

JUDICIARY COMMITTEE

**One-Hundredth Nebraska Legislature
First Session**

2007

SUMMARY AND DISPOSITION OF BILLS



Senator Brad Ashford, Chairperson
Senator Steve Lathrop, Vice-Chairperson
Senator Dwite Pedersen
Senator Ernie Chambers
Senator Diana Schimek
Senator Pete Pirsch
Senator Vicki McDonald
Senator Amanda McGill

Committee Staff: Jeff Beaty, Committee Counsel
Stacey Trout, Committee Counsel

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INDEX OF BILLS BY SUBJECT

CHILDREN/CHILD VISITATION AND CUSTODY

LB 6 (*Pahls*) Adopt the Nebraska Safe Haven Act

LB 75 (*Hudkins*) Provide powers and duties to the juvenile court regarding the placement and custody of juveniles

LB 76 (*Hudkins*) Change provisions governing physical and legal custody arrangements of a minor child

LB 92 (*Cornett*) Change provisions relating to foreign national minors

LB 157 (*Stuthman*) Provide for leaving an infant with a firefighter or hospital staff member

LB 257 (*Lathrop*) Adopt the Public Guardianship Act

LB 341 (*Schimek*) Change Uniform Child Custody Jurisdiction Act provisions

LB 457 (*Hanson*) Change provisions governing court review of foster care placement

LB 478 (*Johnson*) Change provisions relating to adoption procedures

LB 554 (*Flood*) Adopt a new Parenting Act

LB 556 (*Ashford*) Change Juvenile Code provisions relating to counsel and guardian ad litem

LB 571 (*Kruse*) Provide for adoption by two adult persons jointly

LB 606 (*Ashford*) Provide for court referral to mediation or other alternative dispute resolution

LB 620 (*Pirsch*) Change provisions relating to child support collection, bad debts, and the State Disbursement Unit

LB 682 (*Wightman*) Change provisions relating to use of the Supreme Court child support guidelines

CIVIL PROCEDURE

LB 19 (*Mines*) Authorize disposition of an abandoned mobile home as personal property

LB 67 (*Stuthman*) Permit service of summons of proposed jurors by first-class mail

LB 99 (*Wightman*) Change provisions relating to the appointment of receivers by the district court

LB 221 (*Lathrop*) Change legal procedure complaint and notice provisions

LB 225 (*Friend*) Provide for acknowledgment of satisfaction of judgment and unsworn certification

LB 259 (*Friend*) Change provisions relating to service of process for garnishment

LB 306 (*Stuthman*) Provide for the protection of social security numbers in support orders

LB 335 (*Kruse*) Change provisions relating to civil protective custody

LB 384 (*Wightman*) Prohibit certain actions by judgment creditors

LB 449 (*Ashford*) Change provisions on how judicial records are proved

LB 522 (*Aguilar*) Change civil procedure costs and attorney's fees

LB 526 (*Aguilar*) Change civil procedure plaintiff's costs

CONSTITUTIONAL AMENDMENTS

LR 4CA (*Avery*) Constitutional amendment to provide grounds for impeachment

CONTROLLED SUBSTANCES

LB 15 (*Mines*) Include parks as a prohibited area for controlled substances

LB 217 (*Ashford*) Change provisions relating to unlawful acts involving drug substances

LB 218 (*Burling*) Change provisions relating to the acquisition of certain drug products

CORRECTIONS/COMMUNITY CORRECTIONS

LB 83 (*Synowiecki*) Provide for Board of Parole recommendations relating to incarceration work camps

LB 96 (*Flood*) Redefine a term under the Nebraska Probation Administration Act

LB 406 (*Pedersen*) Provide for presumptive parole release dates

LB 467 (*Chambers*) Grant the Ombudsman authority with respect to county jails

LB 540 (*Synowiecki*) Adopt the Probation and Parole Services Merger Act

LB 541 (*Synowiecki*) Provide a duty for the Community Corrections Council

LB 669 (*Hudkins*) Adopt the Nebraska Behavioral Health Jail Diversion Planning and Coordination Advisory Council Act

LB 671 (*Pedersen*) Adopt the Office of Probation and Parole Administration

LB 680 (*Pedersen*) Authorize contracts for keeping prisoners for cities of the metropolitan class

COURTS

LB 36 (*Hudkins*) Change the number of county court judges

LB 37 (*Hudkins*) Change the number of district court judges

LB 38 (*Hudkins*) Change the number of separate juvenile court judges

LB 45 (*Gay*) Change provisions relating to district court fees

LB 154 (*Burling*) Eliminate certain exemptions from jury service

LB 213 (*Ashford*) Change provisions relating to preserving testimony

LB 214 (*Ashford*) Change acting county attorney compensation, provide for county judge interchange, and eliminate an obsolete procedure

LB 243 (*Flood*) Change provisions relating to jurors

LB 290 (*Pirsch*) Change judicial nominating commission provisions

LB 377 (*Ashford*) Reallocate district court judgeships

LB 533 (*Heidemann*) Remove a requirement of consent and waiver of physical appearance for audiovisual court appearances

LB 552 (*Flood*) Increase the salaries of Supreme Court judges

LB 659 (*Pedersen*) Increase the salaries of Supreme Court judges

LB 693 (*Hudkins*) Require use of driver's license numbers for preparation of juror Lists

CRIMINAL OFFENSES AND PENALTIES

LB 8 (*Priester*) Increase penalty for accumulation of junk

LB 47 (*Hudkins*) Create the offense of interference with child visitation

LB 141 (*Flood*) Change provisions relating to burglary

LB 142 (*Friend*) Change provisions relating to intimidation through the use of communication devices

LB 176 (*Cornett*) Redefine police animal for certain crimes

LB 180 (*Kruse*) Provide a penalty with respect to keg identification numbers

LB 201 (*Fischer*) Change the penalty for false information relating to motor vehicle registration

LB 215 (*Ashford*) Change provisions relating to life imprisonment

LB 227 (*Cornett*) Create offense of intentional abandonment of an animal

LB 242 (*Flood*) Change provisions relating to assault by a confined person and create an offense of assault on an officer with bodily fluids

LB 258 (*Lathrop*) Change provisions relating to minors' violations under the Nebraska Liquor Control Act

LB 260 (*Kruse*) Change provisions relating to implied consent violations

LB 261 (*Kruse*) Eliminate provisions relating to religious uses of alcoholic liquor and minors' activities at permanent place of residence

LB 336 (*Kruse*) Change penalties for violation of certain liquor laws relating to minors

LB 337 (*Kruse*) Provide for confiscation of identification of minors attempting to purchase alcohol

LB 407 (*Pedersen*) Change driving under the influence penalty provisions with respect to ignition interlock devices

LB 413 (*Flood*) Change provisions governing children born out of wedlock and the offense of violation of custody

LB 424 (*Adams*) Prohibit the breathing, inhaling, or drinking of certain compounds

LB 553 (*Flood*) Impound an operator's license as prescribed with respect to bail and eliminate certain administrative license revocation procedures

LB 624 (*Pirsch*) Change provisions relating to operating a motor vehicle to avoid arrest

LB 685 (*Karpisek*) Change provisions relating to the possession of alcohol by minors

CRIMINAL PROCEDURE

LB 143 (*Mcdonald*) Prohibit government officials from requiring a polygraph examination of a victim of a sex offense

LB 179 (*Lathrop*) Require electronic recording of custodial interrogations

LB 376 (*Ashford*) Change felony complaint procedures

LB 474 (*Chambers*) Provide for certain misconduct by school teachers, school nurses, and police officers to be a public record

LB 623 (*Pirsch*) Change provisions relating to speedy trial

DEATH PENALTY

LB 476 (*Chambers*) Change penalty from death to life imprisonment without possibility of parole and provide for restitution

EMPLOYMENT

LB 450 (*Ashford*) Provide immunity for employer disclosure of certain employee information

LB 475 (*Chambers*) Prohibit discrimination based upon sexual orientation or marital status

LB 674 (*Lathrop*) Prohibit use of social security numbers by employers as prescribed and provide a penalty

FIREARMS

LB 491 (*Harms*) Change provisions relating to concealed handguns

LB 692 (*Hudkins*) Prohibit intentional discharge of firearm within two hundred yards of a dwelling

LB 695 (*Christiansen*) Limit the power of cities to regulate the carrying of concealed handguns

JUVENILES

LB 29 (*Friend*) Provide for court orders to direct financially able parents to pay for costs of care for wards of the state

LB 68 (*Hudkins*) Create the Office of Guardian ad Litem Services

LB 104 (*Erdman*) Change age of majority from nineteen to eighteen

LB 112 (*Erdman*) Provide for the judicial emancipation of minors

LB 280 (*Stuthman*) Provide for jurisdiction over custody proceedings of juveniles as prescribed

LB 535 (*Schimek*) Create the juvenile legal services division of the Commission on Public Advocacy and eliminate a council

LAW ENFORCEMENT

LB 216 (*Ashford*) Change provisions relating to violence on a service dog

LB 428 (*Synowiecki*) Adopt the Peace Officer Employer - Employee Relations Act

LB 465 (*Chambers*) Change provisions relating to jailhouse informants

LB 470 (*Chambers*) Change provisions relating to dissemination of records of arrest

LB 525 (*Aguilar*) Modify provisions relating to liability involved in vehicular pursuits

LB 532 (*Nantkes*) Change provisions relating to the Nebraska Police Standards Council

LIABILITY

LB 65 (*Stuthman*) Change the statute of repose for the Nebraska Hospital - Medical Liability Act

LB 78 (*Nantkes*) Change amounts recoverable under the Political Subdivisions Tort Claims Act

LB 152 (*Pankonin*) Change insurer reporting requirements regarding professional liability claims

LB 197 (*Schimek*) Change the Political Subdivisions Tort Claims Act

LB 228 (*Synowiecki*) Repeals statutes limiting liability of owners or operators of motor vehicles and aircraft for damages to guests or invitees

LB 274 (*McDonald*) Require a warning label on liquefied petroleum gas tanks and provide a limitation on liability

LB 373 (*Schimek*) Provide for the inadmissibility of apologies regarding medical care as evidence

LB 448 (*Ashford*) Change limitation of action provisions under the Political Subdivisions Tort Claims Act

LB 564 (*Friend*) Change the Recreational Liability Act

LB 566 (*Louden*) Adopt the Public Recreational Liability Act

LB 567 (*Louden*) Change the Recreational Liability Act

LB 573 (*Kruse*) Adopt the Alcoholic Liquor Liability Act

LB 625 (*Engel*) Prohibit civil actions based upon weight gain

LB 673 (*Lathrop*) Modify the definition of malpractice or professional neglect to include sexual abuse, misconduct, or exploitation

MARRIAGE

LB 132 (*Nantkes*) Provide for revocation of a legal separation decree

LB 696 (*Christensen*) Provide a fee increase and a waiting period for marriage licenses if marriage education requirements are not met

MEDICAL ETHICS

LB 599 (*Aguillar*) Permit the filing of voluntary acknowledgement of parentage in cases of gestational surrogacy

LB 700 (*Christensen*) Adopt the Human Cloning Prohibition Act

MISCELLANEOUS

LB 97 (*Flood*) Repeal terminated provisions relating to settlement escrow funds

LB 151 (*Gay*) Provide a statute of limitations for certificate of deposit obligations as prescribed

LB 164 (*Fischer*) Change provisions of the Relocation Assistance Act

LB 246 (*Johnson*) Provide requirements for coroners relating to the procurement of anatomical gifts and provide for civil and criminal immunity

LB 254 (*Aguillar*) Change child passenger restraint system and occupant protection system provisions

LB 293 (*Pedersen*) Redefine public safety official with respect to infectious disease exposure

LB 363 (*Ashford*) Adopt the Legal Education for Public Service Loan Repayment Act

LB 382 (*Pahls*) Change provisions relating to notaries public

LB 639 (*Raikes*) Change powers and duties of county attorneys

LB 668 (*Hudkins*) Eliminate provisions relating to gift cards and gift certificates

PROPERTY, REAL ESTATE AND PROBATE

LB 20 (*Mines*) Change provisions related to public recreational access to water Projects

LB 102 (*Erdman*) Provide for notice of appointment of a personal representative under the Nebraska Probate Code

LB 137 (*Flood*) Change provisions relating to inheritance tax liens

LB 220 (*Dierks*) Provide for medical liens for chiropractors

LB 237 (*Pahls*) Change the homestead exemption amount for judgments and Execution

LB 586 (*Cornett*) Change medical lien provisions

LB 672 (*Lathrop*) Change eminent domain provisions relating to municipal utilities

SEX OFFENDER STATUTES

LB 81 (*Schimek*) Create the offense of school trespass and prohibit certain activities of registered sex offenders

LB 138 (*Flood*) Provide penalties and change other provisions relating to sex offenders

STATE AGENCIES

LB 107 (*Pedersen*) Create a deputy public counsel for institutions and facilities operated by the Department of Health and Human Services

LB 618 (*Pirsch*) Authorize State Treasurer to collect certain bad debt fees electronically

LB 619 (*Pirsch*) Change provisions relating to bad debt charges by the State Treasurer

TOBACCO

LB 580 (*Priester*) Change provisions relating to tobacco product manufacturers

LB 585 (*Priester*) Change provisions relating to the dispensing of cigarettes or other tobacco products

INDEX OF BILLS (2007 Legislative Session)

LB/LR	INTRODUCER	ONE-LINER	HEARING DATE	COMMITTEE DISPOSITION	FINAL DISPOSITION	COMMENTS
LR 4CA	Avery	Constitutional amendment to provide grounds for impeachment	2/15	Held in Committee	Held in Committee	
LB 6	Pahls	Adopt the Nebraska Safe Haven Act	1/17	Held in Committee	Held in Committee	
LB 8	Preister	Increase penalty for accumulation of junk	1/17	General File	Governor Approved	
LB 15	Mines	Include parks as a prohibited area for controlled substances	1/17	Held in Committee	Held in Committee	
LB 19	Mines	Authorize disposition of an abandoned mobile home as personal property	1/18	Indefinitely Postponed	Indefinitely Postponed	
LB 20	Mines	Change provisions related to public recreational access to water projects	2/14	Held in Committee	Held in Committee	
LB 29	Friend	Provide for court orders to direct financially able parents to pay for costs of care for wards of the state	1/26	Held in Committee	Held in Committee	
LB 36	Hudkins	Change the number of county court judges	2/28	Held in Committee	Held in Committee	
LB 37	Hudkins	Change the number of district court judge	2/28	Held in Committee	Held in Committee	
LB 38	Hudkins	Change the number of separate juvenile court judges	2/28	Held in Committee	Held in Committee	
LB 45	Gay	Change provisions relating to district court fees	3/14	Held in Committee	Held in Committee	
LB 47	Hudkins	Create the offense of interference with child visitation	3/8	Held in Committee	Held in Committee	
LB 65	Stuthman	Change the statute of repose for the Nebraska Hospital - Medical Liability Act	2/21	Held in Committee	Held in Committee	
LB 67	Stuthman	Permit service of summons of proposed jurors by first-class mail	1/18	General File, Amended	Governor Approved	
LB 68	Hudkins	Create the Office of Guardian ad Litem Services	2/23	Held in Committee	Held in Committee	
LB 75	Hudkins	Provide powers and duties to the juvenile court regarding the placement and custody of juveniles	2/23	Held in Committee	Held in Committee	

LB 76	Hudkins	Change provisions governing physical and legal custody arrangements of a minor child	3/8	Held in Committee	Held in Committee	
LB 78	Nantkes	Change amounts recoverable under the Political Subdivisions Tort Claims Act	2/7	Held in Committee	Held in Committee	
LB 81	Schimek	Create the offense of school trespass and prohibit certain activities of registered sex offenders	2/2	Indefinitely Postponed	Indefinitely Postponed	
LB 83	Synowiecki	Provide for Board of Parole recommendations relating to incarceration work camps	1/25	General File	Governor Approved	
LB 92	Cornett	Change provisions relating to foreign national minors	1/24	General File	General File	
LB 96	Flood	Redefine a term under the Nebraska Probation Administration Act	1/25	Held in Committee	Held in Committee	
LB 97	Flood	Repeal terminated provisions relating to settlement escrow funds	1/26	General File	Governor Approved	LB 491 was amended into LB 97 by AM 1495
LB 99	Wightman	Change provisions relating to the appointment of receivers by the district court	1/18	General File	Governor Approved	
LB 102	Erdman	Provide for notice of appointment of a personal representative under the Nebraska Probate Code	1/26	Indefinitely Postponed	Indefinitely Postponed	
LB 104	Erdman	Change age of majority from nineteen to eighteen	3/20	Held in Committee	Held in Committee	
LB 107	Pedersen	Create a deputy public counsel for institutions and facilities operated by the Department of Health and Human Services	2/15	General File	General File	
LB 112	Erdman	Provide for the judicial emancipation of minors	3/20	General File	General File	2007 Speaker Priority Bill
LB 132	Nantkes	Provide for revocation of a legal separation decree	1/24	General File, Amended	Governor Approved	
LB 137	Flood	Change provisions relating to inheritance tax liens	2/1	Held in Committee	Held in Committee	
LB 138	Flood	Provide penalties and change other provisions relating to sex offenders	2/2	Held in Committee	Held in Committee	
LB 141	Flood	Change provisions relating to burglary	1/17	Held in Committee	Held in Committee	
LB 142	Friend	Change provisions relating to intimidation through the use of communication devices	2/15	General File, Amended	Governor Approved	Senator Friend's 2007 Priority Bill

LB 143	McDonald	Prohibit government officials from requiring a polygraph examination of a victim of a sex offense	2/2	General File	Governor Approved	Senator McDonald's 2007 Priority Bill
LB 151	Gay	Provide a statute of limitations for certificate of deposit obligations as prescribed	3/20	General File	General File	
LB 152	Pankonin	Change insurer reporting requirements regarding professional liability claims	2/1	General File	Governor Approved	
LB 154	Burling	Eliminate certain exemptions from jury service	1/18	Indefinitely Postponed	Indefinitely Postponed	
LB 157	Stuthman	Provide for leaving an infant with a firefighter or hospital staff member	1/17	General File, Amended	General File	Senator Stuthman's 2007 Priority Bill
LB 164	Fischer	Change provisions of the Relocation Assistance Act	3/20	Held in Committee	Held in Committee	
LB 176	Cornett	Redefine police animal for certain crimes	1/19	Held in Committee	Held in Committee	
LB 179	Lathrop	Require electronic recording of custodial interrogations	2/8	General File, Amended	General File	
LB 180	Kruse	Provide a penalty with respect to keg identification numbers	1/19	Held in Committee	Governor Approved	LB 180 was amended into LB 573 by AM 1195
LB 197	Schimek	Change the Political Subdivisions Tort Claims Act	2/7	Held in Committee	Held in Committee	
LB 201	Fischer	Change the penalty for false information relating to motor vehicle registration	1/25	Held in Committee	Held in Committee	
LB 213	Ashford	Change provisions relating to preserving testimony	1/18	General File	Governor Approved	
LB 214	Ashford	Change acting county attorney compensation, provide for county judge interchange, and eliminate an obsolete procedure	2/28	General File	Governor Approved	
LB 215	Ashford	Change provisions relating to life imprisonment	1/31	Held in Committee	Held in Committee	
LB 216	Ashford	Change provisions relating to violence on a service dog	1/19	Held in Committee	Held in Committee	
LB 217	Ashford	Change provisions relating to unlawful acts involving drug substances	1/19	Held in Committee	Held in Committee	
LB 218	Burling	Change provisions relating to the acquisition of certain drug products	2/22	General File	Governor Approved	Senator Burling's 2007 Priority Bill

LB 220	Dierks	Provide for medical liens for chiropractors	2/1	Held in Committee	Held in Committee	
LB 221	Lathrop	Change legal procedure complaint and notice provisions	2/14	General File	Governor Approved	
LB 225	Friend	Provide for acknowledgment of satisfaction of judgment and unsworn certification	2/14	Held in Committee	Held in Committee	
LB 227	Cornett	Create offense of intentional abandonment of an animal	1/19	General File, Amended	Governor Approved	
LB 228	Synowiecki	Repeals statutes limiting liability of owners or operators of motor vehicles and aircraft for damages to guests or invitees	2/7	Held in Committee	Held in Committee	
LB 237	Pahls	Change the homestead exemption amount for judgments and execution	1/24	General File	Governor Approved	
LB 242	Flood	Change provisions relating to assault by a confined person and create an offense of assault on an officer with bodily fluids	2/8	Held in Committee	Held in Committee	
LB 243	Flood	Change provisions relating to jurors	3/14	Held in Committee	Held in Committee	
LB 246	Johnson	Provide requirements for coroners relating to the procurement of anatomical gifts and provide for civil and criminal immunity	2/15	General File, Amended	Select File	2007 Speaker Priority Bill
LB 254	Aguilar	Change child passenger restraint system and occupant protection system provisions	2/23	Held in Committee	Held in Committee	
LB 257	Lathrop	Adopt the Public Guardianship Act	2/23	Held in Committee	Held in Committee	
LB 258	Lathrop	Change provisions relating to minors' violations under the Nebraska Liquor Control Act	3/21	Held in Committee	Held in Committee	
LB 259	Friend	Change provisions relating to service of process for garnishment	1/24	Held in Committee	Held in Committee	
LB 260	Kruse	Change provisions relating to implied consent violations	2/22	General File	Governor Approved	LB 260 was amended into LB 578 by AM 779
LB 261	Kruse	Eliminate provisions relating to religious uses of alcoholic liquor and minors' activities at permanent place of residence	3/21	Held in Committee	Held in Committee	
LB 274	McDonald	Require a warning label on liquefied petroleum gas tanks and provide a limitation on liability	2/7	General File, Amended	Governor Approved	2007 Speaker Priority Bill

