

AMENDMENTS TO LB50

(Amendments to Standing Committee amendments, AM1436)

Introduced by Ibach, 44.

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

3 Section 1. Section 24-1302, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 24-1302 (1) For purposes of this section, problem solving court
6 means a drug, veterans, mental health, driving under the influence,
7 reentry, young adult, or other problem solving court.

8 (2) A district court may establish a problem solving court. A
9 problem solving court shall function within the existing structure of the
10 court system. The goals of a problem solving court shall be consistent
11 with any relevant standards adopted by the United States Department of
12 Justice and the National Association of Drug Court Professionals, as such
13 standards existed on January 1, 2023.

14 (3) An individual may participate in a problem solving court through
15 a pretrial diversion program, as a condition of probation, as a response
16 to a technical violation of parole, as a sentence imposed by a court, or
17 as otherwise provided by the Supreme Court's rules.

18 (4) Problem (1) Drug, veterans, mental health, driving under the
19 influence, reentry, and other problem solving courts shall be subject to
20 rules which shall be promulgated by the Supreme Court for procedures to
21 be implemented in the administration of such courts.

22 (5) (2) It is the intent of the Legislature that funds be
23 appropriated separately to the Supreme Court such that each judicial
24 district may operate at least one drug, veterans, mental health, driving
25 under the influence, reentry, and young adult problem solving court. The
26 State Court Administrator shall ensure that each judicial district has at

1 ~~least one of such courts by January 1, 2024 for each of the problem~~
2 ~~solving courts to carry out this section and section 24-1301.~~

3 (6) The State Court Administrator shall track and evaluate outcomes
4 of problem solving courts. On or before June 1, 2024, and on or before
5 each June 1 thereafter, the State Court Administrator shall
6 electronically submit a report to the Legislature regarding the impact of
7 problem solving courts on recidivism rates in the state. The report shall
8 also include rates of return to court and program completion. The report
9 shall identify judicial districts that are underserved by problem solving
10 courts and what services or funding are needed to properly serve such
11 districts.

12 Sec. 2. (1) The State Court Administrator shall create a pilot
13 program to utilize physical space and information technology resources
14 within Nebraska courts to serve as points of access for virtual
15 behavioral health services for court-involved individuals.

16 (2) The pilot program shall be limited to a single probation
17 district. Such district shall be chosen by the State Court Administrator
18 in consultation with the probation administrator.

19 (3) The purpose of the program is to provide access to safe,
20 confidential, and reliable behavioral health treatment via telehealth for
21 Nebraskans involved with the criminal justice system, either as
22 defendants, probationers, or victims in a criminal proceeding.

23 (4) On or before June 1, 2024, the State Court Administrator shall
24 electronically submit a report to the Judiciary Committee of the
25 Legislature regarding the pilot program.

26 Sec. 3. Section 28-101, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
29 and section 6 of this act shall be known and may be cited as the Nebraska
30 Criminal Code.

31 Sec. 4. Section 28-416, Revised Statutes Cumulative Supplement,

1 2022, is amended to read:

2 28-416 (1) Except as authorized by the Uniform Controlled Substances
3 Act, it shall be unlawful for any person knowingly or intentionally: (a)
4 To manufacture, distribute, deliver, dispense, or possess with intent to
5 manufacture, distribute, deliver, or dispense a controlled substance; or
6 (b) to create, distribute, or possess with intent to distribute a
7 counterfeit controlled substance.

8 (2) Except as provided in subsections (4), (5), (7), (8), (9), ~~and~~
9 ~~(10), and (16)~~ of this section, any person who violates subsection (1) of
10 this section with respect to: (a) A controlled substance classified in
11 Schedule I, II, or III of section 28-405 which is an exceptionally
12 hazardous drug shall be guilty of a Class II felony; (b) any other
13 controlled substance classified in Schedule I, II, or III of section
14 28-405 shall be guilty of a Class IIA felony; or (c) a controlled
15 substance classified in Schedule IV or V of section 28-405 shall be
16 guilty of a Class IIIA felony.

17 (3) A person knowingly or intentionally possessing a controlled
18 substance, except marijuana or any substance containing a quantifiable
19 amount of the substances, chemicals, or compounds described, defined, or
20 delineated in subdivision (c)(26) of Schedule I of section 28-405, unless
21 such substance was obtained directly or pursuant to a medical order
22 issued by a practitioner authorized to prescribe while acting in the
23 course of his or her professional practice, or except as otherwise
24 authorized by the act, shall be guilty of a Class IV felony. A person
25 shall not be in violation of this subsection if section 28-472 or 28-1701
26 applies.

27 (4)(a) Except as authorized by the Uniform Controlled Substances
28 Act, any person eighteen years of age or older who knowingly or
29 intentionally manufactures, distributes, delivers, dispenses, or
30 possesses with intent to manufacture, distribute, deliver, or dispense a
31 controlled substance or a counterfeit controlled substance (i) to a

1 person under the age of eighteen years, (ii) in, on, or within one
2 thousand feet of the real property comprising a public or private
3 elementary, vocational, or secondary school, a community college, a
4 public or private college, junior college, or university, or a
5 playground, or (iii) within one hundred feet of a public or private youth
6 center, public swimming pool, or video arcade facility shall be punished
7 by the next higher penalty classification than the penalty prescribed in
8 subsection (2), (7), (8), (9), or (10) of this section, depending upon
9 the controlled substance involved, for the first violation and for a
10 second or subsequent violation shall be punished by the next higher
11 penalty classification than that prescribed for a first violation of this
12 subsection, but in no event shall such person be punished by a penalty
13 greater than a Class IB felony.

14 (b) For purposes of this subsection:

15 (i) Playground means any outdoor facility, including any parking lot
16 appurtenant to the facility, intended for recreation, open to the public,
17 and with any portion containing three or more apparatus intended for the
18 recreation of children, including sliding boards, swingsets, and
19 teeterboards;

20 (ii) Video arcade facility means any facility legally accessible to
21 persons under eighteen years of age, intended primarily for the use of
22 pinball and video machines for amusement, and containing a minimum of ten
23 pinball or video machines; and

24 (iii) Youth center means any recreational facility or gymnasium,
25 including any parking lot appurtenant to the facility or gymnasium,
26 intended primarily for use by persons under eighteen years of age which
27 regularly provides athletic, civic, or cultural activities.

28 (5)(a) Except as authorized by the Uniform Controlled Substances
29 Act, it shall be unlawful for any person eighteen years of age or older
30 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
31 induce, entice, seduce, or coerce any person under the age of eighteen

1 years to manufacture, transport, distribute, carry, deliver, dispense,
2 prepare for delivery, offer for delivery, or possess with intent to do
3 the same a controlled substance or a counterfeit controlled substance.

4 (b) Except as authorized by the Uniform Controlled Substances Act,
5 it shall be unlawful for any person eighteen years of age or older to
6 knowingly and intentionally employ, hire, use, cause, persuade, coax,
7 induce, entice, seduce, or coerce any person under the age of eighteen
8 years to aid and abet any person in the manufacture, transportation,
9 distribution, carrying, delivery, dispensing, preparation for delivery,
10 offering for delivery, or possession with intent to do the same of a
11 controlled substance or a counterfeit controlled substance.

12 (c) Any person who violates subdivision (a) or (b) of this
13 subsection shall be punished by the next higher penalty classification
14 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
15 this section, depending upon the controlled substance involved, for the
16 first violation and for a second or subsequent violation shall be
17 punished by the next higher penalty classification than that prescribed
18 for a first violation of this subsection, but in no event shall such
19 person be punished by a penalty greater than a Class IB felony.

20 (6) It shall not be a defense to prosecution for violation of
21 subsection (4) or (5) of this section that the defendant did not know the
22 age of the person through whom the defendant violated such subsection.

23 (7) Any person who violates subsection (1) of this section with
24 respect to cocaine or any mixture or substance containing a detectable
25 amount of cocaine in a quantity of:

26 (a) One hundred forty grams or more shall be guilty of a Class IB
27 felony;

28 (b) At least twenty-eight grams but less than one hundred forty
29 grams shall be guilty of a Class IC felony; or

30 (c) At least ten grams but less than twenty-eight grams shall be
31 guilty of a Class ID felony.

