

AMENDMENTS TO LB605

Introduced by Judiciary.

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

3 Section 1. Section 9-262, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 9-262 (1) Except when another penalty is specifically provided, any
6 person, licensee, or permittee, or employee or agent thereof, who
7 violates any provision of the Nebraska Bingo Act, or who causes, aids,
8 abets, or conspires with another to cause any person, licensee, or
9 permittee, or any employee or agent thereof, to violate the act, shall be
10 guilty of a Class I misdemeanor for the first offense and a Class IV
11 felony for any second or subsequent violation. Any licensee guilty of
12 violating any provision of the act more than once in a twelve-month
13 period may have its license canceled or revoked.

14 (2) Each of the following violations of the Nebraska Bingo Act shall
15 be a Class IV felony:

16 (a) Giving, providing, or offering to give or provide, directly or
17 indirectly, to any public official, employee, or agent of this state, or
18 any agencies or political subdivisions of the state, any compensation or
19 reward or share of the money for property paid or received through
20 gambling activities regulated under Chapter 9 in consideration for
21 obtaining any license, authorization, permission, or privilege to
22 participate in any gaming operation except as authorized by the Nebraska
23 Bingo Act or any rules or regulations adopted and promulgated pursuant to
24 such act;

25 ~~(b) Intentionally employing or possessing any device to facilitate~~
26 ~~cheating in a bingo game or using any fraudulent scheme or technique in~~
27 ~~connection with any bingo game when the amount gained or intended to be~~

1 ~~gained through the use of such items, schemes, or techniques is three~~
2 ~~hundred dollars or more;~~

3 (b e) Knowingly filing a false report under the Nebraska Bingo Act;
4 or

5 (c d) Knowingly falsifying or making any false entry in any books or
6 records with respect to any transaction connected with the conduct of
7 bingo activity.

8 (3) Intentionally employing or possessing any device to facilitate
9 cheating in a bingo game or using any fraudulent scheme or technique in
10 connection with any bingo game is a violation of the act. The offense is
11 a:

12 (a) Class II misdemeanor when the amount gained or intended to be
13 gained through the use of such items, schemes, or techniques is less than
14 five hundred dollars;

15 (b) Class I misdemeanor when the amount gained or intended to be
16 gained through the use of such items, schemes, or techniques is five
17 hundred dollars or more but less than one thousand five hundred dollars;
18 and

19 (c) Class IV felony when the amount gained or intended to be gained
20 through the use of such items, schemes, or techniques is one thousand
21 five hundred dollars or more.

22 (4 3) In all proceedings initiated in any court or otherwise under
23 the Nebraska Bingo Act, it shall be the duty of the Attorney General and
24 appropriate county attorney to prosecute and defend all such proceedings.

25 (5 4) The failure to do any act required by or under the Nebraska
26 Bingo Act shall be deemed an act in part in the principal office of the
27 department. Any prosecution under such act may be conducted in any county
28 where the defendant resides or has a place of business or in any county
29 in which any violation occurred.

30 (6 5) In the enforcement and investigation of any offense committed
31 under the Nebraska Bingo Act, the department may call to its aid any

1 sheriff, deputy sheriff, or other peace officer in the state.

2 Sec. 2. Section 9-352, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 9-352 (1) Except when another penalty is specifically provided, any
5 person or licensee, or employee or agent thereof, who violates any
6 provision of the Nebraska Pickle Card Lottery Act, or who causes, aids,
7 abets, or conspires with another to cause any person or licensee or any
8 employee or agent thereof to violate the act, shall be guilty of a Class
9 I misdemeanor for the first offense and a Class IV felony for any second
10 or subsequent violation. Any licensee guilty of violating any provision
11 of the act more than once in a twelve-month period may have its license
12 canceled or revoked. Such matters may also be referred to any other state
13 licensing agencies for appropriate action.

14 (2) Each of the following violations of the Nebraska Pickle Card
15 Lottery Act shall be a Class IV felony:

16 (a) Giving, providing, or offering to give or provide, directly or
17 indirectly, to any public official, employee, or agent of this state, or
18 any agencies or political subdivisions of this state, any compensation or
19 reward or share of the money for property paid or received through
20 gambling activities regulated under Chapter 9 in consideration for
21 obtaining any license, authorization, permission, or privilege to
22 participate in any gaming operations except as authorized under Chapter 9
23 or any rules and regulations adopted and promulgated pursuant to such
24 chapter;

25 (b) Making or receiving payment of a portion of the purchase price
26 of pickle cards by a seller of pickle cards to a buyer of pickle cards to
27 induce the purchase of pickle cards or to improperly influence future
28 purchases of pickle cards;

29 (c) Using bogus, counterfeit, or nonopaque pickle cards, pull tabs,
30 break opens, punchboards, jar tickets, or any other similar card, board,
31 or ticket or substituting or using any pickle cards, pull tabs, or jar

1 tickets that have been marked or tampered with;

2 ~~(d) Intentionally employing or possessing any device to facilitate~~
3 ~~cheating in any lottery by the sale of pickle cards or use of any~~
4 ~~fraudulent scheme or technique in connection with any lottery by the sale~~
5 ~~of pickle cards when the amount gained or intended to be gained through~~
6 ~~the use of such items, schemes, or techniques is three hundred dollars or~~
7 ~~more;~~

8 (d e) Knowingly filing a false report under the Nebraska Pickle Card
9 Lottery Act;

10 (e f) Knowingly falsifying or making any false entry in any books or
11 records with respect to any transaction connected with the conduct of a
12 lottery by the sale of pickle cards; or

13 (f g) Knowingly selling or distributing or knowingly receiving with
14 intent to sell or distribute pickle cards or pickle card units without
15 first obtaining a license in accordance with the Nebraska Pickle Card
16 Lottery Act pursuant to section 9-329, 9-329.03, 9-330, or 9-332.

17 (3) Intentionally employing or possessing any device to facilitate
18 cheating in any lottery by the sale of pickle cards or use of any
19 fraudulent scheme or technique in connection with any lottery by the sale
20 of pickle cards is a violation of the act. The offense is a:

21 (a) Class II misdemeanor when the amount gained or intended to be
22 gained through the use of such items, schemes, or techniques is less than
23 five hundred dollars;

24 (b) Class I misdemeanor when the amount gained or intended to be
25 gained through the use of such items, schemes, or techniques is five
26 hundred dollars or more but less than one thousand five hundred dollars;
27 and

28 (c) Class IV felony when the amount gained or intended to be gained
29 through the use of such items, schemes, or techniques is one thousand
30 five hundred dollars or more.

31 (4 3) In all proceedings initiated in any court or otherwise under

1 the act, it shall be the duty of the Attorney General and appropriate
2 county attorney to prosecute and defend all such proceedings.

3 (5 4) The failure to do any act required by or under the Nebraska
4 Pickle Card Lottery Act shall be deemed an act in part in the principal
5 office of the department. Any prosecution under such act may be conducted
6 in any county where the defendant resides or has a place of business or
7 in any county in which any violation occurred.

8 (6 5) In the enforcement and investigation of any offense committed
9 under the act, the department may call to its aid any sheriff, deputy
10 sheriff, or other peace officer in the state.

11 Sec. 3. Section 9-434, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 9-434 (1) Except when another penalty is specifically provided, any
14 person, licensee, or permittee, or employee or agent thereof, who
15 violates any provision of the Nebraska Lottery and Raffle Act, or who
16 causes, aids, abets, or conspires with another to cause any person,
17 licensee, or permittee or employee or agent thereof to violate the act,
18 shall be guilty of a Class I misdemeanor for the first offense and a
19 Class IV felony for any second or subsequent violation. Any licensee
20 guilty of violating any provision of the act more than once in a twelve-
21 month period may have its license canceled or revoked.

22 (2) Each of the following violations of the Nebraska Lottery and
23 Raffle Act shall be a Class IV felony:

24 (a) Giving, providing, or offering to give or provide, directly or
25 indirectly, to any public official or employee or agent of this state, or
26 any agencies or political subdivisions of this state, any compensation or
27 reward or share of the money for property paid or received through
28 gambling activities authorized under Chapter 9 in consideration for
29 obtaining any license, authorization, permission, or privileges to
30 participate in any gaming operations except as authorized under Chapter 9
31 or any rules and regulations adopted and promulgated pursuant to such

1 chapter; or

2 ~~(b) Intentionally employing or possessing any device to facilitate~~
3 ~~cheating in any lottery or raffle or using any fraudulent scheme or~~
4 ~~technique in connection with any lottery or raffle when the amount gained~~
5 ~~or intended to be gained through the use of items, schemes, or techniques~~
6 ~~is three hundred dollars or more; or~~

7 (b e) Knowingly filing a false report under the Nebraska Lottery and
8 Raffle Act.

9 (3) Intentionally employing or possessing any device to facilitate
10 cheating in any lottery or raffle or using any fraudulent scheme or
11 technique in connection with any lottery or raffle is a violation of the
12 act. The offense is a:

13 (a) Class II misdemeanor when the amount gained or intended to be
14 gained through the use of such items, schemes, or techniques is less than
15 five hundred dollars;

16 (b) Class I misdemeanor when the amount gained or intended to be
17 gained through the use of such items, schemes, or techniques is five
18 hundred dollars or more but less than one thousand five hundred dollars;
19 and

20 (c) Class IV felony when the amount gained or intended to be gained
21 through the use of such items, schemes, or techniques is one thousand
22 five hundred dollars or more.

23 (4 3) In all proceedings initiated in any court or otherwise under
24 the act, it shall be the duty of the Attorney General and appropriate
25 county attorney to prosecute and defend all such proceedings.

26 (5 4) The failure to do any act required by or under the Nebraska
27 Lottery and Raffle Act shall be deemed an act in part in the principal
28 office of the department. Any prosecution under such act may be conducted
29 in any county where the defendant resides or has a place of business or
30 in any county in which any violation occurred.

31 (6 5) In the enforcement and investigation of any offense committed

1 under the act, the department may call to its aid any sheriff, deputy
2 sheriff, or other peace officer in the state.

3 Sec. 4. Section 9-652, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 9-652 (1) Except when another penalty is specifically provided, any
6 person or licensee, or employee or agent thereof, who knowingly or
7 intentionally violates any provision of the Nebraska County and City
8 Lottery Act, or who causes, aids, abets, or conspires with another to
9 cause any person or licensee or any employee or agent thereof to violate
10 the act, shall be guilty of a Class I misdemeanor for the first offense
11 and a Class IV felony for any second or subsequent violation. Any
12 licensee guilty of violating the act more than once in a twelve-month
13 period may have its license canceled or revoked.

14 (2) Each of the following violations of the act shall be a Class IV
15 felony:

16 (a) Giving, providing, or offering to give or provide, directly or
17 indirectly, to any public official, employee, or agent of this state or
18 any agencies or political subdivisions of this state any compensation or
19 reward or share of the money for property paid or received through
20 gambling activities regulated under the act in consideration for
21 obtaining any license, authorization, permission, or privilege to
22 participate in any gaming operations except as authorized under the act
23 or any rules and regulations adopted and promulgated pursuant to such
24 act;

25 ~~(b) Intentionally employing or possessing any device to facilitate~~
26 ~~cheating in any lottery or using any fraudulent scheme or technique in~~
27 ~~connection with any lottery when the amount gained or intended to be~~
28 ~~gained through the use of such device, scheme, or technique is three~~
29 ~~hundred dollars or more;~~

30 (b e) Knowingly filing a false report under the act; or

31 (c d) Knowingly falsifying or making any false entry in any books or

1 records with respect to any transaction connected with the conduct of a
2 lottery.

3 (3) Intentionally employing or possessing any device to facilitate
4 cheating in any lottery or using any fraudulent scheme or technique in
5 connection with any lottery is a violation of the act. The offense is a:

6 (a) Class II misdemeanor when the amount gained or intended to be
7 gained through the use of such device, scheme, or technique is less than
8 five hundred dollars;

9 (b) Class I misdemeanor when the amount gained or intended to be
10 gained through the use of such device, scheme, or technique is five
11 hundred dollars or more but less than one thousand five hundred dollars;
12 and

13 (c) Class IV felony when the amount gained or intended to be gained
14 through the use of such device, scheme, or technique is one thousand five
15 hundred dollars or more.

16 (4 3) It shall be the duty of the Attorney General or appropriate
17 county attorney to prosecute and defend all proceedings initiated in any
18 court or otherwise under the act.

19 (5 4) The failure to do any act required by or under the Nebraska
20 County and City Lottery Act shall be deemed an act in part in the
21 principal office of the department. Any prosecution under such act may be
22 conducted in any county where the defendant resides or has a place of
23 business or in any county in which any violation occurred.

24 (6 5) In the enforcement and investigation of any offense committed
25 under the act, the department may call to its aid any sheriff, deputy
26 sheriff, or other peace officer in the state.

27 Sec. 5. Section 23-135.01, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 23-135.01 Whoever files ~~shall file~~ any claim against any county as
30 provided in section 23-135, knowing the said claim to contain any false
31 statement or representation as to a material fact or whoever obtains or

1 ~~receives shall obtain or receive~~ any money or any warrant for money from
2 any county knowing that the claim therefor was based on a false statement
3 or representation as to a material fact, if the amount claimed or money
4 obtained or received, or if the face value of the warrant for money shall
5 be one thousand five hundred dollars or more, shall be guilty of a Class
6 IV felony. If the amount is five ~~more than one~~ hundred dollars or more
7 but less than one thousand five hundred dollars, the person so offending
8 shall be guilty of a Class II misdemeanor. If the amount is less than
9 five ~~one~~ hundred dollars, the person so offending shall be guilty of a
10 Class III misdemeanor.

11 Sec. 6. Section 28-105, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 28-105 (1) For purposes of the Nebraska Criminal Code and any
14 statute passed by the Legislature after the date of passage of the code,
15 felonies are divided into ten ~~nine~~ classes which are distinguished from
16 one another by the following penalties which are authorized upon
17 conviction:

18 Class I felony	Death
19 Class IA felony	Life imprisonment
20 Class IB felony	Maximum – life imprisonment
21	Minimum – twenty years imprisonment
22 Class IC felony	Maximum – fifty years imprisonment
23	Mandatory minimum – five years imprisonment
24 Class ID felony	Maximum – fifty years imprisonment
25	Mandatory minimum – three years imprisonment
26 Class II felony	Maximum – fifty years imprisonment
27	Minimum – one year imprisonment
28 <u>Class IIA felony</u>	<u>Maximum – twenty years imprisonment</u>
29	<u>Minimum – none</u>
30 <u>Class III felony</u>	<u>Maximum – four years imprisonment and two years</u>

1 post-release supervision or
2 twenty-five thousand dollars fine, or both
3 Minimum – none for imprisonment and nine months
4 post-release supervision if imprisonment is imposed
5 Class IIIA felony Maximum – three years imprisonment
6 and eighteen months
7 post-release supervision or
8 ten thousand dollars fine, or both
9 Minimum – none for imprisonment and nine months
10 post-release supervision if imprisonment is imposed
11 Class IV felony Maximum – two years imprisonment and twelve
12 months post-release supervision or
13 ten thousand dollars fine, or both
14 Minimum – none for imprisonment and nine months
15 post-release supervision if imprisonment is imposed
16 Class III felony ~~Maximum – twenty years imprisonment, or~~
17 ~~twenty-five thousand dollars fine, or both~~
18 ~~Minimum – one year imprisonment~~
19 Class IIIA felony ~~Maximum – five years imprisonment, or~~
20 ~~ten thousand dollars fine, or both~~
21 ~~Minimum – none~~
22 Class IV felony ~~Maximum – five years imprisonment, or~~
23 ~~ten thousand dollars fine, or both~~
24 ~~Minimum – none~~

25 (2) All sentences of imprisonment for ~~Class IA, IB, IC, ID, II, and~~
26 ~~III felonies and sentences of one year or more for Class IIIA and IV~~
27 ~~felonies shall be served in institutions under the jurisdiction of the~~
28 ~~Department of Correctional Services. All sentences of imprisonment~~
29 ~~Sentences of less than one year shall be served in the county jail except~~

~~1 as provided in this subsection. If the department certifies that it has
2 programs and facilities available for persons sentenced to terms of less
3 than one year, the court may order that any sentence of six months or
4 more be served in any institution under the jurisdiction of the
5 department. Any such certification shall be given by the department to
6 the State Court Administrator, who shall forward copies thereof to each
7 judge having jurisdiction to sentence in felony cases.~~

8 (3) Nothing in this section shall limit the authority granted in
9 sections 29-2221 and 29-2222 to increase sentences for habitual
10 criminals.