LB 280	Stuthman	Provide for jurisdiction over custody proceedings of juveniles as prescribed	2/23	General File	General File	
LB 290	Pirsch	Change judicial nominating commission provisions	1/26	General File	Governor Approved	
LB 293	Pedersen	Redefine public safety official with respect to infectious disease exposure	3/7	Held in Committee	Held in Committee	
LB 306	Stuthman	Provide for the protection of social security numbers in support orders	1/26	Held in Committee	Held in Committee	
LB 335	Kruse	Change provisions relating to civil protective custody	1/25	General File, Amended	General File	
LB 336	Kruse	Change penalties for violation of certain liquor laws relating to minors	3/21	Held in Committee	Held in Committee	
LB 337	Kruse	Provide for confiscation of identification of minors attempting to purchase alcohol	3/21	Held in Committee	Held in Committee	
LB 341	Schimek	Change Uniform Child Custody Jurisdiction Act provisions	1/25	General File, Amended	Governor Approved	
LB 363	Ashford	Adopt the Legal Education for Public Service Loan Repayment Act	3/7	Held in Committee	Held in Committee	
LB 373	Schimek	Provide for the inadmissibility of apologies regarding medical care as evidence	2/7	General File, Amended	Governor Approved	Senator Ashford's 2007 Priority Bill
LB 376	Ashford	Change felony complaint procedures	3/7	Held in Committee	Held in Committee	
LB 377	Ashford	Reallocate district court judgeships	2/28, *3/30	General File, Amended	Governor Approved	2007 Judiciary Committee Priority Bill *A second hearing was held for AM 832
LB 382	Pahls	Change provisions relating to notaries public	3/14	General File	Governor Approved	
LB 384	Wightman	Prohibit certain actions by judgment creditors	2/1	Held in Committee	Held in Committee	
LB 406	Pedersen	Provide for presumptive parole release dates	3/15	Held in Committee	Held in Committee	

LB 407	Pedersen	Change driving under the influence penalty provisions with respect to ignition interlock devices	2/22	Held in Committee	Held in Committee	
LB 413	Flood	Change provisions governing children born out of wedlock and the offense of violation of custody	3/8	Held in Committee	Held in Committee	
LB 424	Adams	Prohibit the breathing, inhaling, or drinking of certain compounds	2/22	General File	Governor Approved	
LB 428	Synowiecki	Adopt the Peace Officer Employer - Employee Relations Act	2/28	General File	General File	
LB 448	Ashford	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	2/7	Held in Committee	Held in Committee	
LB 449	Ashford	Change provisions on how judicial records are proved	3/14	General File	Governor Approved	
LB 450	Ashford	Provide immunity for employer disclosure of certain employee information	2/21	Held in Committee	Held in Committee	
LB 457	Hanson	Change provisions governing court review of foster care placement	2/21	General File	Governor Approved	Senator Hansen's 2007 Priority Bill
LB 465	Chambers	Change provisions relating to jailhouse informants	1/31	General File, Amended	General File	
LB 467	Chambers	Grant the Ombudsman authority with respect to county jails	2/15	General File, Amended	General File	
LB 470	Chambers	Change provisions relating to dissemination of records of arrest	1/31	General File	Governor Approved	
LB 474	Chambers	Provide for certain misconduct by school teachers, school nurses, and police officers to be a public record	2/8	General File, Amended	General File	
LB 475	Chambers	Prohibit discrimination based upon sexual orientation or marital status	2/15	General File, Amended	Indefinitely Postponed	2007 Judiciary Committee Priority Bill
LB 476	Chambers	Change penalty from death to life imprisonment without possibility of parole and provide for restitution	1/31	General File, Amended	General File-Failed to advance to select	Senator Chambers' 2007 Priority Bill
LB 478	Johnson	Change provisions relating to adoption procedures	3/20	General File, Amended	Governor Approved	LB 478 was amended into LB 247 by AM 1391
LB 491	Harms	Change provisions relating to concealed handguns	2/2	General File, Amended	Governor Approved	LB 491 was amended into LB 97 by AM 1485
LB 522	Aguilar	Change civil procedure costs and attorney's fees	3/14	Held in Committee	Held in Committee	

LB 525	Aguilar	Modify provisions relating to liability involved in vehicular pursuits	2/8	Held in Committee	Held in Committee	
LB 526	Aguilar	Change civil procedure plaintiff's costs	3/14	Held in Committee	Held in Committee	
LB 532	Nantkes	Change provisions relating to the Nebraska Police Standards Council	2/8	Held in Committee	Held in Committee	
LB 533	Heidemann	Remove a requirement of consent and waiver of physical appearance for audiovisual court appearances	2/28	Held in Committee	Held in Committee	
LB 535	Schimek	Create the juvenile legal services division of the Commission on Public Advocacy and eliminate a council	3/8	Held in Committee	Held in Committee	
LB 540	Synowiecki	Adopt the Probation and Parole Services Merger Act	3/15	General File, Amended	Governor Approved	2007 Speaker Priority Bill
LB 541	Synowiecki	Provide a duty for the Community Corrections Council	3/15	Held in Committee	Held in Committee	
LB 552	Flood	Increase the salaries of Supreme Court judges	2/28	Held in Committee	Held in Committee	
LB 553	Flood	Impound an operator's license as prescribed with respect to bail and eliminate certain administrative license revocation procedures	2/22	Held in Committee	Held in Committee	
LB 554	Flood	Adopt a new Parenting Act	3/8	General File, Amended	Governor Approved	Senator Schimek's 2007 Priority Bill
LB 556	Ashford	Change Juvenile Code provisions relating to counsel and guardian ad litem	2/23	Held in Committee	Held in Committee	
LB 564	Friend	Change the Recreational Liability Act	2/14	General File, Amended	Governor Approved	Senator Aguilar's 2007 Priority Bill
LB 566	Louden	Adopt the Public Recreational Liability Act	2/14	Held in Committee	Held in Committee	
LB 567	Louden	Change the Recreational Liability Act	2/14	Held in Committee	Held in Committee	
LB 571	Kruse	Provide for adoption by two adult persons jointly	3/20	Held in Committee	Held in Committee	
LB 573	Kruse	Adopt the Alcoholic Liquor Liability Act	2/22	General File, Amended	Governor Approved	Senator Kruse's 2007 Priority Bill
LB 580	Preister	Change provisions relating to tobacco product manufacturers	3/21	General File, Amended	Governor Approved	
LB 585	Preister	Change provisions relating to the dispensing of cigarettes or other	3/21	Held in Committee	Held in Committee	

		tobacco products				
LB 586	Cornett	Change medical lien provisions	2/1	General File, Amended	General File	
LB 599	Aguilar	Permit the filing of voluntary acknowledgement of parentage in cases of gestational surrogacy	3/7	Held in Committee	Held in Committee	
LB 606	Ashford	Provide for court referral to mediation or other alternative dispute resolution	2/21	Held in Committee	Held in Committee	
LB 618	Pirsch	Authorize State Treasurer to collect certain bad debt fees electronically	2/1	Held in Committee	Held in Committee	
LB 619	Pirsch	Change provisions relating to bad debt charges by the State Treasurer	2/1	General File	General File	
LB 620	Pirsch	Change provisions relating to child support collection, bad debts, and the State Disbursement Unit	2/1	General File	General File	
LB 623	Pirsch	Change provisions relating to speedy trial	3/7	General File	General File	
LB 624	Pirsch	Change provisions relating to operating a motor vehicle to avoid arrest	2/22	Held in Committee	Held in Committee	
LB 625	Engel	Prohibit civil actions based upon weight gain	3/7	Held in Committee	Held in Committee	
LB 639	Raikes	Change powers and duties of county attorneys	2/15	General File, Amended	General File	
LB 659	Pedersen	Increase the salaries of Supreme Court judges	2/28	General File	Governor Approved	LB 659 was amended into LB 377 by AM 1099
LB 668	Hudkins	Eliminate provisions relating to gift cards and gift certificates	3/7	General File	General File	
LB 669	Hudkins	Adopt the Nebraska Behavioral Health Jail Diversion Planning and Coordination Advisory Council Act	3/15	Held in Committee	Held in Committee	
LB 671	Pedersen	Adopt the Office of Probation and Parole Administration	3/15	Held in Committee	Held in Committee	
LB 672	Lathrop	Change eminent domain provisions relating to municipal utilities	2/21	General File, Amended	General File	
LB 673	Lathrop	Modify the definition of malpractice or professional neglect to include sexual abuse, misconduct, or exploitation	2/21	Held in Committee	Held in Committee	
LB 674	Lathrop	Prohibit use of social security numbers by employers as prescribed and provide a penalty	1/31	General File, Amended	Governor Approved	Senator Lathrop's 2007 Priority Bill

LB 680	Pedersen	Authorize contracts for keeping prisoners for cities of the metropolitan class	3/15	Held in Committee	Held in Committee	
LB 682	Wightman	Change provisions relating to use of the Supreme Court child support guidelines	3/8	General File, Amended	Governor Approved	LB 682 was amended into LB 554 by AM 1359
LB 685	Karpisek	Change provisions relating to the possession of alcohol by minors	3/21	Held in Committee	Held in Committee	
LB 692	Hudkins	Prohibit intentional discharge of firearm within two hundred yards of a dwelling	2/2	General File	General File	
LB 693	Hudkins	Require use of driver's license numbers for preparation of juror lists	3/14	Held in Committee	Held in Committee	
LB 695	Christensen	Limit the power of cities to regulate the carrying of concealed handguns	2/2	Indefinitely Postponed	Indefinitely Postponed	
LB 696	Christensen	Provide a fee increase and a waiting period for marriage licenses if marriage education requirements are not met	3/20	Held in Committee	Held in Committee	
LB 700	Christensen	Adopt the Human Cloning Prohibition Act	3/7	Held in Committee	Held in Committee	

BILLS PASSED DURING THE 2007 LEGISLATIVE SESSION

LB 8 (*Priester*) Increase penalty for accumulation of junk

LB 8 increases the penalty for the offense of unlawful accumulation of junk from a class V to a class IV misdemeanor.

Currently, Nebraska Revised Statutes §81-1523 provides that it is unlawful to allow an accumulation of junk which constitutes a potential health hazard on property that is not purely agricultural in character. The Department of Environmental Quality and city health departments are authorized to investigate complaints of unlawful accumulations of junk and may issue an order requiring a landowner to remove said junk within 30 days. Failure to comply with such an order is punishable as a Class V misdemeanor, and LB 8 proposes to increase this penalty to a class IV misdemeanor. A class V misdemeanor is punishable by up to a \$100 fine, while a class IV misdemeanor is punishable by a minimum of \$100 and up to a \$500 fine.

LB 8 was adopted by the legislature and approved by the Governor on May 16, 2007.

LB 67 (*Stuthman*) Permit service of summons of proposed jurors by first-class mail

Legislative Bill 67 amends N.R.S. §25-1629.04 to allow a jury commissioner to send a summons and a jury questionnaire by first-class mail. Under current law, the jury commissioner may send the summons and questionnaire by certified mail, registered mail, or personal service by a jury commissioner, the clerk, or other person authorized by the court. The failure to respond to the summons carries a penalty under §25-1611 of contempt charges.

Committee amendment, AM 142 was adopted on general file to amend the proposed bill by adding a provision to exempt potential jurors from contempt charges if the summons was sent by first-class mail and they fail to respond.

AM 416 was adopted on select file to make an important correction to LB 67 as amended by AM 142 by replacing the reference to the penalty statute §25-1629.02 with §25-1611.

LB 67 was adopted by the legislature and approved by the Governor on April 5, 2007.

LB 83 (*Synowiecki*) Provide for Board of Parole recommendations relating to incarceration work camps

Legislative Bill 83 allows the parole board to utilize the Work Ethic Camp as a transitional program for incarcerated offenders prior to being released on parole.

Currently, the Work Ethic Camp program is limited to individuals who are sentenced to intensive supervised probation instead of incarceration. This legislation would allow the parole board to utilize the Work Ethic Camp as a transitional phase prior to release on parole for certain offenders which the board feels would benefit from participation in the program. Placement at the work ethic camp as a condition of release on parole may not be for longer than 180 days, and offenders convicted of sexual assault or a capitol crime, or who have previously been incarcerated for a violent felony are not eligible.

Offenders placed at the Work Ethic Camp by the Board of Parole shall be released on parole upon successful completion of the work camp program. If such an offender fails to complete the work ethic camp program, he or she shall be returned to the Board of Parole to face a rescission hearing.

An amendment was adopted on general file to add an emergency clause to the bill, which was ultimately passed by the legislature and approved by the Governor on March 19, 2007.

LB 97 (*Flood*) Repeal terminated provisions relating to settlement escrow funds

Legislative Bill 97 is an outright repeal of settlement escrow provisions that were enacted via LB 46 (2001) with a termination date of July 1, 2004.

This bill was advanced to general file without amendment, but once on general file it was amended by AM 1485 and FA 138. These amendments removed the original sections from the bill and inserted the provisions from LB 491, which proposed to amend the Concealed Handgun Permit act to add colleges, universities and hospitals to the list of prohibited locations where a concealed handgun may not be carried by permit holders under the Concealed Handgun Permit Act.

LB 97, as amended, was adopted by the legislature on May 30th and approved by the Governor on May 31, 2007.

LB 99 (*Wightman*) Change provisions relating to the appointment of receivers by the district court

Legislative Bill 99 proposes to amend N.R.S. §25-1081 by adding circumstances under which a receiver may be appointed by the district court. The additional circumstances are as follows:

- in an action to foreclose a trust deed as a mortgage;
- in connection with the exercise of power of sale under a trust deed and following the filing of a notice of default under the Nebraska Trust Deeds Act;

- in an action brought to enforce a written assignment of rents provision contained in any agreement that provides for the appointment of a receiver; and
- in any case in which either a mortgagor or trustor has agreed to the appointment of a receiver in writing.

LB 99 was adopted by the legislature and approved by the Governor on March 8, 2007 with an emergency clause.

LB 132 (*Nantkes*) Provide for revocation of a legal separation decree

Under Legislative Bill 132, legal separation decrees would include a revocation provision. Therefore, in cases where the parties reconcile, an application could be made to the court to revoke the separation decree.

Committee amendment, AM 141 was adopted on general file to require that the judge set aside the decree upon application by the parties.

LB 132 was adopted by the legislature and approved by the Governor on May 16, 2007.

LB 142 (*Friend*) Change provisions relating to intimidation through the use of communication devices

Legislative Bill 142 amends the existing criminal offense of intimidation by telephone call to include communication via computer or other electronic communication devices as well as expand the offense to prohibit the intentional transmission of lewd, lascivious or obscene writing, sound or visual depiction of sexual conduct to a minor less than 16 years of age. The bill also increases the penalty for the offense from a class III to a class I misdemeanor and enhances the penalty to a class IV felony if the perpetrator is over 18 years of age and knows or has reason to believe that the recipient of the communication is less than 16 years of age.

Currently, intimidation by telephone call laws prohibit an individual from contacting another person via telephone with the intent to terrify, intimidate, threaten, harass, annoy, or offend and using indecent, lewd, lascivious, or obscene language or suggesting a lewd, lascivious or obscene act.

The committee amendment, AM 579, was adopted on general file and replaced the green copy of the bill. AM 579 made a number of technical corrections to the bill as well as creating a new and separate offense of Enticement by electronic communications device rather than enhancing the penalty for the crime of intimidation by telephone. The offense of enticement by electronic communication device prohibits a person 19 or older from knowingly using an electronic communications device to contact a child under 16 or a peace officer who is believed to be a child under 16 and in so doing:

- Uses or transmits lewd, lascivious, or obscene language, writing or sound;
- Transmits or disseminates any visual depiction of sexually explicit conduct; or
- Suggests any indecent, lewd or lascivious act;

Enticement by electronic communication device is a class IV felony.

After the adoption of the committee amendment, a number of technical floor amendments were considered and debated on general file. On select file, Senator Friend, the sponsor of the bill, offered AM 1431 which struck the entire first section of the bill containing the changes to the existing offense of intimidation by telephone call, which had been the focus of the concerns raised on general file. After the adoption of AM 1431, the bill included only those sections creating the new criminal offense of Enticement by electronic communications device. LB 142 was adopted by the legislature on May 30th and signed by the Governor the next day.

LB 142 was Senator Friend's 2007 priority bill.

LB 143 (*McDonald*) Prohibit government officials from requiring a polygraph examination of a victim of a sex offense

Legislative Bill 143 prohibits any law enforcement officer, prosecutor, or other government official from requiring the victim of a sex offense to submit to a polygraph examination as a condition for proceeding with the investigation of the offense.

LB 143 was adopted by the legislature on March 30, 2007 and signed by the Governor on April 4, 2007. LB 143 was Senator McDonald's 2007 priority bill.

LB 152 (*Pankonin*) Change insurer reporting requirements regarding professional liability claims

Legislative Bill 152 amends N.R.S. §71-1,200 to clarify the term "settlements" with regard to reporting laws for insurance companies. Under the bill, an insurer must report, among other things, payments made in settlements made prior to suit in which the patient releases any professional liability claim against the insurer, health care facility, health care service, or practitioner.

LB 152 was adopted by the legislature and approved by the Governor on May 16, 2007.

LB 180 (*Kruse*) Provide a penalty with respect to keg identification numbers

Legislative Bill 180 amends section 53-167.03 to prohibit the possession of a beer keg with an altered or removed keg identification number. The purpose of this change is to assist in identifying the adults who are purchasing kegs for minors so that they may be prosecuted for procuring alcohol for minors. The lack of a penalty for possessing an

untagged keg results in people removing the tags so that law enforcement is unable to determine who purchased the alcohol.

Currently, section 53-167.03 prohibits only the actual tampering with, altering or removal of a keg identification number from a keg sold at retail. Violation of section 53-167.01 is a crime punishable as a class III misdemeanor, which carries a maximum penalty of up to three months in jail and a \$500 fine.

While LB 180 itself was not advanced from committee, the provisions of LB 180 were amended into LB 573 on select file by AM 1195. LB 573 was subsequently adopted by the legislature and approved by the Governor on May 31, 2007.

LB 213 (*Ashford*) Change provisions relating to preserving testimony

Legislative Bill 213 amends N.R.S. §24-514 and §25-2732 to identify the recording devices used in county courts as multi-track recorders instead of tape recorders. This is a technical change to reflect current recording practice and advances in technology.

LB 213 was adopted by the legislature and approved by the Governor on March 8, 2007.

LB 214 (*Ashford*) Change acting county attorney compensation, provide for county judge interchange, and eliminate an obsolete procedure

Legislative Bill 214 amends N.R.S. §§23-1205, 24-516, and 29-509 to allow county courts to provide compensation to special prosecutors, improve the administration of the county courts, and to clean up statutes which have become obsolete.

Under current law, all courts have the power to appoint special prosecutors in matters pending before them, but only district courts possess the power to provide for payment. LB 214 grants the court making the appointment the power to provide for compensation. Without the power to compensate, the power to appoint special prosecutors is empty for all except the district court and places an unnecessary administrative hurdle in front of already busy judges.

Under current law, if a county judge within a specific district has a sudden need for assistance, he or she can ask for help from judges within the district or must go through a process of obtaining an appointment by the Chief Justice of a judge from another district. LB 214 allows a judge from another district, who might be physically closer to the court needing help or more available on short notice, to serve without going through the formal appointment. The intent of this bill is to expedite responsiveness to the short-term needs of a given court.

LB 214 also repeals statutes which have become obsolete, and may conflict in some ways with modern constitutional requirements and statutory provisions. The *Riverside* case requires a person being detained without a warrant to have the probable cause of his or

her arrest to be reviewed by a magistrate within 48 hours. The constitutional and statutory provisions on a speedy trial combined with the fact that the bond provisions of 29-503 apply only to the proceedings provided for in 29-501 and 29-502 render the provisions obsolete.

LB 214 was adopted by the legislature and approved by the Governor on May 16, 2007.

LB 218 (*Burling*) Change provisions relating to the acquisition of certain drug products

Legislative Bill 218 amends Nebraska's restrictions on the purchase of products containing pseudoephedrine or phenylpropanolamine to allow individuals to purchase up to 3.6 grams of such products per day and no more than 9 grams per month in order to harmonize Nebraska's requirements with those in the federal Combat Meth Act.

In 2005, the Nebraska legislature adopted LB 117 which created the existing 1.44 gram per day limit. Subsequent to this the federal government adopted the Combat Meth Act which imposed national restrictions on the amount of pseudoephedrine products which could be purchased of 3.6 grams per day with a 9 gram monthly cap and a logbook requirement. The federal law generally preempts state regulation in this area but allows state restrictions that are greater than those in the act. As a result, retailers in Nebraska are operating under a combination of state and federal restrictions and can sell no more than 1.44 grams per day or more than 9 grams per month. This legislation makes Nebraska's restrictions consistent with those in the federal act.

LB 218 was advanced from committee without amendment. On general file, an amendment (AM 73) was adopted to clarify that the purchase restrictions apply to the customer and not the retailer. LB 218 was passed by the legislature on May 10, 2007 and approved by the Governor on May 16, 2007.

LB 218 was Senator Burling's 2007 priority bill.