1 (8) Any person who violates subsection (1) of this section with
2 respect to base cocaine (crack) or any mixture or substance containing a
3 detectable amount of base cocaine in a quantity of:

4 (a) One hundred forty grams or more shall be guilty of a Class IB
5 felony;

6 (b) At least twenty-eight grams but less than one hundred forty
7 grams shall be guilty of a Class IC felony; or

8 (c) At least ten grams but less than twenty-eight grams shall be
9 guilty of a Class ID felony.

10 (9) Any person who violates subsection (1) of this section with
11 respect to heroin or any mixture or substance containing a detectable
12 amount of heroin in a quantity of:

13 (a) One hundred forty grams or more shall be guilty of a Class IB
14 felony;

15 (b) At least twenty-eight grams but less than one hundred forty
16 grams shall be guilty of a Class IC felony; or

17 (c) At least ten grams but less than twenty-eight grams shall be
18 guilty of a Class ID felony.

19 (10) Any person who violates subsection (1) of this section with
20 respect to amphetamine, its salts, optical isomers, and salts of its
21 isomers, or with respect to methamphetamine, its salts, optical isomers,
22 and salts of its isomers, in a quantity of:

23 (a) One hundred forty grams or more shall be guilty of a Class IB
24 felony;

25 (b) At least twenty-eight grams but less than one hundred forty
26 grams shall be guilty of a Class IC felony; or

27 (c) At least ten grams but less than twenty-eight grams shall be
28 guilty of a Class ID felony.

29 (11) Any person knowingly or intentionally possessing marijuana
30 weighing more than one ounce but not more than one pound shall be guilty
31 of a Class III misdemeanor.

1 (12) Any person knowingly or intentionally possessing marijuana
2 weighing more than one pound shall be guilty of a Class IV felony.

3 (13) Except as provided in section 28-1701, any person knowingly or
4 intentionally possessing marijuana weighing one ounce or less or any
5 substance containing a quantifiable amount of the substances, chemicals,
6 or compounds described, defined, or delineated in subdivision (c)(26) of
7 Schedule I of section 28-405 shall:

8 (a) For the first offense, be guilty of an infraction, receive a
9 citation, be fined three hundred dollars, and be assigned to attend a
10 course as prescribed in section 29-433 if the judge determines that
11 attending such course is in the best interest of the individual
12 defendant;

13 (b) For the second offense, be guilty of a Class IV misdemeanor,
14 receive a citation, and be fined four hundred dollars and may be
15 imprisoned not to exceed five days; and

16 (c) For the third and all subsequent offenses, be guilty of a Class
17 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
18 be imprisoned not to exceed seven days.

19 (14) Any person convicted of violating this section, if placed on
20 probation, shall, as a condition of probation, satisfactorily attend and
21 complete appropriate treatment and counseling on drug abuse provided by a
22 program authorized under the Nebraska Behavioral Health Services Act or
23 other licensed drug treatment facility.

24 (15) Any person convicted of violating this section, if sentenced to
25 the Department of Correctional Services, shall attend appropriate
26 treatment and counseling on drug abuse.

27 (16)(a) Any person convicted of a violation of subsection (1) of
28 this section shall be punished by the next higher penalty classification
29 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
30 this section if:

31 (i) The (16) Any person knowingly or intentionally possessed

1 ~~possessing~~ a firearm while in violation of subsection (1) of this
2 section; or

3 (ii) The use of any controlled substance connected with such
4 violation resulted in serious bodily injury to, or the death of, another
5 person.

6 (b) A penalty enhanced under this subsection shall in no event
7 result in shall be punished by the next higher penalty classification
8 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
9 this section, but in no event shall such person be punished by a penalty
10 greater than a Class IB felony.

11 (17) A person knowingly or intentionally in possession of money used
12 or intended to be used to facilitate a violation of subsection (1) of
13 this section shall be guilty of a Class IV felony.

14 (18) In addition to the existing penalties available for a violation
15 of subsection (1) of this section, including any criminal attempt or
16 conspiracy to violate subsection (1) of this section, a sentencing court
17 may order that any money, securities, negotiable instruments, firearms,
18 conveyances, or electronic communication devices as defined in section
19 28-833 or any equipment, components, peripherals, software, hardware, or
20 accessories related to electronic communication devices be forfeited as a
21 part of the sentence imposed if it finds by clear and convincing evidence
22 adduced at a separate hearing in the same prosecution, following
23 conviction for a violation of subsection (1) of this section, and
24 conducted pursuant to section 28-1601, that any or all such property was
25 derived from, used, or intended to be used to facilitate a violation of
26 subsection (1) of this section.

27 (19) In addition to the penalties provided in this section:

28 (a) If the person convicted or adjudicated of violating this section
29 is eighteen years of age or younger and has one or more licenses or
30 permits issued under the Motor Vehicle Operator's License Act:

31 (i) For the first offense, the court may, as a part of the judgment

1 of conviction or adjudication, (A) impound any such licenses or permits
2 for thirty days and (B) require such person to attend a drug education
3 class;

4 (ii) For a second offense, the court may, as a part of the judgment
5 of conviction or adjudication, (A) impound any such licenses or permits
6 for ninety days and (B) require such person to complete no fewer than
7 twenty and no more than forty hours of community service and to attend a
8 drug education class; and

9 (iii) For a third or subsequent offense, the court may, as a part of
10 the judgment of conviction or adjudication, (A) impound any such licenses
11 or permits for twelve months and (B) require such person to complete no
12 fewer than sixty hours of community service, to attend a drug education
13 class, and to submit to a drug assessment by a licensed alcohol and drug
14 counselor; and

15 (b) If the person convicted or adjudicated of violating this section
16 is eighteen years of age or younger and does not have a permit or license
17 issued under the Motor Vehicle Operator's License Act:

18 (i) For the first offense, the court may, as part of the judgment of
19 conviction or adjudication, (A) prohibit such person from obtaining any
20 permit or any license pursuant to the act for which such person would
21 otherwise be eligible until thirty days after the date of such order and
22 (B) require such person to attend a drug education class;

23 (ii) For a second offense, the court may, as part of the judgment of
24 conviction or adjudication, (A) prohibit such person from obtaining any
25 permit or any license pursuant to the act for which such person would
26 otherwise be eligible until ninety days after the date of such order and
27 (B) require such person to complete no fewer than twenty hours and no
28 more than forty hours of community service and to attend a drug education
29 class; and

30 (iii) For a third or subsequent offense, the court may, as part of
31 the judgment of conviction or adjudication, (A) prohibit such person from

1 obtaining any permit or any license pursuant to the act for which such
2 person would otherwise be eligible until twelve months after the date of
3 such order and (B) require such person to complete no fewer than sixty
4 hours of community service, to attend a drug education class, and to
5 submit to a drug assessment by a licensed alcohol and drug counselor.

6 A copy of an abstract of the court's conviction or adjudication
7 shall be transmitted to the Director of Motor Vehicles pursuant to
8 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
9 juvenile is prohibited from obtaining a license or permit under this
10 subsection.

11 Sec. 5. Section 28-518, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 28-518 (1) Theft constitutes a Class IIA felony when the value of
14 the thing involved is five thousand dollars or more.

15 (2) Theft constitutes a Class IV felony when the value of the thing
16 involved is one thousand five hundred dollars or more but less than five
17 thousand dollars.

18 (3) Theft constitutes a Class I misdemeanor when the value of the
19 thing involved is more than five hundred dollars but less than one
20 thousand five hundred dollars.

21 (4) Theft constitutes a Class II misdemeanor when the value of the
22 thing involved is five hundred dollars or less.

23 (5) For any second or subsequent conviction under subsection (3) of
24 this section, any person so offending shall be guilty of a Class IV
25 felony.

26 (6) For any second conviction under subsection (4) of this section,
27 any person so offending shall be guilty of a Class I misdemeanor, and for
28 any third or subsequent conviction under subsection (4) of this section,
29 the person so offending shall be guilty of a Class IV felony.

30 (7) For a prior conviction to be used to enhance the penalty under
31 subsection (5) or (6) of this section, the prior conviction must have

1 occurred no more than ten years prior to the date of commission of the
2 current offense.