11 (4) A person convicted of a felony for which a mandatory minimum
12 sentence is prescribed shall not be eligible for probation.

13 (5) All sentences of post-release supervision shall be served under
14 the jurisdiction of the Office of Probation Administration and shall be
15 subject to conditions imposed pursuant to section 29-2262 and subject to
16 sanctions authorized pursuant to section 29-2266.

17 (6) Any person who is sentenced to imprisonment for a Class I, IA,
18 IB, IC, ID, II, or IIA felony and sentenced concurrently or consecutively
19 to imprisonment for a Class III, IIIA, or IV felony shall not be subject
20 to post-release supervision pursuant to subsection (1) of this section.

21 Sec. 7. Section 28-106, Revised Statutes Cumulative Supplement,
22 2014, is amended to read:

23 28-106 (1) For purposes of the Nebraska Criminal Code and any
24 statute passed by the Legislature after the date of passage of the code,
25 misdemeanors are divided into seven classes which are distinguished from
26 one another by the following penalties which are authorized upon
27 conviction:

28 Class I misdemeanor..... Maximum – not more than one year
29 imprisonment, or one thousand dollars
30 fine, or both

1 Minimum – none
2 Class II misdemeanor..... Maximum – six months imprisonment, or
3 one thousand dollars fine, or both
4 Minimum – none
5 Class III misdemeanor..... Maximum – three months imprisonment,
6 or five hundred dollars fine, or both
7 Minimum – none
8 Class IIIA misdemeanor..... Maximum – seven days imprisonment, five
9 hundred dollars fine, or both
10 Minimum – none
11 Class IV misdemeanor..... Maximum – no imprisonment, five hun-
12 dred dollars fine
13 Minimum – one hundred dollars fine
14 Class V misdemeanor..... Maximum – no imprisonment, one hun-
15 dred dollars fine
16 Minimum – none
17 Class W misdemeanor..... Driving under the influence or implied
18 consent
19 First conviction
20 Maximum – sixty days imprisonment and
21 five hundred dollars fine
22 Mandatory minimum – seven days
23 imprisonment and five hundred dollars
24 fine
25 Second conviction
26 Maximum – six months imprisonment and
27 five hundred dollars fine
28 Mandatory minimum – thirty days
29 imprisonment and five hundred dollars

1 fine
2 Third conviction
3 Maximum – one year imprisonment and
4 one thousand dollars fine
5 Mandatory minimum – ninety days
6 imprisonment
7 and one thousand dollars fine

8 (2) Sentences of imprisonment in misdemeanor cases shall be served
9 in the county jail, except that ~~in the following circumstances the court~~
10 ~~may, in its discretion, order that~~ such sentences may be served in
11 institutions under the jurisdiction of the Department of Correctional
12 Services if ÷

13 ~~(a) If the sentence is for a term of one year upon conviction of a Class~~
14 ~~I misdemeanor;~~

15 ~~(b) If the sentence is to be served concurrently or consecutively with a~~
16 ~~term for conviction of a felony and the combined sentences total a term~~
17 ~~of one year or more. ;~~ or

18 ~~(c) If the Department of Correctional Services has certified as~~
19 ~~provided in section 28-105 as to the availability of facilities and~~
20 ~~programs for short-term prisoners and the sentence is for a term of six~~
21 ~~months or more.~~

22 Sec. 8. Section 28-201, Revised Statutes Cumulative Supplement,
23 2014, is amended to read:

24 28-201 (1) A person shall be guilty of an attempt to commit a crime
25 if he or she:

26 (a) Intentionally engages in conduct which would constitute the
27 crime if the attendant circumstances were as he or she believes them to
28 be; or

29 (b) Intentionally engages in conduct which, under the circumstances
30 as he or she believes them to be, constitutes a substantial step in a

1 course of conduct intended to culminate in his or her commission of the
2 crime.

3 (2) When causing a particular result is an element of the crime, a
4 person shall be guilty of an attempt to commit the crime if, acting with
5 the state of mind required to establish liability with respect to the
6 attendant circumstances specified in the definition of the crime, he or
7 she intentionally engages in conduct which is a substantial step in a
8 course of conduct intended or known to cause such a result.

9 (3) Conduct shall not be considered a substantial step under this
10 section unless it is strongly corroborative of the defendant's criminal
11 intent.

12 (4) Criminal attempt is:

13 (a) A Class II felony when the crime attempted is a Class I, IA, IB,
14 IC, or ID felony;

15 (b) A Class IIA felony when the crime attempted is a Class II
16 felony;

17 (c) A Class III felony when the crime attempted is a Class IIA
18 felony;

19 (d) A Class IIIA felony when the crime attempted is sexual assault
20 in the second degree under section 28-320, a violation of subdivision (2)
21 (b) of section 28-416, incest under section 28-703, or assault by a
22 confined person with a deadly or dangerous weapon under section 28-932;

23 (e) A Class IV felony when the crime attempted is a Class III
24 felony not listed in subdivision (4)(d) of this section;

25 (f) A Class I misdemeanor when the crime attempted is a Class IIIA
26 or Class IV felony;

27 (g) A Class II misdemeanor when the crime attempted is a Class I
28 misdemeanor; and

29 (h) A Class III misdemeanor when the crime attempted is a Class II
30 misdemeanor.

31 Sec. 9. Section 28-204, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 28-204 (1) A person is guilty of being an accessory to felony if
3 with intent to interfere with, hinder, delay, or prevent the discovery,
4 apprehension, prosecution, conviction, or punishment of another for an
5 offense, he or she:

6 (a) Harbors or conceals the other;

7 (b) Provides or aids in providing a weapon, transportation,
8 disguise, or other means of effecting escape or avoiding discovery or
9 apprehension;

10 (c) Conceals or destroys evidence of the crime or tampers with a
11 witness, informant, document, or other source of information, regardless
12 of its admissibility in evidence;

13 (d) Warns the other of impending discovery or apprehension other
14 than in connection with an effort to bring another into compliance with
15 the law;

16 (e) Volunteers false information to a peace officer; or

17 (f) By force, intimidation, or deception, obstructs anyone in the
18 performance of any act which might aid in the discovery, detection,
19 apprehension, prosecution, conviction, or punishment of such person.

20 (2)(a) Accessory to felony is a Class III felony if the actor
21 violates subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor
22 knows of the conduct of the other, and the conduct of the other
23 constitutes a Class I, IA, IB, IC, or ID felony.

24 (b) Accessory to felony is a Class IIIA felony if the actor violates
25 subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor knows of
26 the conduct of the other, and the conduct of the other constitutes a
27 Class II or IIA felony.

28 (c) Accessory to felony is a Class IV felony if the actor violates
29 subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor knows of
30 the conduct of the other, and the conduct of the other constitutes a
31 Class III or Class IIIA felony.

1 (d) Accessory to felony is a Class I misdemeanor if the actor
2 violates subdivision (1)(a), (1)(b), or (1)(c) of this section, the actor
3 knows of the conduct of the other, and the conduct of the other
4 constitutes a Class IV felony.

5 (e) Accessory to felony is a Class IV felony if the actor violates
6 subdivision (1)(d), (1)(e), or (1)(f) of this section, the actor knows of
7 the conduct of the other, and the conduct of the other constitutes a
8 felony of any class other than a Class IV felony.

9 (f) Accessory to felony is a Class I misdemeanor if the actor
10 violates subdivision (1)(d), (1)(e), or (1)(f) of this section, the actor
11 knows of the conduct of the other, and the conduct of the other
12 constitutes a Class IV felony.

13 Sec. 10. Section 28-305, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 28-305 (1) A person commits manslaughter if he or she kills another
16 without malice, ~~either~~ upon a sudden quarrel, or causes the death of
17 another unintentionally while in the commission of an unlawful act.

18 (2) Manslaughter is a Class IIA ~~III~~ felony.

19 Sec. 11. Section 28-309, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

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

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

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

27 (c) Unlawfully strikes or wounds another (i) while legally confined
28 in a jail or an adult correctional or penal institution, (ii) while
29 otherwise in legal custody of the Department of Correctional Services, or
30 (iii) while committed as a dangerous sex offender under the Sex Offender
31 Commitment Act.

1 (2) Assault in the second degree shall be a Class IIA ~~III~~ felony.

2 Sec. 12. Section 28-310.01, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 28-310.01 (1) A person commits the offense of strangulation if the
5 person knowingly or intentionally impedes the normal breathing or
6 circulation of the blood of another person by applying pressure on the
7 throat or neck of the other person.

8 (2) Except as provided in subsection (3) of this section,
9 strangulation is a Class IIIA ~~IV~~ felony.

10 (3) Strangulation is a Class IIA ~~III~~ felony if:

11 (a) The person used or attempted to use a dangerous instrument while
12 committing the offense;

13 (b) The person caused serious bodily injury to the other person
14 while committing the offense; or

15 (c) The person has been previously convicted of strangulation.

16 (4) It is an affirmative defense that an act constituting
17 strangulation was the result of a legitimate medical procedure.

18 Sec. 13. Section 28-311, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 28-311 (1)(a) No person, by any means and without privilege to do
21 so, shall knowingly solicit, coax, entice, or lure or attempt to solicit,
22 coax, entice, or lure any child under the age of fourteen years to enter
23 into any vehicle, whether or not the person knows the age of the child.

24 (b) No person, by any means and without privilege to do so, shall
25 solicit, coax, entice, or lure or attempt to solicit, coax, entice, or
26 lure any child under the age of fourteen years to enter into any place
27 with the intent to seclude the child from his or her parent, guardian, or
28 other legal custodian or the general public, whether or not the person
29 knows the age of the child. For purposes of this subdivision, seclude
30 means to take, remove, hide, secrete, conceal, isolate, or otherwise
31 unlawfully separate.

1 (2) It is an affirmative defense to a charge under this section
2 that:

3 (a) The person had the express or implied permission of the parent,
4 guardian, or other legal custodian of the child in undertaking the
5 activity;

6 (b)(i) The person is a law enforcement officer, emergency services
7 provider as defined in section 71-507, firefighter, or other person who
8 regularly provides emergency services, is the operator of a bookmobile or
9 other such vehicle operated by the state or a political subdivision and
10 used for informing, educating, organizing, or transporting children, is a
11 paid employee of, or a volunteer for, a nonprofit or religious
12 organization which provides activities for children, or is an employee or
13 agent of or a volunteer acting under the direction of any board of
14 education and (ii) the person listed in subdivision (2)(b)(i) of this
15 section was, at the time the person undertook the activity, acting within
16 the scope of his or her lawful duties in that capacity; or

17 (c) The person undertook the activity in response to a bona fide
18 emergency situation or the person undertook the activity in response to a
19 reasonable belief that it was necessary to preserve the health, safety,
20 or welfare of the child.

21 (3) Any person who violates this section commits criminal child
22 enticement and is guilty of a Class IIIA felony. If such person has
23 previously been convicted of (a) criminal child enticement under this
24 section, (b) sexual assault of a child in the first degree under section
25 28-319.01, (c) sexual assault of a child in the second or third degree
26 under section 28-320.01, (d) child enticement by means of an electronic
27 communication device under section 28-320.02, or (e) assault under
28 section 28-308, 28-309, or 28-310, kidnapping under section 28-313, or
29 false imprisonment under section 28-314 or 28-315 when the victim was
30 under eighteen years of age when such person violates this section, such
31 person is guilty of a Class IIA ~~III~~ felony.

1 Sec. 14. Section 28-311.04, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-311.04 (1) Except as provided in subsection (2) of this section,
4 any person convicted of violating section 28-311.03 is guilty of a Class
5 I misdemeanor.

6 (2) Any person convicted of violating section 28-311.03 is guilty of
7 a Class ~~IIIA~~ IIIA ~~IV~~ felony if:

8 (a) The person has a prior conviction under such section or a
9 substantially conforming criminal violation within the last seven years;

10 (b) The victim is under sixteen years of age;

11 (c) The person possessed a deadly weapon at any time during the
12 violation;

13 (d) The person was also in violation of section 28-311.09, 42-924,
14 or 42-925 at any time during the violation; or

15 (e) The person has been convicted of any felony in this state or has
16 been convicted of a crime in another jurisdiction which, if committed in
17 this state, would constitute a felony and the victim or a family or
18 household member of the victim was also the victim of such previous
19 felony.

20 Sec. 15. Section 28-320, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 28-320 (1) Any person who subjects another person to sexual contact
23 (a) without consent of the victim, or (b) who knew or should have known
24 that the victim was physically or mentally incapable of resisting or
25 appraising the nature of his or her conduct is guilty of sexual assault
26 in either the second degree or third degree.

27 (2) Sexual assault shall be in the second degree and is a Class IIA
28 ~~III~~ felony if the actor shall have caused serious personal injury to the
29 victim.

30 (3) Sexual assault shall be in the third degree and is a Class I
31 misdemeanor if the actor shall not have caused serious personal injury to

1 the victim.

2 Sec. 16. Section 28-322.02, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 28-322.02 Any person who subjects an inmate or parolee to sexual
5 penetration is guilty of sexual abuse of an inmate or parolee in the
6 first degree. Sexual abuse of an inmate or parolee in the first degree is
7 a Class IIA ~~III~~ felony.

8 Sec. 17. Section 28-322.03, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 28-322.03 Any person who subjects an inmate or parolee to sexual
11 contact is guilty of sexual abuse of an inmate or parolee in the second
12 degree. Sexual abuse of an inmate or parolee in the second degree is a
13 Class IIIA ~~IV~~ felony.

14 Sec. 18. Section 28-322.04, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 28-322.04 (1) For purposes of this section:

17 (a) Person means an individual employed by the Department of Health
18 and Human Services and includes, but is not limited to, any individual
19 working in central administration or regional service areas or facilities
20 of the department and any individual to whom the department has
21 authorized or delegated control over a protected individual or a
22 protected individual's activities, whether by contract or otherwise; and

23 (b) Protected individual means an individual in the care or custody
24 of the department.

25 (2) A person commits the offense of sexual abuse of a protected
26 individual if the person subjects a protected individual to sexual
27 penetration or sexual contact as those terms are defined in section
28 28-318. It is not a defense to a charge under this section that the
29 protected individual consented to such sexual penetration or sexual
30 contact.

31 (3) Any person who subjects a protected individual to sexual

1 penetration is guilty of sexual abuse of a protected individual in the
2 first degree. Sexual abuse of a protected individual in the first degree
3 is a Class IIA ~~III~~ felony.

4 (4) Any person who subjects a protected individual to sexual contact
5 is guilty of sexual abuse of a protected individual in the second degree.
6 Sexual abuse of a protected individual in the second degree is a Class
7 IIIA ~~IV~~ felony.

8 Sec. 19. Section 28-323, Revised Statutes Cumulative Supplement,
9 2014, is amended to read:

10 28-323 (1) A person commits the offense of domestic assault in the
11 third degree if he or she:

12 (a) Intentionally and knowingly causes bodily injury to his or her
13 intimate partner;

14 (b) Threatens an intimate partner with imminent bodily injury; or

15 (c) Threatens an intimate partner in a menacing manner.

16 (2) A person commits the offense of domestic assault in the second
17 degree if he or she intentionally and knowingly causes bodily injury to
18 his or her intimate partner with a dangerous instrument.

19 (3) A person commits the offense of domestic assault in the first
20 degree if he or she intentionally and knowingly causes serious bodily
21 injury to his or her intimate partner.

22 (4) Violation of subdivision (1)(a) or (b) of this section is a
23 Class I misdemeanor, except that for any subsequent violation of
24 subdivision (1)(a) or (b) of this section, any person so offending is
25 guilty of a Class IIIA ~~IV~~ felony.

26 (5) Violation of subdivision (1)(c) of this section is a Class I
27 misdemeanor.

28 (6) Violation of subsection (2) of this section is a Class IIIA
29 felony, except that for any second or subsequent violation of such
30 subsection, any person so offending is guilty of a Class IIA ~~III~~ felony.

31 (7) Violation of subsection (3) of this section is a Class IIA ~~III~~

1 felony, except that for any second or subsequent violation under such
2 subsection, any person so offending is guilty of a Class II felony.

3 (8) For purposes of this section, intimate partner means a spouse; a
4 former spouse; persons who have a child in common whether or not they
5 have been married or lived together at any time; and persons who are or
6 were involved in a dating relationship. For purposes of this subsection,
7 dating relationship means frequent, intimate associations primarily
8 characterized by the expectation of affectional or sexual involvement,
9 but does not include a casual relationship or an ordinary association
10 between persons in a business or social context.