LB 221 (*Lathrop*) Change legal procedure complaint and notice provisions

Legislative Bill 221 amends NRS §§42-353, 43-1101, and 43-1803 to replace the word "date" with the word "year" in the complaint and notice provisions. Under the bill, pleading documents and notice documents must include the year of birth, rather than the full date, of each child whose custody, welfare, or visitation may be affected by the proceedings.

The bill was amended on select file by AM 1326 to strike section 2 which amended §43-1101. The statute could not be amended by LB 221 because it enacts The Interstate Compact on the Placement of Children which must remain uniform with language across the nation.

LB 221 was adopted by the legislature and approved by the Governor on May 24, 2007.

LB 227 (Cornett) Create offense of intentional abandonment of an animal

Legislative Bill 227 enhances the penalty for animal abandonment when the abandonment results in serious injury, serious illness or death of the animal. Specifically, the bill creates a new criminal prohibition on the intentional, knowing, negligent or reckless abandonment of an animal under a person's custody or control which results in serious injury or illness or death to the animal. The penalty for the enhanced offense is a Class IV felony with a maximum sentence of five years.

Current law prohibits abandoning or cruelly neglecting an animal, and this offense is punishable as a Class I misdemeanor with a maximum sentence of one year incarceration. LB 227 does not remove this existing criminal prohibition, but creates an enhanced penalty for situations where an animal dies or suffers serious injury as the result of being abandoned. Serious injury or illness is defined in the bill to include any injury or illness to any animal which creates a substantial risk of death or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

The committee amendment to LB 227, AM 256, was adopted on general file and made two changes to the bill as introduced:

1. Removes negligence as an element of the offense of animal abandonment. The offense as amended prohibits the knowing, intentional or reckless abandonment or cruel neglect of an animal and provides an enhanced felony penalty if the animal is seriously injured, suffers serious illness, or dies as a result.
2. Amends the definition of abandon in section 28-1008 to require that an animal be in the care of an individual, whether as owner or custodian. This change mirrors the language found in the existing definition of cruel neglect and clarifies that an animal must be under the care or control of an individual before that individual can be charged with abandonment.

LB 227, as amended by the committee amendment, was adopted by the legislature on May 10, 2007 and signed into law by the Governor on May 16, 2007.

LB 237 (Pahls) Change the homestead exemption amount for judgments and Execution

Legislative Bill 237 amends N.R.S. §40-101 to raise the value of the homestead exemption from \$12,500 to \$60,000.

LB 237 was adopted by the legislature and approved by the Governor on March 20, 2007.

LB 260 (*Kruse*) Change provisions relating to implied consent violations

Legislative Bill 260 amends the penalty for driving under the influence (DUI) to provide that individuals who refuse to consent to an alcohol or drug test shall receive the enhanced penalty for persons with a blood alcohol content (BAC) of .15 or above receive rather than the lower penalty for traditional DUI with a BAC between .08 and .15. The penalty enhancement for high BAC varies depending on the number of prior convictions an individual has, but generally the enhancement adds a longer license revocation period and/or increases the penalty one classification level. For example, persons with one prior conviction have the maximum license revocation period increased from one to fifteen years and the penalty is increased from a class W (30-180 days) to a class I misdemeanor with a 90 day minimum (90 days – 1 year).

In 2006, the legislature adopted LB 925 which created the enhanced penalty for high BAC drivers but neglected to include refusal to consent. The current statute creates an incentive for persons to refuse to consent if they have a blood alcohol level above .15 as they will receive a lower penalty than if tested, which was not an intended consequence of LB 925.

LB 260 was advanced from committee without opposition or amendment. The provisions of LB 260 were subsequently amended into LB 578, a general affairs committee priority bill dealing with liquor licensing issues, by AM 779. LB 578, with the provisions of LB 260 incorporated, was adopted by the legislature on May 18, 2007 and approved by the Governor on May 24, 2007.

LB 274 (*McDonald*) Require a warning label on liquefied petroleum gas tanks and provide a limitation on liability

Legislative Bill 274 creates a requirement for certain precautions to be taken with regard to the operation of liquefied petroleum gas systems. Under the bill, a leak check must be performed by a qualified service technician whenever there is an interruption of service. Furthermore, there must be a warning label be placed on each liquefied petroleum gas tank supplying gas to a system. The label must be placed near the shutoff and must warn about the importance of conducting a leak check prior to turning the valve back on.

If the label is displayed pursuant to the bill, but the leak check is not performed pursuant to the bill, the liquefied petroleum gas provider will not be held liable for any damage, injury or death resulting from failure to have the leak check performed.

Committee amendment, AM 490 was adopted on general file and provides that the warning label required by the bill must include the statutory reference to this law. Furthermore, the amendment changes the liability provision of the bill. As amended, the

liquefied petroleum gas provider will not be held liable for any damage, injury or death resulting from the system having been turned on prior to the required leak check if the label is displayed pursuant to the bill and the proximate cause of the damage, injury or death was the negligence of some other person.

Amendment 1263 was introduced and adopted on select file in response to general file floor debate that indicated some confusion as to what equipment is implicated in this regulation. The added language mirrors the National Fire Protection Code and clarifies that the required leak checks must be performed on liquefied petroleum gas vapor service systems.

The operative date of the bill is July 1, 2008.

LB 274 was adopted by the legislature and approved by the Governor on May 21, 2007.

LB 290 (*Pirsch*) Change judicial nominating commission provisions

When a judicial vacancy occurs, the judicial nominating commission in that judicial district meets and votes on potential nominees. If there are not eight voting members on the commission, the Executive Council of the Nebraska State Bar Association (Council) must nominate candidates to fill the vacancies.

Legislative Bill 290 amends N.R.S. §24-809 to reduce the number of candidates, from 2 to 1, that the Council must nominate for each judicial nominating commission vacancy. If, after reasonable effort, one candidate cannot be found, the Council may nominate candidates from outside the judicial district.

LB 290 was adopted by the legislature and approved by the Governor on March 8, 2007.

LB 341 (*Schimek*) Change Uniform Child Custody Jurisdiction Act provisions

Under current law, the Uniform Child Custody Jurisdiction and Enforcement Act (Act) controls jurisdictional disputes in custody cases in Nebraska (N.R.S. §§43-1201 – 25). Under the Act, the court which issued the original custody determination retains exclusive and continuing jurisdiction over the custody of the child even if that child no longer lives in the court's jurisdictional area. In the case of an international custody dispute, any custody determination made by a court of a foreign country must be honored by Nebraska courts as if the order was issued by a court in any state of the United States. Nebraska courts have a duty to recognize, enforce and not modify the valid original custody determinations issued by another state.

The Act does not apply to any custody law that violates fundamental principles of human rights. However, the Act does not define what constitutes a violation.

Additionally, the Act includes a provision allowing a Nebraska court to exercise temporary emergency jurisdiction when a custody order needs to be issued to protect a child from abuse or the threat of abuse under §43-1241.

Legislative Bill 341 amends N.R.S. §43-1230 to repeal the language regarding application of the Act to international custody disputes. The bill gives courts of this state, with jurisdiction over the custody of a child, the authority to exercise such jurisdiction without regard to objections from a court of a foreign country. Nebraska courts could make custody orders that would override orders issued by any court of a foreign country. Furthermore, Nebraska courts must issue orders necessary to thwart the interference, from a court or government agency of a foreign country, with custody orders issued by Nebraska courts. Such orders could include: restricting supervised visitation, posting of bond, passport surrender, law enforcement assistance, and notifying the U.S. State Department of any threat.

The bill provides a remedy that did not previously exist. If and when it gets enacted, the bill will apply to any case pending in the state.

There is an emergency clause in this bill. Therefore, the provisions are effective as soon as the bill is passed into law.

Committee amendment, AM 124 was adopted on general file to replace the green copy and does not repeal any existing language in the Act. Instead, it adds a provision allowing a Nebraska court to assume child custody jurisdiction in an international custody dispute under certain conditions, and adopts the Uniform Child Abduction Prevention Act.

Under this amendment to N.R.S. §43-1230, a Nebraska court does not need to recognize or enforce a foreign custody determination if the situation satisfies a two-prong test. First, the child must be a habitual resident of Nebraska, as defined in the Hague Convention on Civil Aspects of International Child Abduction (Convention). Second, if the foreign custody determination is recognized and enforced, the child would be at significant and demonstrable risk of abuse or neglect. If the test is satisfied, there is a rebuttable presumption against enforcing the order. The Nebraska court then has the authority to exercise jurisdiction over the custody of the child.

The amendment provides a remedy that did not previously exist and will apply to any case pending in the state.

Additionally, the amendment adds the Uniform Child Abduction Prevention Act (UCAPA). The UCAPA provides mechanisms to help courts deter domestic and international abductions during custody disputes and divorce proceedings. In cases where the court, the prosecutor, the public attorney or one of the parties perceives that a child is at risk for abduction, an action for prevention measures may be brought. The party seeking the measures would file a petition with the court identifying the child and the person against whom measures are being sought and specifying the risk factors.

Additionally, the petition must include statements regarding prior arrests or actions related to abduction, domestic violence and/or child abuse by either party. UCAPA sets out a wide variety of risk factors for courts to consider in determining whether there is a credible risk the child will be abducted. These factors include overt signs such as previous abductions, attempts to abduct, threats of abduction, signs of general abuse including domestic violence, negligence, or refusal to obey child custody determinations. Other considerations include activities indicating a planned abduction including abandoning employment, liquidating assets, obtaining travel documents/tickets, or requesting the child's school/medical records. With regard to international child abduction, UCAPA specifies risk factors for the courts to consider including: the possibility that the party in question will take the child to a country that isn't a party to the Convention, a country that places the child at risk, a country with laws that would restrict the access to the child, a country that is on the current list of state sponsors of terrorism, or a country that is engaged in an active military action or war; changes in citizenship status; and/or denial of United States Citizenship.

If the court identifies a credible risk of abduction, it may enter an order containing provisions and measures meant to prevent abduction including, but not limited to the following: imposing travel restrictions; prohibiting the individual from removing the child from the state or other area; placing the child's name in the U.S. Department of State's Child Passport Issuance Alert Program; or requiring the individual to obtain an order from a foreign country containing identical terms to the custody determination.

If the court identifies an imminent threat of abduction, it may take the following action: issue a warrant to take physical custody of the child; direct law enforcement officers to take steps to locate and return the child; or exercise any appropriate powers under existing state laws.

LB 341, as amended, was adopted by the legislature and approved by the Governor on February 2, 2007.

LB 373 (*Schimek*) Provide for the inadmissibility of apologies regarding medical care as evidence

In current practice, doctors and nurses are discouraged from talking to patients and their families if something goes wrong with a medical treatment or surgery because their statements can be used against them in future litigation.

Legislative Bill 373 prohibits the use of apologies as admissions of liability or as evidence of admissions against interest.

Committee amendment, AM 447 was adopted on general file to remove statements of fault from the list of statements that would be inadmissible as admissions of liability or as evidence of admissions against interest if uttered by a doctor or a nurse to a patient. The amendment also includes a statement reiterating that statements of fault will be admissible.

LB 373 was Senator Ashford's personal priority and was approved by the Governor on May 21, 2007.

LB 377 (Ashford) Reallocate district court judgeships

Legislative Bill 377 amends N.R.S. §24-301.02 to increase the number of district court judges in District 9 (Buffalo and Hall Counties) from three to four.

LB 377 contains an emergency clause.

On general file, an attempt was made by the committee to incorporate a compromise position relating to the death penalty in the committee amendment, AM 912. This amendment would have prevented execution of individuals unless it was demonstrated that they were so dangerous that they could not be safely incarcerated and posed a substantial risk to the lives and/or safety of others. AM 912 was not successful and LB 377 sat on general file for 30 days before it was returned for debate with a new amendment AM 1099. AM 1099 was adopted and amends LB 377 in three ways:

1. It incorporates the provisions of LB 659, which was introduced by Senator Pederson to **increase the salaries of Supreme Court Judges**. LB 659 was advanced from committee unanimously. Current law provides that the salary of the Chief Justice and judges of the Supreme Court is \$126,846. LB 659 provides for an increase in the salary of such judges to \$133,505.41 beginning July 1, 2007 and an increase to \$140,514.01 beginning July 1, 2008. The changes reflect a 5.25% increase annually for two consecutive years. Although the bill only specifies salary increases for Supreme Court judges, other judges – including district, county, juvenile, appellate and worker's compensation court judges – will also receive an increase, as their salaries are statutorily tied to the Supreme Court judge salaries.
2. It removes a district court judgeship from District 12 and transfers the judgeship to the district court in the 9th Judicial District, which includes Hall and Buffalo Counties. Currently, there are 3 district judges serving the 9th district. They are simply unable to meet the case load needs of the people residing in these counties. This amendment is based on the recommendation of the Nebraska Judicial Resources Commission as a way to handle the vacancy in the 12th District Court Judicial District that exists due to the retirement of Paul Empson. This change is supported by the Supreme Court.
3. It eliminates a vacant county judgeship from the District 12, which has been vacant since the death of C.G. Wallace in 2004. This amendment reallocates those resources to add a juvenile judgeship to District 3, the Lancaster County separate juvenile court. Currently, there are 3 juvenile judges serving the 3rd district. These judges are struggling to handle the docket in Lancaster County, as

evidenced by the weighted case studies done by the Judicial Resources Commission. It is particularly important to get these cases through the system in a timely manner because they involve children in foster care and families who are often separated for the duration of the case, which can take more than a year to conclude.

On select file, LB 377 was amended again to provide for a 3.5% increase in the salaries of Supreme Court judges annually for two consecutive years.

LB 377 was adopted by the legislature and approved by the Governor on May 30, 2007.

LB 382 (*Pahls*) Change provisions relating to notaries public

Under current law, a notary public may use an ink stamp seal with his or her initials on it rather than the full or commissioned name and without the expiration date of the commission.

Legislative Bill 382 amends N.R.S. §64-210 to change the requirements for the information that must be included on the ink stamp seal that each notary public uses to authenticate official acts. Under LB 382, the seal must include the notary public's name as commissioned and the date on which his or her commission will expire.

The bill also creates an exception for notaries public whose commissions were issued prior to the effective date of this act, which indicates that they need not purchase a new seal to conform to the provisions of this bill until the expiration of their commission.

LB 382 was adopted by the legislature and approved by the Governor on May 16, 2007.

LB 424 (*Adams*) Prohibit the breathing, inhaling, or drinking of certain compounds

Legislative Bill 424 amends section 28-419, which currently prohibits persons from inducing or enticing another to breathe, inhale, or drink any compound containing one or more listed ingredients for the purpose of inducing a condition of intoxication, to remove the induce or entice element from the offense and have the crime apply directly to the person breathing, inhaling or drinking the compound. Section 28-423 already prohibits anyone from inducing or enticing anyone to violate section 28-419 so the proposed change would not remove any potential liability from those who induce or entice but would add a prohibition on the use of such substances for the purpose of intoxication. A violation of this section is a Class III misdemeanor, punishable with up to 3 months in jail and a \$500 fine.

LB 424 was passed by the legislature without amendment on May 10, 2007 and approved by the Governor on May 16, 2007.

LB 449 (Ashford) Change provisions on how judicial records are proved

Legislative Bill 449 amends N.R.S. §25-1285 to provide authority for the clerk of the court to designate a person to certify judicial records of this state or any federal court in the country. The bill also clarifies the language of the statute.

LB 449 was adopted by the legislature and approved by the Governor on May 16, 2007.

LB 457 (Hanson) Change provisions governing court review of foster care placement

Under current law, a foster parent has the right to participate in hearings, but this only amounts to being present in the courtroom. A foster parent is not a party of interest and is not afforded the opportunity to participate in discovery, questioning, cross-examining, or calling witnesses beyond what is personally applicable to their qualifications for consideration of the Court. *In re Interest of Destiny S.*, 263 Neb. 255, 639 N.W.2d 400 (2002).

Legislative Bill 457 amends N.R.S. §43-1314 to require the court to question the foster parent if the parent is present at the court review. Under the bill, the court must inquire about the well-being of the foster child with any and all foster parents, preadoptive parents, and/or relatives providing care to the child that are present at the court review.

On select file, Senator Hanson introduced AM 898, which was adopted and replaced the provisions of LB 457 and was subsequently adopted by the legislature. Under the amended provisions, the court must supply a standardized information form to any and all foster parents, preadoptive parents, guardians and/or relatives providing care to the child when giving notice of a 43-1314 court review. The caregiver information form will be developed by the Supreme Court and will be included in the court record.

LB 457 was adopted by the legislature and approved by the Governor on April 25, 2007.

LB 470 (Chambers) Change provisions relating to dissemination of records of arrest

Legislative Bill 470 amends section 29-3253, relating to the dissemination of arrest records. Currently, section 29-3253 provides that records of arrests shall not be disseminated to persons other than other law enforcement agencies if no prosecution is pending or completed after one year, except in specified circumstances.

LB 470 removes the uniform one year time period after which records cannot be disseminated and replaces it with the following three provisions:

- (1) In cases of arrest where the prosecutor declines to file charges, the notation of arrest shall be removed from the public record after 1 year;

(2) In cases of arrest where charges are not filed as a result of a completed criminal diversion program, the record of arrest shall be removed from the public record after 2 years; and

(3) In the case of an arrest where charges are filed but later dismissed on motion of the prosecuting attorney or as the result of a hearing not subject to appeal, the record or arrest shall be removed from the public record after 3 years.

LB 470 was passed by the legislature without amendment on May 24, 2007 and approved by the Governor on May 30, 2007.

LB 478 (*Johnson*) Change provisions relating to adoption procedures

Under current law, the procedures for notice and possible objection to adoption by unmarried biological fathers are unclear and need to be modified. Legislative Bill 478 amends the adoption laws in response to two recent Nebraska Supreme Court decisions, *In re Adoption of Jaden M.*, 272 Neb 789, __N.W.2d__, (2006) and *Bohaborj v. Rausch*, 272 Neb. 394, 721 N.W.2d 655, (2006). The bill was advanced to General File with Committee Amendment 855 by a unanimous vote with one member absent.

Committee amendment, AM 855 was a streamlined version of the green copy of LB 478. Several clean-up provisions were removed from the original bill in the interest of expediting the passage of the critical changes. The intent of the amendment was to address the urgent need to clarify the procedures for notice and possible objection to adoption by unmarried biological fathers.

The bill did not come up on general file. Therefore, committee amendment, AM 855 was not introduced on the floor and was not adopted by the legislature. Rather, the provisions of LB 478 were amended and introduced by Senator Johnson as AM 1391 to LB 247. The provisions of 1391 amend sections 43-104.05 and 43-1411 to clarify jurisdictional and other issues in the relationship between adoption proceedings and paternity proceedings, and to clarify when a paternity action is precluded by pending adoption proceedings. New provisions are added to the current adoption law relating to adjudicated biological fathers to provide for a judicial determination of rights of such fathers and whether such fathers' consent is required for an adoption. The amendment exempts adjudicated biological fathers from the biological father registry statutes.

LB 247 was passed by the Legislature and approved by the Governor on May 31, 2007.

LB 491 (*Harms*) Change provisions relating to concealed handguns

LB 491 amends provisions of the Concealed Handgun Permit Act to include colleges and universities among the places where the carrying of concealed weapons is prohibited.

The language currently in the bill refers to school, and the Attorney General in a recent opinion has determined that school as used in the act does not include Universities or Colleges.

LB 491 was advanced from the judiciary committee with a committee amendment, AM 288, which added hospitals and establishments possessing a liquor license to the list of prohibited locations and made some technical corrections to the Concealed Handgun Permit Act

Due to time constraints and lack of priority status, LB 491 was not debated on general file this session, but the provisions of the committee amendment prohibiting the carrying of concealed weapons on college campuses and in hospitals were amended into LB 97 on select file by AM 1485. LB 97 was subsequently passed by the legislature and was approved by the Governor on May 31, 2007.

LB 540 (*Synowiecki*) Adopt the Probation and Parole Services Merger Act

Legislative Bill 540 proposes to adopt the Probation and Parole Services Merger Act (Act), which is intended to study and provide a plan for the state to achieve a probation and parole service delivery model that ensures administrative efficiency, promotes offender services that cohesively interface with executive branch rehabilitative resources and services, and provides enhanced public safety and victim services. The study established by the Act shall be performed jointly by the legislature and the executive branch. The Governor and the chairperson of the Judiciary Committee shall each designate an individual to be responsible for the development of the merger plan, which shall be developed in consultation with the policy cabinet of the Department of Health and Human Services.

LB 540 also creates the Probation and Parole Merger Commission, which consists of the following ten members:

- Three members of the legislature appointed by the chairperson of the Judiciary Committee;
- The probation administrator;
- The parole administrator;
- One probation officer appointed by the chairperson of the Judiciary Committee;
- One parole officer appointed by the chairperson of the Judiciary Committee;
- The Chief Justice of the Nebraska Supreme Court;
- The Director of Corrections; and
- One member of the HHS policy cabinet appointed by the Governor.

The commission shall meet monthly during the course of the study to review the monthly reports and consult with the individuals conducting the study. The commission shall also review the final plan and make recommendations to the Governor and the Legislature on or before December 14th, 2007. Legislative Bill 540 terminates on January 1, 2008.

LB 540 was advanced from committee with a committee amendment, AM 737, which made a number of changes to the bill and represented a compromise amendment reflecting concerns raised by the judicial branch with the green copy of the bill. One of the major changes in the amendment was the creation of an 18 member board to oversee the study of the issues outlined in the bill.

