
20 director after the offender has been notified regarding the charges
21 of misconduct.

22 (4) The department shall make treatment programming
23 available to committed offenders as provided in section 83-1,110.01
24 and shall include continuing participation in such programming as
25 part of each offender's parolee personalized program plan.

26 (5) (a) Within thirty days after any committed offender
27 has been paroled, all available information regarding such parolee
28 shall be reviewed and a parolee personalized program plan document

1 shall be drawn up and approved by the Office of Probation and
2 Parole Administration. The document shall specifically describe
3 the approved personalized program plan and the specific goals the
4 office expects the parolee to achieve. The document shall also
5 contain a realistic schedule for completion of the approved
6 personalized program plan. The approved personalized program plan
7 shall be fully explained to the parolee. During the term of
8 parole, the parolee shall comply with the approved personalized
9 program plan and the office shall provide programs to allow
10 compliance by the parolee with the approved personalized program
11 plan.

12 Programming may include, but is not limited to:

13 (i) Academic and vocational education;

14 (ii) Substance abuse treatment;

15 (iii) Mental health and psychiatric treatment, including
16 criminal personality programming;

17 (iv) Constructive, meaningful work programs;

18 (v) Community service programs; and

19 (vi) Any other program deemed necessary and appropriate
20 by the office.

21 (b) A modification in the approved personalized program
22 plan may be made to account for the increased or decreased
23 abilities of the parolee or the availability of any program. Any
24 modification shall be made only after notice is given to the
25 parolee. Intentional failure to comply with the approved
26 personalized program plan by any parolee as scheduled for any year,
27 or pro rata part thereof, shall cause disciplinary action to be
28 taken by the office resulting in the forfeiture of up to a maximum

1 of three months' good time for the scheduled year.

2 (6) While the offender is in the custody of the board,
3 reductions of terms granted pursuant to subsection (2) of this
4 section may be forfeited, withheld, and restored by the
5 administrator with the approval of the director after the offender
6 has been notified regarding the charges of misconduct or breach of
7 the conditions of parole. In addition, the board may recommend
8 such forfeitures of good time to the director.

9 (7) Good time or other reductions of sentence granted
10 under the provisions of any law prior to July 1, 1996, may be
11 forfeited, withheld, or restored in accordance with the terms of
12 the Nebraska Treatment and Corrections Act.

13 Sec. 53. Section 83-1,107.01, Revised Statutes
14 Supplement, 2004, is amended to read:

15 83-1,107.01. (1) Unless otherwise provided by this
16 section, whenever an adult offender is paroled, the board shall
17 require a parolee to pay a monthly parole programming fee.

18 (2) Parolees under the supervision of the Office of
19 Probation and Parole Administration shall pay a monthly parole
20 programming fee of twenty-five dollars, not later than the tenth
21 day of each month, beginning the second month of parole supervision
22 and continuing for the duration of the parole.

23 (3) The board shall waive payment of the monthly parole
24 programming fee in whole or in part if after a hearing a
25 determination is made that such payment would constitute an undue
26 hardship on the parolee due to limited income, employment or school
27 status, or physical or mental handicap. Such waiver shall be in
28 effect only during the period of time that the parolee is unable to

1 pay his or her monthly parole programming fee.

2 (4) When monthly parole programming fees are waived, in
3 whole or in part, the ~~parole~~ community corrections officer,
4 pursuant to rules and regulations adopted by the board, may
5 contract with the parolee to perform approved community service at
6 the rate of five dollars per hour in lieu of payment of monthly
7 parole programming fees. A parolee may be required to pay a
8 participation fee in order to take advantage of community service
9 programs. A parolee may not accumulate more than three months'
10 advance credit for community service. The use of community service
11 alternatives does not preclude the imposition of other intermediate
12 measures.

13 (5) The ~~Office of Parole Administration~~ office with the
14 approval of the Board of Parole shall implement sanctions if a
15 parolee defaults in the payment of monthly parole programming fees
16 or any installment thereof as established by subsection (2) of this
17 section, except that parole shall not be revoked nor shall the
18 parolee be imprisoned for such nonpayment if the parolee is
19 financially unable to make the payment.

20 (6) If the board determines that the default in payment
21 described in subsection (5) of this section was not attributable to
22 a deliberate refusal to obey the order of the board or to failure
23 on the parolee's part to make a good faith effort to obtain the
24 funds required for payment, the board may allow the parolee
25 additional time for payment, reduce the amount of each installment,
26 or revoke the fees or the unpaid portion in whole or in part.