11 Sec. 20. Section 28-393, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 28-393 (1) A person commits manslaughter of an unborn child if he or
14 she (a) kills an unborn child without malice upon a sudden quarrel with
15 any person or (b) causes the death of an unborn child unintentionally
16 while in the perpetration of or attempt to perpetrate any criminal
17 assault, any sexual assault, arson, robbery, kidnapping, intentional
18 child abuse, hijacking of any public or private means of transportation,
19 or burglary.

20 (2) Manslaughter of an unborn child is a Class IIA ~~III~~ felony.

21 Sec. 21. Section 28-397, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-397 (1) A person commits the offense of assault of an unborn
24 child in the first degree if he or she, during the commission of any
25 criminal assault on a pregnant woman, intentionally or knowingly causes
26 serious bodily injury to her unborn child.

27 (2) Assault of an unborn child in the first degree is a Class IIA
28 ~~III~~ felony.

29 Sec. 22. Section 28-504, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 28-504 (1) A person commits arson in the third degree if he or she

1 intentionally sets fire to, burns, causes to be burned, or by the use of
2 any explosive, damages or destroys, or causes to be damaged or destroyed,
3 any property of another person without such other person's consent. Such
4 property shall not be contained within a building and shall not be a
5 building or occupied structure.

6 (2) Arson in the third degree is a Class IV felony if the damages
7 amount to one thousand five hundred dollars or more.

8 (3) Arson in the third degree is a Class I misdemeanor if the
9 damages are five hundred dollars or more but less than one thousand five
10 hundred dollars.

11 (4) Arson in the third degree is a Class II misdemeanor if the
12 damages are less than five hundred dollars.

13 Sec. 23. Section 28-507, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 28-507 (1) A person commits burglary if such person willfully,
16 maliciously, and forcibly breaks and enters any real estate or any
17 improvements erected thereon with intent to commit any felony or with
18 intent to steal property of any value.

19 (2) Burglary is a Class IIA ~~III~~ felony.

20 Sec. 24. Section 28-514, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 28-514 A person who comes into control of property of another that
23 he or she knows to have been lost, mislaid, or delivered under a mistake
24 as to the nature or amount of the property or the identity of the
25 recipient commits theft if, with intent to deprive the owner thereof, he
26 or she fails to take reasonable measures to restore the property to a
27 person entitled to have it. Any person violating the provisions of this
28 section shall, upon conviction thereof, be punished by the penalty
29 prescribed in the next lower classification below the value of the item
30 lost, mislaid, or delivered under a mistake pursuant to section 28-518.
31 Any person convicted pursuant to this section when the value of the

1 property is five ~~two~~ hundred dollars or less shall be guilty of a Class
2 III misdemeanor for the first conviction, a Class II misdemeanor for the
3 second conviction, and a Class I misdemeanor for the third or subsequent
4 conviction.

5 Sec. 25. Section 28-518, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 28-518 (1) Theft constitutes a Class III felony when the value of
8 the thing involved is five ~~over one~~ thousand or more ~~five~~ hundred
9 dollars.

10 (2) Theft constitutes a Class IV felony when the value of the thing
11 involved is one thousand five hundred dollars or more, but less than five
12 ~~not over one~~ thousand ~~five~~ hundred dollars.

13 (3) Theft constitutes a Class I misdemeanor when the value of the
14 thing involved is five hundred dollars or more ~~than two hundred dollars,~~
15 but less than one thousand five hundred dollars.

16 (4) Theft constitutes a Class II misdemeanor when the value of the
17 thing involved is ~~two hundred dollars or less~~ than five hundred dollars.

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

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

25 (7) Amounts taken pursuant to one scheme or course of conduct from
26 one or more persons may be aggregated in the indictment or information in
27 determining the classification of the offense, except that amounts may
28 not be aggregated into more than one offense.

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

1 Sec. 26. Section 28-519, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-519 (1) A person commits criminal mischief if he or she:

4 (a) Damages property of another intentionally or recklessly; or

5 (b) Intentionally tampers with property of another so as to endanger
6 person or property; or

7 (c) Intentionally or maliciously causes another to suffer pecuniary
8 loss by deception or threat.

9 (2) Criminal mischief is a Class IV felony if the actor
10 intentionally or maliciously causes pecuniary loss of five ~~one~~ thousand
11 ~~five hundred~~ dollars or more, or a substantial interruption or impairment
12 of public communication, transportation, supply of water, gas, or power,
13 or other public service.

14 (3) Criminal mischief is a Class I misdemeanor if the actor
15 intentionally or maliciously causes pecuniary loss of one thousand ~~five~~
16 ~~hundred~~ dollars or more but less than five ~~one thousand~~ ~~five hundred~~
17 dollars.

18 (4) Criminal mischief is a Class II misdemeanor if the actor
19 intentionally or maliciously causes pecuniary loss of five ~~two~~ hundred
20 dollars or more but less than one thousand ~~five~~ hundred dollars.

21 (5) Criminal mischief is a Class III misdemeanor if the actor
22 intentionally, maliciously, or recklessly causes pecuniary loss in an
23 amount of less than five ~~two~~ hundred dollars, or if his or her action
24 results in no pecuniary loss.

25 Sec. 27. Section 28-603, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 28-603 (1) Whoever, with intent to deceive or harm, falsely makes,
28 completes, endorses, alters, or utters any written instrument which is or
29 purports to be, or which is calculated to become or to represent if
30 completed, a written instrument which does or may evidence, create,
31 transfer, terminate, or otherwise affect a legal right, interest,

1 obligation, or status, commits forgery in the second degree.

2 (2) Forgery in the second degree is a Class III felony when the face
3 value, or purported face value, or the amount of any proceeds wrongfully
4 procured or intended to be procured by the use of such instrument, is
5 five ~~one~~ thousand dollars or more.

6 (3) Forgery in the second degree is a Class IV felony when the face
7 value, or purported face value, or the amount of any proceeds wrongfully
8 procured or intended to be procured by the use of such instrument, is one
9 thousand five ~~exceeds three~~ hundred dollars or more but is less than five
10 ~~one~~ thousand dollars.

11 (4) Forgery in the second degree is a Class I misdemeanor when the
12 face value, or purported face value, or the amount of any proceeds
13 wrongfully procured or intended to be procured by the use of such
14 instrument, is five ~~three~~ hundred dollars or more but is ~~or~~ less than one
15 thousand five hundred dollars.

16 (5) Forgery in the second degree is a Class II misdemeanor when the
17 face value, or purported face value, or the amount of any proceeds
18 wrongfully procured or intended to be procured by the use of such
19 instrument, is less than five hundred dollars.

20 (6 5) For the purpose of determining the class of penalty for
21 forgery in the second degree, the face values, or purported face values,
22 or the amounts of any proceeds wrongfully procured or intended to be
23 procured by the use of more than one such instrument, may be aggregated
24 in the indictment or information if such instruments were part of the
25 same scheme or course of conduct which took place within a sixty-day
26 period and within one county. Such values or amounts shall not be
27 aggregated into more than one offense.

28 Sec. 28. Section 28-604, Revised Statutes Cumulative Supplement,
29 2014, is amended to read:

30 28-604 (1) Whoever, with knowledge that it is forged and with intent
31 to deceive or harm, possesses any forged instrument covered by section

1 28-602 or 28-603 commits criminal possession of a forged instrument.

2 (2) Criminal possession of a forged instrument prohibited by section
3 28-602 is a Class IV felony.

4 (3) Criminal possession of a forged instrument prohibited by section
5 28-603, the amount or value of which is five ~~one~~ thousand dollars or
6 more, is a Class IV felony.

7 (4) Criminal possession of a forged instrument prohibited by section
8 28-603, the amount or value of which is one thousand five ~~more than three~~
9 hundred dollars or more but less than five ~~one~~ thousand dollars, is a
10 Class I misdemeanor.

11 (5) Criminal possession of a forged instrument prohibited by section
12 28-603, the amount or value of which is five ~~three~~ hundred dollars or
13 more but less than one thousand five hundred dollars, is a Class II
14 misdemeanor.

15 (6) Criminal possession of a forged instrument prohibited by section
16 28-603, the amount or value of which is less than five hundred dollars,
17 is a Class III misdemeanor.

18 (7 ~~6~~) For the purpose of determining the class of penalty for
19 criminal possession of a forged instrument prohibited by section 28-603,
20 the amounts or values of more than one such forged instrument may be
21 aggregated in the indictment or information if such forged instruments
22 were part of the same scheme or course of conduct which took place within
23 a sixty-day period and within one county. Such amounts or values shall
24 not be aggregated into more than one offense.

25 Sec. 29. Section 28-611, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 28-611 (1) Whoever obtains property, services, or present value of
28 any kind by issuing or passing a check, draft, assignment of funds, or
29 similar signed order for the payment of money, knowing that he or she
30 does not have sufficient funds in or credit with the drawee for the
31 payment of the check, draft, assignment of funds, or order in full upon

1 presentation, commits the offense of issuing a bad check. Issuing a bad
2 check is:

3 (a) A Class III felony if the amount of the check, draft, assignment
4 of funds, or order is five ~~one thousand five hundred~~ dollars or more;

5 (b) A Class IV felony if the amount of the check, draft, assignment
6 of funds, or order is one thousand ~~five hundred~~ dollars or more, but less
7 than five ~~one thousand five hundred~~ dollars;

8 (c) A Class I misdemeanor if the amount of the check, draft,
9 assignment of funds, or order is five ~~two~~ hundred dollars or more, but
10 less than one thousand ~~five hundred~~ dollars; and

11 (d) A Class II misdemeanor if the amount of the check, draft,
12 assignment of funds, or order is less than five ~~two~~ hundred dollars.

13 (2) The aggregate amount of any series of checks, drafts,
14 assignments, or orders issued or passed within a sixty-day period in one
15 county may be used in determining the classification of the offense
16 pursuant to subsection (1) of this section, except that checks, drafts,
17 assignments, or orders may not be aggregated into more than one offense.

18 (3) For any second or subsequent offense under subdivision (1)(c) or
19 (1)(d) of this section, any person so offending shall be guilty of a
20 Class IV felony.

21 (4) Whoever otherwise issues or passes a check, draft, assignment of
22 funds, or similar signed order for the payment of money, knowing that he
23 or she does not have sufficient funds in or credit with the drawee for
24 the payment of the check, draft, assignment of funds, or order in full
25 upon its presentation, shall be guilty of a Class II misdemeanor.

26 (5) Any person in violation of this section who makes voluntary
27 restitution to the injured party for the value of the check, draft,
28 assignment of funds, or order shall also pay ten dollars to the injured
29 party and any reasonable handling fee imposed on the injured party by a
30 financial institution.

31 (6) In any prosecution for issuing a bad check, the person issuing

1 the check, draft, assignment of funds, or order shall be presumed to have
2 known that he or she did not have sufficient funds in or credit with the
3 drawee for the payment of the check, draft, assignment of funds, or order
4 in full upon presentation if, within thirty days after issuance of the
5 check, draft, assignment of funds, or order, he or she was notified that
6 the drawee refused payment for lack of funds and he or she failed within
7 ten days after such notice to make the check, draft, assignment of funds,
8 or order good or, in the absence of such notice, he or she failed to make
9 the check, draft, assignment of funds, or order good within ten days
10 after notice that such check, draft, assignment of funds, or order has
11 been returned to the depositor was sent to him or her by the county
12 attorney or his or her deputy, by United States mail addressed to such
13 person at his or her last-known address. Upon request of the depositor
14 and the payment of ten dollars for each check, draft, assignment of
15 funds, or order, the county attorney or his or her deputy shall be
16 required to mail notice to the person issuing the check, draft,
17 assignment of funds, or order as provided in this subsection. The ten-
18 dollar payment shall be payable to the county treasurer and credited to
19 the county general fund. No such payment shall be collected from any
20 county office to which such a check, draft, assignment of funds, or order
21 is issued in the course of the official duties of the office.

22 (7) Any person convicted of violating this section may, in addition
23 to a fine or imprisonment, be ordered to make restitution to the party
24 injured for the value of the check, draft, assignment of funds, or order
25 and to pay ten dollars to the injured party and any reasonable handling
26 fee imposed on the injured party by a financial institution. If the
27 court, in addition to sentencing any person to imprisonment under this
28 section, also enters an order of restitution, the time permitted to make
29 such restitution shall not be concurrent with the sentence of
30 imprisonment.

31 (8) The fact that restitution to the party injured has been made and

1 that ten dollars and any reasonable handling fee imposed on the injured
2 party by a financial institution have been paid to the injured party
3 shall be a mitigating factor in the imposition of punishment for any
4 violation of this section.

5 Sec. 30. Section 28-611.01, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 28-611.01 (1) Whoever issues or passes a check, draft, assignment of
8 funds, or similar signed order for the payment of money, knowing that he
9 or she has no account with the drawee at the time the check, draft,
10 assignment of funds, or order is issued, commits the offense of issuing a
11 no-account check. Issuing a no-account check is:

12 (a) A Class III felony if the amount of the check, draft, assignment
13 of funds, or order is five ~~one thousand five hundred~~ dollars or more;

14 (b) A Class IV felony if the amount of the check, draft, assignment
15 of funds, or order is one thousand five hundred dollars or more, but less
16 than five ~~one thousand five hundred~~ dollars;

17 (c) A Class I misdemeanor if the amount of the check, draft,
18 assignment of funds, or order is five ~~two~~ hundred dollars or more, but
19 less than one thousand five hundred dollars; and

20 (d) A Class II misdemeanor if the amount of the check, draft,
21 assignment of funds, or order is less than five ~~two~~ hundred dollars.

22 (2) The aggregate amount of any series of checks, drafts,
23 assignments, or orders issued or passed within a sixty-day period in one
24 county may be used in determining the classification of the offense
25 pursuant to subsection (1) of this section, except that checks, drafts,
26 assignments, or orders may not be aggregated into more than one offense.

27 (3) For any second or subsequent offense under this section, any
28 person so offending shall be guilty of:

29 (a) A Class III felony if the amount of the check, draft, assignment
30 of funds, or order is one thousand five hundred dollars or more; and

31 (b) A Class IV felony if the amount of the check, draft, assignment

1 of funds, or order is less than one thousand five hundred dollars.

2 Sec. 31. Section 28-620, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 28-620 (1) A person commits the offense of unauthorized use of a
5 financial transaction device if such person uses such device in an
6 automated banking device, to imprint a sales form, or in any other
7 manner:

8 (a) For the purpose of obtaining money, credit, property, or
9 services or for making financial payment, with intent to defraud;

10 (b) With notice that the financial transaction device is expired,
11 revoked, or canceled;

12 (c) With notice that the financial transaction device is forged,
13 altered, or counterfeited; or

14 (d) When for any reason his or her use of the financial transaction
15 device is unauthorized either by the issuer or by the account holder.

16 (2) For purposes of this section, notice shall mean either notice
17 given in person or notice given in writing to the account holder, by
18 registered or certified mail, return receipt requested, duly stamped and
19 addressed to such account holder at his or her last address known to the
20 issuer. Such notice shall be evidenced by a returned receipt signed by
21 the account holder which shall be prima facie evidence that the notice
22 was received.

23 (3) Any person committing the offense of unauthorized use of a
24 financial transaction device shall be guilty of:

25 (a) A Class II misdemeanor if the total value of the money, credit,
26 property, or services obtained or the financial payments made are less
27 than five ~~two~~ hundred dollars within a six-month period from the date of
28 the first unauthorized use;

29 (b) A Class I misdemeanor if the total value of the money, credit,
30 property, or services obtained or the financial payments made are five
31 ~~two~~ hundred dollars or more but less than one thousand five hundred

1 dollars within a six-month period from the date of the first unauthorized
2 use;

3 (c) A Class IV felony if the total value of the money, credit,
4 property, or services obtained or the financial payments made are one
5 thousand ~~five~~ hundred dollars or more but less than five ~~one~~ thousand
6 ~~five hundred~~ dollars within a six-month period from the date of the first
7 unauthorized use; and

8 (d) A Class III felony if the total value of the money, credit,
9 property, or services obtained or the financial payments made are five
10 ~~one thousand five hundred~~ dollars or more within a six-month period from
11 the date of the first unauthorized use.

12 (4) Any prosecution under this section may be conducted in any
13 county where the person committed the offense or any one of a series of
14 offenses to be aggregated.