On general file, an amendment to the committee amendment by Senator Synowiecki, AM 1143, was adopted which eliminated the Parole Merger Commission and instead directed the Community Corrections Council to contract with an outside consultant to perform the study outlined in the bill. The rationale for this change was that the Community Corrections Council would be able to contract with experts in the field to perform the study and receive grant funding to cover the costs. The committee amendment was adopted as amended, and LB 540 was passed by the legislature on May 24, 2007 and approved by the Governor on May 30, 2007.

LB 540 was a 2007 Speaker priority bill.

LB 554 (*Flood*) Adopt a new Parenting Act

Legislative Bill 554 proposes to amend the Parenting Act to provide for mandatory mediation in contested child custody cases after July 1, 2009. Among other things, this re-write of the Parenting Act: retains the “best-interests of the child” standard as the standard by which child custody and parenting time issues will be resolved; recognizes the importance of maintaining parent-child relationships while at the same time protecting victims of abuse and neglect; codifies the court-recognized distinction between joint legal and joint physical custody arrangements; requires Parenting Plans to include considerable detail as to what will happen in the life of children after a divorce; and requires parents involved in custody and/or parenting time cases to attend a parenting education course.

The green copy of LB 554 proposes the following statutory changes:

- Directs parents to develop a Parenting Plan either on their own or through mediation. If the parents are unable to do so in a particular case, the court creates a Parenting Plan that is in the best interests of the child and that meets the requirements of the Parenting Act.
- Requires parents involved in custody and/or parenting time cases to attend at least one session with a mediator after July 1, 2009. Cases involving allegations of domestic intimate partner abuse or unresolved parental conflict will be referred to a specialized alternative dispute resolution (SADR) process with mediators trained to deal with high-conflict cases.
- Requires judges, attorney and mediators involved in Parenting Act cases to participate in training focused on recognizing abuse and unresolved parental conflict.

- Raises filing fees for divorce and modification actions in order to fund the mandatory mediation programs.
- Amends § 42-371 to allow an obligor to release or subordinate a support lien by filing a current certified copy of the support order payment history and a release or subordination document in the county office where the lien is registered.
- Amends § 43-1407 to make the father of a child liable for one-half of the cost of the reasonable and necessary medical expenses associated with the pregnancy and birth of the child. Any expenses paid by Medicaid will presumably be “reasonable and necessary.”
- Repeals § 42-364.01 through § 42-364.12.

The bill was advanced from committee with committee amendment, AM 1140 which was adopted on general file and replaces the green copy of LB 554.

AM 1140 changes the operative date of the mandatory mediation provision from July 1, 2009 to July 1, 2010 and removes the funding scheme which would have raised the filing fees for divorce and modification actions. Under the mandatory provision, all parties who have not submitted a parenting plan within the time ordered by the court shall participate in an initial individual screening session with a mediator **and** an initial mediation or SADR session.

AM 1140 removes the provision making fathers liable for one half of the pregnancy/birth expenses and amends § 43-1407 to make the father of a child liable for the reasonable and necessary medical expenses associated with the pregnancy and birth of the child as well as the birth expenses of the child.

Several provisions that were added at the suggestion of the bill drafter for reorganization purposes are removed from the bill by AM 1140.

Two amendments to the committee amendment were adopted on general file:

1. Senator Wightman offered AM 1359 to incorporate the provisions of LB 682, a bill related to the Nebraska Child Support Guidelines (See LB 682 below).
2. Speaker Flood offered AM 1362 to add the funding mechanism back into LB 554. Under AM 1362, docket fees for dissolutions will increase from \$25 to \$75 and docket fees for modifications will increase from \$15 to \$65.

On select file, Senator Flood offered two amendments, AM 1453 and AM 1465 to make minor changes to the bill. The amendments were both adopted on select file. Senator Wightman offered AM 1466 to make July 1, 2008 the operative date of the provisions in sections 42 and 48, allowing certain inmates to seek modification of their child support obligations. AM 1466 was adopted on select file.

LB 554 was designated as Senator Schimek’s personal priority bill. The Legislature adopted LB 554 as amended and the Governor approved LB 554 on May 31, 2007.

LB 564 (*Friend*) Change the Recreational Liability Act

Due to the recent Nebraska Supreme Court case, *Bronsen v. Dawes County*, S-04-237, 272 Neb. 320 (September 29, 2006), government entities that had enjoyed liability protection under the Recreational Liability Act (N.R.S. §§37-729 to 37-730 (Reissue 2004)) for the last 25 years have been stripped of the protection of the Act. In *Bronsen*, the Supreme Court ruled that a woman who stepped in a hole and broke her ankle at Fur Trade Days in Dawes County could sue the county for damages. The Court opined that the original legislative intent of the Act was to apply only to private landowners and not government entities. Without the protection of the Act, government entities must meet the standard of reasonable care to avoid negligence lawsuits.

Legislative Bill 564 amends N.R.S. §§37-729, 37-730, 37-734, and 37-735 to apply the name Recreational Liability Act (RLA) and to change the provisions. The bill restores the protection taken away under *Bronsen* to the state, state agencies and political subdivisions. The owner of land used for recreational purposes owes no duty of care to keep the premises safe or to provide danger warnings for those entering or using the land for recreational purposes. The protection provided by the PLRA does not apply in cases of willful or malicious failure to guard or warn against danger. Furthermore, the PLRA does not protect owners of public land used for recreational purposes when the owner charges people to enter and use the land.

Committee Amendment 879 replaces the green copy and makes the following changes to the bill. Rather than reinstating protection for public entities under the Recreational liability act which was removed by the *Bronsen* decision, the bill amends the State and Political Subdivision Tort Claims Acts to provide an exception to liability for claims relating to recreational activities. The amendment specifically creates the following 3 exemptions to liability of the state or political subdivision for claims relating to recreational activities for which no fee is charged:

- Claims resulting from the inherent risk of the activity;
- Claims arising out of a spot or localized defect of the premises unless the defect is not corrected by the state or political subdivision within a reasonable time after actual or constructive notice of the defect. Constructive notice is presumed only if there has been gross negligence in the failure to inspect or discover the defect; and
- Claims arising out of the design of a skate park or BMX park that was constructed in accordance with generally recognized standards in existence at the time the facility was constructed.

The amendment defines fee to mean a fee paid to participate in or be a spectator at a recreational activity, and includes fees paid to a third party only to the extent that the state or political subdivision retains control of the premises or activity. Fee does not include a charge for parking or vehicle entry. Lastly, the committee amendment provides

that claims arising out of the failure to inspect or the negligent inspection of property used for recreational activities shall be handled under the new exemption created by this bill rather than the existing sections relating to inspection claims in the respective State and Political Subdivision Tort Claims Acts.

LB 573 (Kruse) Adopt the Alcoholic Liquor Liability Act

Legislative Bill 573 proposes to adopt the Liquor Liability Act. Under the Act, a retailer who serves alcohol to a minor or a noticeably intoxicated adult is liable for any resulting injury, death, or damage if the retailer was negligent or reckless in serving the minor or intoxicated adult. The bill also provides that a social host, defined as a person who provides alcohol to a minor on premises under his or her control and who does not hold a liquor license, is liable for an injury, death, or damage resulting from providing alcohol to said minor. Social host does not include a parent providing alcohol to his or her own minor child at home.

A retailer is considered to be negligent under the act if he or she serves alcohol to a minor or noticeably intoxicated adult if the retailer knew or a reasonable person in the retailer's position would have known that the individual served was a minor or a noticeably intoxicated adult. Additionally, the failure of a retailer to request identification of a person a reasonably prudent individual would believe to be a minor creates a rebuttable presumption of negligence on the part of the retailer.

A retailer is considered to be reckless under the act if he or she knows or a reasonable person in the retailer's position should know that serving an individual would create an unreasonable risk of physical harm to the person being served or others. Evidence of recklessness includes the following:

- Active encouragement of an intoxicated person to consume substantial amounts of alcohol;
- Serving alcohol to a minor with actual or constructive knowledge of the minors age;
- Excessive service of alcohol which creates a substantial risk of death from alcohol poisoning; or
- Actively assisting a noticeably intoxicated person to a motor vehicle with knowledge that the person intends to operate such motor vehicle.

The act also provides the following three specific affirmative defenses from suits under the act for retailers:

- Complicity – The retailer may establish that the plaintiff encouraged, contributed to or participated in the drinking activities of the intoxicated person;
- Assumption of risk – The retailer may establish that the plaintiff knew and understood the danger and voluntarily exposed himself or herself to the danger resulting in injury or death.

- Server Training – The bill provides a defense if the retailer can establish that all of its employees have taken and passed a state certified server training program and that the training tenets were being followed at the time of the sale or service to the person who caused the injury, death or damage which is the subject of the lawsuit.

Lastly the bill provides that the Alcoholic Liquor Liability Act is the exclusive remedy for claims of damage based on a retailer's negligent or reckless service of alcoholic liquor and all actions under the act must be filed within two years of the alleged negligent or reckless service of alcohol.

LB 573 advanced to general file with a proposed committee amendment, AM 1088, which replaced the green copy and removes the provisions of the bill relating to dram shop liability for serving adults and retained the provisions relating to liability for serving or procuring alcohol for minors.

AM 1088 was adopted on general file and the bill as amended provides that social hosts who allow minors to drink on their property, adults who procure alcohol for a minor, and retailers who sell alcohol to a minor are liable for injuries or other damages caused by the negligence of an intoxicated minor. The amendment explicitly prohibits recovery by the intoxicated person, his or her estate or any person whose claim is based upon injury to or death of the intoxicated minor.

The amendment also provides a complete defense to liability under the act if the intoxication did not contribute to the negligent conduct. Additionally, retailers are provided the defense currently found in section 53-180.07, which protects retailers in situations where they act in good faith and rely on false identification that a reasonable and prudent person would believe is a valid ID.

The remaining provisions of the committee amendment establish a 2 year statute of limitations for claims under the act, provides that defendants in an action under the act are jointly and severably liable, and clarifies that such defendants shall have a right of contribution and not a right of subrogation from each other.

On select file 3 additional amendments were adopted to LB 573, AM 1397, AM 1195 and FA 130:

- AM 1397 clarifies that retailers are not liable for employees acting outside the scope of their employment and broadens the exclusion for parents within the definition of social host to include parents providing alcohol to their own children in any location and not just their home as was provided for in the committee amendment.
- AM 1195 contained the provisions of LB 180 as well as an amendment to section 53-180.02 which removed the exception allowing minors to drink in their own residence and prohibit all consumption of alcohol by minors except as part of a bona fide religious ceremony. LB 180 penalizes the possession of a beer keg which has had the sticker identifying the purchaser of the keg removed as a class

III misdemeanor in order to discourage underage drinking and procurement of alcohol for minors.

- FA 130 was a compromise amendment which reinserted the provisions into 53-180.02 allowing a minor to consume alcohol in his or her permanent residence

LB 573, as amended, was adopted by the legislature on May 30, 2007 and approved by the Governor of May 31, 2007. LB 573 was Senator Kruse's 2007 priority bill.

LB 580 (*Priester*) Change provisions relating to tobacco product manufacturers

Legislative Bill 580 makes the following changes to Nebraska laws regulating manufacturers of tobacco products sold in Nebraska who are not party to the tobacco Master Settlement Agreement, referred to as non-participating manufacturers:

1. Clarifies the responsibilities of the wholesale dealer to monitor the directory on the Tax Commissioner's web site to determine which brands may be sold in Nebraska;
2. Removes ambiguous language in the criminal provision regarding tobacco products "intended for sale";
3. Provides that the Secretary of State will be presumed to be the agent for service of process for nonparticipating manufacturers who do not appoint an agent for service of process; and
4. Adds an amendment to the penalty provisions which directs the court to order payment of profits or other benefits to the general fund.

The purpose of these changes is to enhance enforcement efforts and to comply with federal law requirements which can reduce payments under the tobacco Master Settlement Agreement to states which do not diligently enforce certain statutes relating to non-participating manufacturers which require them to place funds in escrow for each cigarette taxed and sold in Nebraska.

The committee amendment to LB 580, AM 851, adds a new section to the bill containing recommendations by the Attorney General's office and makes several technical and grammatical corrections to the bill. Specifically, AM 851 provides the following:

- Clarifies the circumstances in which a nonparticipating manufacturer is required to make quarterly escrow payments during the year of sale.
- Ensures that the change just described is applicable to certifications filed by tobacco product manufacturers immediately upon its effective date.
- Requires as part of the directory certification that all nonparticipating manufacturers consent to be sued in Nebraska state courts for any violation of the escrow statute and on all claims which the state could bring to get a judgment to be paid from the escrow.

- Inserts language which clarifies that a non participating manufacturer and its brands can be removed from the directory of approved cigarettes for sale in this state for failure to make required quarterly escrow payments.
- Replaces language directing the profits or other benefits earned as a result of a violation of 69-2704 to 69-2710 to the general fund with language directing the funds to be remitted to the permanent school fund as required by Article VII, Section 5 of the Nebraska Constitution.
- Makes grammatical corrections to section 3 of LB 580 to ensure the language relating to cumulative penalties reflects the introducer's intent.

LB 580, as amended by the committee amendment was adopted by the legislature on May 10, 2007 and approved by the Governor on May 16, 2007.

LB 659 (*Pedersen*) Increase the salaries of Supreme Court judges

Legislative Bill 659 amends N.R.S. §24-201.01 to provide for an increase in the salaries of Supreme Court, County, District, and Juvenile judges

Current law provides that the salary of the Chief Justice and judges of the Supreme Court is \$126,846. LB 761 provides for an increase in the salary of such judges to \$133,505.41 beginning July 1, 2007 and an increase to \$140,514.01 beginning July 1, 2008. The changes reflect an approximate 5.25% increase annually for two consecutive years. All other judges statutorily receive a percentage of the salary paid to Supreme Court Justices and therefore will receive a similar 5.25% increase under the bill. LB 659 also contains an emergency clause.

LB 659 was unanimously advanced from the Judiciary Committee to General File, but was not debated due to lack of priority status. The provisions of LB 659 were subsequently incorporated into the committee amendment to LB 377 (AM 1099), a judiciary committee priority bill. AM 1099 made one significant change to LB 659 as introduced, reducing the salary increase in the bill from 5.25% to 3.5%.

LB 659 was adopted by the Legislature as amended and approved by the Governor on May 30, 2007.

LB 674 (*Lathrop*) Prohibit use of social security numbers by employers as prescribed and provide a penalty

Legislative Bill 674 provides that an employer may use an employee's social security number only for state and federal tax purposes, and specifically prohibits the use of an employee's social security number in lieu of or in addition to an employee identification number. An employer who utilizes an employee's social security number in violation of

the act is guilty of a Class V misdemeanor, punishable by a maximum penalty of a \$100 fine. LB 674 also defines employer and employee for purposes of the act and provides that a conviction for misuse of an employee's social security number is admissible in a civil action as evidence of the employer's negligence.

The committee amendment to LB 674, AM 805, was adopted on general file and replaces the green copy. Specifically, AM 805 replaces the blanket prohibition on use of social security numbers with the following restrictions on employers.

An employer shall not:

- Post, display or otherwise make available to the public or coworkers more than the last 4 digits of a social security number;
- Require an individual to transmit more than the last 4 digits of his or her social security number over the internet unless encrypted or over a secure connection;
- Require the use of more than the last 4 digits of a social security number to access an internet site unless a password or other unique identifier is also required;
- Use more than the last 4 digits of a social security number as an employee number.

The amendment also specifies that employers may only use more than the last 4 digits of a social security number for internal administrative purposes and commercial transactions voluntarily entered into by the employee to purchase goods and services from the employer. Internal administrative purposes are defined to include transmission to third parties for personnel benefit and employment screening purposes. The internal administrative purposes exception does not permit the following uses:

- As an administrative number for occupational licensing;
- As an identification number for drug-testing purposes except as required by law;
- Storage in company files with unrestricted access or in files accessible by temporary employees who are not bonded or otherwise insured;
- For posting company information.

Lastly, the amendment provides that a violation of the act is a class V misdemeanor, punishable with up to a \$100 fine and also provides that a violation is admissible as evidence of negligence in a civil lawsuit.

On select file, two amendments, AM 1045 and 1281, were offered by Senator Mick Mines to incorporate the provisions of a business and labor committee priority bill, LB 190, into LB 674. Both amendments were adopted on select file and the provisions of LB 190, known as the Credit Report Protection Act, will allow a consumer to protect his or her credit from unauthorized third parties receiving credit in his or her name by allowing a consumer to place a security freeze on his or her credit report. This security freeze locks, or freezes, access to the consumer credit report. If such a freeze is in effect, a consumer reporting agency cannot release the credit report to a third party without the prior express authorization of the consumer. When the consumer wants to get new credit,

he or she uses a PIN to unlock access to the credit file. The cost for placing or lifting a security freeze will be five dollars; however, there will be no cost to identity theft victims.

LB 674 was Senator Lathrop's 2007 priority bill and was adopted by the legislature on May 18, 2007 and approved by the Governor on May 24, 2007.

LB 682 (Wightman) Change provisions relating to use of the Supreme Court child support guidelines

Legislative Bill 682 amends N.R.S §43-512.15, relating to the Nebraska Child Support Guidelines, to provide that incarceration is to be considered an involuntary reduction of income for the purpose of determining the child support obligation of a non-custodial parent. Under current law, incarceration is considered a voluntary reduction of income and as a result, an inmate cannot file a motion to modify a child support order to reflect the reduced income he or she is receiving while in prison. As a result, inmates with support orders against them, who cannot continue to pay the support while in prison will have the arrears build up, which they will be responsible for when they complete their period of incarceration.

Legislative Bill 682 amends N.R.S. §43-512.15 to make incarceration an involuntary reduction of income. This will provide incarcerated individuals the opportunity to seek a reduction in the support amount during their incarceration.

LB 682 advanced to general file with a committee amendment, AM 1102, which makes two changes to the bill as introduced:

1. Persons who are imprisoned for criminal nonsupport (failure to pay child support) are not allowed to benefit by receiving a modification of a child support order on the basis of their reduced income while incarcerated.
2. Limits the bill to apply only to those individuals incarcerated for 6 months or more. This is a practical change to prevent multiple modification proceedings in cases where persons are incarcerated for only a short period of time and then return to employment. Shorter sentences also do not result in the accumulation of large arrears, the prevention of which was the purpose of the bill as introduced.

Due to time constraints, LB 682 itself was not debated on general file this session, however the provisions of the bill were offered as an amendment (AM 1359) to another piece of legislation, LB 554, the revised Parenting Act. This amendment incorporated the provisions of the committee amendment and was adopted on general file. During the select file debate on LB 554, AM 1453, was adopted which made the following two changes to LB 682 as advanced by the judiciary committee:

1. Increased, from 6 months to 1 year, the time period an individual must be incarcerated for before becoming eligible to seek a modification of their child support obligation due to an involuntary reduction of income.
2. Prohibits an individual from filing a motion to modify their child support obligation due to incarceration if the individual has a documented record of willfully failing or neglecting to provide proper support which he or she knew or reasonably should have known he or she was legally obligated to provide when he or she had sufficient resources to provide such support.

LB 554, as amended to include the provisions of LB 682, was adopted by the legislature on May 30, 2007 and approved by the Governor on May 31, 2008. LB 554 also contains an operative date clause which provides that the incorporated provisions of LB 682 go into effect on July 1, 2008.

BILLS ADVANCED TO SELECT FILE DURING THE 2007 SESSION

LB 246 (*Johnson*) Provide requirements for coroners relating to the procurement of anatomical gifts and provide for civil and criminal immunity

Legislative Bill 246 proposes to adopt new procedures for the handling of organ donation by deceased individuals who are under the jurisdiction of the coroner with the intent of increasing the availability of organs and tissues for medical transplantation.

Specifically, the bill establishes a procedure whereby a coroner or a physician designated by the coroner is required to undertake a preliminary investigation of any deceased individual under the coroner's jurisdiction who is an organ donor to determine if any of the organs to be donated contain evidence of the proximate cause or means of death. This preliminary investigation is required to be conducted within a time period which would allow the donation of any organs not found to contain evidence of the cause of death. Any organs which the coroner does not reasonably believe contain evidence of the cause of death must be released for donation. If a coroner fails to conduct or complete the preliminary investigation required by the act within a reasonable time period, the organ(s) or tissue shall be donated as if the donor was not under the jurisdiction of the coroner.

After completing the preliminary investigation, if a coroner reasonably believes that an organ or tissue scheduled for donation contains evidence of the cause of death, the coroner or a designee is required to attend the removal procedure and make a final determination that:

1. The organ does not contain evidence of the cause of death, and allow the donation to proceed;
2. Request a biopsy be performed on the organ or tissue in question; or
3. Forbid removal of an organ which the coroner has determined contains evidence of the proximate cause or means of death.

If a coroner forbids removal of an organ or tissue, the coroner shall file a written report stating the reasons for such denial within 10 days with the federally designated organ procurement organization for Nebraska. When an organ or tissue is released by the coroner for donation, the coroner may request a sample of the organ or tissue be taken and that copies of any photographs or other documentation made at the time of removal be provided. Additionally, physicians removing an organ for donation are required to provide a report to the coroner covering the removal procedure and any known relationship between the donated organ or tissue to the cause of death. Lastly, the bill provides both civil and criminal immunity for removal of an organ or tissue to any coroner or his or her designee, hospital staff, authorized recovery personnel, and any other person acting in good faith in compliance with the provisions of this bill.

COMMITTEE AMENDMENT

The committee amendment to LB 246, AM 800, replaces the green copy of the bill and makes the following changes to the bill as introduced:

- Adds a definition of decedent to the act and amends the definition of donor to remove the portion of the definition relating to potential donors. This change was made to address concerns regarding the harvesting of organs from individuals not yet deceased.
- Removes the civil immunity language from the bill as there is already immunity provided for individuals involved in the organ donation process in section 71-4810. The amendment does not remove the immunity from criminal liability for complying with the terms of the act.