3 (8) (7) Amounts taken pursuant to one scheme or course of conduct
4 from one or more persons may be aggregated in the indictment or
5 information in determining the classification of the offense, except that
6 amounts may not be aggregated into more than one offense.

7 (9) (8) In any prosecution for theft under sections 28-509 to
8 28-518, value shall be an essential element of the offense that must be
9 proved beyond a reasonable doubt.

10 Sec. 6. (1) It shall be unlawful for any person to knowingly and
11 intentionally remove, damage, or circumvent in such a manner as to impede
12 the operation of an electronic monitoring device when such device is
13 required to be worn or used by such person pursuant to an order from a
14 court, from the Department of Correctional Services, or from the Board of
15 Parole.

16 (2) A violation of this section is a Class I misdemeanor.

17 (3) For purposes of this section, electronic monitoring device means
18 a device worn by or affixed to a person which is used to track the
19 physical location of such person.

20 Sec. 7. Section 29-2252, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 29-2252 The administrator shall:

23 (1) Supervise and administer the office;

24 (2) Establish and maintain policies, standards, and procedures for
25 the system, with the concurrence of the Supreme Court;

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

29 (4) Establish minimum qualifications for employment as a probation
30 officer in this state and establish and maintain such additional
31 qualifications as he or she deems appropriate for appointment to the

1 system. Qualifications for probation officers shall be established in
2 accordance with subsection (4) of section 29-2253. An ex-offender
3 released from a penal complex or a county jail may be appointed to a
4 position of deputy probation or parole officer. Such ex-offender shall
5 maintain a record free of arrests, except for minor traffic violations,
6 for one year immediately preceding his or her appointment;

7 (5) Establish and maintain advanced periodic inservice training
8 requirements for the system;

9 (6) Cooperate with all agencies, public or private, which are
10 concerned with treatment or welfare of persons on probation. All
11 information provided to the Nebraska Commission on Law Enforcement and
12 Criminal Justice for the purpose of providing access to such information
13 to law enforcement agencies through the state's criminal justice
14 information system shall be provided in a manner that allows such
15 information to be readily accessible through the main interface of the
16 system;

17 (7) Organize and conduct training programs for probation officers.
18 Training shall include the proper use of a risk and needs assessment,
19 risk-based supervision strategies, relationship skills, cognitive
20 behavioral interventions, community-based resources, criminal risk
21 factors, and targeting criminal risk factors to reduce recidivism and the
22 proper use of a matrix of administrative sanctions, custodial sanctions,
23 and rewards developed pursuant to subdivision (18) of this section. All
24 probation officers employed on or after August 30, 2015, shall complete
25 the training requirements set forth in this subdivision;

26 (8) Collect, develop, and maintain statistical information
27 concerning probationers, probation practices, and the operation of the
28 system and provide the Community Corrections Division of the Nebraska
29 Commission on Law Enforcement and Criminal Justice with the information
30 needed to compile the report required in section 47-624;

31 (9) Interpret the probation program to the public with a view toward

1 developing a broad base of public support;

2 (10) Conduct research for the purpose of evaluating and improving
3 the effectiveness of the system. Subject to the availability of funding,
4 the administrator shall contract with an independent contractor or
5 academic institution for evaluation of existing community corrections
6 facilities and programs operated by the office;

7 (11) Adopt and promulgate such rules and regulations as may be
8 necessary or proper for the operation of the office or system. The
9 administrator shall adopt and promulgate rules and regulations for
10 transitioning individuals on probation across levels of supervision and
11 discharging them from supervision consistent with evidence-based
12 practices. The rules and regulations shall ensure supervision resources
13 are prioritized for individuals who are high risk to reoffend, require
14 transitioning individuals down levels of supervision intensity based on
15 assessed risk and months of supervision without a reported major
16 violation, and establish incentives for earning discharge from
17 supervision based on compliance;

18 (12) Transmit a report during each even-numbered year to the Supreme
19 Court on the operation of the office for the preceding two calendar years
20 which shall include a historical analysis of probation officer workload,
21 including participation in non-probation-based programs and services. The
22 report shall be transmitted by the Supreme Court to the Governor and the
23 Clerk of the Legislature. The report submitted to the Clerk of the
24 Legislature shall be submitted electronically;

25 (13) Administer the payment by the state of all salaries, travel,
26 and expenses authorized under section 29-2259 incident to the conduct and
27 maintenance of the office;

28 (14) Use the funds provided under section 29-2262.07 to augment
29 operational or personnel costs associated with the development,
30 implementation, and evaluation of enhanced probation-based programs and
31 non-probation-based programs and services in which probation personnel or

1 probation resources are utilized pursuant to an interlocal agreement
2 authorized by subdivision (16) of this section and to purchase services
3 to provide such programs aimed at enhancing adult probationer or non-
4 probation-based program participant supervision in the community and
5 treatment needs of probationers and non-probation-based program
6 participants. Enhanced probation-based programs include, but are not
7 limited to, specialized units of supervision, related equipment purchases
8 and training, and programs that address a probationer's vocational,
9 educational, mental health, behavioral, or substance abuse treatment
10 needs;

11 (15) Ensure that any risk or needs assessment instrument utilized by
12 the system be periodically validated;

13 (16) Have the authority to enter into interlocal agreements in which
14 probation resources or probation personnel may be utilized in conjunction
15 with or as part of non-probation-based programs and services. Any such
16 interlocal agreement shall comply with section 29-2255;

17 (17) Collaborate with the Community Corrections Division of the
18 Nebraska Commission on Law Enforcement and Criminal Justice and the
19 Division of Parole Supervision to develop rules governing the
20 participation of parolees in community corrections programs operated by
21 the Office of Probation Administration;

22 (18) Develop a matrix of rewards for compliance and positive
23 behaviors and graduated administrative sanctions and custodial sanctions
24 for use in responding to and deterring substance abuse violations and
25 technical violations. As applicable under sections 29-2266.02 and
26 29-2266.03, custodial sanctions of up to thirty days in jail shall be
27 designated as the most severe response to a violation in lieu of
28 revocation and custodial sanctions of up to three days in jail shall be
29 designated as the second most severe response;

30 (19) Adopt and promulgate rules and regulations for the creation of
31 individualized post-release supervision plans, collaboratively with the

1 Department of Correctional Services and county jails, for probationers
2 sentenced to post-release supervision; and

3 (20) Exercise all powers and perform all duties necessary and proper
4 to carry out his or her responsibilities.

5 Each member of the Legislature shall receive an electronic copy of
6 the report required by subdivision (12) of this section by making a
7 request for it to the administrator.

8 Sec. 8. Section 29-2262, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 29-2262 (1) When a court sentences an offender to probation, it
11 shall attach such reasonable conditions as it deems necessary or likely
12 to insure that the offender will lead a law-abiding life. No offender
13 shall be sentenced to probation if he or she is deemed to be a habitual
14 criminal pursuant to section 29-2221.

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

17 (a) To refrain from unlawful conduct;

18 (b) To be confined periodically in the county jail or to return to
19 custody after specified hours but not to exceed the lesser of ninety days
20 or the maximum jail term provided by law for the offense;

21 (c) To meet his or her family responsibilities;

22 (d) To devote himself or herself to a specific employment or
23 occupation;

24 (e) To undergo medical or psychiatric treatment and to enter and
25 remain in a specified institution for such purpose;

26 (f) To pursue a prescribed secular course of study or vocational
27 training;

28 (g) To attend or reside in a facility established for the
29 instruction, recreation, or residence of persons on probation;

30 (h) To refrain from frequenting unlawful or disreputable places or
31 consorting with disreputable persons;

1 (i) To possess no firearm or other dangerous weapon if convicted of
2 a felony, or if convicted of any other offense, to possess no firearm or
3 other dangerous weapon unless granted written permission by the court;

4 (j) To remain within the jurisdiction of the court and to notify the
5 court or the probation officer of any change in his or her address or his
6 or her employment and to agree to waive extradition if found in another
7 jurisdiction;

8 (k) To report as directed to the court or a probation officer and to
9 permit the officer to visit his or her home;

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

11 (m) To pay for tests to determine the presence of drugs or alcohol,
12 psychological evaluations, offender assessment screens, and
13 rehabilitative services required in the identification, evaluation, and
14 treatment of offenders if such offender has the financial ability to pay
15 for such services;

16 (n) To perform community service as outlined in sections 29-2277 to
17 29-2279 under the direction of his or her probation officer;

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

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

23 (q) To satisfy any other conditions reasonably related to the
24 rehabilitation of the offender;

25 (r) To make restitution as described in sections 29-2280 and
26 29-2281; or

27 (s) To pay for all costs imposed by the court, including court costs
28 and the fees imposed pursuant to section 29-2262.06.