15 (5) Once aggregated and filed, no separate prosecution for an
16 offense arising out of the same series of offenses aggregated and filed
17 shall be allowed in any county.

18 Sec. 32. Section 28-631, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 28-631 (1) A person or entity commits a fraudulent insurance act if
21 he or she:

22 (a) Knowingly and with intent to defraud or deceive presents, causes
23 to be presented, or prepares with knowledge or belief that it will be
24 presented to or by an insurer, or any agent of an insurer, any statement
25 as part of, in support of, or in denial of a claim for payment or other
26 benefit from an insurer or pursuant to an insurance policy knowing that
27 the statement contains any false, incomplete, or misleading information
28 concerning any fact or thing material to a claim;

29 (b) Assists, abets, solicits, or conspires with another to prepare
30 or make any statement that is intended to be presented to or by an
31 insurer or person in connection with or in support of any claim for

1 payment or other benefit from an insurer or pursuant to an insurance
2 policy knowing that the statement contains any false, incomplete, or
3 misleading information concerning any fact or thing material to the
4 claim;

5 (c) Makes any false or fraudulent representations as to the death or
6 disability of a policy or certificate holder or a covered person in any
7 statement or certificate for the purpose of fraudulently obtaining money
8 or benefit from an insurer;

9 (d) Knowingly and willfully transacts any contract, agreement, or
10 instrument which violates this section;

11 (e) Receives money for the purpose of purchasing insurance and
12 converts the money to the person's own benefit;

13 (f) Willfully embezzles, abstracts, purloins, misappropriates, or
14 converts money, funds, premiums, credits, or other property of an insurer
15 or person engaged in the business of insurance;

16 (g) Knowingly and with intent to defraud or deceive issues fake or
17 counterfeit insurance policies, certificates of insurance, insurance
18 identification cards, or insurance binders;

19 (h) Knowingly and with intent to defraud or deceive possesses fake
20 or counterfeit insurance policies, certificates of insurance, insurance
21 identification cards, or insurance binders;

22 (i) Knowingly and with intent to defraud or deceive makes any false
23 entry of a material fact in or pertaining to any document or statement
24 filed with or required by the Department of Insurance;

25 (j) Knowingly and with the intent to defraud or deceive provides
26 false, incomplete, or misleading information to an insurer concerning the
27 number, location, or classification of employees for the purpose of
28 lessening or reducing the premium otherwise chargeable for workers'
29 compensation insurance coverage;

30 (k) Knowingly and with intent to defraud or deceive removes,
31 conceals, alters, diverts, or destroys assets or records of an insurer or

1 person engaged in the business of insurance or attempts to remove,
2 conceal, alter, divert, or destroy assets or records of an insurer or
3 person engaged in the business of insurance;

4 (l) Willfully operates as or aids and abets another operating as a
5 discount medical plan organization in violation of subsection (1) of
6 section 44-8306; or

7 (m) Willfully collects fees for purported membership in a discount
8 medical plan organization but purposefully fails to provide the promised
9 benefits.

10 (2)(a) A violation of subdivisions (1)(a) through (f) of this
11 section is a Class III felony when the amount involved is five ~~one~~
12 thousand ~~five hundred~~ dollars or more.

13 (b) A violation of subdivisions (1)(a) through (f) of this section
14 is a Class IV felony when the amount involved is one thousand five
15 hundred dollars or more but less than five ~~one thousand five hundred~~
16 dollars.

17 (c) A violation of subdivisions (1)(a) through (f) of this section
18 is a Class I misdemeanor when the amount involved is five ~~two~~ hundred
19 dollars or more but less than one thousand five hundred dollars.

20 (d) A violation of subdivisions (1)(a) through (f) of this section
21 is a Class II misdemeanor when the amount involved is less than five ~~two~~
22 hundred dollars.

23 (e) For any second or subsequent conviction under subdivision (2)(c)
24 of this section, the violation is a Class IV felony.

25 (f) A violation of subdivisions (1)(g), (i), (j), (k), (l), and (m)
26 of this section is a Class IV felony.

27 (g) A violation of subdivision (1)(h) of this section is a Class I
28 misdemeanor.

29 (3) Amounts taken pursuant to one scheme or course of conduct from
30 one person, entity, or insurer may be aggregated in the indictment or
31 information in determining the classification of the offense, except that

1 amounts may not be aggregated into more than one offense.

2 (4) In any prosecution under this section, if the amounts are
3 aggregated pursuant to subsection (3) of this section, the amount
4 involved in the offense shall be an essential element of the offense that
5 must be proved beyond a reasonable doubt.

6 (5) A prosecution under this section shall be in lieu of an action
7 under section 44-6607.

8 (6) For purposes of this section:

9 (a) Insurer means any person or entity transacting insurance as
10 defined in section 44-102 with or without a certificate of authority
11 issued by the Director of Insurance. Insurer also means health
12 maintenance organizations, legal service insurance corporations, prepaid
13 limited health service organizations, dental and other similar health
14 service plans, discount medical plan organizations, and entities licensed
15 pursuant to the Intergovernmental Risk Management Act and the
16 Comprehensive Health Insurance Pool Act. Insurer also means an employer
17 who is approved by the Nebraska Workers' Compensation Court as a self-
18 insurer; and

19 (b) Statement includes, but is not limited to, any notice,
20 statement, proof of loss, bill of lading, receipt for payment, invoice,
21 account, estimate of property damages, bill for services, diagnosis,
22 prescription, hospital or medical records, X-rays, test result, or other
23 evidence of loss, injury, or expense, whether oral, written, or computer-
24 generated.

25 Sec. 33. Section 28-638, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 28-638 (1) A person commits the crime of criminal impersonation if
28 he or she:

29 (a) Pretends to be a representative of some person or organization
30 and does an act in his or her fictitious capacity with the intent to gain
31 a pecuniary benefit for himself, herself, or another and to deceive or

1 harm another;

2 (b) Carries on any profession, business, or any other occupation
3 without a license, certificate, or other authorization required by law;

4 (c) Knowingly provides false personal identifying information or a
5 false personal identification document to a court or a law enforcement
6 officer; or

7 (d) Knowingly provides false personal identifying information or a
8 false personal identification document to an employer for the purpose of
9 obtaining employment.

10 (2)(a) Criminal impersonation, as described in subdivisions (1)(a)
11 and (1)(b) of this section, is a Class III felony if the credit, money,
12 goods, services, or other thing of value that was gained or was attempted
13 to be gained was five ~~one thousand five hundred~~ dollars or more. Any
14 second or subsequent conviction under this subdivision is a Class II
15 felony.

16 (b) Criminal impersonation, as described in subdivisions (1)(a) and
17 (1)(b) of this section, is a Class IV felony if the credit, money, goods,
18 services, or other thing of value that was gained or was attempted to be
19 gained was one thousand five hundred dollars or more but less than five
20 ~~one thousand five hundred~~ dollars. Any second or subsequent conviction
21 under this subdivision is a Class III felony.

22 (c) Criminal impersonation, as described in subdivisions (1)(a) and
23 (1)(b) of this section, is a Class I misdemeanor if the credit, money,
24 goods, services, or other thing of value that was gained or was attempted
25 to be gained was five ~~two~~ hundred dollars or more but less than one
26 thousand five hundred dollars. Any second or subsequent conviction under
27 this subdivision is a Class IV felony.

28 (d) Criminal impersonation, as described in subdivisions (1)(a) and
29 (1)(b) of this section, is a Class II misdemeanor if no credit, money,
30 goods, services, or other thing of value was gained or was attempted to
31 be gained, or if the credit, money, goods, services, or other thing of

1 value that was gained or was attempted to be gained was less than five
2 ~~two~~ hundred dollars. Any second conviction under this subdivision is a
3 Class I misdemeanor, and any third or subsequent conviction under this
4 subdivision is a Class IV felony.

5 (e) Criminal impersonation, as described in subdivision (1)(c) of
6 this section, is a Class IV felony. Any second conviction under this
7 subdivision is a Class III felony, and any third or subsequent conviction
8 under this subdivision is a Class II felony.

9 (f) Criminal impersonation, as described in subdivision (1)(d) of
10 this section, is a Class II misdemeanor. Any second or subsequent
11 conviction under this subdivision is a Class I misdemeanor.

12 (g) A person found guilty of violating this section may, in addition
13 to the penalties under this subsection, be ordered to make restitution
14 pursuant to sections 29-2280 to 29-2289.

15 Sec. 34. Section 28-639, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 28-639 (1) A person commits the crime of identity theft if he or she
18 knowingly takes, purchases, manufactures, records, possesses, or uses any
19 personal identifying information or entity identifying information of
20 another person or entity without the consent of that other person or
21 entity or creates personal identifying information for a fictional person
22 or entity, with the intent to obtain or use the other person's or
23 entity's identity for any unlawful purpose or to cause loss to a person
24 or entity whether or not the person or entity actually suffers any
25 economic loss as a result of the offense, or with the intent to obtain or
26 continue employment or with the intent to gain a pecuniary benefit for
27 himself, herself, or another.

28 (2) Identity theft is not:

29 (a) The lawful obtaining of credit information in the course of a
30 bona fide consumer or commercial transaction;

31 (b) The lawful, good faith exercise of a security interest or a

1 right of setoff by a creditor or a financial institution;

2 (c) The lawful, good faith compliance by any person when required by
3 any warrant, levy, garnishment, attachment, court order, or other
4 judicial or administrative order, decree, or directive; or

5 (d) The investigative activities of law enforcement.

6 (3)(a) Identity theft is a Class III felony if the credit, money,
7 goods, services, or other thing of value that was gained or was attempted
8 to be gained was five ~~one~~ thousand five ~~hundred~~ dollars or more. Any
9 second or subsequent conviction under this subdivision is a Class II
10 felony.

11 (b) Identity theft is a Class IV felony if the credit, money, goods,
12 services, or other thing of value that was gained or was attempted to be
13 gained was one thousand five hundred dollars or more but less than five
14 ~~one thousand five hundred~~ dollars. Any second or subsequent conviction
15 under this subdivision is a Class III felony.

16 (c) Identity theft is a Class I misdemeanor if the credit, money,
17 goods, services, or other thing of value that was gained or was attempted
18 to be gained was five ~~two~~ hundred dollars or more but less than one
19 thousand five hundred dollars. Any second or subsequent conviction under
20 this subdivision is a Class IV felony.

21 (d) Identity theft is a Class II misdemeanor if no credit, money,
22 goods, services, or other thing of value was gained or was attempted to
23 be gained, or if the credit, money, goods, services, or other thing of
24 value that was gained or was attempted to be gained was less than five
25 ~~two~~ hundred dollars. Any second conviction under this subdivision is a
26 Class I misdemeanor, and any third or subsequent conviction under this
27 subdivision is a Class IV felony.

28 (e) A person found guilty of violating this section may, in addition
29 to the penalties under this subsection, be ordered to make restitution
30 pursuant to sections 29-2280 to 29-2289.

31 Sec. 35. Section 28-703, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 28-703 (1) Any person who shall knowingly intermarry or engage in
3 sexual penetration with any person who falls within the degrees of
4 consanguinity set forth in section 28-702 or any person who engages in
5 sexual penetration with his or her ~~minor~~ stepchild who is under nineteen
6 years of age commits incest.

7 (2) Incest is a Class III felony, except that incest with a person
8 who is under eighteen years of age is a Class IIA felony.

9 (3)(a) For purposes of this section, the definitions found in
10 section 28-318 shall be used.

11 (b) The testimony of a victim shall be entitled to the same weight
12 as the testimony of victims of other crimes under this code.

13 Sec. 36. Section 28-802, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 28-802 (1) A person commits pandering if such person:

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

17 (b) Procures or harbors therein an inmate for a house of
18 prostitution or for any place where prostitution is practiced or allowed;
19 or

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

23 (d) Receives or gives or agrees to receive or give any money or
24 other thing of value for procuring or attempting to procure any person to
25 become a prostitute or commit an act of prostitution or come into this
26 state or leave this state for the purpose of prostitution or debauchery.

27 (2) Pandering is a Class I misdemeanor ~~IV felony~~ for a first
28 offense, unless the person being enticed, procured, harbored, or
29 otherwise persuaded to become a prostitute is under the age of eighteen
30 years, in which case pandering is a Class IIIA ~~III~~ felony for a first
31 offense. Pandering is a Class IIIA ~~III~~ felony for a second or subsequent

1 offense, unless the person being enticed, procured, harbored, or
2 otherwise persuaded to become a prostitute is under the age of eighteen
3 years, in which case pandering is a Class IIA felony.

4 Sec. 37. Section 28-813.01, Revised Statutes Cumulative Supplement,
5 2014, is amended to read:

6 28-813.01 (1) It shall be unlawful for a person to knowingly possess
7 any visual depiction of sexually explicit conduct, as defined in section
8 28-1463.02, which has a child, as defined in such section, as one of its
9 participants or portrayed observers.

10 (2)(a) Any person who is under nineteen years of age at the time he
11 or she violates this section shall be guilty of a Class IV felony for
12 each offense.

13 (b) Any person who is nineteen years of age or older at the time he
14 or she violates this section shall be guilty of a Class IIA ~~III~~ felony
15 for each offense.

16 (c) Any person who violates this section and has previously been
17 convicted of a violation of this section or section 28-308, 28-309,
18 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01,
19 28-833, 28-1463.03, or 28-1463.05 or subsection (1) or (2) of section
20 28-320 shall be guilty of a Class IC felony for each offense.

21 (3) It shall be an affirmative defense to a charge made pursuant to
22 this section that:

23 (a) The visual depiction portrays no person other than the
24 defendant; or

25 (b)(i) The defendant was less than nineteen years of age; (ii) the
26 visual depiction of sexually explicit conduct portrays a child who is
27 fifteen years of age or older; (iii) the visual depiction was knowingly
28 and voluntarily generated by the child depicted therein; (iv) the visual
29 depiction was knowingly and voluntarily provided by the child depicted in
30 the visual depiction; (v) the visual depiction contains only one child;
31 (vi) the defendant has not provided or made available the visual

1 depiction to another person except the child depicted who originally sent
2 the visual depiction to the defendant; and (vii) the defendant did not
3 coerce the child in the visual depiction to either create or send the
4 visual depiction.

5 Sec. 38. Section 28-831, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 28-831 (1) No person shall knowingly engage in labor trafficking or
8 sex trafficking.

9 (2) If an actor knowingly engages in labor trafficking or sex
10 trafficking by:

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

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

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

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

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

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

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

1 misdemeanor.

2 (3) No person shall engage in labor trafficking of a minor or sex
3 trafficking of a minor. An actor who engages in labor trafficking of a
4 minor or sex trafficking of a minor shall be punished as follows:

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

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

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

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

18 Sec. 39. Section 28-912, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 28-912 (1) A person commits escape if he or she unlawfully removes
21 himself or herself from official detention or fails to return to official
22 detention following temporary leave granted for a specific purpose or
23 limited period. Official detention means ~~shall mean~~ arrest, detention in
24 or transportation to any facility for custody of persons under charge or
25 conviction of crime or contempt or for persons alleged or found to be
26 delinquent, detention for extradition or deportation, or any other
27 detention for law enforcement purposes. Official ; ~~but official~~ detention
28 does not include supervision of probation or parole or constraint
29 incidental to release on bail.

30 (2) A public servant concerned in detention commits an offense if he
31 or she knowingly permits an escape. Any person who knowingly causes or

1 facilitates an escape commits a Class IV felony.

2 (3) Irregularity in bringing about or maintaining detention, or lack
3 of jurisdiction of the committing or detaining authority shall not be a
4 defense to prosecution under this section if the escape is from a prison
5 or other custodial facility or from detention pursuant to commitment by
6 official proceedings. In the case of other detentions, irregularity or
7 lack of jurisdiction shall be a defense only if:

8 (a) The escape involved no substantial risk of harm to the person or
9 property of anyone other than the detainee; and

10 (b) The detaining authority did not act in good faith under color of
11 law.

12 (4) Except as provided in subsections ~~subsection~~ (5) and (6) of this
13 section, escape is a Class IV felony.

14 (5) Escape is a Class III felony when ~~where~~:

15 (a) The detainee was under arrest for or detained on a felony charge
16 or following conviction for the commission of an offense; or

17 ~~(b) The actor employs force, threat, deadly weapon, or other~~
18 ~~dangerous instrumentality to effect the escape; or~~

19 ~~(b e)~~ A public servant concerned in detention of persons convicted
20 of crime purposely facilitates or permits an escape from a detention
21 facility or from transportation thereto.