Reorganizes the bill to split it into separate sections so that it is easier to read and understand without changing the substantive provisions in the bill.

BILLS ADVANCED TO GENERAL FILE DURING THE 2007 SESSION

LB 92 (*Cornett*) Change provisions relating to foreign national minors

Legislative Bill 92 amends N.R.S. §43-3801-10 to change references to minors who have citizenship status in more than one country from minors “holding dual citizenship,” to minors “having multiple nationalities.”

LB 92 was advanced to general file without amendment by a vote of 7-0-1.

LB 107 (*Pedersen*) Create a deputy public counsel for institutions and facilities operated by the Department of Health and Human Services

Legislative Bill 107 proposes to require the Public Counsel, commonly referred to as the state ombudsman, to appoint a deputy public counsel for institutions. The authority of the deputy public counsel for institutions covers mental health and veterans institutions operated by the Department of Health and Human Services (HHS) and complaints relating to the rights of individuals placed within those institutions. Current law already authorizes the Public Counsel to hire such assistants and employees as are necessary to carry out the duties of the office and the powers of the public counsel currently include investigation of institutions operated by HHS.

LB 107 was advanced to general file without opposition on April 11, 2007.

LB 112 (*Erdman*) Provide for the judicial emancipation of minors

Under current law, there is not a means in statute or procedure by which a minor can initiate a suit to become emancipated. In certain circumstances, Nebraska courts will recognize that a minor has become emancipated. Such recognition of emancipation is done in the context of another case--in a child support case (*Foxvog v. Foxvog*, 7 Neb.App. 92 (1998)) or in an action to collect a debt against a person under the age of 19 (*Accent Service Co. Inc., v. Ebsen*, 209 Neb. 94 (1981)).

Legislative Bill 112 provides for a statutory process for judicial emancipation of minors. Under the bill, a person who is at least sixteen years of age, married, or living apart from his or her parents or guardian and who is a legal resident of the county may, by his or her legal guardian or next friend, file a complaint in the district court for a judgment of emancipation.

The complaint shall state:

- the name, age, and address of the minor;

- and names and addresses of the parents or guardians of the minor, or the name and address of the nearest known relative residing in the state if parents/guardian cannot be found;
- That the minor is seeking emancipation; and
- That the minor willingly lives apart from the parents or guardians with the consent or acquiescence of the parents or guardians.

A copy of the complaint shall be served to the parents or legal guardian of the minor, the legal custodian of the minor, the probation officer if the minor is a ward of the court, and the county attorney of the county in which the matter is to be heard.

At the hearing on the complaint, the court shall address the petitioner/minor personally and shall advise him or her of the consequences of the emancipation. The court shall consider whether the parents or guardians have consented to emancipation; whether the minor is able to support him or herself without financial assistance; whether the minor is sufficiently mature and knowledgeable; and whether emancipation is in his or her best interest.

If the court awards a judgment of emancipation, such judgment shall emancipate the minor and remove any disability of minority except that the judgment does not affect the inability of the person to purchase or consume alcohol; to game or be employed in gaming; to marry a person under age seventeen; nor does the judgment govern matters relating to juveniles.

LB 112 also provides that a judgment for emancipation may be voided when a complaint is filed by any person or by any public agency when the minor has become indigent and has insufficient means of support or the judgment was obtained by fraud, misrepresentation, or the withholding of material information.

LB 112 was advanced to general file without amendment by a vote of 6-1-1. LB 112 was designated a Speaker priority bill.

LB 151 (Gay) Provide a statute of limitations for certificate of deposit obligations as prescribed

Legislative Bill 151 amends N.R.S. §3-118 of the Uniform Commercial Code to clarify the statute of limitations to enforce payment on a certificate of deposit (CD). Under the bill, the statute runs from the earlier of:

1. The time that an action to enforce an obligation under 3-118 of the Uniform Commercial Code must be commenced, if the CD is subject to such section; or
2. Six years after the later of:
 - a. The maturity date of the CD;

- b. The due date of the CD indicated in the depository institution's last written notice of renewal of the CD, if any;
- c. The date of the last written communication from the depository institution recognizing the depository institution's obligation with respect to the CD; or
- d. The day of the taxable year for which the owner of a CD last reported interest earned on the CD on a federal or state income tax return.

Committee Amendment, AM 539 extends the alternative statute of limitations proposed under LB 151 to seven years. By changing the statute of limitations from six to seven years, the provisions of the bill will correspond with the record retention period for state banks and the unclaimed property retention period for automatically renewable CDs, which are both seven years.

LB 151 was advanced to general file with committee amendment 539 by a vote of 6-1-1.

LB 157 (*Stuthman*) Provide for leaving an infant with a firefighter or hospital staff member

Legislative Bill 157 proposes to allow parents to abandon an infant child 72 hours old or younger at a fire station or hospital under certain conditions.

Specifically, the act requires an on-duty firefighter or hospital employee to accept custody of an abandoned infant if the child is 72 hours old or younger and the parent(s) do not express any intent to return for the child. After accepting custody of an abandoned child, the firefighter or hospital employee must take necessary steps to preserve the health and safety of the child and notify law enforcement within 4 hours. Firefighters and hospital employees complying with the provisions of the act are provided with criminal and civil immunity for any acts or omissions taken in good faith.

The bill also requires the Department of Health and Human Services (HHS) to place a child abandoned under the act with a potential adoptive parent as quickly as possible and to initiate proceedings to terminate the parental rights of a parent who abandons a child under the act. Lastly, HHS is required to compile statistics on the number of children abandoned pursuant to the act and to report to the legislature on an annual basis beginning in 2008.

COMMITTEE AMENDMENT

The committee amendment to LB 157 makes the following changes to the bill as introduced:

1. Amends section 28-705, the criminal prohibition on abandonment of a child to clarify that leaving a child with a safe haven provider does not subject a parent to prosecution for child abandonment.

2. Increases from 3 days to 30 days, the age of infants which can be left with a safe haven provider under the act.
3. Removes the requirement in subsection 1 of the bill that a parent leaving a child with a safe haven provider must indicate an intention not to return for the child.
4. Strikes subsection 3 providing immunity from civil or criminal liability for good faith acts or omissions performed by firefighters or hospital personnel pursuant to the act.
5. Amends subsection 5 of the bill to require HHS to track and report children who are abandoned at other locations as well and not just those left at a safe haven so that a meaningful comparison can be made.
6. Strikes subsection 7 directing the Department of Health and Human Services to place a child left at a safe haven with an adoptive family as soon as possible and to file a petition to terminate the parental rights.
7. Makes minor technical changes to remove unnecessary language and unneeded references to the term abandonment.

LB 179 (*Lathrop*) Require electronic recording of custodial interrogations

Legislative Bill 179 requires that all custodial interrogations by law enforcement which occur at a place of detention be electronically recorded. If there is a failure to electronically record a custodial interrogation, any statements a defendant makes shall be suppressed, unless:

1. An accused person testifies contrary to the unrecorded admission or statement, then such an admission or statement may be used for impeachment of the accused person's testimony if it is shown the statement was voluntarily made; or
2. The prosecution proves by a preponderance of the evidence that there is a reasonable excuse for not recording the statement;

Reasonable excuse is defined to include situations where it was not practicable to record the statement, recording equipment could not be obtained, the accused person refused consent to being recorded, or the recording equipment malfunctioned.

LB 179 also contains provisions which allow the use of admissions or statements obtained in another state or by federal law enforcement officers even if no electronic recording took place. Statements or admissions made by a defendant in another state are admissible if they were obtained in compliance with the laws of that state, and statements obtained by federal officers are admissible so long as the federal officer complied with federal law and did not take the statement in an attempt to circumvent the provisions of the act. Lastly, the bill allows the use of evidence derived from a statement or admission

which is suppressed due to the lack of electronic recording if the court determines that the evidence in question is otherwise admissible.

On March 13th, LB 179 was advanced to general file with a committee amendment on a vote of 7-0 with one member absent. The committee amendment, AM 583, makes the following changes to the bill as introduced:

1. The definition of “Place of detention” is amended to limit its coverage to buildings under the permanent control of law enforcement and to remove health care facility from the list of included locations.
2. Adds a new exception to the electronic recording requirement for situations in which the law enforcement officer reasonably believed that the crime for which the person was taken into custody was not a crime for which recording was required by the act.
3. Limits the requirement to record statements made during a custodial interrogation at a place of detention to those statements made during the investigation of crimes involving death or felonies involving sexual assault, kidnapping, child abuse, or strangulation and offenses being investigated as part of the same course of conduct of one of the above listed offenses.
4. Replaces the requirement that a court must suppress statements which are not recorded with a requirement that the court shall instruct the jury that an adverse inference may be drawn from the failure of law enforcement to comply with the recording requirement. A jury instruction is not required if the prosecution proves by a preponderance of the evidence that there is a reasonable exception for the failure to record the statement.

LB 179 was not debated by the legislature as a whole during the 2007 session and remains on general file with the proposed committee amendment for the upcoming 2008 session.

LB 280 (*Stuthman*) Provide for jurisdiction over custody proceedings of juveniles as prescribed

Under current law, juvenile courts have no statutory authority to determine custody.

Legislative Bill 280 amends N.R.S. §§ 24-517, 25-2740 and 43-247 to give juvenile courts the authority to enter final custody orders in cases already subject to the juvenile court’s jurisdiction.

LB 280 was advanced to general file as a consent bill, but was removed from the list by the Speaker because it carries a potential fiscal impact.

LB 335 (Kruse) Change provisions relating to civil protective custody

Legislative Bill 335 proposes to amend statutes relating to civil protective custody of persons under the influence of alcohol and drugs to update terminology and to provide an exception to the twenty four hour limit for persons who have been taken into civil protective custody three or more times in the previous six months.

Currently, law enforcement officers are authorized to take persons who are intoxicated and a danger to themselves or others into civil protective custody for up to twenty four hours if necessary to protect the life of or prevent injury to the intoxicated individual and other placement options are unavailable.

LB 335 amends section 53-1,121 to allow civil protective custody to be utilized for up to 72 hours for persons who have been placed in civil protective custody three or more times in the previous six month period. The bill also updates the terminology in the existing statute by replacing the term intoxicated with the phrase “under the influence of alcohol or drugs” and changing alcoholism center to substance abuse center.

LB 335 was advanced to general file by a vote of 7-1 on February 28, 2007. The bill advanced with a committee amendment, AM 208, which proposes to make the following changes to the bill as introduced:

1. Limits the use of 72 hour civil protective custody to those counties in which the county board has adopted a resolution certifying that suitable facilities exist within the county for the care and treatment of persons suffering from chronic alcohol or substance abuse. The resolution must also specify the facility or facilities to be used for 72 hour civil protective custody and the number of patients which can be served at any one time.
2. Restricts the use of 72 hour civil protective custody to those persons who have been placed in civil protective custody three times in the previous month rather than the previous 6 months as provided in the green copy of the bill.
3. Strikes the word “illegal” on page 2 line 23 in order to be consistent with the usage on page 2, line 6 and because the bill is intended to apply to persons with addictions to both legal and illegal substances.

After advancing from committee, LB 335 was not discussed further during the 2007 session. An attempt was made to amend the provisions of AM 207 into LB 578, a general affairs committee priority bill relating to liquor issues, but the amendment was withdrawn prior to a vote.

LB 428 (Synowiecki) Adopt the Peace Officer Employer - Employee Relations Act

Legislative Bill 428 adopts the Peace Officer Employer-Employee Relations Act (Act). The act provides specific statutory rights for peace officers when they are under administrative investigation by their employers.

“Peace officer” for purposes of the Act is defined as any employee of a police agency or sheriff’s department who is responsible for the prevention and detection of crime and the enforcement of laws of the state, but does not include officers of the Nebraska State Patrol or the Game and Parks Commission.

LB 428 requires that any formal administrative investigation of a peace officer shall meet the following conditions:

- The interrogation shall occur while the officer is on duty or during normal waking hours and shall occur at the employer’s facility, unless the urgency of the investigation requires otherwise;
- Requires written notice be provided to the officer if an interrogation of the officer or any other party affiliated with the investigation will be recorded;
- Requires written notice of the nature of any formal investigation, including the names of all known complainants, be provided 24 hours in advance of an interrogation unless the chief administrator determines that identification of a complainant would jeopardize the investigation or the safety of an informant. The 24 hour notice period can only be waived if the complaint alleges intoxication or drug incapacitation while on duty;
- Officers must be allowed to have representation present during an interrogation and must be informed that any statements made may be used by the employer as part of the investigation;
- Requires that the combined duration of an officer’s work shift and any interrogation session shall not exceed 14 hours within any 24 hour period;
- Imposes a limitation on the number of interrogators to two at any given time;
- Provides a peace officer under formal investigation for an administrative matter the right to produce any relevant documents, witnesses or other evidence to support his or her case and to cross-examine any adverse witnesses; and
- Requires immediate notice to be given to an officer under administrative investigation if a determination is made to commence a criminal investigation, unless such notice would jeopardize the safety of an informant or the security of the investigation.

LB 428 also contains language giving peace officers a right to review and approve any materials prior to being entered into his or her personal file and to require a notation be made on any such documentation that the officer refuses to sign. An officer has the right to respond to any investigation and have his or her response be made part of his or her permanent employee file.

Lastly, the bill provides that a peace officer shall not be subject to retaliation by an employer for lawfully exercising his or her rights under the Act.

LB 428 was advanced to general file without amendment on May 30th, 2007.

LB 465 (*Chambers*) Change provisions relating to jailhouse informants

Legislative Bill 465 proposes to amend the statutes regulating the use of testimony from a jailhouse informer in criminal proceedings. Currently, a jailhouse informer is defined as a person in custody as: An accused defendant, a convicted defendant awaiting sentencing, a convicted defendant serving a sentence, or a criminal suspect. LB 465 expands this definition to include individuals detained for questioning, and clarifies that physical presence in a jail is not required for an informant to be considered “in custody” under this definition.

LB 465 also amends the sections of law requiring certain disclosures to be made to defense counsel before the testimony of a jailhouse informer is admissible in court. All investigations in which the informer was involved in any manner are added to the following list of required disclosures which must be made ten days prior to trial:

- The informant’s known criminal history;
- Any deal, inducement, inducement or benefit which has been made or may be made in the future to the informant;
- The specific statements allegedly made by the person against who the informant will testify; and
- All cases in which the jailhouse informant testified or offered statements against a person but was not called as a witness.

LB 465 advanced from committee on The committee amendment to LB 465 makes two changes to the bill as introduced.

1. Clarifies that the expansion of the definition of jailhouse informer to include persons detained for questioning only applies to persons detained for questioning who were offered or received any deal, promise, inducement or benefit in exchange for their participation in the investigation.
2. Limits the requirement in section 2, subsection 4 that a prosecutor turn over information on all investigations in which a jailhouse informer was involved in

any manner to only those situations where a deal or other inducement was offered by striking the language “in any manner” and adding “during the course of which the jailhouse informer was offered or received any deal, promise, inducement or benefit.”

LB 467 (*Chambers*) Grant the Ombudsman authority with respect to county jails

Legislative Bill 467 proposes to expand the scope of the investigative authority of the Office of Public Counsel to include county correctional facilities and their employees by redefining the term administrative agency to include county correctional and jail facilities. Currently the Public Counsel has authority to investigate any administrative agency. Administrative agency is currently defined to apply only to entities affiliated with state government and explicitly excludes political subdivisions.

COMMITTEE AMENDMENT

The committee amendment to LB 467 incorporates the provisions of LB 107 and makes no other changes to the bill as introduced. LB 107, introduced by Senator Dwite Pedersen, directs the Public Counsel, commonly referred to as the state ombudsman, to appoint a deputy public counsel for institutions. The authority of the deputy public counsel for institutions covers mental health and veterans institutions operated by the Department of Health and Human Services (HHS) and complaints relating to the rights of individuals placed within those institutions. Current law already authorizes the Public Counsel to hire such assistants and employees as are necessary to carry out the duties of the office and the powers of the public counsel currently include investigation of institutions operated by HHS.

LB 474 (*Chambers*) Provide for certain misconduct by school teachers, school nurses, and police officers to be a public record

Legislative Bill 474 proposes to designate as public records any disciplinary action involving law enforcement officers, certificated school employees (teachers), and school nurses. The stated rationale for this change is to hold these public servants to a high standard of conduct and treat them similarly to other professions such as lawyers, doctors and judges in regards to the publication of disciplinary actions for misconduct.

COMMITTEE AMENDMENT

The committee amendment for LB 474 makes three changes to the bill as introduced:

1. Amends section 84-712.05, which lists the records which public agencies may withhold from the public, to clarify that the personnel records addressed by the act may not be withheld from disclosure.

2. Removes school nurses from the bill.
3. Limits the application of the bill to employees of public schools. Employees of private schools will no longer be subject to the disclosure provisions of the bill.

LB 476 (*Chambers*) Change penalty from death to life imprisonment without possibility of parole and provide for restitution

Legislative Bill 476 proposes to change the maximum penalty for first degree murder in Nebraska from death to life imprisonment without possibility of parole and with order or restitution.

LB 586 (*Cornett*) Change medical lien provisions

Legislative Bill 586 amends N.R.S. §52-401 to reduce the dollar amount of medical liens asserted against persons with Medicare, Medicaid or medical insurance coverage. The bill requires the amount of the lien shall be reduced by the discount that would have been applied if the claim had been submitted for reimbursement.

LB 586 was advanced to general file with committee amendment 402 that incorporates the provisions of LB 220. Legislative Bill 220 amends N.R.S. §52-401 to provide chiropractors with the authority to assert a medical lien as doctors and nurses are permitted to assert.

LB 619 (*Pirsch*) Change provisions relating to bad debt charges by the State Treasurer

Legislative Bill 619 amends N.R.S. §84-617 to make charges assessed to payors of bad checks by state agencies available to the state agency to reimburse the agency for the assessments and administrative costs incurred by the agency.

The charges assessed by the State Treasurer go to the Treasury Management Cash Fund to offset the cost of collecting on state agency bad debt.

Committee amendment, AM 360 imposes a thirty dollar cap on the charges assessed by the State Treasurer or a state agency for returned checks or unaccepted electronic payments.

LB 619 was advanced to general file with committee amendment, AM 360 by a vote of 6-1-1.

LB 620 (*Pirsch*) Change provisions relating to child support collection, bad debts, and the State Disbursement Unit

Legislative Bill 620 amends N.R.S. §43-3342.03 to create the State Disbursement Unit Cash Fund (SDU) as a place for fees collected for returned checks to be remitted. The fees shall be used to offset expenses incurred in collecting child support bad debt. The SDU will use electronic processes to streamline the collection and disbursement of support payments.

Under current law, a payor can make 3 bad payments to the SDU (Child Support Processing Center) before the state requires the payor to pay by money order, cashier's check, or certified check. This bill limits the payor to 2 bad payments before the state can refuse to accept payment by check.

Additionally, the bill provides that employers with more than 50 employees including an employee with a child support order, must remit child support payments electronically.

Committee Amendment 361 incorporates some provisions of LB 618 creating the authority, with state agency approval, for the State Treasurer to collect fees electronically for the processing of returned checks and/or unaccepted payments. The fees go to the Treasury Management Cash Fund to offset the cost of collecting on bad debt.

AM 361 also imposes a thirty dollar cap on the fees collected by the State Disbursement Unit for returned checks or unaccepted electronic payments.

Under the amendment, if a payor makes two bad debt payments to the state within a year, the state may refuse to accept their future payments by check.

LB 620 was advanced to general file with committee amendment, AM 361 by a vote of 6-1-1.

LB 623 (*Pirsch*) Change provisions relating to speedy trial

Legislative Bill 623 proposes to amend Nebraska criminal procedure statutes relating to the right to a speedy trial. Nebraska Revised Statutes section 29-1207 provides that a defendant has a right to have his or her trial begin within 6 months. This 6 month period currently begins on the date when the criminal information charging the individual with a crime is filed. LB 623 creates an exception to this rule for misdemeanor domestic assault offences, and provides that in such cases the period begins on the date the individual is arrested on a complaint as part of a warrant for arrest. LB 623 also makes several technical corrections to section 29-1207 to make it gender neutral.

The bill references the term intimate partner, which is a statutorily defined term relating to the criminal offense of domestic assault:

28-323 (7) For purposes of this section, intimate partner means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship. For purposes of this subsection, dating relationship means

frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

LB 639 (*Raikes*) Change powers and duties of county attorneys

Legislative Bill 639 proposes that as of July 1, 2008, the county attorney in each county shall have the duty and power to control and supervise all legal matters affecting the county or any political subdivisions headquartered within the county. Additional legal counsel may be contracted with by the county attorney to handle these additional responsibilities, and attorneys contracted with for this purpose shall be provided reasonable compensation by the political subdivision which is agreed to by the county attorney, the contracting attorney and the governing body of the political subdivision. The county board is also required to develop a uniform fee schedule for legal services provided to political subdivisions directly by the county attorney.

Currently, the county attorney is responsible for all legal matters directly affecting the county, but political subdivisions are allowed to hire private legal counsel to handle their legal matters.

COMMITTEE AMENDMENT

The committee amendment to LB 639 strikes the green copy of the bill and replaces it with a requirement that all school districts within a learning community contract for legal services through a competitive bidding process every three years. Procedures are established for the bidding process which mirrors those currently in place for counties. An exception is provided for school boards to waive the bidding requirement in emergency situations and ongoing litigation may continue to be handled by existing legal counsel, but all future legal services must be let for bid as provided in the bill.