29 (3) When jail time is imposed as a condition of probation under
30 subdivision (2)(b) of this section, the court shall advise the offender
31 on the record the time the offender will serve in jail assuming no good

1 time for which the offender will be eligible under section 47-502 is lost
2 and assuming none of the jail time imposed as a condition of probation is
3 waived by the court.

4 (4) Jail time may only be imposed as a condition of probation under
5 subdivision (2)(b) of this section if:

6 (a) The court would otherwise sentence the defendant to a term of
7 imprisonment instead of probation; and

8 (b) The court makes a finding on the record that, while probation is
9 appropriate, periodic confinement in the county jail as a condition of
10 probation is necessary because a sentence of probation without a period
11 of confinement would depreciate the seriousness of the offender's crime
12 or promote disrespect for law.

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

16 (6) In all cases in which the offender is guilty of a crime covered
17 by the DNA Identification Information Act, a condition of probation shall
18 be the collecting of a DNA sample pursuant to the act and the paying of
19 all costs associated with the collection of the DNA sample prior to
20 release from probation.

21 (7) For any offender sentenced to probation, the court shall enter
22 an order to provide the offender's (a) name, (b) probation officer, and
23 (c) conditions of probation to the Nebraska Commission on Law Enforcement
24 and Criminal Justice which shall provide access to such information to
25 law enforcement agencies through the state's criminal justice information
26 service.

27 Sec. 9. Section 29-2263, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 29-2263 (1)(a) ~~(1)~~ Except as provided in subsection (2) of this
30 section, when a court has sentenced an offender to probation, the court
31 shall specify the term of such probation which shall be not more than

1 five years upon conviction of a felony or second offense misdemeanor and
2 two years upon conviction of a first offense misdemeanor.

3 (b) At sentencing, the court shall provide notice to the offender
4 that the offender may be eligible to have the conviction set aside as
5 provided in subsection (2) of section 29-2264 and shall provide
6 information on how to file such a petition. The State Court Administrator
7 shall develop standardized advisement language and any forms necessary to
8 carry out this subdivision.

9 (c) The court, on application of a probation officer or of the
10 probationer or on its own motion, may discharge a probationer at any
11 time.

12 (2) When a court has sentenced an offender to post-release
13 supervision, the court shall specify the term of such post-release
14 supervision as provided in section 28-105. The court, on application of a
15 probation officer or of the probationer or on its own motion, may
16 discharge a probationer at any time.

17 (3) During the term of probation, the court on application of a
18 probation officer or of the probationer, or its own motion, may modify or
19 eliminate any of the conditions imposed on the probationer or add further
20 conditions authorized by section 29-2262. This subsection does not
21 preclude a probation officer from imposing administrative sanctions with
22 the probationer's full knowledge and consent as authorized by sections
23 29-2266.01 and 29-2266.02.

24 (4)(a) (4) Upon completion of the term of probation, or the earlier
25 discharge of the probationer, the probationer shall be relieved of any
26 obligations imposed by the order of the court and shall have satisfied
27 the sentence for his or her crime.

28 (b) Upon satisfactory fulfillment of the conditions of probation for
29 the entire period or after discharge from probation prior to the
30 termination of the period of probation, a probation officer shall notify
31 the probationer that the probationer may be eligible to have the

1 conviction set aside as provided in subsection (2) of section 29-2264.
2 The notice shall include an explanation of the requirements for a
3 conviction to be set aside, how to file a petition for a conviction to be
4 set aside, and the effect of and limitations of having a conviction set
5 aside and an advisement that the probationer consult with an attorney
6 prior to filing a petition. The State Court Administrator shall develop
7 standardized advisement language and any forms necessary to carry out
8 this subdivision.

9 (5) Whenever a probationer disappears or leaves the jurisdiction of
10 the court without permission, the time during which he or she keeps his
11 or her whereabouts hidden or remains away from the jurisdiction of the
12 court shall be added to the original term of probation.

13 Sec. 10. Section 29-2269, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 29-2269 Sections 29-2246 to 29-2269 and sections 11 and 12 of this
16 act shall be known and may be cited as the Nebraska Probation
17 Administration Act.

18 Sec. 11. (1) The probation administrator shall create a pilot
19 program to hire additional assistant probation officers as provided in
20 this section.

21 (2) The pilot program shall be limited to a single probation
22 district.

23 (3) Assistant probation officers hired under this section shall
24 assist probation officers in the supervision of high-risk caseloads.

25 (4) The purpose of the pilot program is to determine whether
26 additional support for probation officers results in probationers
27 completing their terms of probation with fewer violations.

28 (5) On or before June 1, 2024, the probation administrator shall
29 electronically submit a report to the Judiciary Committee of the
30 Legislature regarding the pilot program. The report shall include the
31 total number of persons admitted into the pilot program, including

1 demographic information, criminal history, and top needs according to the
2 results of a risk assessment; conditions of supervision; the total number
3 of violations of supervision conditions; the number of supervision
4 discharges by type of discharge; and recidivism rates.

5 Sec. 12. (1) The probation administrator shall create a pilot
6 program to establish a probationer incentive program as provided in this
7 section.

8 (2) The pilot program shall be limited to a single probation
9 district. Such district shall be chosen by the State Court Administrator.

10 (3) The pilot program shall establish a gift fund to be used for the
11 purchase of gift cards, vouchers, and other tangible rewards for
12 probationers who are succeeding at probation, in order to encourage
13 continued success and reduce recidivism. The gifts shall be awarded at
14 the discretion of probation officers, subject to policies and guidelines
15 of the office.

16 (4) On or before June 1, 2024, the probation administrator shall
17 electronically submit a report to the Judiciary Committee of the
18 Legislature regarding the pilot program.

19 Sec. 13. Section 29-2281, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 29-2281 (1) To determine the amount of restitution, the court may
22 hold a hearing at the time of sentencing. The amount of restitution shall
23 be based on the actual damages sustained by the victim and shall be
24 supported by evidence which shall become a part of the court record. The
25 court shall consider the defendant's earning ability, employment status,
26 financial resources, and family or other legal obligations and shall
27 balance such considerations against the obligation to the victim. In
28 considering the earning ability of a defendant who is sentenced to
29 imprisonment, the court may receive evidence of money anticipated to be
30 earned by the defendant during incarceration.

31 (2) A person may not be granted or denied probation or parole either

1 solely or primarily due to his or her financial resources or ability or
2 inability to pay restitution.

3 (3) The court may order that restitution be made immediately, in
4 specified installments, or within a specified period of time not to
5 exceed five years after the date of judgment or defendant's final release
6 date from imprisonment, whichever is later.

7 (4) If, in addition to restitution, a defendant is ordered to pay
8 finances and costs as part of the judgment and the defendant fails to pay
9 the full amount owed, funds shall first be applied to a restitution
10 obligation with the remainder applied towards fines and costs only when
11 the restitution obligation is satisfied in full.

12 (5) Restitution payments shall be made through the clerk of the
13 court ordering restitution. The clerk shall maintain a record of all
14 receipts and disbursements.

15 Sec. 14. Section 29-3001, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 29-3001 (1) A prisoner in custody under sentence and claiming a
18 right to be released on the ground that there was such a denial or
19 infringement of the rights of the prisoner as to render the judgment void
20 or voidable under the Constitution of this state or the Constitution of
21 the United States, may file a verified motion, in the court which imposed
22 such sentence, stating the grounds relied upon and asking the court to
23 vacate or set aside the sentence.