27 (7) No parolee shall be required to pay more than one
28 monthly parole programming fee per month.

1 (8) The imposition of monthly parole programming fees in
2 this section shall be considered separate and apart from specific
3 service delivery fees.

4 (9) Any adult offender received for supervision pursuant
5 to section 29-2637 or the Interstate Compact for Adult Offender
6 Supervision shall be assessed a monthly parole programming fee
7 during the period of time the offender is actively supervised by
8 Nebraska parole authorities.

9 (10) ~~Until the operative date of this act, a parolee~~
10 shall pay the fees described in this section to the Office of
11 Parole Administration, ~~and the~~ ~~office shall remit all fees~~
12 to the State Treasurer for credit to the Parole Program Cash Fund.
13 On and after the operative date of this act, a parolee shall pay
14 the fees described in this section to the Office of Probation and
15 Parole Administration, and the office shall remit all fees to the
16 State Treasurer for credit to the Probation and Parole Program Cash
17 Fund.

18 (11) The board and the office shall adopt and promulgate
19 rules and regulations to carry out this section.

20 Sec. 54. Section 83-1,116, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 83-1,116. (1) When a committed offender is released on
23 parole, the board shall require as a condition of parole that the
24 offender refrain from engaging in criminal conduct and may require
25 the offender to submit to periodic testing for drug and alcohol
26 use. The board may also require, either at the time of the
27 offender's release on parole or at any time while the offender
28 remains on parole, that the offender conform to any of the

1 following conditions of parole:

2 (a) Meet specified family responsibilities;

3 (b) Devote himself or herself to an approved employment;

4 (c) Remain in the geographic limits fixed in the
5 certificate of parole unless granted written permission to leave
6 such limits;

7 (d) Report, as directed, to his or her ~~district parole~~
8 community corrections officer;

9 (e) Reside at the place fixed in the certificate of
10 parole and notify his or her ~~district parole~~ community corrections
11 officer of any change in address or employment;

12 (f) Submit himself or herself to available medical,
13 psychological, psychiatric, or other treatment;

14 (g) Refrain from associating with persons known to him or
15 her to be engaged in criminal activities or, without permission of
16 his or her ~~district parole~~ community corrections officer, with
17 persons known to him or her to have been convicted of a crime; and

18 (h) Satisfy any other conditions specially related to the
19 cause of his or her offense and not unduly restrictive of his or
20 her liberty or conscience.

21 (2) Before release on parole, a parolee shall be provided
22 with a certificate of parole setting forth the conditions of the
23 parole.

24 Sec. 55. Section 83-1,119, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 83-1,119. (1) Whenever a ~~parole~~ community corrections
27 officer has reasonable cause to believe that a parolee has violated
28 or is about to violate a condition of parole but that the parolee

1 will not attempt to leave the jurisdiction and will not place lives
2 or property in danger, the ~~parole~~ community corrections officer
3 shall submit a written report to the Board of Parole which may, on
4 the basis of such report and such further investigation as it may
5 deem appropriate:

6 (a) Dismiss the charge of violation;

7 (b) Determine whether the parolee violated the conditions
8 of his or her parole;

9 (c) Revoke his or her parole in accordance with the
10 Nebraska Treatment and Corrections Act; or

11 (d) Issue a warrant for the arrest of the parolee.

12 (2) Whenever a ~~parole~~ community corrections officer has
13 reasonable cause to believe that a parolee has violated or is about
14 to violate a condition of parole and that the parolee will attempt
15 to leave the jurisdiction or will place lives or property in
16 danger, the ~~parole~~ community corrections officer shall arrest the
17 parolee without a warrant and call on any peace officer to assist
18 him or her in doing so.

19 (3) Whenever a parolee is arrested with or without a
20 warrant, he or she shall be detained in a local jail or other
21 detention facility. Immediately after such arrest and detention,
22 the ~~parole~~ community corrections officer shall notify the Board of
23 Parole and submit a written report of the reason for such arrest.
24 A complete investigation shall be made by the ~~parole administration~~
25 Office of Probation and Parole Administration and submitted to the
26 ~~parole~~ board. After prompt consideration of such written report,
27 the board shall order the parolee's release from detention or
28 continued confinement to await a final decision on the revocation

1 of parole.