LB 668 (*Hudkins*) Eliminate provisions relating to gift cards and gift certificates

Legislative Bill 668 proposes to amend Nebraska law regarding gift cards and gift certificates to prohibit unredeemed gift cards which are over \$100 in value and do not contain any post sale finance charges or fees, from being presumed abandoned after three years. Current law provides that gift cards over \$100 in value and those less than \$100 which contain an expiration date or any type of post-sale finance charge or fee are presumed to be abandoned property if not redeemed within three years of issuance. Abandoned property escheats to the state and current law requires retailers to turn over to the state treasurer the face value of any gift cards over \$100 in value which are not redeemed within three years of issuance.

LB 672 (*Lathrop*) Change eminent domain provisions relating to municipal utilities

Under current law, metropolitan utility districts (MUDs) have the authority to condemn or exercise the power of eminent domain over utilities systems if the facilities are within, annexed to, or otherwise consolidated within the city limits of a metropolitan city. Other utilities providers in the state also have the authority to exercise eminent domain over utilities systems in the state.

Legislative Bill 672 amends N.R.S. §14-2116 and §70-667 to create an exception for wind farms. Under the provisions of the bill, a community-based energy project, which is defined as a new wind energy project or wind farm, cannot be condemned or taken under the power of eminent domain by a MUD, a municipal electric utility or a municipal power agency.

Committee Amendment, AM 451 strikes the original section 1. As amended, LB 672 does not affect the authority of MUDs to exercise their power of eminent domain. This is a correction that removes MUDs from the provisions of the bill because they would have no interest in wind energy projects.

LB 672 was advanced to general file with committee amendment 451 by a vote of 8-0-0.

LB 692 (*Hudkins*) Prohibit intentional discharge of firearm within two hundred yards of a dwelling

Legislative Bill 692 proposes to make it a criminal offense punishable as a Class III misdemeanor (0-3 months jail), to intentionally discharge a firearm within 200 yards of an inhabited dwelling house or occupied building. Exceptions are provided for law enforcement officers acting in their official capacity, shooting ranges, and for situations where the only dwellings or buildings within 200 yards are owned or under the control of the person discharging the firearm or giving permission to his or her guests to do so. Currently, section 37-523 prohibits hunting within 200 yards of an inhabited dwelling or occupied building but does not apply to situations where persons are not attempting to hunt wildlife, such as target shooting.

BILLS HELD DURING THE 2007 SESSION

LR 4CA (*Avery*) Constitutional amendment to provide grounds for impeachment

LR 4CA proposes to place a constitutional amendment on the November 2008 ballot to amend Article IV, Section 5 of the Nebraska Constitution to expand the list of offenses which subject a civil officer to impeachment. Currently, this section provides that civil officers may be impeached for misdemeanors committed while in office. The proposed amendment would add misdemeanors related to the election in which the officer was elected to office to the list of impeachable offenses and would definitively answer the question of whether or not an officer can be impeached for acts which occurred prior to taking office.

LB 6 (*Pahls*) Adopt the Nebraska Safe Haven Act

Legislative Bill 6 proposes to allow parents to anonymously abandon a newborn infant without criminal liability if the child is left at a designated safe haven facility.

The act defines a designated facility as a hospital, police station or fire station with persons on duty. A parent or his or her designee is allowed to anonymously leave a newborn infant who is 30 days old or less at a designated facility. Immunity from criminal prosecution for child abuse is provided to parents under the act, but the immunity is only for the act of leaving the child with the safe haven provider. No immunity is given for any preexisting abuse or any other criminal act, and persons accepting an infant at a designated facility are required to report suspected abuse or neglect if it is not based solely on the act of leaving the infant at the facility.

Persons receiving an infant pursuant to the act are required to ask the parent or designated person to provide the location where the child was born, relevant health care and medical history information, and any other information which may be relevant to the best interests of the child. The bill, however, specifically prohibits the solicitation of the names of the parents by a safe haven provider who can only record such information if voluntarily offered. The safe haven provider must also make their best efforts to inform the parent or designee that parental termination proceedings may be commenced 90 days after the infant is left with the safe haven provider.

A parent who leaves a child at a designated facility is given 90 days to reconsider the decision to give up the child. Once a child is placed at a designated facility, the staff there are required to notify the Department of Health and Human Services (HHS), which upon receiving said notice, is required to accept the infant for placement in foster care, but is prohibited from initiating any actions to terminate the parental rights of the parents until at least 90 days have passed. The bill does not provide any specifics as to how a parent may regain custody of a child abandoned under the act.

The remaining provisions of the bill require HHS to create a public information campaign for the safe haven program, require a detailed report to the legislature on the implementation and results of the safe haven program, and provide a sunset date for the act.

The reporting requirement is to be performed by HHS in conjunction with one representative designated by each of the following entities:

- Juvenile Court;
- Foster Care Review Board;
- Family Violence Council;
- Voices for Children; and
- Nebraska Children's Home.

The report is intended to evaluate the overall effectiveness of the safe haven program and shall include an analysis of each the following:

- The effectiveness of the act in preventing the unsafe abandonment of infants in Nebraska;
- The success or lack thereof in finding permanent placements for infants abandoned under the act;
- The average length of foster care placement for infants abandoned under the act;
- Issues relating to the termination of parental rights;
- Success or failure of the public information campaign;
- Administrative burdens placed on HHS as a result of the act;
- Issues regarding the eligibility of infants abandoned under the act for federal services, such as Medicaid; and
- How often parents provide information requested under the act and the impact of the presence or lack of such information has on the placement of abandoned infants.

The report is to be filed with the legislature by January 1, 2010, and the act itself terminates on September 1, 2011.

Another bill dealing with safe haven issues, LB 157, was advanced to general file by the judiciary committee and did not advance past that stage of debate during the 2007 session.

LB 15 (*Mines*) Include parks as a prohibited area for controlled substances

Legislative Bill 15 seeks to add public parks to the list of prohibited areas where the penalty for the manufacture, distribution, delivery or possession with the intent to manufacture, distribute, deliver or dispense a controlled substance within 1000 feet is enhanced. Currently, schools, colleges, universities and playgrounds are listed among the locations where an enhanced penalty is provided, but public parks without equipment

intended for children are not. This legislation would amend the controlled substances act to add public parks to the list of prohibited areas where a penalty enhancement of one penalty classification (i.e. Class IV to a Class III felony) is provided. The bill defines public park as any publicly owned open space provided for public use.

LB 20 (*Mines*) Change provisions related to public recreational access to water Projects

Under current law, if a water project owned by a natural resource district is paid for by the natural resource district with public funds that exceed twenty percent of the total cost of the project, there must be public access to the water project for recreational purposes.

Legislative Bill 20 amends N.R.S. §§2-3290.01 to require public access to water projects if the portion paid with public funds exceeds five percent of the total cost of the project.

LB 20 also amends N.R.S. §18-1755 by striking a provision requiring the right of access to land acquired for public recreational purposes to meet or exceed the right held by private landowners adjacent to the real property.

LB 29 (*Friend*) Provide for court orders to direct financially able parents to pay for costs of care for wards of the state

Under current law, parents may be ordered to pay for the out-of-home placement of their child when the child is made a ward of the state. The court need not consider the issue of payment for placement unless the state (through the county attorney) requests that it do so.

Legislative Bill 29 amends N.R.S. §43-290 to require courts to order parents to pay a reasonable sum for out-of-home placement and care of juvenile wards of the state. Support thus ordered will be paid to the State Disbursement Unit (Unit) and orders will be enforced by the Department of Health and Human Services (Department).

Additionally, the bill requires that the Nebraska Supreme Court (Court) establish and update support order guidelines to be applied when juveniles are determined wards of the state. The guidelines will be based on the recommendations from the Child Support Advisory Commission (Commission) in consultation with the Department. The support guidelines shall act as a rebuttable presumption, to be applied based on a variety of factors including the parents' income. The parents may rebut the presumption that the order of support is fair and equitable.

The bill also amends N.R.S. §43-3342.05 to make the Commission responsible for recommending guidelines as to the cost of caring for juvenile wards of the state to the Supreme Court.

LB 36 (*Hudkins*) Change the number of county court judges

Legislative Bill 36 amends N.R.S. §24-503 to increase the number of county judges in District 4 (Douglas County) from twelve to fourteen. The bill also increases the number of county judges in District 3 (Lancaster County) from six to seven.

LB 36 contains an emergency clause.

LB 37 (*Hudkins*) Change the number of district court judges

Legislative Bill 37 amends N.R.S. §24-301.02 to increase the number of district court judges in District 4 (Douglas County) from sixteen to seventeen. The bill also increases the number of district court judges in District 2 (Sarpy, Cass, and Otoe Counties) from four to five.

LB 37 contains an emergency clause.

LB 38 (*Hudkins*) Change the number of separate juvenile court judges

Legislative Bill 38 amends N.R.S. §43-2,119 to increase the number of juvenile judges in counties with populations between 200,000 and 400,000 from three to four.

LB 38 contains an emergency clause.

LB 45 (*Gay*) Change provisions relating to district court fees

Legislative Bill 45 amends N.R.S. §33-106 by striking language in subsection 2 regarding fees collected by the Clerk of the District Court, and moves it to a newly created subsection 3. The bill also strikes language that allows the parties to expressly waive the \$15 fee. This change will entitle the District Court Clerk to receive a \$15 fee when making a complete record of a case.

The bill allows the fee to be waived in civil cases filed by the county attorney.

Legislative Bill 45 has an operative date of January 1, 2008.

LB 47 (*Hudkins*) Create the offense of interference with child visitation

Legislative Bill 47 creates the authority for criminal prosecution of individuals who commit an unlawful visitation violation. Under the bill, an individual who obstructs or interferes with a visitation order issued by a court of competent jurisdiction will be subject to a Class V misdemeanor charge for a first offense and a Class IIIA misdemeanor charge for a subsequent offense.

LB 65 (Stuthman) Change the statute of repose for the Nebraska Hospital - Medical Liability Act

Legislative Bill 65 amends N.R.S. §44-2828 to extend the statute of repose for actions to recover damages under the Nebraska Hospital Medical Liability Act from ten years to twenty years. Currently, an action to recover damages under this Act must be commenced within two years, unless the cause of action is not reasonably discovered within the two-year period, then the action may be commenced one year from the date of discovery or the date of discovery of facts which would reasonably lead to such discovery, whichever is earlier.

LB 68 (Hudkins) Create the Office of Guardian ad Litem Services

Legislative Bill 68 proposes the creation the Office of Guardian ad Litem Services (Office) to be housed in the office of the State Court Administrator. The Office will establish and administer local guardian ad litem programs in judicial districts across the state. The local programs will be state funded and will consist of volunteer guardians ad litem charged with protecting and promoting the best interests of abused, neglected and/or dependant juveniles involved in judicial proceedings.

The bill also provides for a Guardian ad Litem Advisory Committee composed of at least 5 members to be appointed by the Office for the purpose of advising the Office in matters related to the local programs.

Under LB 68, a county court or separate juvenile court judicial district may apply for a waiver to avoid setting up a local program if there is an adequate alternative plan to provide guardian ad litem services in the district. Unless a waiver is granted, the local programs must be established no later than June 30, 2009.

This bill is the subject of Legislative Resolution 97, which was offered by Senator Hudkins and referred to the Judiciary Committee.

LB 75 (Hudkins) Provide powers and duties to the juvenile court regarding the placement and custody of juveniles

Legislative Bill 75 amends N.R.S. §§43-254, 43-282.01 and 43-247 to provide a process for juvenile courts to exercise jurisdiction over previously existing child custody orders issued by other courts in dissolution or paternity actions.

LB 76 (Hudkins) Change provisions governing physical and legal custody arrangements of a minor child

Under current statutory law, a court may award joint custody to parents if both parents agree to the arrangement (parental veto power) and the court finds that joint custody is in the best interests of the child. However, the presumption is for a child to be placed in the

legal and physical custody of one parent. Current statute does not define joint legal or joint physical custody, nor does it distinguish between such types of joint custody.

Legislative Bill 76 amends N.R.S. §42-364(5) to change the presumption to favor joint custody so that the court must order joint legal custody regardless of agreement between the parties absent a finding that one of the parents is unfit. When both parents agree to joint custody, the court must order joint legal custody, but need not order joint physical custody. When a court finds that both parents are fit to parent the child and a joint physical custody arrangement would be in the best interests of the child, the court must order joint physical custody. There is no parental veto power.

LB 76 codifies the distinction between “physical” and “legal” custody without providing definitions. However, the distinction is recognized in the child custody case law (*Brown v. Brown*, 260 Neb. 954 (2000)).

LB 78 (*Nantkes*) Change amounts recoverable under the Political Subdivisions Tort Claims Act

Legislative Bill 78 amends N.R.S. §§13-922 and 13-926 to increase the amounts recoverable for claims brought pursuant to the Political Subdivisions Tort Claims Act (Act).

Existing Nebraska law caps recovery under the Act as follows:

- \$1 million for any person for any number of claims, and
- \$5 million for all claims arising out of a single occurrence.

LB 78 would increase the caps for recovery under the Act to:

- \$3 million for any person for any number of claims, and
- \$12 million for all claims arising out of a single occurrence.

LB 96 (*Flood*) Redefine a term under the Nebraska Probation Administration Act

Legislative Bill 96 proposes to amend section 29-2246, which defines terms for the Nebraska Probation Administration Act. The bill replaces the term “law enforcement officer” with “peace officer” within the definition of juvenile intake probation officer. The term law enforcement officer as used in this context only refers to an individual who makes contact with the juvenile intake probation officer pursuant to section 43-250, which uses the term peace officer. As a result, this proposed change has no real effect other than to make this definition consistent with the terminology currently used in the juvenile code regarding temporary custody of juveniles.

LB 104 (Erdman) Change age of majority from nineteen to eighteen

In Nebraska, for most purposes, the age of majority is nineteen. Legislative Bill 104 would lower the age of majority to eighteen.

LB 137 (Flood) Change provisions relating to inheritance tax liens

Under current law, there is a statute of limitations for the enforcement of inheritance tax liens under §77-2037, but there is not a statute of limitations on the enforcement of liability for an obligation to pay the tax.

Legislative Bill 137 clarifies language in the current law and creates the statute of limitations for the enforcement of personal liability.

The bill amends N.R.S. §77-2037 to provide that the inheritance tax lien will terminate when the first of the following events occur:

- 10 years after death of the decedent;
- 5 years after the determination and assessment of inheritance tax arising as a result of the death of the decedent;
- payment of the amount of inheritance tax finally determined by the County Court; or
- release or discharge of any lien pursuant to §77-2039.

The bill provides that the personal liability of those liable for the payment of the inheritance tax will terminate when the first of the following events occur:

- 10 years after death of the decedent;
- 5 years after the determination and assessment of inheritance tax arising as a result of the death of the decedent; or
- payment of the amount of inheritance tax finally determined by the County Court.

LB 138 (Flood) Provide penalties and change other provisions relating to sex offenders

Legislative Bill 138 proposes to make the following four statutory changes relating to sex offenders:

1. Expands the criminal offense of escape from detention to include sex offenders detained in or being transported to a treatment facility for inpatient treatment pursuant to the Sex Offender Commitment Act. The bill also provides an enhanced penalty of a Class III felony for escape by a person detained for treatment pursuant to the Sex Offender Commitment Act. Currently, escape only applies to persons in detention for law enforcement purposes and the standard penalty for escape is a Class IV felony.
2. LB 138 adds employees of public or private treatment facilities providing treatment services to dangerous sex offenders, to the definition of officer for purposes of the

criminal offenses of assault on an officer in the first, second or third degree and assault on an officer with a motor vehicle. Currently, officer is defined to include peace officers, probation officers, and employees of the Department of Correctional Services who are engaged in performance of their official duties. The penalties for 1st, 2nd and 3rd degree assault on an officer are a Class II (1-50 years), III (0-20 years) and IIIa (0-5 years) felony, respectively. The penalty for assault on an officer with a motor vehicle is a Class IIIa (0-5 years) felony.

3. Expands the criminal offense of assault by a confined person to include sex offenders confined in a treatment facility pursuant to the Sex Offender Commitment Act. Confined person is currently defined to include only those confined in a jail, correctional or penal institution. Assault by a confined person is a Class III felony (0-20 years).
4. Adds neighbors living within 1/10th of a mile of a level 2 sex offender's residence to the list of persons who receive notice of level 2 sex offenders from the state patrol. Currently, notice of level 2 sex offenders, defined as those with a moderate risk of recidivism, is not provided to the public but is provided to schools, day cares, health care facilities providing services to children or vulnerable adults, and religious and youth organizations.

LB 141 (*Flood*) Change provisions relating to burglary

Legislative Bill 141 amends the burglary statute, N.R.S. §28-507, and removes the element of “breaking” from the offense. The breaking element is replaced with a requirement that the defendant know that he or she does not have permission or license to be on the premises in question. This change is made in response to several court decisions which have interpreted the current breaking element to require the use of force. These decisions have resulted in individuals who merely walked through an open door, or crawled through a window or over a fence not falling within the prohibitions of the burglary statute.

The statute is also narrowed to define burglary as those acts whereby a person, who is not licensed or privileged to do so, enters or remains unlawfully in a building or occupied structure, rather than “any real estate or improvement thereon,” as currently proscribed.

LB 164 (*Fischer*) Change provisions of the Relocation Assistance Act

Legislative Bill 164 amends N.R.S. §§76-1221 and 76-1228 to update the current Relocation Assistance Act (Act) into conformity with the federal version. The bill narrows the application of the Act by placing added restrictions on who qualifies for assistance under the provisions.

LB 176 (*Cornett*) Redefine police animal for certain crimes

Legislative Bill 176 amends the definition of police animal as it applies to the criminal offenses of obstructing a peace officer and harassment of a police animal. The purpose of this change is to expand the protection provided by these statutes to animals owned and controlled by local law enforcement agencies throughout the state rather than only animals under the control of the Nebraska State Patrol.

Current law defines police animal as a horse or dog controlled by the State of Nebraska for the purpose of assisting a Nebraska State Trooper. LB 176 expands this language to include horses and dogs owned or controlled by any law enforcement agency. The bill also clarifies that the definition of police animal includes only those dogs which have been certified as a police service dog and which are handled by a certified police service dog handler pursuant to standards recognized by the Police Standards Advisory Council.

LB 197 (*Schimek*) Change the Political Subdivisions Tort Claims Act

Under the Political Subdivisions Tort Claims Act (Act), all claims must first be made, in writing, to the governing body of the political subdivision before a claimant may file a lawsuit. The claimant must make the claim to the governing body within one year of the occurrence or discovery of the alleged tort, or the claim is forever barred.

After the claim is filed with the governing body, the political subdivision has six months in which to make final disposition of the claim. If the political subdivision does not make a final disposition within six months, the claimant may withdraw the claim and file a lawsuit. The claimant has two years from the time the claim accrued to file suit. Such two-year limitation may be extended for an additional six months if the statute of limitations expires prior to the time when the claimant withdraws the claim.

Legislative Bill 197 amends §§13-919 and 13-920 to provide an exception to the limitations periods under the Act for situations in which a political subdivision that is required to file a trade name registration has not made the filing. In such situations, if the entity operating under a trade name has not registered with the Secretary of State and causes an injury, then the limitations period begins when the entity files such registration.

LB 201 (*Fischer*) Change the penalty for false information relating to motor vehicle registration

Legislative Bill 201 proposes to amend section 60-3,171 to increase the penalty for motor vehicle registration fraud from a Class III misdemeanor to a Class IV felony. Section 60-3,171 prohibits the registration of a motor vehicle in the name of a person other than the owner, providing a false or fictitious name or mailing address for the registrant, or otherwise providing false or fictitious information on a motor vehicle registration

application. The penalty for a Class III misdemeanor is 0-3 months imprisonment and up to a \$500 fine, and the penalty for a Class IV felony is 0-5 years imprisonment and up to a \$10,000 fine.

LB 215 (*Ashford*) Change provisions relating to life imprisonment

Legislative Bill 215 proposes to strike and readopt language clarifying that the current alternative to the death penalty in Nebraska is life imprisonment without parole.

In 2001, the Nebraska legislature held a special session to address Nebraska’s capital sentencing scheme in light of the US Supreme Court decision in *Ring v. Arizona*. During that special session, language was adopted to clarify that the current penalty for Class I and Class IB felonies when the death penalty is not utilized is life imprisonment without parole. In 2004, the Nebraska Supreme Court, in the case of *State v. Conover*, struck down the “without parole” language added by the legislature during the special session, claiming that it was outside the scope of the Governor’s call, which related only to the *Ring v. Arizona* decision, and was therefore void. LB 215 strikes the void instances of the words “without parole” and proposes to readopt them during the regular session where the legislature’s plenary authority will allow it to do so.

LB 216 (*Ashford*) Change provisions relating to violence on a service dog

Legislative Bill 216 amends section 28-1009.01, which defines the criminal offenses of violence on a service animal and interference with a service animal, to add hearing dogs to the list of protected service animals. This statute currently protects dog guides for the blind and visually impaired, hearing aid dogs for the hearing impaired and service dogs for the physically limited. References to both hearing dogs and hearing aid dogs exist elsewhere in statute and this technical change ensures protection is provided to all service animals serving the deaf and hearing impaired.