22 (6) Escape is a Class IIA felony when the actor employs force,
23 threat, deadly weapon, or other dangerous instrumentality to effect the
24 escape.

25 Sec. 40. Section 28-932, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 28-932 (1) Any person (a)(i) who is legally confined in a jail or an
28 adult correctional or penal institution, (ii) who is otherwise in legal
29 custody of the Department of Correctional Services, or (iii) who is
30 committed as a dangerous sex offender under the Sex Offender Commitment
31 Act and (b) who intentionally, knowingly, or recklessly causes bodily

1 injury to another person shall be guilty of a Class IIIA felony, except
2 that if a deadly or dangerous weapon is used to commit such assault he or
3 she shall be guilty of a Class IIA ~~III~~ felony.

4 (2) Sentences imposed under subsection (1) of this section shall be
5 consecutive to any sentence or sentences imposed for violations committed
6 prior to the violation of subsection (1) of this section and shall not
7 include any credit for time spent in custody prior to sentencing unless
8 the time in custody is solely related to the offense for which the
9 sentence is being imposed under this section.

10 Sec. 41. Section 28-1005, Revised Statutes Cumulative Supplement,
11 2014, is amended to read:

12 28-1005 (1) No person shall knowingly:

13 (a) Promote, engage in, or be employed at dogfighting, cockfighting,
14 bearbaiting, or pitting an animal against another;

15 (b) Receive money for the admission of another person to a place
16 kept for such purpose;

17 (c) Own, use, train, sell, or possess an animal for such purpose; or

18 (d) Permit any act as described in this subsection to occur on any
19 premises owned or controlled by him or her.

20 (2) Any person violating subsection (1) of this section shall be
21 guilty of a Class IIIA ~~IV~~ felony and shall also be subject to section
22 28-1019.

23 (3) No person shall knowingly and willingly be present at and
24 witness as a spectator dogfighting, cockfighting, bearbaiting, or the
25 pitting of an animal against another as prohibited in subsection (1) of
26 this section. Any person who violates any provision of this subsection
27 shall be guilty of a Class IIIA ~~IV~~ felony and shall also be subject to
28 section 28-1019.

29 Sec. 42. Section 28-1009, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 28-1009 (1) A person who intentionally, knowingly, or recklessly

1 abandons or cruelly neglects an animal is guilty of a Class I misdemeanor
2 unless the abandonment or cruel neglect results in serious injury or
3 illness or death of the animal, in which case it is a Class IV felony.

4 (2)(a) Except as provided in subdivision (b) of this subsection, a
5 person who cruelly mistreats an animal is guilty of a Class I misdemeanor
6 for the first offense and a Class IIIA ~~IV~~ felony for any subsequent
7 offense.

8 (b) A person who cruelly mistreats an animal is guilty of a Class
9 IIIA ~~IV~~ felony if such cruel mistreatment involves the knowing and
10 intentional torture, repeated beating, or mutilation of the animal.

11 (3) A person commits harassment of a police animal if he or she
12 knowingly and intentionally teases or harasses a police animal in order
13 to distract, agitate, or harm the police animal for the purpose of
14 preventing such animal from performing its legitimate official duties.
15 Harassment of a police animal is a Class IV misdemeanor unless the
16 harassment is the proximate cause of the death of the police animal, in
17 which case it is a Class IIIA ~~IV~~ felony.

18 (4) A person convicted of a Class I misdemeanor under this section
19 may also be subject to section 28-1019. A person convicted of a Class
20 IIIA ~~IV~~ felony under this section shall also be subject to section
21 28-1019.

22 Sec. 43. Section 28-1102, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 28-1102 (1) A person commits the offense of promoting gambling in
25 the first degree if he or she knowingly advances or profits from unlawful
26 gambling activity by:

27 (a) Engaging in bookmaking to the extent that he or she receives or
28 accepts in any one day one or more bets totaling one thousand five
29 hundred dollars or more; or

30 (b) Receiving, in connection with any unlawful gambling scheme or
31 enterprise, ~~more than~~ one thousand five hundred dollars or more of money

1 played in the scheme or enterprise in any one day.

2 (2) Promoting gambling in the first degree is, for the first
3 offense, a Class I misdemeanor, for the second offense, a Class IV
4 felony, and for the third and all subsequent offenses, a Class III
5 felony. No person shall be charged with a second or subsequent offense
6 under this section unless the prior offense or offenses occurred after
7 August 24, 1979.

8 Sec. 44. Section 28-1103, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 28-1103 (1) A person commits the offense of promoting gambling in
11 the second degree if he or she knowingly advances or profits from any
12 unlawful gambling activity by:

13 (a) Engaging in bookmaking to the extent that he or she receives or
14 accepts in any one day one or more bets totaling less than one thousand
15 five hundred dollars;

16 (b) Receiving, in connection with any unlawful gambling scheme or
17 enterprise, less than one thousand five hundred dollars of money played
18 in the scheme or enterprise in any one day; or

19 (c) Betting something of value in an amount of five ~~three~~ hundred
20 dollars or more with one or more persons in one day.

21 (2) Promoting gambling in the second degree is a Class II
22 misdemeanor.

23 Sec. 45. Section 28-1104, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 28-1104 (1) A person commits the offense of promoting gambling in
26 the third degree if he or she knowingly participates in unlawful gambling
27 as a player by betting less than five ~~three~~ hundred dollars in any one
28 day.

29 (2) Promoting gambling in the third degree is a Class IV
30 misdemeanor.

31 Sec. 46. Section 28-1222, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 28-1222 (1) Any person who uses an explosive material or destructive
3 device to commit any felony which may be prosecuted in this state or who
4 possesses an explosive during the commission of any felony which may be
5 prosecuted in this state commits the offense of using explosives to
6 commit a felony.

7 (2) Using explosives to commit a felony is a Class IIA ~~III~~ felony.

8 (3) In the case of a second or subsequent conviction under this
9 section, using explosives to commit a felony is a Class II felony.

10 Sec. 47. Section 28-1224, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 28-1224 (1) Any person who uses explosive materials or destructive
13 devices to intentionally kill, injure or intimidate any individual
14 commits the offense of using explosives to kill or injure any person.

15 (2) Except as provided in subsection (3) or (4) of this section,
16 using explosives to kill or injure any person is a Class IIA ~~III~~ felony.

17 (3) If personal injury results, using explosives to kill or injure
18 any person is a Class II felony.

19 (4) If death results, using explosives to kill or injure any person
20 shall be punished as for conviction of murder in the first degree.

21 Sec. 48. Section 28-1344, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-1344 (1) Any person who intentionally accesses or causes to be
24 accessed, directly or indirectly, any computer, computer system, computer
25 software, or computer network without authorization or who, having
26 accessed any computer, computer system, computer software, or computer
27 network with authorization, knowingly and intentionally exceeds the
28 limits of such authorization shall be guilty of an offense ~~a Class IV~~
29 ~~felony~~ if he or she intentionally: (a ~~1~~) Deprives another of property or
30 services; or (b ~~2~~) obtains property or services of another, ~~except that~~
31 ~~any person who obtains property or services or deprives another of~~

1 ~~property or services with a value of one thousand dollars or more by such~~
2 ~~conduct shall be guilty of a Class III felony.~~

3 (2) The offense constitutes a Class III felony when the value of the
4 computer, computer system, computer software, or computer network
5 involved is five thousand dollars or more.

6 (3) The offense constitutes a Class IV felony when the value of the
7 computer, computer system, computer software, or computer network
8 involved is one thousand five hundred dollars or more, but less than five
9 thousand dollars.

10 (4) The offense constitutes a Class I misdemeanor when the value of
11 the computer, computer system, computer software, or computer network
12 involved is five hundred dollars or more, but less than one thousand five
13 hundred dollars.

14 (5) The offense constitutes a Class II misdemeanor when the value of
15 the thing involved is less than five hundred dollars.

16 Sec. 49. Section 28-1345, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 28-1345 (1) Any person who accesses or causes to be accessed any
19 computer, computer system, computer software, or computer network without
20 authorization or who, having accessed any computer, computer system,
21 computer software, or computer network with authorization, knowingly and
22 intentionally exceeds the limits of such authorization shall be guilty of
23 an offense a Class IV felony if he or she intentionally: (a 1) Alters,
24 damages, deletes, or destroys any computer, computer system, computer
25 software, computer network, computer program, data, or other property; (b
26 2) disrupts the operation of any computer, computer system, computer
27 software, or computer network; or (c 3) distributes a destructive
28 computer program with intent to damage or destroy any computer, computer
29 system, computer network, or computer software, except that any person
30 who causes loss with a value of one thousand dollars or more by such
31 conduct shall be guilty of a Class III felony.

1 (2) The offense constitutes a Class III felony when the value of the
2 computer, computer system, computer software, or computer network
3 involved is five thousand dollars or more.

4 (3) The offense constitutes a Class IV felony when the value of the
5 computer, computer system, computer software, or computer network
6 involved is one thousand five hundred dollars or more, but less than five
7 thousand dollars.

8 (4) The offense constitutes a Class I misdemeanor when the value of
9 the computer, computer system, computer software, or computer network
10 involved is five hundred dollars or more, but less than one thousand five
11 hundred dollars.

12 (5) The offense constitutes a Class II misdemeanor when the value of
13 the computer, computer system, computer software, or computer network
14 involved is less than five hundred dollars.

15 Sec. 50. Section 28-1463.05, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 28-1463.05 (1) It shall be unlawful for a person to knowingly
18 possess with intent to rent, sell, deliver, distribute, trade, or provide
19 to any person any visual depiction of sexually explicit conduct which has
20 a child as one of its participants or portrayed observers.

21 (2)(a) Any person who is under nineteen years of age at the time he
22 or she violates this section shall be guilty of a Class IIIA felony for
23 each offense.

24 (b) Any person who is nineteen years of age or older at the time he
25 or she violates this section shall be guilty of a Class IIA ~~III~~ felony
26 for each offense.

27 (c) Any person who violates this section and has previously been
28 convicted of a violation of this section or section 28-308, 28-309,
29 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01,
30 28-813, 28-833, or 28-1463.03 or subsection (1) or (2) of section 28-320
31 shall be guilty of a Class IC felony for each offense.

1 Sec. 51. Section 29-1816, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 29-1816 (1)(a) The accused may be arraigned in county court or
4 district court:

5 (i) If the accused was eighteen years of age or older when the
6 alleged offense was committed;

7 (ii) If the accused was younger than eighteen years of age and was
8 fourteen years of age or older when an alleged offense punishable as a
9 Class I, IA, IB, IC, ID, II, or IIA ~~III~~ felony was committed; or

10 (iii) If the alleged offense is a traffic offense as defined in
11 section 43-245.

12 (b) Arraignment in county court or district court shall be by
13 reading to the accused the complaint or information, unless the reading
14 is waived by the accused when the nature of the charge is made known to
15 him or her. The accused shall then be asked whether he or she is guilty
16 or not guilty of the offense charged. If the accused appears in person
17 and by counsel and goes to trial before a jury regularly impaneled and
18 sworn, he or she shall be deemed to have waived arraignment and a plea of
19 not guilty shall be deemed to have been made.

20 (2) At the time of the arraignment, the county court or district
21 court shall advise the accused, if the accused was younger than eighteen
22 years of age at the time the alleged offense was committed, that the
23 accused may move the county court or district court at any time not later
24 than thirty days after arraignment, unless otherwise permitted by the
25 court for good cause shown, to waive jurisdiction in such case to the
26 juvenile court for further proceedings under the Nebraska Juvenile Code.
27 This subsection does not apply if the case was transferred to county
28 court or district court from juvenile court.

29 (3) For motions to transfer a case from the county court or district
30 court to juvenile court:

31 (a) The county court or district court shall schedule a hearing on

1 such motion within fifteen days. The customary rules of evidence shall
2 not be followed at such hearing. The accused shall be represented by an
3 attorney. The criteria set forth in section 43-276 shall be considered at
4 such hearing. After considering all the evidence and reasons presented by
5 both parties, the case shall be transferred to juvenile court unless a
6 sound basis exists for retaining the case in county court or district
7 court; and

8 (b) The county court or district court shall set forth findings for
9 the reason for its decision. If the county court or district court
10 determines that the accused should be transferred to the juvenile court,
11 the complete file in the county court or district court shall be
12 transferred to the juvenile court and the complaint, indictment, or
13 information may be used in place of a petition therein. The county court
14 or district court making a transfer shall order the accused to be taken
15 forthwith to the juvenile court and designate where the juvenile shall be
16 kept pending determination by the juvenile court. The juvenile court
17 shall then proceed as provided in the Nebraska Juvenile Code.

18 (4) When the accused was younger than eighteen years of age when an
19 alleged offense was committed, the county attorney or city attorney shall
20 proceed under section 43-274.

21 Sec. 52. Section 29-2204, Revised Statutes Cumulative Supplement,
22 2014, is amended to read:

23 29-2204 (1) Except when a term of life imprisonment is required by
24 law, in imposing an indeterminate sentence upon an offender the court
25 shall:

26 ~~(a)(i) Until July 1, 1998, fix the minimum and maximum limits of the~~
27 ~~sentence to be served within the limits provided by law, except that when~~
28 ~~a maximum limit of life is imposed by the court for a Class IB felony,~~
29 ~~the minimum limit may be any term of years not less than the statutory~~
30 ~~mandatory minimum; and~~

31 ~~(ii) Beginning July 1, 1998:~~

1 (a) ~~A) Fix the minimum and maximum limits of the sentence to be~~
2 ~~served. The within the limits provided by law for any class of felony~~
3 ~~other than a Class IV felony, except that when a maximum limit of life is~~
4 ~~imposed by the court for a Class IB felony, the minimum limit may be any~~
5 ~~term of years not less than the statutory mandatory minimum. If the~~
6 ~~criminal offense is a Class IV felony, the court shall fix the minimum~~
7 ~~and maximum limits of the sentence, but the minimum limit fixed by the~~
8 ~~court shall not be less than the minimum provided by law nor more than~~
9 ~~one-third of the maximum term imposed by the court. The and the maximum~~
10 ~~limit shall not be greater than the maximum provided by law; or~~

11 (b) ~~B) Impose a definite term of years, in which event the maximum~~
12 ~~term of the sentence shall be the term imposed by the court and the~~
13 ~~minimum term shall be the minimum sentence provided by law. ÷~~

14 ~~(b) Advise the offender on the record the time the offender will~~
15 ~~serve on his or her minimum term before attaining parole eligibility~~
16 ~~assuming that no good time for which the offender will be eligible is~~
17 ~~lost; and~~

18 ~~(c) Advise the offender on the record the time the offender will~~
19 ~~serve on his or her maximum term before attaining mandatory release~~
20 ~~assuming that no good time for which the offender will be eligible is~~
21 ~~lost.~~

22 ~~If any discrepancy exists between the statement of the minimum limit~~
23 ~~of the sentence and the statement of parole eligibility or between the~~
24 ~~statement of the maximum limit of the sentence and the statement of~~
25 ~~mandatory release, the statements of the minimum limit and the maximum~~
26 ~~limit shall control the calculation of the offender's term. If the court~~
27 ~~imposes more than one sentence upon an offender or imposes a sentence~~
28 ~~upon an offender who is at that time serving another sentence, the court~~
29 ~~shall state whether the sentences are to be concurrent or consecutive.~~

30 ~~(2) When a maximum limit of life is imposed by the court for a Class~~
31 ~~IB felony, the minimum limit fixed by the court shall be any term of~~

1 years not less than the statutory minimum.

2 (3) When a maximum limit of life is imposed by the court for a Class
3 IA felony, the minimum limit fixed by the court shall be:

4 (a) Any term of years not less than the statutory minimum, whenever
5 the defendant was under eighteen years of age at the time he or she
6 committed the crime for which he or she was convicted;

7 (b) Any term of years, whenever the defendant was eighteen years of
8 age or older at the time he or she committed the crime for which he or
9 she was convicted; or

10 (c) A term of life imprisonment, whenever the defendant was eighteen
11 years of age or older at the time he or she committed the crime for which
12 he or she was convicted.