24 (2) Unless the motion and the files and records of the case show to
25 the satisfaction of the court that the prisoner is entitled to no relief,
26 the court shall cause notice thereof to be served on the county attorney,
27 grant a prompt hearing thereon, and determine the issues and make
28 findings of fact and conclusions of law with respect thereto. If the
29 court finds that there was such a denial or infringement of the rights of
30 the prisoner as to render the judgment void or voidable under the
31 Constitution of this state or the Constitution of the United States, the

1 court shall vacate and set aside the judgment and shall discharge the
2 prisoner or resentence the prisoner or grant a new trial as may appear
3 appropriate. Proceedings under the provisions of sections 29-3001 to
4 29-3004 shall be civil in nature. Costs shall be taxed as in habeas
5 corpus cases.

6 (3) A court may entertain and determine such motion without
7 requiring the production of the prisoner, whether or not a hearing is
8 held. Testimony of the prisoner or other witnesses may be offered by
9 deposition. The court need not entertain a second motion or successive
10 motions for similar relief on behalf of the same prisoner.

11 (4) A one-year period of limitation shall apply to the filing of a
12 verified motion for postconviction relief. The one-year limitation period
13 shall run from the later of:

14 (a) The date the judgment of conviction became final by the
15 conclusion of a direct appeal or the expiration of the time for filing a
16 direct appeal;

17 (b) The date on which the factual predicate of the constitutional
18 claim or claims alleged could have been discovered through the exercise
19 of due diligence;

20 (c) The date on which an impediment created by state action, in
21 violation of the Constitution of the United States or the Constitution of
22 Nebraska or any law of this state, is removed, if the prisoner was
23 prevented from filing a verified motion by such state action;

24 (d) The date on which a constitutional claim asserted was initially
25 recognized by the Supreme Court of the United States or the Nebraska
26 Supreme Court, if the newly recognized right has been made applicable
27 retroactively to cases on postconviction collateral review; or

28 (e) The date on which the Supreme Court of the United States denies
29 a writ of certiorari or affirms a conviction appealed from the Nebraska
30 Supreme Court. This subdivision only applies if, within thirty days after
31 petitioning the Supreme Court of the United States for a writ of

1 certiorari, the prisoner files a notice in the district court of
2 conviction stating that the prisoner has filed such petition August 27,
3 2011.

4 Sec. 15. Section 43-2,108, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 43-2,108 (1) The juvenile court judge shall keep a record of all
7 proceedings of the court in each case, including appearances, findings,
8 orders, decrees, and judgments, and any evidence which he or she feels it
9 is necessary and proper to record. The case file shall contain the
10 complaint or petition and subsequent pleadings. The case file may be
11 maintained as an electronic document through the court's electronic case
12 management system, on microfilm, or in a paper volume and disposed of
13 when determined by the State Records Administrator pursuant to the
14 Records Management Act.

15 (2) Except as provided in subsections (3) and (4) of this section,
16 the medical, psychological, psychiatric, and social welfare reports and
17 the records of juvenile probation officers, as they relate to individual
18 proceedings in the juvenile court, shall not be open to inspection,
19 without order of the court. Such records shall be made available to a
20 district court of this state or the District Court of the United States
21 on the order of a judge thereof for the confidential use of such judge or
22 his or her probation officer as to matters pending before such court but
23 shall not be made available to parties or their counsel; and such
24 district court records shall be made available to a county court or
25 separate juvenile court upon request of the county judge or separate
26 juvenile judge for the confidential use of such judge and his or her
27 probation officer as to matters pending before such court, but shall not
28 be made available by such judge to the parties or their counsel.

29 (3) As used in this section, confidential record information means
30 all docket records, other than the pleadings, orders, decrees, and
31 judgments; case files and records; reports and records of probation

1 officers; and information supplied to the court of jurisdiction in such
2 cases by any individual or any public or private institution, agency,
3 facility, or clinic, which is compiled by, produced by, and in the
4 possession of any court. In all cases under subdivision (3)(a) of section
5 43-247, access to all confidential record information in such cases shall
6 be granted only as follows: (a) The court of jurisdiction may, subject to
7 applicable federal and state regulations, disseminate such confidential
8 record information to any individual, or public or private agency,
9 institution, facility, or clinic which is providing services directly to
10 the juvenile and such juvenile's parents or guardian and his or her
11 immediate family who are the subject of such record information; (b) the
12 court of jurisdiction may disseminate such confidential record
13 information, with the consent of persons who are subjects of such
14 information, or by order of such court after showing of good cause, to
15 any law enforcement agency upon such agency's specific request for such
16 agency's exclusive use in the investigation of any protective service
17 case or investigation of allegations under subdivision (3)(a) of section
18 43-247, regarding the juvenile or such juvenile's immediate family, who
19 are the subject of such investigation; and (c) the court of jurisdiction
20 may disseminate such confidential record information to any court, which
21 has jurisdiction of the juvenile who is the subject of such information
22 upon such court's request.

23 (4) The court shall provide copies of predispositional reports and
24 evaluations of the juvenile to the juvenile's attorney and the county
25 attorney or city attorney prior to any hearing in which the report or
26 evaluation will be relied upon.

27 (5) In all cases under sections 43-246.01 and 43-247, the office of
28 Inspector General of Nebraska Child Welfare may submit a written request
29 to the probation administrator for access to the records of juvenile
30 probation officers in a specific case. Upon a juvenile court order, the
31 records shall be provided to the Inspector General within five days for

1 the exclusive use in an investigation pursuant to the Office of Inspector
2 General of Nebraska Child Welfare Act. Nothing in this subsection shall
3 prevent the notification of death or serious injury of a juvenile to the
4 Inspector General of Nebraska Child Welfare pursuant to section 43-4318
5 as soon as reasonably possible after the Office of Probation
6 Administration learns of such death or serious injury.

7 (6) In all cases under sections 43-246.01 and 43-247, the juvenile
8 court shall disseminate confidential record information to the Foster
9 Care Review Office pursuant to the Foster Care Review Act.

10 (7) Nothing in subsections (3), (5), and (6) of this section shall
11 be construed to restrict the dissemination of confidential record
12 information between any individual or public or private agency,
13 institute, facility, or clinic, except any such confidential record
14 information disseminated by the court of jurisdiction pursuant to this
15 section shall be for the exclusive and private use of those to whom it
16 was released and shall not be disseminated further without order of such
17 court.

18 (8)(a) Any records concerning a juvenile court petition filed
19 pursuant to subdivision (3)(c) of section 43-247 shall remain
20 confidential except as may be provided otherwise by law. Such records
21 shall be accessible to (i) the juvenile except as provided in subdivision
22 (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's
23 parent or guardian, and (iv) persons authorized by an order of a judge or
24 court.

25 (b) Upon application by the county attorney or by the director of
26 the facility where the juvenile is placed and upon a showing of good
27 cause therefor, a judge of the juvenile court having jurisdiction over
28 the juvenile or of the county where the facility is located may order
29 that the records shall not be made available to the juvenile if, in the
30 judgment of the court, the availability of such records to the juvenile
31 will adversely affect the juvenile's mental state and the treatment

1 thereof.

2 (9) Nothing in subsection (3), (5), or (6) of this section shall be
3 construed to restrict the immediate dissemination of a current picture
4 and information about a child who is missing from a foster care or out-
5 of-home placement. Such dissemination by the Office of Probation
6 Administration shall be authorized by an order of a judge or court. Such
7 information shall be subject to state and federal confidentiality laws
8 and shall not include that the child is in the care, custody, or control
9 of the Department of Health and Human Services or under the supervision
10 of the Office of Probation Administration.

11 (10) Any juvenile court order that places a juvenile on electronic
12 monitoring shall also state whether the data from such electronic
13 monitoring device shall be made available to a law enforcement agency
14 immediately upon request by such agency. For any juvenile subject to the
15 supervision of a probation officer, the name of the juvenile, the name of
16 the juvenile's probation officer, and any terms of probation included in
17 a juvenile court order otherwise open to inspection shall be provided to
18 the Nebraska Commission on Law Enforcement and Criminal Justice which
19 shall provide access to such information to law enforcement agencies
20 through the state's criminal justice information service.