LB 217 (*Ashford*) Change provisions relating to unlawful acts involving drug substances

Legislative Bill 217 proposes to amend section 28-1437, relating to the unlawful acquisition of prescription medication, to replace an incorrect reference in the statute. Specifically, the bill replaces the word subsection found at the end of the third paragraph with the term section to correctly reference the entire statute rather than the existing circular reference back to subsection (3).

LB 220 (*Dierks*) Provide for medical liens for chiropractors

Under current law, physicians, nurses and hospitals are entitled to assert a lien for the cost of medical service provided to a patient who recovers from or settles with the third party wrongdoer for the patient's treated injury.

Legislative Bill 220 amends N.R.S. §52-401 to provide chiropractors with the authority to assert a medical lien as doctors and nurses are permitted to assert.

There is an emergency clause in the bill.

The provisions of LB 220 are included in the pending committee amendment AM 402 to LB 586 which is sitting on general file.

LB 225 (*Friend*) Provide for acknowledgment of satisfaction of judgment and unsworn certification

Legislative Bill 225 creates the requirement that judgment creditors acknowledge the satisfaction of a judgment. The acknowledgement must be written and filed with the county clerk in every county in which the judgment is a lien. If the acknowledgement is not filed within thirty days after being requested in writing, the judgment creditor is guilty of a Class V misdemeanor and the aggrieved party may recover reasonable attorney's fees.

LB 225 also changes the requirements for the filing of court documents that currently require an affidavit executed before a Notary Public. Under the bill, the affidavit may be replaced by an unsworn statement if the person files a written certification that the matter is true under penalty of perjury under Nebraska law. The written statement must include the date of the statement's execution and must be subscribed by the person making the statement.

LB 225 also amends N.R.S. §49-801 to harmonize the language with other provisions in the bill.

LB 228 (*Synowiecki*) Repeals statutes limiting liability of owners or operators of motor vehicles and aircraft for damages to guests or invitees

Under Nebraska's "guest statute," the owner or operator of any aircraft or motor vehicle is not liable for any damages to any passenger or person related to the owner or operator who is riding in the aircraft or motor vehicle as a guest or by invitation unless the driver is found to have been under the influence of an intoxicating liquor or to have committed gross negligence. The guest statute is codified at N.R.S. §§3-129.01, 25-21,237, and 25-21,238.

Legislative Bill 228 proposes an outright repeal of the guest statute, thereby allowing injured passengers to sue a driver or pilot for negligence.

LB 242 (*Flood*) Change provisions relating to assault by a confined person and create an offense of assault on an officer with bodily fluids

Legislative Bill 242 proposes the following statutory changes relating to assaults committed by persons confined to a jail or correctional institution:

1. Adds assault by a confined person to the list of crimes carrying an enhanced penalty if committed against a pregnant woman.
2. Creates the criminal offense of assault on an officer with bodily fluids. Any person who intentionally and knowingly causes a bodily fluid to contact a peace officer, probation officer, parole officer, or crime scene personnel while engaged in the performance of his or her duties is guilty of a class I misdemeanor.
3. Amends the existing criminal offense of assault by a confined person to include persons being transported to or from a jail or correctional institution. The current statute only applies to assaults by persons already confined in a jail or prison.
4. Expands the crime of assault by a confined person to include intentionally or recklessly causing another person to come into contact with a dangerous substance. Dangerous substance includes blood, feces, vomit, mucous or any other bodily secretion or fluid. The penalty for recklessly causing a bodily fluid to contact another is a class IV felony, while intentional acts are penalized as a class IIIa felony. A penalty enhancement of one felony classification is provided if the person committing the offense either knew or should have known that the dangerous substance involved came from an individual who was infected by a life-threatening disease or condition or if a life threatening or debilitating disease or condition is actually transmitted to the victim who came in contact with the bodily fluid.
5. Provides that victims who come into contact with dangerous substances as described in the act shall have the same rights as public safety officials with regard to having medical testing performed on the person who was the source of the dangerous substance.

LB 243 (*Flood*) Change provisions relating to jurors

Legislative Bill 243 adds a definitional section for N.R.S. §§25-1601 – 25-1643, which relate to jurors. The bill harmonizes the language within the sections to reflect the new definitions. The bill also cleans up the language in §25-1601 by removing duplicative language and clarifying the provisions.

There is an amendment coming to correct an error in the bill regarding §25-1629.04, which appears unchanged in the green copy of the bill. The changes will provide that the jury summons get sent out just for the jury term, not the calendar year. Furthermore, the summons will be sent out to only the number of potential jurors that the judge directs.

LB 254 (Aguillar) Change child passenger restraint system and occupant protection system provisions

Legislative Bill 254 proposes to require that all children up to 8 years of age be placed in a correctly installed child passenger restraint system when riding in a motor vehicle. Current law imposes this requirement on children up to 6 years of age. LB 254 also defines the term “correctly installed” for purposes of the act to mean usage and installation in accordance with the instructions provided by the manufacturer of the motor vehicle and the child passenger restraint system. Lastly, LB 254 provides that county attorneys may dismiss a charge under this statute if the driver of the vehicle attends a child passenger safety fitting station or checkup event or has an inspection conducted by a certified child passenger safety technician.

LB 257 (Lathrop) Adopt the Public Guardianship Act

Legislative Bill 257 would allow for the adoption of the Public Guardianship Act (Act). The bill establishes findings that the present system of obtaining a guardian for a person is inadequate and that there is a need to provide conservators when no one is available to serve the needs of the individual.

The Office of Public Guardian (Office) will provide services for individuals when no private guardian or conservator is available. Alternatives to full guardianship and less intrusive means of intervention should always be explored. Under the bill, public guardians will be appointed only to those persons whose needs cannot be met through less intrusive means of intervention.

The duties of the Office include training individuals to be guardians, response protocol for emergencies, continuous guardianship service, and equal access and protection for all individuals needing guardianship. Additional duties would include the development of a uniform reporting system and data collection system, a standard of practice and code of ethics, a yearly budget, guidelines for a sliding scale of fees to be charged for public guardianship services, and curricula for training and assisting associate guardians in their caseloads. The Office would be in the judicial branch and responsible to the Nebraska Supreme Court.

The bill would create an 11-member Advisory Council on Public Guardianship appointed by the Chief Justice. Membership would include representatives from the Nebraska County Court Judges Association, the Nebraska State Bar Association, social workers, mental health professionals, developmental disability professionals, and other interested

groups or individuals. The Council would advise the Public Guardian on the administration of the office.

There would be civil immunity for the Public Guardian, a staff member or a council member for any statement or decision made in the process of public guardianship unless such person acted with willful or wanton misconduct.

Persons protected under this Act include any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, a minor, a ward or other person to the extent who lacks sufficient understanding or capacity to make or communicate responsible decisions concerning himself or herself.

LB 258 (*Lathrop*) Change provisions relating to minors' violations under the Nebraska Liquor Control Act

Legislative Bill 258 proposes to impound the driver's license of minors convicted of minor in possession of alcohol or acquiring alcohol by misrepresentation of age. The license suspension periods imposed by the bill are as follows:

- First violation - 60 days to 6 months
- Second violation – 1 year
- Third violation – 2 years or until the individual reaches 21 years of age, whichever occurs later

LB 259 (*Friend*) Change provisions relating to service of process for garnishment

Legislative Bill 259 amends N.R.S. §25-1011 to define the jurisdictional area in which a garnishee can be reached by service of process as any county where the garnishee does business or maintains a registered agent for service of process. The bill also allows the judgment creditor to send the copies of the summons and order of garnishment, the notice to judgment debtor form, and the request for hearing form to the debtor by first-class mail rather than certified mail.

LB 261 (*Kruse*) Eliminate provisions relating to religious uses of alcoholic liquor and minors' activities at permanent place of residence

Legislative Bill 261 proposes to eliminate the two existing exemptions to the minor in possession statute which allow minors to consume alcohol at home and at place of worship as part of a bona fide religious ceremony. LB 261 also eliminates the exemption found in 53-168.06 which exempts the religious uses of alcohol from the provisions of the liquor control act.

Senator Kruse has offered an amendment to LB 261, AM 264, which strikes the original provisions of the bill and eliminates the drinking at home exception found in the minor in possession statute while retaining the religious ceremony exception.

An altered version of AM 264 allowing children to consume alcohol at their permanent residence was incorporated into LB 573 by AM 1195 and FA 130.

LB 293 (*Pedersen*) Redefine public safety official with respect to infections disease exposure

LB 293 proposes to include employees of the Department of Corrections or a city, county or juvenile correctional facility within the definition of public safety official as it relates to infectious disease exposure. This change would allow correctional employees or the department itself to request diagnostics tests to determine if an employee has become infected as the result of an exposure as is currently the case with firefighters, police officers and emergency medical personnel.

LB 306 (*Stuthman*) Provide for the protection of social security numbers in support orders

Legislative Bill 306 amends N.R.S. §42-364.13 to provide that orders for support contain only the last four digits of the social security number belonging to the person ordered to pay. The first five digits will appear as asterisks. This bill does not affect the clerk's access to the complete social security number.

LB 336 (*Kruse*) Change penalties for violation of certain liquor laws relating to minors

Legislative Bill 336 amends the penalty provisions for the criminal offense of procuring alcohol for a minor to increase the penalty to a class IV felony when the procurement results in serious injury or death and to require a mandatory 90 day license revocation period for persons convicted of procurement. Currently, procuring for a minor is penalized as a class I misdemeanor (0-1 year, up to \$1,000 fine). LB 336 also provides that any employee of a retail liquor licensee who sells alcohol to a minor as part of a compliance check is guilty of a class I misdemeanor but is not subject to the enhanced felony penalty or the mandatory license revocation.

LB 337 (*Kruse*) Provide for confiscation of identification of minors attempting to purchase alcohol

Legislative Bill 337 proposes to allow licensees under the liquor control act or their employees to confiscate the identification of a person who they have probable cause to believe is less than twenty one years of age and is attempting to purchase alcoholic

liquor. The bill also authorizes law enforcement officers to arrest, without a warrant, any individual under twenty one years of age who the officer has probable cause to believe is attempting to purchase alcoholic liquor.

LB 363 (*Ashford*) Adopt the Legal Education for Public Service Loan Repayment Act

Legislative Bill 363 proposes to adopt the Legal Education for Public Service Loan Repayment Act, which establishes a loan forgiveness program for Nebraska attorneys providing public legal services. Public legal services are defined by the act as providing legal services to indigent persons, defending indigent persons in criminal proceedings or performing prosecutorial duties. The loan forgiveness program is governed by a board consisting of the following members:

- Director of Nebraska Legal Services;
- The deans of Creighton and UNL law schools;
- One student from UNL and Creighton law schools, selected by the dean;
- A representative from the County Attorneys Association;
- A representative from the Criminal Defense Attorneys Association;
- A representative of the Bar Association; and
- Chief Counsel of the Commission on Public Advocacy.

The board reviews applications and determines loan recipients. The maximum award amount is initially \$6000 per year per recipient but can be increased on an annual basis to adjust for inflation by the board. The board and loan forgiveness program are administratively located within the Commission on Public Advocacy, which is authorized by the bill to solicit and accept donations for the forgiveness program. There is no appropriation to fund the loan forgiveness program in the bill, as it is designed to rely on private donations.

LB 376 (*Ashford*) Change felony complaint procedures

Legislative Bill 376 makes a technical correction to replace gender specific and ambiguous language in section 29-804 relating to criminal procedure for felony complaints.

LB 384 (*Wightman*) Prohibit certain actions by judgment creditors

Legislative Bill 384 prohibits judgment creditors from going forward with collection efforts, including attachment or execution, after the judgment debtor files an affidavit swearing that he/she does not have property and/or income exceeding the value of exemptions allowed under state or federal law. The affidavit must be sworn upon an oath.

If the judgment creditor proceeds despite the affidavit, the judgment debtor gets triple attorney fees and court costs expended by debtor in the action.

If the affidavit is found by the court to be false, judgment debtor can be charged with a Class II misdemeanor.

LB 406 (*Pedersen*) Provide for presumptive parole release dates

Legislative Bill 406 proposes to require the Board of Parole (Board) to set a prospective release date for a committed offender during the offender's first parole review. The prospective release date is to be set based upon objective guidelines developed by the board and an evaluation of the following information regarding the offender:

- (1) A report prepared by the institutional caseworkers relating to his or her personality, social history, and adjustment to authority, and including any recommendations which the staff of the facility may make;
- (2) All official reports of his or her prior criminal record, including reports and records of earlier probation and parole experiences;
- (3) The pre-sentence investigation report;
- (4) Recommendations regarding his or her parole made at the time of sentencing by the sentencing judge;
- (5) The reports of any physical, mental, and psychiatric examinations of the offender;
- (6) Any relevant information which may be submitted by the offender, his or her attorney, the victim of his or her crime, or other persons;
- (7) The risk and needs assessment completed pursuant to section 83-192; and
- (8) Such other relevant information concerning the offender as may be reasonably available.

The setting of a prospective release date is not binding upon the parole board or the Department of Corrections and may be changed at any subsequent review by the Board. The purpose of the prospective release date is to give the offender an idea of his or her tentative release date.

LB 407 (*Pedersen*) Change driving under the influence penalty provisions with respect to ignition interlock devices

Legislative Bill 407 proposes to allow individuals who have been convicted of second offense drunk driving to be eligible to receive a restricted operators license which authorizes them to operate a motor vehicle equipped with an ignition interlock device after 45 days rather than the current requirement of a 1 year license suspension.

LB 413 (*Flood*) Change provisions governing children born out of wedlock and the offense of violation of custody

Legislative Bill 413 amends §§28-316, 43-104.02 and 43-104.05 to change custody provisions.

Under LB 413, a person who retains physical control over a child in violation of a district court or juvenile court order issued in this state with the intent to deprive the lawful custodian of the custody of the child will be in violation of custody, a Class II misdemeanor.

LB 413 provides that a child who is the subject of a notice of intent to claim paternity and obtain custody, filed by a putative father, must not leave the state for 30 days after the notice is filed.

LB 413 also provides that a child who is the subject of a petition for adjudication of the claim of paternity and right to custody must not leave the state until the putative father's rights have been determined or the person seeking to take the child out of the state submits to the jurisdiction of the court.

LB 448 (*Ashford*) Change limitation of action provisions under the Political Subdivisions Tort Claims Act

Under the Political Subdivisions Tort Claims Act, all claims must first be made in writing to the governing body of the political subdivision before a claimant may file a lawsuit. The claimant must make the claim to the governing body within one year of the occurrence or discovery of the alleged tort, or the claim is forever barred.

After the claim is filed with the governing body, the political subdivision has six months in which to make final disposition of the claim. If the political subdivision does not make a final disposition within six months, the claimant may withdraw the claim and file a lawsuit. The claimant has two years from the time the claim accrued to file suit. Such two-year limitation may be extended for an additional six months if the statute of limitations expires prior to the time when the claimant withdraws the claim.

Legislative Bill 448 amends §§13-919 and 13-920 to extend the time in which a claimant may file a claim from one year to two years.

LB 450 (*Ashford*) Provide immunity for employer disclosure of certain employee information

Legislative Bill 450 would grant immunity for employers who provide written information regarding charges of theft contained in work-related performance information on a current employee or past employee to a prospective employer.

The bill also provides that, upon written request from a current or former employee, the employer shall provide a copy of any of the information given to the prospective employer.

LB 522 (*Aguilar*) Change civil procedure costs and attorney's fees

Under current law, attorneys' fees and expenses are assessed upon securing a judgment in an action involving a claim amounting to \$2,000 or less. Attorney's fees must be assessed in a reasonable amount but shall be no less than \$10 when the judgment is \$50 or less and, if judgment is over \$50 and up to \$2,000, the fee shall be ten dollars plus ten percent of the judgment in excess of \$50.

Legislative Bill 522 amends N.R.S. §25-1801 raises the ceiling on the claim amount from \$2,000 to \$5,000. Additionally, LB 522 changes the attorney's fee amounts to allow recovery of attorney's fees of no less than \$20 when the judgment is \$50 or less and when the judgment is over \$50 and up to \$5,000, the attorney's fees shall be \$20 plus twenty percent of the judgment. LB 522 also provides that the claimant can make a full recovery on the settlement amount if the parties settle the matter prior to disposition.

The claim amounts addressed in LB 522 have not been updated since 1967. The attorney fee amount has not been adjusted since 1953.

LB 525 (*Aguilar*) Modify provisions relating to liability involved in vehicular pursuits

Legislative Bill 525 proposes to clarify that the policy of imposing strict liability on the state or a political subdivision for damages incurred by innocent third parties as the result of a vehicular pursuit by a law enforcement agency does not relieve a public or private source that is required by statute or contract to reimburse an innocent third party for property damages sustained in the accident from a duty to do so, and such entities are not entitled to subrogation or contribution from the state or political subdivision.

Nebraska has an existing statutory scheme that provides that the state or political subdivision is strictly liable for damages incurred by innocent third parties as the result of

a vehicular pursuit by a law enforcement agency. One aspect of this statutory scheme is the concept that entities which have a contractual or statutory obligation to pay benefits for damages incurred by the innocent third party should still compensate the innocent third party for those expenses. The law currently provides this protection for medical expenses, lost wages and disability benefits. LB 525 adds property damages to this list of expenses that must be paid by an obligated entity rather than having the costs borne by the state or political subdivision.

LB 526 (*Aguilar*) Change civil procedure plaintiff's costs

Legislative Bill 526 amends N.R.S. §25-1708 to define the time period when the court may award costs to the plaintiff in any given civil case. Under the bill, costs can be awarded to the plaintiff upon commencement of the case and prior to disposition of the case.

LB 526 also makes some clarifying changes to the language of the statute.

LB 532 (*Nantkes*) Change provisions relating to the Nebraska Police Standards Council

Legislative Bill 532 proposes to add a new member to the Nebraska Police Standards Advisory Council. The Police Standards Advisory Council (Council) is a standing committee within the Nebraska Crime Commission which is responsible for overseeing the operation of the law enforcement training center and developing policies and procedures relating to the training and certification of law enforcement officers in Nebraska. The member added by LB 532 is a law enforcement officer with the rank of sergeant or below who is to be appointed by the Governor within 90 days after July 1, 2007. Council members are appointed to serve 4 year terms. The current membership of the Council is as follows:

- One police chief from a city of the metropolitan or primary class;
- One police chief from a city of the first class;
- One police chief from a city of the second class or village;
- A county sheriff from a county with a population of 40,000 or more;
- A county sheriff from a county with a population of less than 40,000;
- A member of the Nebraska State Patrol; and
- A member of the Jail Standards Board or a person from the public at large.

LB 533 (*Heidemann*) Remove a requirement of consent and waiver of physical appearance for audiovisual court appearances

Under current law, a written waiver of arraignment and a plea of not guilty offered by a defendant to the district court must include consent and waiver of the right to a physical appearance.

Legislative Bill 533 amends N.R.S. §29-4206 to remove the requirement that consent and waiver of the right to a physical appearance be included in a written waiver of arraignment and a plea of not guilty.

As amended, Legislative Bill 533 leaves §29-4206 untouched and repeals §29-4203 outright.

LB 535 (*Schimpek*) Create the juvenile legal services division of the Commission on Public Advocacy and eliminate a council

Under current law, the counties administer and fund the system that provides representation for children and parents involved in the juvenile justice system.

Legislative Bill 535 proposes a shift in the administration and funding of juvenile justice services from county to state control. Under the bill, the state would administer and fund, through the Nebraska Commission on Public Advocacy, the provision of representation to minors and parents in abuse/neglect cases, status offense cases, and law violation cases. The state would also determine lawyer eligibility to serve as an appointed juvenile attorney or a GAL.

LB 541 (*Synowiecki*) Provide a duty for the Community Corrections Council

Legislative Bill 541 amends section 47-624, which establishes the statutory duties for the Community Corrections Council to establish a new duty for the council to coordinate budgetary needs and funding sources to ensure a statewide system of community corrections.

LB 552 (*Flood*) Increase the salaries of Supreme Court judges

Legislative Bill 552 amends N.R.S. §24-201.01 to provide for an increase in the salaries of Supreme Court judges.

Current law provides that the salary of the Chief Justice and judges of the Supreme Court is \$126,846. LB 761 provides for an increase in the salary of such judges beginning July 1, 2007 and another increase beginning July 1, 2008.

LB 552 contains an emergency clause.

LB 553 (*Flood*) Impound an operator's license as prescribed with respect to bail and eliminate certain administrative license revocation procedures

Legislative Bill 553 proposes to make three changes to Nebraska law relating to drunk driving and the administrative license revocation (ALR) process in particular.

First, LB 553 repeals all statutes relating to the use of ALR in cases where an individual is convicted of drunk driving as a result of submitting to a chemical test which discloses a blood alcohol level in excess of the legal limit. The bill does not repeal ALR provisions for persons who have refused to consent to a chemical test.

Secondly, as an alternative to the ALR process, LB 553 requires a judge to impound the license of a bailable defendant arrested for driving under the influence for the duration of the period that the individual will be released while awaiting his or her criminal trial.

The third change proposed in LB 553 is to allow a judge to deny bail to an otherwise bailable defendant if the judge determines that the release of such individual on bail constitutes an immediate threat to public safety. Judges are also allowed to consider the potential threat to public safety posed by the release of an individual when determining the bail conditions.

LB 556 (*Ashford*) Change Juvenile Code provisions relating to counsel and guardian ad litem

Under current law, there is no established procedure for judges to follow when a conflict of interest arises that prevents a guardian ad litem from representing the best interests of the juvenile in a juvenile court proceeding.