13 (4) (2)(a) When the court is of the opinion that imprisonment may be
14 appropriate but desires more detailed information as a basis for
15 determining the sentence to be imposed than has been provided by the
16 presentence report required by section 29-2261, the court ~~may~~ shall
17 commit an offender to the Department of Correctional Services for a
18 period not exceeding ninety days. ~~During that time, the~~ The department
19 shall conduct a complete study of the offender ~~as provided in section 54~~
20 ~~of this act during that time, inquiring into such matters as his or her~~
21 ~~previous delinquency or criminal experience, social background,~~
22 ~~capabilities, and mental, emotional, and physical health and the~~
23 ~~rehabilitative resources or programs which may be available to suit his~~
24 ~~or her needs. By the expiration of the period of commitment or by the~~
25 ~~expiration of such additional time as the court shall grant, not~~
26 ~~exceeding a further period of ninety days, the offender shall be returned~~
27 ~~to the court for sentencing and the court shall be provided with a~~
28 ~~written report of the results of the study, including whatever~~
29 ~~recommendations the department believes will be helpful to a proper~~
30 ~~resolution of the case. After receiving the report and the~~
31 ~~recommendations, the court shall proceed to sentence the offender in~~

1 ~~accordance with subsection (1) of this section. The term of the sentence~~
2 ~~shall run from the date of original commitment under this subsection.~~

3 ~~(b) In order to encourage the use of this procedure in appropriate~~
4 ~~cases, all costs incurred during the period the defendant is held in a~~
5 ~~state institution under this subsection shall be a responsibility of the~~
6 ~~state and the county shall be liable only for the cost of delivering the~~
7 ~~defendant to the institution and the cost of returning him or her to the~~
8 ~~appropriate court for sentencing or such other disposition as the court~~
9 ~~may then deem appropriate.~~

10 ~~(5 3) Except when a term of life is required by law, whenever the~~
11 ~~defendant was under eighteen years of age at the time he or she committed~~
12 ~~the crime for which he or she was convicted, the court may, in its~~
13 ~~discretion, instead of imposing the penalty provided for the crime, make~~
14 ~~such disposition of the defendant as the court deems proper under the~~
15 ~~Nebraska Juvenile Code. Until October 1, 2013, prior to making a~~
16 ~~disposition which commits the juvenile to the Office of Juvenile~~
17 ~~Services, the court shall order the juvenile to be evaluated by the~~
18 ~~office if the juvenile has not had an evaluation within the past twelve~~
19 ~~months.~~

20 ~~(6)(a) When imposing an indeterminate sentence upon an offender~~
21 ~~under this section, the court shall:~~

22 ~~(i) Advise the offender on the record the time the offender will~~
23 ~~serve on his or her minimum term before attaining parole eligibility~~
24 ~~assuming that no good time for which the offender will be eligible is~~
25 ~~lost; and~~

26 ~~(ii) Advise the offender on the record the time the offender will~~
27 ~~serve on his or her maximum term before attaining mandatory release~~
28 ~~assuming that no good time for which the offender will be eligible is~~
29 ~~lost.~~

30 ~~(b) If any discrepancy exists between the statement of the minimum~~
31 ~~limit of the sentence and the statement of parole eligibility or between~~

1 the statement of the maximum limit of the sentence and the statement of
2 mandatory release, the statements of the minimum limit and the maximum
3 limit shall control the calculation of the offender's term.

4 (c) If the court imposes more than one sentence upon an offender or
5 imposes a sentence upon an offender who is at that time serving another
6 sentence, the court shall state whether the sentences are to be
7 concurrent or consecutive.

8 Sec. 53. (1) Except when a term of probation is required by law, in
9 imposing a sentence upon an offender for a Class III, IIIA, or IV felony,
10 the court shall:

11 (a) Impose a sentence of imprisonment within the applicable range in
12 section 28-105; and

13 (b) Impose a sentence of post-release supervision, under the
14 jurisdiction of the Office of Probation Administration, within the
15 applicable range in section 28-105.

16 (2) If the criminal offense is a Class IV felony, the court shall
17 impose a sentence of probation unless:

18 (a) The defendant is concurrently or consecutively sentenced to
19 imprisonment for a Class I, IA, IB, IC, II, or IIA felony;

20 (b) The defendant has been deemed a habitual criminal pursuant to
21 section 29-2221; or

22 (c) There are substantial and compelling reasons why the defendant
23 cannot effectively and safely be supervised in the community. Unless
24 other reasons are found to be present, that the offender has not
25 previously succeeded on probation is not, standing alone, a substantial
26 and compelling reason.

27 (3) If a sentence of probation is not imposed, the court shall state
28 its reasoning on the record, advise the defendant of his or her right to
29 appeal the sentence, and impose a sentence as provided in subsection (1)
30 of this section.

31 (4) When the defendant was under eighteen years of age at the time

1 he or she committed the crime for which he or she was convicted, the
2 court may, in its discretion, instead of imposing the penalty provided
3 for the crime, make such disposition of the defendant as the court deems
4 proper under the Nebraska Juvenile Code.

5 (5)(a) When imposing a determinate sentence upon an offender under
6 this section, the court shall:

7 (i) Advise the offender on the record the time the offender will
8 serve on his or her term of imprisonment before his or her term of post-
9 release supervision assuming that no good time for which the offender
10 will be eligible is lost; and

11 (ii) Advise the offender on the record the time the offender will
12 serve on his or her term of post-release supervision before attaining
13 mandatory release assuming that no good time for which the offender will
14 be eligible is lost.

15 (b) If a period of post-release supervision is required but not
16 imposed by the sentencing court, the term of post-release supervision
17 shall be the minimum provided by law.

18 (c) If the court imposes more than one sentence upon an offender or
19 imposes a sentence upon an offender who is at that time serving another
20 sentence, the court shall state whether the sentences are to be
21 concurrent or consecutive.

22 Sec. 54. (1) When the court is of the opinion that imprisonment may
23 be appropriate but desires more detailed information as a basis for
24 determining the sentence to be imposed than has been provided by the
25 presentence report required by section 29-2261, the court shall commit an
26 offender to the Department of Correctional Services for a period not
27 exceeding ninety days. The department shall conduct a complete study of
28 the offender during that time, inquiring into such matters as his or her
29 previous delinquency or criminal experience, social background,
30 capabilities, and mental, emotional, and physical health and the
31 rehabilitative resources or programs which may be available to suit his

1 or her needs.

2 (2) By the expiration of the period of commitment or by the
3 expiration of such additional time as the court shall grant, not
4 exceeding a further period of ninety days, the offender shall be returned
5 to the court for sentencing and the court shall be provided with a
6 written report of the results of the study, including whatever
7 recommendations the department believes will be helpful to a proper
8 resolution of the case. After receiving the report and the
9 recommendations, the court shall proceed to sentence the offender in
10 accordance with section 29-2204 or section 53 of this act. The term of
11 the sentence shall run from the date of original commitment under this
12 section.

13 (3) In order to encourage the use of this procedure in appropriate
14 cases, all costs incurred during the period the defendant is held in a
15 state institution under this section shall be a responsibility of the
16 state and the county shall be liable only for the cost of delivering the
17 defendant to the institution and the cost of returning him or her to the
18 appropriate court for sentencing or such other disposition as the court
19 may then deem appropriate.

20 Sec. 55. Section 29-2246, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 29-2246 For purposes of the Nebraska Probation Administration Act
23 and sections 43-2,123.01 and 83-1,102 to 83-1,104, unless the context
24 otherwise requires:

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

27 (2) Court means a district court, county court, or juvenile court as
28 defined in section 43-245;

29 (3) Office means the Office of Probation Administration;

30 (4) Probation means a sentence under which a person found guilty of
31 a crime upon verdict or plea or adjudicated delinquent or in need of

1 special supervision is released by a court subject to conditions imposed
2 by the court and subject to supervision. Probation does not include post-
3 release supervision;

4 (5) Probationer means a person sentenced to probation or post-
5 release supervision;

6 (6) Probation officer means an employee of the system who supervises
7 probationers and conducts presentence, predisposition, or other
8 investigations as may be required by law or directed by a court in which
9 he or she is serving or performs such other duties as authorized pursuant
10 to section 29-2258, except unpaid volunteers from the community;

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

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

17 (9) Chief probation officer means the probation officer in charge of
18 a probation district;

19 (10) System means the Nebraska Probation System;

20 (11) Administrator means the probation administrator; ~~and~~

21 (12) Non-probation-based program or service means a program or
22 service established within the district, county, or juvenile courts and
23 provided to individuals not sentenced to probation who have been charged
24 with or convicted of a crime for the purpose of diverting the individual
25 from incarceration or to provide treatment for issues related to the
26 individual's criminogenic needs. Non-probation-based programs or services
27 include, but are not limited to, drug court programs and problem solving
28 court programs established pursuant to section 24-1302 and the treatment
29 of problems relating to substance abuse, mental health, sex offenses, or
30 domestic violence; and -

31 (13) Post-release supervision means the portion of a split sentence

1 following a period of incarceration under which a person found guilty of
2 a crime upon verdict or plea or adjudicated delinquent or in need of
3 special supervision is released by a court subject to conditions imposed
4 by the court and subject to supervision. Post-release supervision does
5 not include probation.

6 Sec. 56. Section 29-2252, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 29-2252 The administrator shall:

9 (1) Supervise and administer the office;

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

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

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

24 (5) Establish and maintain advanced periodic inservice training
25 requirements for the system;

26 (6) Cooperate with all agencies, public or private, which are
27 concerned with treatment or welfare of persons on probation;

28 (7) Organize and conduct training programs for probation officers;

29 (8) Collect, develop, and maintain statistical information
30 concerning probationers, probation practices, and the operation of the
31 system;

1 (9) Interpret the probation program to the public with a view toward
2 developing a broad base of public support;

3 (10) Conduct research for the purpose of evaluating and improving
4 the effectiveness of the system;

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

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

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

17 (14) Use the funds provided under section 29-2262.07 to augment
18 operational or personnel costs associated with the development,
19 implementation, and evaluation of enhanced probation-based programs and
20 non-probation-based programs and services in which probation personnel or
21 probation resources are utilized pursuant to an interlocal agreement
22 authorized by subdivision (16) of this section and to purchase services
23 to provide such programs aimed at enhancing adult probationer or non-
24 probation-based program participant supervision in the community and
25 treatment needs of probationers and non-probation-based program
26 participants. Enhanced probation-based programs include, but are not
27 limited to, specialized units of supervision, related equipment purchases
28 and training, and programs that address a probationer's vocational,
29 educational, mental health, behavioral, or substance abuse treatment
30 needs;

31 (15) Ensure that any risk or needs assessment instrument utilized by

1 the system be periodically validated;

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

6 (17) Collaborate with the Community Corrections Division of the
7 Nebraska Commission on Law Enforcement and Criminal Justice and the
8 Office of Parole Administration to develop rules governing the
9 participation of parolees in community corrections programs operated by
10 the Office of Probation Administration; ~~and~~

11 (18) Subject to the availability of funding, contract with an
12 independent contractor or academic institution for evaluation of existing
13 community corrections facilities and programs operated by the Office of
14 Probation Administration. The administrator shall collaborate with the
15 Community Corrections Division of the Nebraska Commission on Law
16 Enforcement and Criminal Justice to compile an annual report on the
17 development and performance of community correctional facilities and
18 programs;

19 (19) Provide the Community Corrections Division of the Nebraska
20 Commission on Law Enforcement and Criminal Justice with the information
21 needed to compile the report required in section 47-624;

22 (20) Develop a matrix of rewards for compliance and positive
23 behaviors and graduated administrative sanctions and custodial sanctions
24 for use in responding to and deterring substance abuse violations and
25 technical violations. As applicable under section 29-2262, custodial
26 sanctions of up to thirty days in jail shall be designated as the most
27 severe response to a violation in lieu of revocation and custodial
28 sanctions of up to three days in jail shall be designated as the second
29 most severe response;

30 (21) Provide training to probation officers on use of a risk and
31 needs assessment, risk-based supervision strategies, relationship skills,

1 cognitive behavioral interventions, community-based resources, criminal
2 risk factors, targeting criminal risk factors to reduce recidivism, and
3 the proper use of a matrix of administrative sanctions, custodial
4 sanctions, and rewards developed pursuant to subdivision (20) of this
5 section. All probation officers employed on the effective date of this
6 act shall complete the training requirements set forth in this
7 subdivision;

8 (22) Adopt and promulgate rules and regulations at the direction of
9 the Supreme Court for transitioning individuals on probation and post-
10 release probation across levels of supervision and discharging them from
11 supervision consistent with evidence-based practices. The rules and
12 regulations shall ensure supervision resources are prioritized for
13 individuals who are high risk to reoffend, require transitioning
14 individuals down levels of supervision intensity based on assessed risk
15 and months of supervision without a reported major violation, and
16 establish incentives for earning discharge from supervision based on
17 compliance; and

18 (23 18) Exercise all powers and perform all duties necessary and
19 proper to carry out his or her responsibilities.

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

23 Sec. 57. Section 29-2252.01, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 29-2252.01 On December 31 and June 30 of each fiscal year, the
26 administrator shall provide a report to the budget division of the
27 Department of Administrative Services, and the Legislative Fiscal
28 Analyst, and the Supreme Court which shall include, but not be limited
29 to:

30 (1) The total number of felony cases supervised by the office in the
31 previous six months for both regular and intensive supervision probation;

1 (2) The total number of misdemeanor cases supervised by the office
2 in the previous six months for both regular and intensive supervision
3 probation;

4 (3) The felony caseload per officer for both regular and intensive
5 supervision probation on the last day of the reporting period;

6 (4) The misdemeanor caseload per officer for both regular and
7 intensive supervision probation on the last day of the reporting period;

8 (5) The total number of juvenile cases supervised by the office in
9 the previous six months for both regular and intensive supervision
10 probation;

11 (6) The total number of predisposition investigations completed by
12 the office in the previous six months;

13 (7) The total number of presentence investigations completed by the
14 office in the previous six months; ~~and~~

15 (8) The total number of juvenile intake screening interviews
16 conducted and detentions authorized by the office in the previous six
17 months, using the detention screening instrument described in section
18 43-260.01; and -

19 (9) The total number of probationers with restitution judgments, the
20 number of restitution payments made to clerks of the court, the average
21 amount of payments, and the total amount of restitution collected.

22 The report submitted to the Legislative Fiscal Analyst shall be
23 submitted electronically.

24 Sec. 58. Section 29-2257, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 29-2257 The Nebraska Probation System is established which shall
27 consist of the probation administrator, chief probation officers,
28 probation officers, and support staff. The system shall be responsible
29 for juvenile intake services, for preadjudication juvenile supervision
30 services under section 43-254 ~~beginning October 1, 2013,~~ for presentence
31 and other probation investigations, for the direct supervision of persons

1 placed on probation or post-release supervision, and for non-probation-
2 based programs and services authorized by an interlocal agreement
3 pursuant to subdivision (16) of section 29-2252. The system shall be
4 sufficient in size to assure that no probation officer carries a caseload
5 larger than is compatible with adequate probation investigation or
6 supervision. Probation officers shall be compensated with salaries
7 substantially equal to other state employees who have similar
8 responsibilities.

9 This provision for salary equalization shall apply only to probation
10 officers and support staff and shall not apply to chief probation
11 officers, the probation administrator, the chief deputy administrator,
12 the deputy probation administrator, or any other similarly established
13 management positions.