21 Sec. 16. Section 50-434, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 50-434 (1) The Legislature finds that while serious crime in the
24 State of Nebraska has not increased in the past five years, the prison
25 population continues to increase as does the amount spent on correctional
26 issues. The Legislature further finds that a need exists to closely
27 examine the criminal justice system of the State of Nebraska in order to
28 increase public safety while concurrently reducing correctional spending
29 and reinvesting in strategies that decrease crime and strengthen Nebraska
30 communities.

31 (2) It is the intent of the Legislature that the State of Nebraska

1 work cooperatively with the Council of State Governments Justice Center
2 to study and identify innovative solutions and evidence-based practices
3 to develop a data-driven approach to reduce correctional spending and
4 reinvest savings in strategies that can decrease recidivism and increase
5 public safety and for the executive, legislative, and judicial branches
6 of Nebraska state government to work with the Council of State
7 Governments Justice Center in this process.

8 (3) The Committee on Justice Reinvestment Oversight is created as a
9 special legislative committee to maintain continuous oversight of the
10 Nebraska Justice Reinvestment Initiative and related issues.

11 (4) The special legislative committee shall be comprised of five
12 members of the Legislature selected by the Executive Board of the
13 Legislative Council, including the chairperson of the Judiciary Committee
14 of the Legislature who shall serve as chairperson of the special
15 legislative committee.

16 (5) The Committee on Justice Reinvestment Oversight shall monitor
17 and guide analysis and policy development in all aspects of the criminal
18 justice system in Nebraska within the scope of the justice reinvestment
19 initiative, including tracking implementation of evidence-based
20 strategies as established in Laws 2015, LB605, and reviewing policies to
21 improve public safety, reduce recidivism, and reduce spending on
22 corrections in Nebraska. With assistance from the Council of State
23 Governments Justice Center, the committee shall monitor performance and
24 measure outcomes by collecting data from counties and relevant state
25 agencies for analysis and reporting.

26 (6) The committee shall prepare and submit an annual report of its
27 activities and findings and may make recommendations to improve any
28 aspect of the criminal justice system. The committee shall deliver the
29 report to the Governor, the Clerk of the Legislature, and the Chief
30 Justice by September 1 of each year. The report to the clerk shall be
31 delivered electronically.

1 (7) The committee terminates on September 30, 2023.

2 Sec. 17. Section 69-2426, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 69-2426 (1) Any firearm dealer licensed pursuant to 18 U.S.C. 923
5 ~~Dealers of firearms~~ shall distribute to all firearm purchasers;

6 (a) Information ~~information~~ developed by the Department of Health
7 and Human Services regarding the dangers of leaving loaded firearms
8 unattended around children; and -

9 (b) Information on suicide prevention, including materials that
10 provide evidence-based information aligned with best practices in suicide
11 prevention. Such materials shall include information on the 988 Suicide
12 and Crisis Lifeline or other similar resources. The Nebraska State Patrol
13 shall maintain and publish a list of materials that may be used to comply
14 with this subdivision.

15 (2) There is hereby created the Firearm Information Fund. Private
16 contributions shall be credited by the State Treasurer to such fund for
17 the implementation of the provisions of this section.

18 Sec. 18. Section 69-2432, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 69-2432 (1) The Nebraska State Patrol shall prepare and publish
21 minimum training and safety requirements for and adopt and promulgate
22 rules and regulations governing handgun training and safety courses and
23 handgun training and safety course instructors. Minimum safety and
24 training requirements for a handgun training and safety course shall
25 include, but not be limited to:

26 (a) Knowledge and safe handling of a handgun;

27 (b) Knowledge and safe handling of handgun ammunition;

28 (c) Safe handgun shooting fundamentals;

29 (d) A demonstration of competency with a handgun with respect to the
30 minimum safety and training requirements;

31 (e) Knowledge of federal, state, and local laws pertaining to the

1 purchase, ownership, transportation, and possession of handguns;

2 (f) Knowledge of federal, state, and local laws pertaining to the
3 use of a handgun, including, but not limited to, use of a handgun for
4 self-defense and laws relating to justifiable homicide and the various
5 degrees of assault;

6 (g) Knowledge of ways to avoid a criminal attack and to defuse or
7 control a violent confrontation;~~and~~

8 (h) Knowledge of proper storage practices for handguns and
9 ammunition, including storage practices which would reduce the
10 possibility of accidental injury to a child; and -

11 (i) Suicide prevention training. Such training shall consist of
12 evidence-based information aligned with best practices in suicide
13 prevention.

14 (2) A person or entity conducting a handgun training and safety
15 course and the course instructors shall be approved by the patrol before
16 operation. The patrol shall issue a certificate evidencing its approval.

17 (3) A certificate of completion of a handgun training and safety
18 course shall be issued by the person or entity conducting a handgun
19 training and safety course to persons successfully completing the course.
20 The certificate of completion shall also include certification from the
21 instructor that the person completing the course does not suffer from a
22 readily discernible physical infirmity that prevents the person from
23 safely handling a handgun.

24 (4) Any fee for participation in a handgun training and safety
25 course is the responsibility of the applicant.

26 Sec. 19. Section 83-1,100.02, Revised Statutes Cumulative
27 Supplement, 2022, is amended to read:

28 83-1,100.02 (1) For purposes of this section:

29 (a) Levels of supervision means the determination of the following
30 for each person on parole:

31 (i) Supervision contact requirements, including the frequency,

- 1 location, methods, and nature of contact with the parole officer;
- 2 (ii) Substance abuse testing requirements and frequency;
- 3 (iii) Contact restrictions;
- 4 (iv) Curfew restrictions;
- 5 (v) Access to available programs and treatment, with priority given
- 6 to moderate-risk and high-risk parolees; and
- 7 (vi) Severity of graduated responses to violations of supervision
- 8 conditions;~~and~~

9 (b) Responsivity factors means characteristics of a parolee that
10 affect the parolee's ability to respond favorably or unfavorably to any
11 treatment goals; and

12 (c) (b) Risk and needs assessment means an actuarial tool that has
13 been validated in Nebraska to determine the likelihood of the parolee
14 engaging in future criminal behavior.

15 (2) The Division of Parole Supervision shall establish an evidence-
16 based process that utilizes a risk and needs assessment to measure
17 criminal risk factors, ~~and~~ specific individual needs, and responsivity
18 factors.

19 (3) The risk and needs assessment shall be performed at the
20 commencement of the parole term and every six months thereafter by
21 division staff trained and certified in the use of the risk and needs
22 assessment.

23 (4) The validity of the risk and needs assessment shall be tested at
24 least every five years.

25 (5) Based on the results of the risk and needs assessment, the
26 division shall target parolee criminal risk and need factors by focusing
27 sanction, program, and treatment resources on moderate-risk and high-risk
28 parolees.

29 (6) The division shall provide training to its parole officers on
30 (a) use of a risk and needs assessment, (b) risk-based supervision
31 strategies, (c) relationship skills, (d) cognitive behavioral

1 interventions, (e) community-based resources, (f) criminal risk factors,
2 (g) targeting criminal risk factors to reduce recidivism, (h) and proper
3 use of a matrix of administrative sanctions, custodial sanctions, and
4 rewards developed pursuant to section 83-1,119, and (i) addressing
5 responsivity factors. All parole officers employed on August 30, 2015,
6 shall complete the training requirements set forth in this subsection on
7 or before January 1, 2017. Each parole officer hired on or after August
8 30, 2015, shall complete the training requirements set forth in this
9 subsection within one year after his or her hire date or September 1,
10 2024, whichever is later.

11 (7) The division shall provide training for chief parole officers to
12 become trainers so as to ensure long-term and self-sufficient training
13 capacity in the state.

14 Sec. 20. Section 83-1,111, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 83-1,111 (1)(a) (1) A committed offender serving an indeterminate
17 sentence under which he or she may become eligible for parole shall be
18 interviewed and have his or her record reviewed by two or more members of
19 the board ~~Board of Parole~~ or a person designated by the board within
20 sixty days before the expiration of his or her minimum term less any
21 reductions as provided in section 83-1,110.

22 (b) If the committed offender is a qualified offender as defined in
23 section 21 of this act, the committed offender shall enter into a
24 streamlined parole contract as provided in such section.