Legislative Bill 556 amends N.R.S. §43-272 to address instances when a conflict of interest arises in a guardian ad litem's representation of a juvenile. The bill provides that in such situations, the court must appoint the guardian ad litem as the juvenile's lawyer and must also appoint new guardian ad litem.

LB 566 (*Louden*) Adopt the Public Recreational Liability Act

Due to the recent Nebraska Supreme Court case, *Bronsen v. Dawes County*, S-04-237, 272 Neb. 320 (September 29, 2006), government entities that had enjoyed liability protection under the Recreational Liability Act (N.R.S. §§37-729 to 37-730 (Reissue 2004)) for the last 25 years have been stripped of the protection of the Act. In *Bronsen*, the Supreme Court ruled that a woman who stepped in a hole and broke her ankle at Fur Trade Days in Dawes County could sue the county for damages. The Court opined that the original legislative intent of the Act was to apply only to private landowners and not

government entities. Without the protection of the Act, government entities must meet the standard of reasonable care to avoid negligence lawsuits.

Legislative Bill 566 is a response to *Bronsen* that proposes the adoption of the Public Recreational Liability Act (PLRA). The bill restores the protection taken away under *Bronsen* to the state, state agencies, University of Nebraska, state colleges, community colleges, and political subdivisions. The owner of public land used for recreational purposes owes no duty of care to keep the premises safe or to provide danger warnings for those entering or using the land for recreational purposes. The protection provided by the PLRA does not apply in cases of willful or malicious failure to guard or warn against danger. Furthermore, the PLRA does not protect owners of public land used for recreational purposes when the owner charges people to enter and use the land.

LB 567 (Louden) Change the Recreational Liability Act

Due to the recent Nebraska Supreme Court case, *Bronsen v. Dawes County*, S-04-237, 272 Neb. 320 (September 29, 2006), government entities that had enjoyed liability protection under the Recreational Liability Act (RLA) (N.R.S. §§37-729 to 37-730 (Reissue 2004)) for the last 25 years have been stripped of the protection of the Act. In *Bronsen*, the Supreme Court ruled that a woman who stepped in a hole and broke her ankle at Fur Trade Days in Dawes County could sue the county for damages. The Court opined that the original legislative intent of the Act was to apply only to private landowners and not government entities. Without the protection of the Act, government entities must meet the standard of reasonable care to avoid negligence lawsuits.

Legislative Bill 567 amends N.R.S. §§37-729, 37-730, 37-732, 37-734, 37-735, and 37-736 to apply the name *Recreational Liability Act* (RLA) and to change the provisions. The RLA applies to land owned by private individuals or entities and used for recreational purposes. The bill removes the bar to limited liability immunity for landowners who charge fees to enter and/or use the land. The protection provided by the RLA does not apply in cases of willful or malicious failure to guard or warn against danger.

LB 571 (Kruse) Provide for adoption by two adult persons jointly

Legislative Bill 571 amends N.R.S. §43-101 and other various adoption statutes to allow two adults, regardless of their marital status, to adopt jointly without the parent having to relinquish his or her parental rights to the child.

LB 585 (Priester) Change provisions relating to the dispensing of cigarettes or other tobacco products

Legislative Bill 585 proposes to prohibit self service methods of marketing tobacco products, defined as any method of displaying and dispensing cigarettes which does not require the intervention of another person or employee. Nebraska currently prohibits the sale of cigarettes through vending machines and the intent of this bill is not to change that

practice. Senator Preister is offering an amendment to correct the technical flaw in the bill which unintentionally authorizes vending machine sales.

LB 599 (*Aguillar*) Permit the filing of voluntary acknowledgement of parentage in cases of gestational surrogacy

Legislative Bill 599 proposes to establish a process to allow an individual to establish a parent and child relationship in situations where a surrogate mother carries a child on behalf of another person. The bill requires all of the following conditions to be met prior to the birth of the child before a parent child relationship can be established:

1. The surrogate mother certifies that she is carrying the child for the intended parents and that she is not the biological parent of the child;
2. The husband, if any, of the gestational surrogate certifies that he is not the biological father of the child;
3. The intended mother certifies that she or an egg donor provided the egg from which the child being carried by the gestational surrogate was conceived;
4. The intended father certifies that he or a sperm donor provided the sperm which conceived the child being carried by the gestational surrogate; and
5. A physician certifies that child is the biological child of either the intended mother or the intended father or both and that neither the gestational surrogate nor her husband is a biological parent of the child.

If these requirements are not met prior to the birth of the child, the bill states that the gestational surrogate and her husband, if any, are presumed to be the biological parent(s) of the child unless otherwise determined by the court.

LB 606 (*Ashford*) Provide for court referral to mediation or other alternative dispute resolution

Legislative Bill 606 provides authority for Nebraska courts to refer civil cases to mediation and other forms of alternative dispute resolution (ADR). Once a case is referred to ADR, the parties may file a motion to object to the referral. Although the parties may be ordered to some form of ADR, any resulting agreement or resolution must be entered into voluntarily pursuant to the Nebraska State Constitution which provides “the Legislature may provide for the enforcement of mediation, binding arbitration agreements, and other forms of dispute resolution which are entered into voluntarily.” Neb. Const. art. I, sec. 13 (1875); Amended 1996, Laws 1995, LR 1CA, sec. 1. If the

order referring a case to ADR includes a date for the case to return to court, the date must be within 90 days after the date on which the order was signed.

LB 606 also provides that the Supreme Court may adopt rules of practice regarding the referral process.

LB 618 (*Pirsch*) Authorize State Treasurer to collect certain bad debt fees electronically

Legislative Bill 618 creates the authority for the State Treasurer to collect fees electronically for the processing of returned checks and/or unaccepted payments. The fees go to the Treasury Management Cash Fund to offset the cost of collecting on bad debt.

The bill authorizes the State Treasurer to maintain a database identifying individuals and business that have made bad debt payments to the state. If a payor makes two bad debt payments to the state within a year, the state may refuse to accept their future payments by check.

Some provisions of LB 618 were added to AM 361, the committee amendment to LB 620 which remains on general file.

LB 624 (*Pirsch*) Change provisions relating to operating a motor vehicle to avoid arrest

Legislative Bill 624 proposes to amend the crime of operation of a motor vehicle to avoid arrest to eliminate the current felony enhancement language and replace it with a list of factors which if proved will enhance the penalty for a conviction for operation of a motor vehicle to avoid arrest from a class I misdemeanor to a class IV felony.

Currently, section 28-905 defines the offenses of misdemeanor and felony operation of a motor vehicle to avoid arrest. The distinction between the two crimes is the type of underlying offense from which the person is fleeing arrest. Persons fleeing arrest for a misdemeanor offense are punished with a class I misdemeanor while persons fleeing arrest for a felony offense receive a class IV felony.

LB 624 removes all references to the severity of the underlying offense and creates a single crime of operation of a motor vehicle to avoid arrest with a penalty enhancement if certain additional facts are present. The base penalty for the offense under LB 624 is punishable as a class I misdemeanor unless one of the following enhancement factors are proved, in which case the penalty is enhanced to a class IV felony:

- The person has a prior conviction for operation of a motor vehicle to avoid arrest;
- The flight results in the death or injury to any person; or
- The flight involves the willful reckless operation of the motor vehicle.

LB 624 also amends the mandatory license revocation period imposed on persons convicted for operation of a motor vehicle to avoid arrest. Currently, a two year license revocation period is required for both the misdemeanor and felony versions of the offense. LB 624 reduces the mandatory license revocation period to one year for persons receiving a misdemeanor penalty and retains the two year revocation period for persons who receive the enhanced felony penalty under the bill.

LB 625 (*Engel*) Prohibit civil actions based upon weight gain

Legislative Bill 625, the Commonsense Consumption Act (Act), proposes to limit civil liability actions brought against any manufacturer, packer, distributor, carrier, holder, seller, marketer, or advertiser of food, or an association of one or more such entities, when the liability is premised upon an individual's weight gain, obesity, or a health condition related to weight gain or obesity, or other generally known condition allegedly caused by or allegedly likely to result from long-term consumption of food.

A manufacturer, packer, distributor, carrier, holder, seller, marketer, or advertiser of food, or an association of one or more such entities shall not be immune from liability if the claim is based upon the following:

- A material violation of an adulteration or misbranding requirement in State or Federal law when the claimed injury was proximately caused by such violation; or
- Any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food if the violation is knowing and willful.

Legislative Bill 625 requires that in any action brought pursuant to this Act, the complaint shall state the following with particularity:

- statute, regulation, or other law allegedly violated
- facts that constitute a material violation of the statute, regulation or other law
- facts alleged to demonstrate the violation proximately caused actual injury to the plaintiff
- that there was an intent to deceive or injure consumers or with actual knowledge the violation was injurious to consumers

The remainder of the bill addresses pleading requirements and discovery and provides that the Act shall apply to actions filed on and after January 1, 2008.

LB 669 (*Hudkins*) Adopt the Nebraska Behavioral Health Jail Diversion Planning and Coordination Advisory Council Act

Legislative Bill 669 adopts the Nebraska Behavioral Health Jail Diversion Planning and Coordination Advisory Council act which is intended to establish a coordinated statewide effort to divert individuals with behavioral health disorders away from the criminal justice system and into community based behavioral health treatment. To achieve this end the act creates the Nebraska Behavioral Health Jail Diversion Planning and Coordination Advisory Council (Council), which is administratively located within the Division of Behavioral Health (Division) within the Department of Health and Human Services. The purpose of the Council is to advise and assist the six behavioral health regions and counties with the establishment and implementation of behavioral health jail diversion programs. The Council consists of the following members:

- Executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;
- Director of Health and Human Services;
- One member of the legislature selected by the executive board;
- Two county court judges selected by the Nebraska County Court Judges Association;

LB 671 (*Pedersen*) Adopt the Office of Probation and Parole Administration

Legislative Bill 671 proposes to merge the Offices of Probation and Parole Administration into the Department of Correctional Services, as of July 1, 2008. Probation administration is currently under the supervision of the Nebraska Supreme Court, while the Office of Parole Administration is located within the Department of Corrections.

The bill creates a new Office of Probation and Parole Administration within the Department of Corrections which shall assume the existing authority and obligations currently held by the Offices of Probation and Parole administration, and shall be headed by a director, to be appointed by the Director of Corrections with the consent of the Board of Parole. All of the duties currently assigned to the administrators of the offices of probation and parole administration are transferred to the new position. LB 671 also provides that the powers and duties currently assigned to probation and parole officers will be transferred to the new position of probation and parole officer. Probation and parole officers are given cross jurisdictional authority to supervise both probationers and parolees. No person employed as a probation officer, a parole officer or as support staff within the Office of Probation or the Office of Parole administration on July 1, 2008 shall incur a loss of income as a result of the merger required by the act. This salary protection does not extend to chief probation and parole officers or other management positions.

Lastly, LB 671 makes the following changes to the cash funds and funding streams currently used by the Offices of Probation Administration and Parole Administration:

- Creates the Office of Probation and Parole Administration Automated Cash Fund, transfers funds earmarked for probation from the Supreme Court Automation Cash Fund, and earmarks 8.5% of the court fees currently assigned to the Supreme Court Automation cash fund to the new Probation and Parole Automation Cash Fund;
- Creates the Office of Probation and Parole Administration Education Cash Fund, transfers funds earmarked for probation from the Supreme Court Education Cash Fund and earmarks 10% of the court fees currently assigned to the Supreme Court Education Cash Fund to the Probation and Parole Education Cash Fund;
- Creates the Probation and Parole Cash Fund and transfers funds from the existing Probation Cash Fund.
- Creates the State Probation and Parole Cash Fund and transfers funds from the existing State Probation Contractual Services Cash Fund.

LB 673 (*Lathrop*) Modify the definition of malpractice or professional neglect to include sexual abuse, misconduct, or exploitation

Legislative Bill 673 amends N.R.S. §44-2810 to modify the malpractice provision of the Nebraska-Medical Liability Act.

Currently, the Nebraska-Medical Liability Act defines malpractice as a health care provider failing to use the ordinary and reasonable care, skill, and knowledge possessed and used under like circumstances by other members of the profession.

LB 673 would expand the definition of malpractice to include sexual abuse, misconduct, or exploitation occurring between a health care provider and a patient.

LB 680 (*Pedersen*) Authorize contracts for keeping prisoners for cities of the metropolitan class

Legislative Bill 680 proposes to allow cities of the metropolitan class to contract with a governmental subdivision or agency, whether local, state or federal for the keeping of prisoners in a city facility or a facility controlled by the subdivision or agency. In practice, this legislation would allow the city of Omaha to contract with Douglas County to house prisoners in the Douglas County jail.

LB 685 (*Karpisek*) Change provisions relating to the possession of alcohol by minors

Legislative Bill 685 provides that a minor who is found to have a blood alcohol level above .02 shall be considered to be in possession of alcohol, a criminal violation punishable as a class III misdemeanor. An exception is provided for minors located in their permanent residence.

LB 693 (*Hudkins*) Require use of driver's license numbers for preparation of juror Lists

Legislative Bill 693 amends N.R.S. §25-1628 to include driver's license numbers among the lists of information that the officer in charge of election records must supply to the jury commissioner each year. Additionally, under LB 693, the Department of Motor Vehicles must provide a list of the driver's license numbers of all licensed motor vehicle operators, nineteen years or older, in the county to the jury commissioner each year in December.

LB 696 (*Christensen*) Provide a fee increase and a waiting period for marriage licenses if marriage education requirements are not met

Under current law, there is a \$15 marriage license fee with no waiting period.

Legislative Bill 696 amends N.R.S. §33-110 to increase the marriage license fee to \$100 and add a 30-day waiting period for couples who do not complete eight hours of marriage education.

Under the bill, a county clerk would have the authority to waive the fee and waiting period when there are compelling circumstances such as pregnancy, terminal illness, or transfer to a combat zone.

LB 700 (*Christensen*) Adopt the Human Cloning Prohibition Act

Legislative Bill 437 proposed to adopt the Human Cloning Prohibition Act (Act). Under the Act, it is unlawful to knowingly perform human cloning, or to deliver or receive any embryo or fetus, produced by or from human cloning, for research purposes. Human cloning is defined in the act as human asexual reproduction accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte from which the nuclear material has been removed or inactivated so as to produce a living organism genetically identical to an existing or previously existing human being. A violation of the Act is classified as a Class IV felony. Nothing in the Act is to be construed as restricting areas of scientific research not specifically prohibited by the Act.

**BILLS INDEFINATELY POSTPONED BY THE
JUDICIARY COMMITTEE
DURING THE 2007 SESSION**

LB 19 (*Mines*) Authorize disposition of an abandoned mobile home as personal property

Legislative Bill 19 amends N.R.S. §76-14,109 to treat abandoned mobile homes and their contents as personal property for purposes of disposition. Under the bill, disposition of mobile homes would be governed by the Distribution of Personal Property Landlord and Tenant Act, which lays out the proper procedure for a landlord to use when disposing of a former tenant's home.

LB 19 was indefinitely postponed on January 31, 2007.

LB 81 (*Schimek*) Create the offense of school trespass and prohibit certain activities of registered sex offenders

Legislative Bill 81 proposes to create the criminal offense school trespass and provide duties for businesses providing goods or services to an accredited school district.

The offense of school trespass prohibits any individual convicted of a sex offense against any person or any criminal offense against a minor who, without legitimate reason, enters or remains on or in the campus or school grounds, in a vehicle being used for a school purpose, or at a school sponsored activity or athletic event. School trespass also prohibits any person from remaining on school property after a reasonable request that such person leave has been made by a school official. School trespass is punishable as a Class I misdemeanor (0-1 year).

Law enforcement officers are authorized by the bill to make a warrantless arrest if they have probable cause that an individual committed school trespass. Normally, warrantless arrests are only authorized for felonies. An exception allows such arrests for misdemeanors committed in the presence of an officer and in situations where an immediate arrest is necessary to ensure that the individual is apprehended, prevent injury to the suspect or others, or prevent damage to property or the destruction of evidence.

LB 81 also provides that school officials who have a reasonable belief that a person has committed school trespass, may detain such individual in a reasonable manner for a reasonable period of time pending the arrival of law enforcement. School officials detaining persons under this provision are granted immunity from civil and criminal liability for detentions based upon a reasonable belief that such detention was authorized by the act.

Lastly, LB 81 places a duty on businesses which provide goods and services to an accredited school to identify and prevent any employees who are required to register as a sex offender from being present on school grounds, at a school activity or athletic event,

or in a vehicle being used for school purposes. Businesses affected by this act are also required to determine on an annual basis if any of its employees are required to register as a sex offender. Violation of these provisions is a criminal offense penalized as a Class III misdemeanor (0-3 months jail, \$500 fine).

LB 81 was indefinitely postponed on March 14, 2007.

LB 102 (*Erdman*) Provide for notice of appointment of a personal representative under the Nebraska Probate Code

Legislative Bill 102 amends N.R.S. 30-2483 to require a personal representative to provide written notice of his/her appointment to the Department of Health and Human Services Finance and Support within 14 days to the appointment. The notice shall identify the decedent's name and social security number as well as that of decedent's deceased spouse, if available. The bill applies to personal representatives appointed for the decedents 55 years of age or older or who resided in a medical institution.

LB 102 was indefinitely postponed on January 31, 2007.

LB 154 (*Burling*) Eliminate certain exemptions from jury service

Legislative Bill 154 amends N.R.S. §25-1601 (Cumm. Supp. 2006) by removing the provision allowing for potential jurors who are sixty-five years of age or older to be exempted from serving on grand and petite juries. The bill also removes redundant language regarding nursing mothers requesting to be excused from jury service.

LB 154 was indefinitely postponed on January 31, 2007.

LB 475 (*Chambers*) Prohibit discrimination based upon sexual orientation or marital status

Under current law, employment discrimination based on race, color, religion, sex, disability, marital status or national origin is prohibited.

Legislative Bill 475 adds sexual orientation to the factors that an employer is forbidden to consider when making employment decisions. Under LB 475, it would be an unlawful employment practice for an employer, an employment agency, or a labor organization to discriminate against an individual on the basis of sexual orientation.

The bill also changes the name of the Nebraska Fair Employment Practice Act to the Employment Nondiscrimination Act (Act).

The Act applies to employers having 15 or more employees; employers with state contracts regardless of the number of employees; the State of Nebraska; governmental agencies; and political subdivisions.

Legislative Bill 475 adds sexual orientation to the equal employment opportunity provision in §81-1356. However, the bill does not include sexual orientation in the definition of affirmative action in §81-1356. LB 475 clarifies that the law shall not be construed to require numerical goals, quotas or other types of affirmative action programs with respect to sexual orientation.

Finally, LB 475 repeals section 48-1109, which contains a reference permitting discrimination against members of the Communist Party.

Committee amendment, AM 399 was adopted on general file and provides that the prohibition against discriminating on the basis of sexual orientation does not apply to any bona fide religious organization. LB 475 was designated a Judiciary Committee Priority Bill.

LB 475 was advanced to general file as amended by AM 399. The bill was debated on general file and was indefinitely postponed on May 22, 2007.

LB 695 (*Christensen*) Limit the power of cities to regulate the carrying of concealed handguns

Legislative Bill 695 proposes to limit the power of cities to regulate to the carrying of concealed handguns by permit holders under the Concealed Handgun Permit Act. Currently, cities of the Metropolitan, Primary, First and Second class are authorized to prevent the carrying of concealed weapons. The statutes granting cities this power to prohibit carrying of concealed weapons were not amended when the legislature adopted the Concealed Handgun Permit Act in 2006, which authorizes persons who obtain a permit to carry a concealed handgun in Nebraska.

LB 695 also expressly prohibits cities and villages from regulating the ownership, possession, or transportation of firearms except as expressly provided by state law, and declares that any existing ordinance or regulation of such subjects by cities or villages is null and void.

LB 695 was indefinitely postponed on March 13, 2007.

**REPORT ON THE PRIORTIZING
OF INTERIM STUDY RESOLUTIONS
Pursuant to Rule 4, Section 3(c)**

COMMITTEE: JUDICIARY

DATE: 5/15/07

The following resolutions were referred to the Judiciary Committee. The committee has prioritized the resolutions in the following order:

**Resolution No.
First Priority**

Subject

LR 219 Judiciary Committee	Interim study to examine the history of stem cell research, human reproductive cloning, and human therapeutic cloning
LR 200 Ashford	Interim study to examine the guardian ad litem statutes and proposals for reform of the juvenile legal services system
LR 97 Hudkins	Interim study to direct the Judiciary Committee to review the North Carolina statewide guardian ad litem system

Second Priority

LR 99 Schimek	Interim study to examine policies relating to the incarceration of persons with mental illness in Nebraska's correctional facilities, including juvenile facilities
LR 112 Pedersen	Interim study to determine the need for additional financial assistance to address staffing issues and treatment of inmate substance abuse and mental health needs within the Dept. of Correctional Services
LR 121 Pedersen	Interim study to examine the feasibility of the adoption of juvenile certification legislation to provide that the juvenile court have original jurisdiction for juveniles who have committed crimes
LR 144 McDonald	Interim study to examine issues relating to dangerous dogs
LR 145 McDonald	Interim study to examine the Income Withholding for Child Support Act
LR 153 Stuthman	Interim study to examine procedures used by the State Board of Health when disciplining medical professionals or allowing medical professionals to practice in the state
LR 199 Ashford	Interim study to examine the existing first degree sexual assault and statutory rape statute

Third Priority

LR 91 Pahls	Interim study to examine if more can be done through legislation to protect citizens from the crime of identity theft
LR 178 Christensen	Interim study to examine the nature and consistency of local firearm regulation