14 Sec. 59. Section 29-2258, Revised Statutes Cumulative Supplement,
15 2014, is amended to read:

16 29-2258 A district probation officer shall:

17 (1) Conduct juvenile intake interviews and investigations in
18 accordance with sections 43-253 and 43-260.01 and, ~~beginning October 1,~~
19 ~~2013,~~ supervise delivery of preadjudication juvenile services under
20 subdivision (6) of section 43-254;

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

23 (3) Supervise probationers in accordance with the rules and
24 regulations of the office and the directions of the sentencing court;

25 (4) Advise the sentencing court, in accordance with the Nebraska
26 Probation Administration Act and such rules and regulations of the
27 office, of violations of the conditions of probation or post-release
28 supervision by individual probationers;

29 (5) Advise the sentencing court, in accordance with the rules and
30 regulations of the office and the direction of the court, when the
31 situation of a probationer may require a modification of the conditions

1 of probation or post-release supervision or when a probationer's
2 adjustment is such as to warrant termination of probation or post-release
3 supervision;

4 (6) Provide each probationer with a statement of the period and
5 conditions of his or her probation or post-release supervision;

6 (7) Whenever necessary, exercise the power of arrest or temporary
7 custody as provided in section 29-2266 or 43-286.01;

8 (8) Establish procedures for the direction and guidance of deputy
9 probation officers under his or her jurisdiction and advise such officers
10 in regard to the most effective performance of their duties;

11 (9) Supervise and evaluate deputy probation officers under his or
12 her jurisdiction;

13 (10) Delegate such duties and responsibilities to a deputy probation
14 officer as he or she deems appropriate;

15 (11) Make such reports as required by the administrator, the judges
16 of the probation district in which he or she serves, or the Supreme
17 Court;

18 (12) Keep accurate and complete accounts of all money or property
19 collected or received from probationers and give receipts therefor;

20 (13) Cooperate fully with and render all reasonable assistance to
21 other probation officers;

22 (14) In counties with a population of less than twenty-five thousand
23 people, participate in pretrial diversion programs established pursuant
24 to sections 29-3601 to 29-3604 and juvenile pretrial diversion programs
25 established pursuant to sections 43-260.02 to 43-260.07 as requested by
26 judges of the probation district in which he or she serves or as
27 requested by a county attorney and approved by the judges of the
28 probation district in which he or she serves, except that participation
29 in such programs shall not require appointment of additional personnel
30 and shall be consistent with the probation officer's current caseload;

31 (15) Participate, at the direction of the probation administrator

1 pursuant to an interlocal agreement which meets the requirements of
2 section 29-2255, in non-probation-based programs and services;

3 (16) Perform such other duties not inconsistent with the Nebraska
4 Probation Administration Act or the rules and regulations of the office
5 as a court may from time to time direct; and

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

8 Sec. 60. Section 29-2260, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 29-2260 (1) Whenever a person is adjudicated to be as described in
11 subdivision (1), (2), (3)(b), or (4) of section 43-247, his or her
12 disposition shall be governed by the Nebraska Juvenile Code.

13 (2) Whenever a court considers sentence for an offender convicted of
14 either a misdemeanor or a felony for which mandatory or mandatory minimum
15 imprisonment is not specifically required, the court may withhold
16 sentence of imprisonment unless, having regard to the nature and
17 circumstances of the crime and the history, character, and condition of
18 the offender, the court finds that imprisonment of the offender is
19 necessary for protection of the public because:

20 (a) The risk is substantial that during the period of probation the
21 offender will engage in additional criminal conduct;

22 (b) The offender is in need of correctional treatment that can be
23 provided most effectively by commitment to a correctional facility; or

24 (c) A lesser sentence will depreciate the seriousness of the
25 offender's crime or promote disrespect for law.

26 (3) The following grounds, while not controlling the discretion of
27 the court, shall be accorded weight in favor of withholding sentence of
28 imprisonment:

29 (a) The crime neither caused nor threatened serious harm;

30 (b) The offender did not contemplate that his or her crime would
31 cause or threaten serious harm;

1 (c) The offender acted under strong provocation;

2 (d) Substantial grounds were present tending to excuse or justify
3 the crime, though failing to establish a defense;

4 (e) The victim of the crime induced or facilitated commission of the
5 crime;

6 (f) The offender has compensated or will compensate the victim of
7 his or her crime for the damage or injury the victim sustained;

8 (g) The offender has no history of prior delinquency or criminal
9 activity and has led a law-abiding life for a substantial period of time
10 before the commission of the crime;

11 (h) The crime was the result of circumstances unlikely to recur;

12 (i) The character and attitudes of the offender indicate that he or
13 she is unlikely to commit another crime;

14 (j) The offender is likely to respond affirmatively to probationary
15 treatment; and

16 (k) Imprisonment of the offender would entail excessive hardship to
17 his or her dependents.

18 (4) When an offender who has been convicted of a crime is not
19 sentenced to imprisonment, the court may sentence him or her to
20 probation.

21 (5) For all sentences of imprisonment for Class III, IIIA, or IV
22 felonies, other than those imposed consecutively or concurrently with a
23 sentence to imprisonment for a Class I, IA, IB, IC, ID, II, or IIA
24 felony, the court shall impose a determinate sentence within the
25 applicable range in section 28-105, including a period of post-release
26 supervision.

27 Sec. 61. Section 29-2262, Revised Statutes Cumulative Supplement,
28 2014, is amended to read:

29 29-2262 (1) When a court sentences an offender to probation, it
30 shall attach such reasonable conditions as it deems necessary or likely
31 to insure that the offender will lead a law-abiding life. No offender

1 shall be sentenced to probation if he or she is deemed to be a habitual
2 criminal pursuant to section 29-2221.

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

5 (a) To refrain from unlawful conduct;

6 (b) For misdemeanors, to ~~To~~ be confined periodically in the county
7 jail or to return to custody after specified hours but not to exceed ~~(i)~~
8 ~~for misdemeanors,~~ the lesser of ninety days or the maximum jail term
9 provided by law for the offense ~~and (ii) for felonies, one hundred eighty~~
10 ~~days;~~

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

12 (d) To devote himself or herself to a specific employment or
13 occupation;

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

16 (f) To pursue a prescribed secular course of study or vocational
17 training;

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

20 (h) To refrain from frequenting unlawful or disreputable places or
21 consorting with disreputable persons;

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

25 (j) To remain within the jurisdiction of the court and to notify the
26 court or the probation officer of any change in his or her address or his
27 or her employment and to agree to waive extradition if found in another
28 jurisdiction;

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

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

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

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

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

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

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

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

17 (s) To make restitution as described in sections 29-2280 and
18 29-2281; or

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

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

24 (4) In all cases in which the offender is guilty of a crime covered
25 by the DNA Identification Information Act, a condition of probation shall
26 be the collecting of a DNA sample pursuant to the act and the paying of
27 all costs associated with the collection of the DNA sample prior to
28 release from probation.

29 (5) In all cases in which the offender is guilty of a felony, a
30 condition of probation shall be the potential imposition of
31 administrative sanctions by the Office of Probation Administration or

1 custodial sanctions of up to ninety days cumulatively to be served in
2 jail pursuant to section 29-2266. The conditions may state that the
3 Office Of Probation Administration may require an offender sentenced to
4 probation to submit to custodial sanctions of up to thirty days each to
5 be served in jail, subject to the offender's right to request a hearing.
6 If the court withholds authority for the Office of Probation
7 Administration to impose custodial sanctions, the office may request the
8 imposition of custodial sanctions by the sentencing court.

9 Sec. 62. Section 29-2266, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 29-2266 (1) For purposes of this section:

12 (a) Administrative sanction means additional probation requirements
13 imposed upon a probationer by his or her probation officer, with the full
14 knowledge and consent of the probationer, designed to hold the
15 probationer accountable for ~~substance abuse or noncriminal~~ violations of
16 conditions of probation, including:

17 (i) Counseling or reprimand by his or her probation officer;

18 (ii) Increased supervision contact requirements;

19 (iii) Increased substance abuse testing;

20 (iv) Referral for substance abuse or mental health evaluation or
21 other specialized assessment, counseling, or treatment;

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

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

26 (vii) Travel restrictions to stay within his or her county of
27 residence or employment unless otherwise permitted by the supervising
28 probation officer; and

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

31 (b) Noncriminal violation means a probationer's activities or

1 behaviors which create the opportunity for re-offending or diminish the
2 effectiveness of probation supervision resulting in a violation of an
3 original condition of probation, including:

4 (i) Moving traffic violations;

5 (ii) Failure to report to his or her probation officer;

6 (iii) Leaving the jurisdiction of the court or leaving the state
7 without the permission of the court or his or her probation officer;

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

9 (v) Failure to notify his or her probation officer of change of
10 address or employment;

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

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

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

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

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

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

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

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

26 (2) Whenever a probation officer has reasonable cause to believe
27 that a probationer sentenced for a misdemeanor has committed or is about
28 to commit a substance abuse violation or noncriminal violation while on
29 probation, but that the probationer will not attempt to leave the
30 jurisdiction and will not place lives or property in danger, the
31 probation officer shall either:

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

15 (b) Submit a written report to the sentencing court, with a copy to
16 the county attorney of the county where probation was imposed, outlining
17 the nature of the probation violation and request that formal revocation
18 proceedings be instituted against the probationer.

19 (3) Whenever a probation officer has reasonable cause to believe
20 that a probationer sentenced for a misdemeanor has violated or is about
21 to violate a condition of probation other than a substance abuse
22 violation or noncriminal violation and that the probationer will not
23 attempt to leave the jurisdiction and will not place lives or property in
24 danger, the probation officer shall submit a written report to the
25 sentencing court, with a copy to the county attorney of the county where
26 probation was imposed, outlining the nature of the probation violation
27 ~~Whenever a probation officer has reasonable cause to believe that a~~
28 ~~probationer has violated or is about to violate a condition of probation~~
29 ~~other than a substance abuse violation or noncriminal violation and that~~
30 ~~the probationer will not attempt to leave the jurisdiction and will not~~
31 ~~place lives or property in danger, the probation officer shall submit a~~

1 ~~written report to the sentencing court, with a copy to the county~~
2 ~~attorney of the county where probation was imposed, outlining the nature~~
3 ~~of the probation violation.~~

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

12 (5) Immediately after arrest and detention pursuant to subsection
13 (4) of this section, the probation officer shall notify the county
14 attorney of the county where probation was imposed and submit a written
15 report of the reason for such arrest and of any violation of probation.
16 After prompt consideration of such written report, the county attorney
17 shall:

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

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

21 (6) Whenever a county attorney receives a report from a probation
22 officer that a probationer sentenced for a misdemeanor has violated a
23 condition of probation, the county attorney may file a motion or
24 information to revoke probation.

25 (7) Whenever a probation officer has reasonable cause to believe
26 that a probationer sentenced for a felony has committed or is about to
27 commit a violation while on probation the probation officer shall
28 consider:

29 (a) Whether the probation officer is required to arrest the
30 probationer pursuant to subsection (10) of this section;

31 (b) The probationer's risk level, the severity of the violation, and

1 the probationer's response to the violation; and

2 (c) Whether to impose administrative sanctions or seek custodial
3 sanctions or revocation pursuant to subsection (8) of this section.

4 (8) The following sanctions may be imposed or sought by the
5 probation officer, with approval from his or her chief probation officer
6 or such chief's designee, for felony probationers:

7 (a) One or more administrative sanctions;

8 (b) A custodial sanction of up to three days in jail or up to thirty
9 days in jail, to be imposed by the court. Custodial sanctions may be
10 combined with one or more administrative sanctions; or

11 (c) Formal revocation proceedings, however formal revocations may
12 only be instituted against the probationer for a substance abuse or
13 noncriminal violation if the probationer has served ninety days of
14 cumulative custodial sanctions during the current probation term.

15 (9) If administrative sanctions are to be imposed by the probation
16 officer pursuant to subsection (8) of this section, the probationer must
17 acknowledge in writing the nature of the violation and agree upon the
18 sanction. Prior to acknowledging the violation and agreeing upon the
19 sanction, the probationer must be presented with a violation report and
20 advised of the right to a hearing before the court on the alleged
21 violation. The probationer has the right to decline to acknowledge the
22 violation and request a court hearing. If the probationer declines to
23 acknowledge the violation, the probation officer shall submit a written
24 report to the sentencing court, with a copy to the county attorney of the
25 county where probation was imposed, describing the alleged violation or
26 violations and requesting that administrative sanctions or a custodial
27 sanction of up to thirty days in jail be imposed.

28 (10) Whenever a probation officer has a reasonable cause to believe
29 that a probationer sentenced for a felony has violated or is about to
30 violate a condition of his or her probation and that the probationer will
31 attempt to leave the jurisdiction or will place lives or property in

1 danger, the probation officer shall arrest the probationer without a
2 warrant and may call on any peace officer for assistance. Whenever a
3 probationer is arrested, with or without a warrant, he or she shall be
4 detained in a jail or other detention facility. The probation officer
5 shall notify the county attorney of the county where probation was
6 imposed and submit a written report of the reason for such arrest and of
7 any violation of probation. After prompt consideration of such written
8 report, the county attorney shall:

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

10 (b) File with the sentencing court a motion or information to impose
11 administrative or custodial sanctions, or both, or revoke the probation.

12 (11) The administrator shall adopt and promulgate rules and
13 regulations at the direction of the Supreme Court to ensure prompt court
14 review of requests for the imposition of custodial sanctions.

15 (12 7) The administrator shall adopt and promulgate rules and
16 regulations to carry out this section.

17 Sec. 63. Section 29-2268, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 29-2268 (1) If the court finds that the probationer, other than a
20 probationer serving a term of post-release supervision, did violate a
21 condition of his or her probation, it may revoke the probation and impose
22 on the offender such new sentence as might have been imposed originally
23 for the crime of which he or she was convicted.

24 (2) If the court finds that a probationer serving a term of post-
25 release supervision did violate a condition of his or her probation, it
26 may revoke the post-release supervision and impose on the offender a term
27 of imprisonment up to the remaining period of post-release supervision.
28 The term shall be served in an institution under the jurisdiction of the
29 Department of Correctional Services or in the county jail subject to
30 subsection (2) of section 28-105.

31 (3 2) If the court finds that the probationer did violate a

1 condition of his or her probation, but is of the opinion that revocation
2 ~~of probation~~ is not appropriate, the court may order that:

- 3 (a) The probationer receive a reprimand and warning;
- 4 (b) Probation supervision and reporting be intensified;
- 5 (c) The probationer be required to conform to one or more additional
6 conditions of probation which may be imposed in accordance with the
7 provisions of sections 29-2246 to 29-2268; and
- 8 (d) The probationer's term of probation be extended, subject to the
9 provisions of section 29-2263.

10 Sec. 64. Section 29-2281, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 29-2281 To determine the amount of restitution, the court may hold a
13 hearing at the time of sentencing. The amount of restitution shall be
14 based on the actual damages sustained by the victim and shall be
15 supported by evidence which shall become a part of the court record. The
16 court shall consider the defendant's earning ability, employment status,
17 financial resources, and family or other legal obligations and shall
18 balance such considerations against the obligation to the victim. In
19 considering the earning ability of a defendant who is sentenced to
20 imprisonment, the court may take evidence of anticipated money earned by
21 the inmate while incarcerated. A person may not be granted or denied
22 probation or parole either solely or primarily due to his or her
23 financial resources or ability or inability to pay restitution. The court
24 may order that restitution be made immediately, in specified
25 installments, or within a specified period of time not to exceed five
26 years after the date of judgment or defendant's final release date from
27 imprisonment, whichever is later. Restitution payments shall be made
28 through the clerk of the court ordering restitution. The clerk shall
29 maintain a record of all receipts and disbursements.

30 Sec. 65. Section 29-2308, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 29-2308 (1) In all criminal cases that now are or may hereafter be
2 pending in the Court of Appeals or Supreme Court, the appellate court may
3 reduce the sentence rendered by the district court against the accused
4 when in its opinion the sentence is excessive, and it shall be the duty
5 of the appellate court to render such sentence against the accused as in
6 its opinion may be warranted by the evidence. No judgment shall be set
7 aside, new trial granted, or judgment rendered in any criminal case on
8 the grounds of misdirection of the jury or the improper admission or
9 rejection of evidence or for error as to any matter of pleading or
10 procedure if the appellate court, after an examination of the entire
11 cause, considers that no substantial miscarriage of justice has actually
12 occurred.

13 (2) In all criminal cases based on offenses subject to determinant
14 sentencing under subsection (4) of section 29-2204, the appellate court
15 may determine that a sentence is excessive because the district court
16 provided insufficient, rather than substantial and compelling, reasons to
17 impose a sentence other than probation for a Class IV felony.

18 Sec. 66. Section 29-3523, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 29-3523 (1) That part of criminal history record information
21 consisting of a notation of an arrest, described in subsection (3 2) of
22 this section, shall not be disseminated to persons other than criminal
23 justice agencies after the expiration of the periods described in
24 subsection (3 2) of this section except as provided in subsection (2) of
25 this section and except when the subject of the record:

26 (a) Is currently the subject of prosecution or correctional control
27 as the result of a separate arrest;

28 (b) Is currently an announced candidate for or holder of public
29 office;

30 (c) Has made a notarized request for the release of such record to a
31 specific person; or

1 (d) Is kept unidentified, and the record is used for purposes of
2 surveying or summarizing individual or collective law enforcement agency
3 activity or practices, or the dissemination is requested consisting only
4 of release of criminal history record information showing (i) dates of
5 arrests, (ii) reasons for arrests, and (iii) the nature of the
6 dispositions including, but not limited to, reasons for not prosecuting
7 the case or cases.

8 (2) That part of criminal history record information consisting of a
9 notation of an arrest, described in subsection (3) of this section, may
10 be disseminated to individuals and agencies for the express purpose of
11 research, evaluative, or statistical activities pursuant to an agreement
12 with a criminal justice agency that specifically authorizes access to the
13 information, limits the use of the information to research, evaluative,
14 or statistical activities, and ensures the confidentiality and security
15 of the information.