25 (2) If the committed offender is a qualified offender, the review
26 shall be limited to verifying that the committed offender is a qualified
27 offender and whether the committed offender has already fulfilled the
28 streamlined parole contract. If the committed offender has not yet
29 fulfilled the streamlined parole contract, a subsequent review shall be
30 set for the date the committed offender will fulfill the streamlined
31 parole contract, assuming the committed offender will meet the

1 requirements of subsection (3) of section 21 of this act.

2 (3)(a) This subsection applies if the committed offender is not a
3 qualified offender or has been found at a review under subsection (2) of
4 this section to have not fulfilled the terms of the streamlined parole
5 contract. If, in the opinion of the reviewers, the review indicates the
6 offender is reasonably likely to be granted parole and has a potential
7 parole term of no less than one month, the board ~~Board of Parole~~ shall
8 schedule a public hearing before a majority of its members. At such
9 hearing the offender may present evidence, call witnesses, and be
10 represented by counsel. If, in the opinion of the reviewers, the review
11 indicates the offender should be denied parole, the offender may request
12 an additional review by a majority of the members of the board. A review
13 by the majority of the members of the board may be conducted not more
14 than once annually. Any hearing and review shall be conducted in an
15 informal manner, but a complete record of the proceedings shall be made
16 and preserved.

17 (b) (2) The board shall render its decision regarding the committed
18 offender's release on parole within a reasonable time after the hearing
19 or review. The decision shall be by majority vote of the board. The
20 decision shall be based on the entire record before the board which shall
21 include the opinion of the person who conducted the review. If the board
22 denies parole, written notification listing the reasons for such denial
23 and the recommendations for correcting deficiencies which cause the
24 denial shall be given to the committed offender within thirty days
25 following the hearing.

26 (c) (3) If the board fixes the release date, such date shall be not
27 more than six months from the date of the committed offender's parole
28 hearing or from the date of last reconsideration of his or her case,
29 unless there are special reasons for fixing a later release date.

30 (d) (4) If the board defers the case for later reconsideration, the
31 committed offender shall be afforded a parole review at least once a year

1 until a release date is fixed. The board may order a reconsideration or a
2 rehearing of the case at any time.

3 (4) (5) The release of a committed offender on parole shall not be
4 upon the application of the offender but by the initiative of the board
5 Board of Parole. No application for release on parole made by a committed
6 offender or on his or her behalf shall be entertained by the board. This
7 subsection does not prohibit the Director of Correctional Services from
8 recommending to the board that it consider an individual offender for
9 release on parole.

10 Sec. 21. (1) A qualified offender serving a sentence imposed prior
11 to the effective date of this act who has not yet received a review from
12 the board shall, at the review, enter into a streamlined parole contract
13 under this section.

14 (2) A qualified offender serving a sentence imposed on or after the
15 effective date of this act shall, at the qualified offender's first
16 review from the board, enter into a streamlined parole contract under
17 this section.

18 (3) Under a streamlined parole contract, a qualified offender shall
19 be released on parole on the qualified offender's parole eligibility
20 date, without a hearing before the board, if:

21 (a) In the twenty-four-month period prior to the eligibility date,
22 the qualified offender has not committed a Class I offense under the
23 department's disciplinary code; and

24 (b) The qualified offender has completed all diagnostic evaluations
25 provided by the department and any programming or treatment required by
26 the department for substance abuse, sex offenses, and violence reduction.

27 (4) If a qualified offender does not meet the requirements of
28 subsection (3) of this section, the board shall consider the offender's
29 parole eligibility as provided for nonqualified offenders under section
30 83-1,111.

31 (5) For purposes of this section:

1 (a) Qualified offender means a committed offender who is serving an
2 indeterminate sentence under which the committed offender may become
3 eligible for parole and who is not serving a sentence for a violent
4 felony;

5 (b) Serious bodily injury has the same meaning as in section 28-109;

6 (c) Sexual contact and sexual penetration have the same meanings as
7 in section 28-318; and

8 (d) Violent felony means an offense which is a Class IIIA felony or
9 higher and:

10 (i) Which includes, as an element of the offense:

11 (A) Sexual contact or sexual penetration;

12 (B) The threat to inflict serious bodily injury or death on another
13 person, the infliction of serious bodily injury on another person, or
14 causing the death of another person; or

15 (C) The use of physical force against another person; or

16 (ii) Which consists of attempt, conspiracy, being an accessory to,
17 or aiding and abetting a felony with any of the offenses described in
18 subdivision (5)(d)(i) of this section as the underlying offense.

19 Sec. 22. (1) A committed offender may be eligible for geriatric
20 parole if the committed offender:

21 (a) Is not serving a sentence for a Class I or IA felony or
22 otherwise serving a sentence of life imprisonment;

23 (b) Is not serving a sentence for an offense that includes as an
24 element sexual contact or sexual penetration;

25 (c) Is seventy-five years of age or older; and

26 (d) Has served at least fifteen years of the sentence for which
27 currently incarcerated.

28 (2) A committed offender may be eligible for geriatric parole in
29 addition to any other parole. The department shall identify committed
30 offenders who may be eligible for geriatric parole.

31 (3) The board shall decide to grant geriatric parole only after a

1 review of the decision guidelines as set forth in the board's rules and
2 regulations and the factors set forth in section 83-1,114.

3 (4) The parole term of a geriatric parolee shall be for the
4 remainder of the parolee's sentence as reduced by any adjustment for good
5 conduct pursuant to the Nebraska Treatment and Corrections Act.

6 (5) The board shall require as a condition of geriatric parole that
7 the parolee wear or use an electronic monitoring device for a period of
8 at least eighteen months. For purposes of this subsection, electronic
9 monitoring device means a device worn by or affixed to a person which is
10 used to track the physical location of such person.

11 Sec. 23. Section 83-1,114, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 83-1,114 (1) Whenever the board considers the release of a committed
14 offender who is eligible for release on parole, it shall order his or her
15 release unless it is of the opinion that his or her release should be
16 deferred because:

17 (a) There is a substantial risk that he or she will not conform to
18 the conditions of parole;

19 (b) His or her release would depreciate the seriousness of his or
20 her crime or promote disrespect for law;

21 (c) His or her release would have a substantially adverse effect on
22 institutional discipline; or

23 (d) His or her continued correctional treatment, medical care, or
24 vocational or other training in the facility will substantially enhance
25 his or her capacity to lead a law-abiding life when released at a later
26 date.

27 (2) In making its determination regarding a committed offender's
28 release on parole, the board shall give consideration to the ~~its~~ decision
29 guidelines as set forth in its rules and regulations and shall take into
30 account each of the following factors:

31 ~~(a) The offender's personality, including his or her maturity,~~

1 ~~stability, and sense of responsibility and any apparent development in~~
2 ~~his or her personality which may promote or hinder his or her conformity~~
3 ~~to law;~~

4 ~~(a) (b) The adequacy of the offender's parole plan, including~~
5 ~~sufficiency of residence, employment history, and employability;~~

6 ~~(c) The offender's ability and readiness to assume obligations and~~
7 ~~undertake responsibilities;~~

8 ~~(d) The offender's intelligence and training;~~

9 ~~(e) The offender's family status and whether he or she has relatives~~
10 ~~who display an interest in him or her or whether he or she has other~~
11 ~~close and constructive associations in the community;~~

12 ~~(f) The offender's employment history, his or her occupational~~
13 ~~skills, and the stability of his or her past employment;~~

14 ~~(g) The type of residence, neighborhood, or community in which the~~
15 ~~offender plans to live;~~

16 ~~(h) The offender's past use of narcotics or past habitual and~~
17 ~~excessive use of alcohol;~~

18 ~~(i) The offender's mental or physical makeup, including any~~
19 ~~disability or handicap which may affect his or her conformity to law;~~

20 ~~(b) (j) The offender's prior criminal record, including the nature~~
21 ~~and circumstances, dates, and frequency of previous offenses;~~

22 ~~(k) The offender's attitude toward law and authority;~~

23 ~~(l) The offender's conduct in the facility, including particularly~~
24 ~~whether he or she has taken advantage of the opportunities for self-~~
25 ~~improvement, whether he or she has been punished for misconduct within~~
26 ~~six months prior to his or her hearing or reconsideration for parole~~
27 ~~release, whether any reductions of term have been forfeited, and whether~~
28 ~~such reductions have been restored at the time of hearing or~~
29 ~~reconsideration;~~

30 ~~(c) (m) The offender's institutional behavior and attitude during~~
31 ~~any previous experience of probation or parole and how recent such~~

1 ~~experience is;~~

2 (d) The offender's previous experience on parole and how recent such
3 experience is;

4 (e) Whether the offender has completed a ~~(n)~~ The risk and needs
5 assessment completed pursuant to section 83-192; and

6 (f) Any testimony or written statement by a victim as provided in
7 section 81-1848.