2 Sec. 56. Section 83-1,120, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 83-1,120. Whenever a parolee is charged with a violation
5 of ~~his~~ parole, he or she shall be entitled to a prompt hearing on
6 such charge by the Board of Parole, which in no event shall occur
7 more than thirty days after receipt of the ~~parole~~ community
8 corrections officer's written report. At such hearing, the parolee
9 shall be permitted to be present, to testify, to produce witnesses,
10 to cross-examine adverse witnesses, and to introduce such other
11 evidence as may be pertinent. The parolee shall be informed of his
12 or her right to request counsel at such hearing, and if he or she
13 thereafter makes such request, based on a timely and colorable
14 claim (1) that he or she has not committed the alleged violation of
15 the conditions upon which he or she is at liberty, or (2) that,
16 even if the violation is a matter of public record or is
17 uncontested, there are substantial reasons which justified or
18 mitigated the violation and make revocation inappropriate and that
19 the reasons are complex or otherwise difficult to develop or
20 present, and upon consideration of whether or not the parolee
21 appears to be capable of speaking effectively for himself or
22 herself, the board in the exercise of a sound discretion may
23 provide counsel unless retained counsel is available to the
24 parolee. In every case when a request for counsel is refused, the
25 grounds for refusal shall be stated in the record.

26 Sec. 57. Section 83-1,128, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 83-1,128. In the performance of official duties, the

1 Board of Pardons or any member thereof shall have the power to
2 issue subpoenas, to compel the attendance of witnesses and the
3 production of books, papers, and other documents pertinent to the
4 subject of an inquiry, and to administer oaths and take the
5 testimony of persons under oath. Subpoenas so issued may be served
6 by any sheriff, constable, police officer, ~~parole~~ community
7 corrections officer, or peace officer in the same manner as similar
8 process in the district court. Any person who knowingly testifies
9 falsely, submits any false affidavit or deposition, fails to appear
10 when subpoenaed, or fails or refuses to produce such material
11 pursuant to the subpoena shall be subject to the same orders and
12 penalties to which a person before the district court is subject.
13 Any district court of this state, upon application by the board,
14 may compel the attendance of such witnesses, the production of such
15 material, and the giving of testimony before the board by an
16 attachment for contempt or otherwise in the same manner as
17 production of evidence may be compelled before such court. Every
18 person shall attend as a witness when subpoenaed anywhere within
19 the state and shall be entitled to the same fees, if requested, as
20 a witness in the district court and mileage as provided in section
21 81-1176 for state employees. Fees, mileage, and actual expense, if
22 any, necessarily incurred in securing the attendance of witnesses
23 shall be paid by the board.

24 Sec. 58. Section 83-932, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 83-932. The Division of Community-Centered Services
27 shall:

28 (1) Coordinate all adult parole programs and services in

1 the state and supervise the administration of such programs and
 2 services;

3 ~~(2)~~ Cooperate with the Division of Adult Services in the
 4 coordination of volunteer programs in the adult correctional
 5 facilities;

6 ~~(3)~~ (2) Coordinate and supervise community educational
 7 programs to increase community awareness and understanding of the
 8 community rehabilitative programs of the division; and

9 ~~(4)~~ (3) Perform all duties necessary to carry out the
 10 provisions of this section.

11 Sec. 59. This act becomes operative on January 1, 2006.

12 Sec. 60. Original sections 29-2249, 29-2251, 29-2253,
 13 29-2256, 29-2262.04, 29-2265, 29-2270, 43-260, 43-2,113, 43-2411,
 14 43-3001, 43-3505, 47-623, 47-624, 47-627, 47-628, 47-629, 68-1729,
 15 68-1732, 83-170, 83-195, 83-1,100, 83-1,116, 83-1,119, 83-1,120,
 16 83-1,128, and 83-932, Reissue Revised Statutes of Nebraska, and
 17 sections 24-205, 24-227.01, 28-322 to 28-322.03, 29-2246, 29-2250,
 18 29-2252, 29-2254, 29-2257, 29-2258, 29-2259, 29-2259.02,
 19 29-2260.01, 29-2261, 29-2262, 29-2262.06, 29-2262.07, 29-2263,
 20 29-2264, 29-2266, 29-2269, 29-2272, 29-2935, 29-4009, 29-4305,
 21 81-1401, 81-1848, 83-1,107, and 83-1,107.01, Revised Statutes
 22 Supplement, 2004, are repealed.

23 Sec. 61. The following sections are outright repealed:
 24 Sections 83-1,100.01, 83-1,103, and 83-1,104 Reissue Revised
 25 Statutes of Nebraska, and sections 83-1,102, 83-1,107.02, and
 26 83-933, Revised Statutes Supplement, 2004.