8 ~~(o) Any other factors the board determines to be relevant.~~

9 Sec. 24. Section 83-1,122.01, Revised Statutes Cumulative
10 Supplement, 2022, is amended to read:

11 83-1,122.01 (1) Except as provided in subsection (3) of this
12 section, the board does not have jurisdiction over a person who is
13 committed to the department in accordance with section 29-2204.02 for a
14 Class III, IIIA, or IV felony committed on or after August 30, 2015,
15 unless the person is also committed to the department in accordance with
16 section 29-2204 for (a) a sentence of imprisonment for a Class III, IIIA,
17 or IV felony committed prior to August 30, 2015, or (b) a sentence of
18 imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony.

19 (2) Except as provided in subsection (3) of this section, the board
20 does not have jurisdiction over a person committed to the department for
21 a misdemeanor sentence imposed consecutively or concurrently with a Class
22 III, IIIA, or IV felony sentence for an offense committed on or after
23 August 30, 2015, unless the person is also committed to the department in
24 accordance with section 29-2204 for (a) a sentence of imprisonment for a
25 Class III, IIIA, or IV felony committed prior to August 30, 2015, or (b)
26 a sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA
27 felony.

28 (3) This section does not apply to medical parole under section
29 83-1,110.02 or geriatric parole under section 22 of this act.

30 Sec. 25. Section 83-1,125.01, Revised Statutes Cumulative
31 Supplement, 2022, is amended to read:

1 83-1,125.01 (1) The Board of Parole and the Division of Parole
2 Supervision may maintain an individual file for each person who is under
3 the jurisdiction of the Board of Parole. Such file may be maintained
4 electronically and shall include, when available and appropriate, the
5 following information on such person:

- 6 (a) Admission summary;
- 7 (b) Presentence investigation report;
- 8 (c) Classification reports and recommendations;
- 9 (d) Official records of conviction and commitment along with any
10 earlier criminal records;
- 11 (e) Progress reports and admission-orientation reports;
- 12 (f) Reports of any disciplinary infractions and their disposition;
- 13 (g) Risk and needs assessments;
- 14 (h) Parole plan and parole placement and investigation worksheets;
- 15 (i) Decision guideline scores;
- 16 (j) Parole case plan;
- 17 (k) Parole progress reports and contact notes;
- 18 (l) Arrest and violation reports, including disposition;
- 19 (m) Parole proceedings orders and notices;
- 20 (n) Other documents related to parole supervision;
- 21 (o) Correspondence; and
- 22 (p) Other pertinent data concerning his or her background, conduct,
23 associations, and family relationships.

24 (2) Any decision concerning release on or revocation of parole or
25 imposition of sanctions shall be made only after the individual file has
26 been reviewed. The contents of the individual file shall be confidential
27 unless disclosed in connection with a public hearing and shall not be
28 subject to public inspection except by court order for good cause shown.
29 The contents of the file shall not be accessible to any person under the
30 jurisdiction of the Board of Parole. A person under the jurisdiction of
31 the board may obtain access to his or her medical records by request to

1 the provider pursuant to sections 71-8401 to 71-8407 notwithstanding the
2 fact that such medical records may be a part of his or her parole file.
3 The board and the Division of Parole Supervision have the authority to
4 withhold decision guideline scores, risk and needs assessment scores, and
5 mental health and psychological records of a person under the
6 jurisdiction of the board when appropriate.

7 (3) Nothing in this section limits in any manner the authority of
8 the Public Counsel to inspect and examine the records and documents of
9 the board and the Division of Parole Supervision pursuant to sections
10 81-8,240 to 81-8,254, except that the Public Counsel's access to the
11 medical or mental health records of a person under the jurisdiction of
12 the board shall be subject to his or her consent. The office of Public
13 Counsel shall not disclose the medical or mental health records of a
14 person under the jurisdiction of the board to anyone else, including any
15 other person under the jurisdiction of the board, except as authorized by
16 law.

17 (4) For any person under the jurisdiction of the Board of Parole,
18 the board shall provide such person's (a) name, (b) parole officer, and
19 (c) conditions of parole to the Nebraska Commission on Law Enforcement
20 and Criminal Justice which shall provide access to such information to
21 law enforcement agencies through the state's criminal justice information
22 service.

23 Sec. 26. (1) The Division of Parole Supervision and the department
24 shall create a pilot program to establish a technical parole violation
25 residential housing program. The purpose of the program is to provide
26 accountability and intensive support for individuals on parole who commit
27 technical violations, without revoking them fully back to prison.

28 (2) The program shall provide a structured environment for selected
29 individuals on parole who have committed technical violations. The
30 program shall be based upon a therapeutic community model. Participants
31 in the program shall, at a minimum, be required to take part in

1 counseling, educational, and other programs as the department deems
2 appropriate, to provide community service, and to submit to drug and
3 alcohol screening.

4 (3) An individual on parole shall not be placed in the pilot program
5 until the Division of Parole Supervision has determined the individual is
6 a suitable candidate in accordance with policies and guidelines developed
7 by the division.

8 (4) On or before June 1, 2024, the Division of Parole Supervision
9 shall electronically submit a report to the Judiciary Committee of the
10 Legislature regarding the pilot program. The report shall evaluate
11 effects of the pilot program on recidivism and make recommendations
12 regarding expansion of or changes to the program.

13 (5) For purposes of this section, technical violation has the same
14 meaning as in section 83-1,119.

15 Sec. 27. Section 83-1,135, Revised Statutes Cumulative Supplement,
16 2022, is amended to read:

17 83-1,135 Sections 83-170 to 83-1,135.05 and sections 21, 22, and 26
18 of this act shall be known and may be cited as the Nebraska Treatment and
19 Corrections Act.

20 Sec. 28. Section 83-1,135.02, Revised Statutes Cumulative
21 Supplement, 2022, is amended to read:

22 83-1,135.02 (1) It is the intent of the Legislature that the changes
23 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,
24 with respect to parole eligibility apply to all committed offenders under
25 sentence and not on parole on May 24, 2003, and to all persons sentenced
26 on and after such date.

27 (2) It is the intent of the Legislature that the changes made to
28 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,
29 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,
30 83-1,100.02, and 83-1,100.03 apply to all committed offenders under
31 sentence, on parole, or on probation on August 30, 2015, and to all

1 persons sentenced on and after such date.

2 (3) It is the intent of the Legislature that the changes made to
3 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,
4 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by
5 Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03
6 apply to all committed offenders under sentence, on parole, or on
7 probation on or after April 20, 2016, and to all persons sentenced on and
8 after such date.

9 (4) It is the intent of the Legislature that the changes made to
10 sections 83-1,110.02 and 83-1,122.01 by Laws 2018, LB841, apply to all
11 committed offenders under sentence or on parole on or after July 19,
12 2018, and to all persons sentenced on and after such date.

13 (5) Except as otherwise provided in section 21 of this act, it is
14 the intent of the Legislature that the changes made to sections 83-1,111
15 and 83-1,114 and sections 21 and 22 of this act by this legislative bill
16 apply to all committed offenders under sentence or on parole on or after
17 the effective date of this act, and to all persons sentenced on and after
18 such date.

19 Sec. 29. Original sections 24-1302, 28-518, 29-2263, 29-2269,
20 29-2281, 29-3001, 50-434, 69-2426, and 69-2432, Reissue Revised Statutes
21 of Nebraska, and sections 28-101, 28-416, 29-2252, 29-2262, 43-2,108,
22 83-1,100.02, 83-1,111, 83-1,114, 83-1,122.01, 83-1,125.01, 83-1,135, and
23 83-1,135.02, Revised Statutes Cumulative Supplement, 2022, are repealed.