16 (3 2) Except as provided in subsections subsection (1) and (2) of
17 this section, the notation of arrest shall be removed from the public
18 record as follows:

19 (a) In the case of an arrest for which no charges are filed as a
20 result of the determination of the prosecuting attorney, the arrest shall
21 not be part of the public record after one year from the date of arrest;

22 (b) In the case of an arrest for which charges are not filed as a
23 result of a completed diversion, the arrest shall not be part of the
24 public record after two years from the date of arrest; and

25 (c) In the case of an arrest for which charges are filed, but
26 dismissed by the court on motion of the prosecuting attorney or as a
27 result of a hearing not the subject of a pending appeal, the arrest shall
28 not be part of the public record after three years from the date of
29 arrest.

30 (4 3) Any person arrested due to the error of a law enforcement
31 agency may file a petition with the district court for an order to

1 expunge the criminal history record information related to such error.
2 The petition shall be filed in the district court of the county in which
3 the petitioner was arrested. The county attorney shall be named as the
4 respondent and shall be served with a copy of the petition. The court may
5 grant the petition and issue an order to expunge such information if the
6 petitioner shows by clear and convincing evidence that the arrest was due
7 to error by the arresting law enforcement agency.

8 Sec. 67. Section 29-4011, Revised Statutes Cumulative Supplement,
9 2014, is amended to read:

10 29-4011 (1) Any person required to register under the Sex Offender
11 Registration Act who violates the act is guilty of a Class IIIA ~~IV~~
12 felony.

13 (2) Any person required to register under the act who violates the
14 act and who has previously been convicted of a violation of the act is
15 guilty of a Class IIA ~~III~~ felony and shall be sentenced to a mandatory
16 minimum term of at least one year in prison unless the violation which
17 caused the person to be placed on the registry was a misdemeanor, in
18 which case the violation of the act shall be a Class IIIA ~~IV~~ felony.

19 (3) Any law enforcement agency with jurisdiction in the area in
20 which a person required to register under the act resides, has a
21 temporary domicile, maintains a habitual living location, is employed,
22 carries on a vocation, or attends school shall investigate and enforce
23 violations of the act.

24 Sec. 68. Section 43-412, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 43-412 (1) Every juvenile committed to the Office of Juvenile
27 Services pursuant to the Nebraska Juvenile Code ~~or pursuant to subsection~~
28 ~~(3) of section 29-2204~~ shall remain committed until he or she attains the
29 age of nineteen or is legally discharged.

30 (2) Upon attainment of the age of nineteen or absent a continuing
31 order of intensive supervised probation, discharge of any juvenile

1 pursuant to the rules and regulations shall be a complete release from
2 all penalties incurred by conviction or adjudication of the offense for
3 which he or she was committed.

4 (3) The Office of Juvenile Services shall provide the committing
5 court, Office of Probation Administration, county attorney, defense
6 attorney, if any, and guardian ad litem, if any, with written
7 notification of the juvenile's discharge within thirty days prior to a
8 juvenile being discharged from the care and custody of the office.

9 Sec. 69. Section 68-1017, Revised Statutes Cumulative Supplement,
10 2014, is amended to read:

11 68-1017 (1) Any person, including vendors and providers of medical
12 assistance and social services, who, by means of a willfully false
13 statement or representation, or by impersonation or other device, obtains
14 or attempts to obtain, or aids or abets any person to obtain or to
15 attempt to obtain (a) an assistance certificate of award to which he or
16 she is not entitled, (b) any commodity, any foodstuff, any food
17 instrument, any Supplemental Nutrition Assistance Program benefit or
18 electronic benefit card, or any payment to which such individual is not
19 entitled or a larger payment than that to which he or she is entitled,
20 (c) any payment made on behalf of a recipient of medical assistance or
21 social services, or (d) any other benefit administered by the Department
22 of Health and Human Services, or who violates any statutory provision
23 relating to assistance to the aged, blind, or disabled, aid to dependent
24 children, social services, or medical assistance, commits an offense.

25 (2) Any person who commits an offense under subsection (1) of this
26 section shall upon conviction be punished as follows: (a) If the
27 aggregate value of all funds or other benefits obtained or attempted to
28 be obtained is less than five hundred dollars, the person so convicted
29 shall be guilty of a Class IV III misdemeanor; (b) if the aggregate value
30 of all funds or other benefits obtained or attempted to be obtained is
31 five hundred dollars or more but less than one thousand five hundred

1 dollars, the person so convicted shall be guilty of a Class III
2 misdemeanor, or (c) if the aggregate value of all funds and other
3 benefits obtained or attempted to be obtained is one thousand five
4 hundred dollars or more, the person so convicted shall be guilty of a
5 Class IV felony.

6 Sec. 70. Section 68-1017.01, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 68-1017.01 (1) A person commits an offense if he or she knowingly
9 uses, alters, or transfers any Supplemental Nutrition Assistance Program
10 benefits or electronic benefit cards or any authorizations to participate
11 in the Supplemental Nutrition Assistance Program in any manner not
12 authorized by law. An offense under this subsection shall be a Class IV
13 ~~III~~ misdemeanor if the value of the Supplemental Nutrition Assistance
14 Program benefits, electronic benefit cards, or authorizations is less
15 than five hundred dollars, shall be a Class III misdemeanor if the value
16 is five hundred dollars or more but less than one thousand five hundred
17 dollars, and shall be a Class IV felony if the value is one thousand five
18 hundred dollars or more.

19 (2) A person commits an offense if he or she knowingly (a) possesses
20 any Supplemental Nutrition Assistance Program benefits or electronic
21 benefit cards or any authorizations to participate in the Supplemental
22 Nutrition Assistance Program when such individual is not authorized by
23 law to possess them, (b) redeems Supplemental Nutrition Assistance
24 Program benefits or electronic benefit cards when he or she is not
25 authorized by law to redeem them, or (c) redeems Supplemental Nutrition
26 Assistance Program benefits or electronic benefit cards for purposes not
27 authorized by law. An offense under this subsection shall be a Class IV
28 ~~III~~ misdemeanor if the value of the Supplemental Nutrition Assistance
29 Program benefits, electronic benefit cards, or authorizations is less
30 than five hundred dollars, shall be a Class III misdemeanor if the value
31 is five hundred dollars or more but less than one thousand five hundred

1 dollars, and shall be a Class IV felony if the value is one thousand five
2 hundred dollars or more.

3 (3) A person commits an offense if he or she knowingly possesses
4 blank authorizations to participate in the Supplemental Nutrition
5 Assistance Program when such possession is not authorized by law. An
6 offense under this subsection shall be a Class IV felony.

7 (4) When any Supplemental Nutrition Assistance Program benefits or
8 electronic benefit cards or any authorizations to participate in the
9 Supplemental Nutrition Assistance Program of various values are obtained
10 in violation of this section pursuant to one scheme or a continuing
11 course of conduct, whether from the same or several sources, such conduct
12 may be considered as one offense, and the values aggregated in
13 determining the grade of the offense.

14 Sec. 71. Section 71-2228, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 71-2228 Any person who by means of a willfully false statement or
17 representation, by impersonation, or by other device obtains or attempts
18 to obtain or aids or abets any person to obtain or to attempt to obtain
19 (1) a food instrument to which he, she, or it is not entitled, (2) any
20 supplemental foods to which such person is not entitled, or (3) any other
21 benefit administered by the Department of Health and Human Services under
22 sections 71-2226 and 71-2227 commits an offense and shall, upon
23 conviction, be punished as follows: (a) If the aggregate value of all
24 funds or other benefits obtained or attempted to be obtained is less than
25 five hundred dollars, the person so convicted shall be guilty of a Class
26 IV ~~III~~ misdemeanor; (b) if the aggregate value of all funds and other
27 benefits obtained or attempted to be obtained is five hundred dollars or
28 more but less than one thousand five hundred dollars, the person so
29 convicted shall be guilty of a Class III misdemeanor; or (c ~~h~~) if the
30 aggregate value of all funds and other benefits obtained or attempted to
31 be obtained is one thousand five hundred dollars or more, the person so

1 convicted shall be guilty of a Class IV felony.

2 Sec. 72. Section 71-2229, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 71-2229 (1) A person commits an offense if he, she, or it knowingly
5 and unlawfully uses, alters, or transfers a food instrument or
6 supplemental food. An offense under this subsection shall be a Class IV
7 ~~III~~ misdemeanor if the value of the food instrument or benefit is less
8 than five hundred dollars, shall be a Class III misdemeanor if the value
9 of the food instrument or benefit is five hundred dollars or more but
10 less than one thousand five hundred dollars, and shall be a Class IV
11 felony if the value of the food instrument or benefit is one thousand
12 five hundred dollars or more.

13 (2) A person commits an offense if he, she, or it (a) knowingly and
14 unlawfully possesses a food instrument or supplemental food, (b)
15 knowingly and unlawfully redeems a food instrument, (c) knowingly
16 falsifies or misapplies a food instrument, or (d) fraudulently obtains a
17 food instrument. An offense under this subsection shall be a Class IV ~~III~~
18 misdemeanor if the value of the food instrument or benefit is less than
19 five hundred dollars, shall be a Class III misdemeanor if the value of
20 the food instrument or benefit is five hundred dollars or more but less
21 than one thousand five hundred dollars, and shall be a Class IV felony if
22 the value of the food instrument or benefit is one thousand five hundred
23 dollars or more.

24 (3) A person commits an offense if he, she, or it knowingly and
25 unlawfully possesses a blank authorization to participate in the WIC
26 program or CSF program. An offense under this subsection shall be a Class
27 IV felony.

28 (4) When food instruments or supplemental foods are obtained in
29 violation of this section pursuant to one scheme or a continuing course
30 of conduct, whether from the same or several sources, such conduct may be
31 considered as one offense and the values aggregated in determining the

1 grade of the offense.

2 Sec. 73. Section 81-1415, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-1415 As used in sections 81-1415 to 81-1426 and section 76 of
5 this act, unless the context otherwise requires: Commission means shall
6 ~~mean~~ the Nebraska Commission on Law Enforcement and Criminal Justice.

7 Sec. 74. Section 81-1416, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-1416 There is hereby created the Nebraska Commission on Law
10 Enforcement and Criminal Justice. The commission shall educate the
11 community at large to the problems encountered by law enforcement
12 authorities, promote respect for law and encourage community involvement
13 in the administration of criminal justice. The commission shall be an
14 agency of the state, and the exercise by the commission of the powers
15 conferred by the provisions of sections 81-1415 to 81-1426 and section 76
16 of this act shall be deemed to be an essential governmental function of
17 the state.

18 Sec. 75. Section 81-1423, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-1423 The commission shall have authority to:

21 (1) Adopt and promulgate rules and regulations for its organization
22 and internal management and rules and regulations governing the exercise
23 of its powers and the fulfillment of its purposes under sections 81-1415
24 to 81-1426 and section 76 of this act;

25 (2) Delegate to one or more of its members such powers and duties as
26 it may deem proper;

27 (3) Coordinate and jointly pursue its activities with the Governor's
28 Policy Research Office;

29 (4) Appoint and abolish such advisory committees as may be necessary
30 for the performance of its functions and delegate appropriate powers and
31 duties to them;

1 (5) Plan improvements in the administration of criminal justice and
2 promote their implementation;

3 (6) Make or encourage studies of any aspect of the administration of
4 criminal justice;

5 (7) Conduct research and stimulate research by public and private
6 agencies which shall be designed to improve the administration of
7 criminal justice;

8 (8) Coordinate activities relating to the administration of criminal
9 justice among agencies of state and local government;

10 (9) Cooperate with the federal and other state authorities
11 concerning the administration of criminal justice;

12 (10) Accept and administer loans, grants, and donations from the
13 United States, its agencies, the State of Nebraska, its agencies, and
14 other sources, public and private, for carrying out any of its functions,
15 except that no communications equipment shall be acquired and no approval
16 for acquisition of communications equipment shall be granted without
17 receiving the written approval of the Director of Communications of the
18 office of Chief Information Officer;

19 (11) Enter into contracts, leases, and agreements necessary,
20 convenient, or desirable for carrying out its purposes and the powers
21 granted under sections 81-1415 to 81-1426 and section 76 of this act with
22 agencies of state or local government, corporations, or persons;

23 (12) Acquire, hold, and dispose of personal property in the exercise
24 of its powers;

25 (13) Conduct random annual audits of criminal justice agencies to
26 verify the accuracy and completeness of criminal history record
27 information maintained by such agencies and to determine compliance with
28 laws and regulations dealing with the dissemination, security, and
29 privacy of criminal history information;

30 (14) Do all things necessary to carry out its purposes and for the
31 exercise of the powers granted in sections 81-1415 to 81-1426 and section

1 76 of this act, except that no activities or transfers or expenditures of
2 funds available to the commission shall be inconsistent with legislative
3 policy as reflected in substantive legislation, legislative intent
4 legislation, or appropriations legislation;

5 (15) Exercise budgetary and administrative control over the Crime
6 Victim's Reparations Committee and the Jail Standards Board; and

7 (16) Do all things necessary to carry out sections 81-1843 to
8 81-1851.

9 Sec. 76. (1) There is created a separate and distinct budgetary
10 program within the commission to be known as the County Justice
11 Reinvestment Grant Program. Funding shall be used to provide grants to
12 counties to help offset jail costs.

13 (2) The annual General Fund appropriation to the County Justice
14 Reinvestment Grant Program shall be apportioned to the counties as grants
15 in accordance with a formula established in rules and regulations adopted
16 and promulgated by the commission. The formula shall be based on the
17 total number per county of individuals incarcerated in jails and the
18 total capacity of jails.

19 (3) Funds provided to counties under the County Justice Reinvestment
20 Grant Program shall be used exclusively to assist counties in the event
21 that their average daily jail population increases within three years
22 after the effective date of this act. In distributing funds provided
23 under the County Justice Reinvestment Grant Program, counties shall
24 demonstrate to the commission that their average daily population
25 increased, using data to pinpoint the contributing factors, as a result
26 of the implementation of this legislative bill.

27 (4) No funds appropriated or distributed under the grant program
28 shall be used for the construction of secure detention facilities, secure
29 treatment facilities, secure confinement facilities, or county jails.
30 Grants received under this section shall not be used for capital
31 construction or the lease or acquisition of facilities. No funds

1 appropriated under this section shall be used to replace existing funding
2 for programs or services. Any funds distributed to counties under this
3 section shall be retained by the commission to be distributed in the form
4 of grants in the following fiscal year.

5 (5) In distributing funds provided under the County Justice
6 Reinvestment Grant Program, recipients shall use the funds for programs,
7 services, and approaches that reduce jail populations and costs.

8 (6) Any county receiving grants under the County Justice
9 Reinvestment Grant Program shall submit annual information electronically
10 to the commission as required by rules and regulations adopted and
11 promulgated by the commission. The information shall include, but not be
12 limited to, the objective sought for the grant and estimated savings and
13 reduction in jail inmates.

14 (7) The commission shall report annually to the Governor and the
15 Legislature on the distribution and use of funds for grants appropriated
16 under the County Justice Reinvestment Grant Program. The report shall
17 include, but not be limited to, the information listed under subsection
18 (6) of this section. The report submitted to the Legislature shall be
19 submitted electronically.

20 (8) The commission shall adopt and promulgate rules and regulations
21 to implement this section.

22 Sec. 77. Section 81-1802, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 81-1802 A Crime Victim's Reparations Committee is hereby created.
25 The committee shall consist of five members of the commission and three
26 ~~two~~ public members to be appointed by the Governor subject to approval by
27 the Legislature. One public member shall represent charitable
28 organizations, ~~and~~ one public member shall represent businesses, and one
29 public member who has training and relevant work experience with victims
30 and survivors of crime who shall represent crime victims. The members of
31 the committee shall select a chairperson who is a member of the

1 commission.

2 Sec. 78. Section 81-1803, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-1803 Members of the committee shall serve for terms of four
5 years, ~~except that of the public members first appointed one shall be~~
6 ~~appointed for a term of two years and one for a term of four years.~~

7 Sec. 79. Section 81-1813, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-1813 The ~~committee may, subject to the approval of the~~ commission
10 shall ~~,~~ adopt and promulgate rules and regulations prescribing the
11 procedures to be followed in the filing of applications and proceedings
12 under the Nebraska Crime Victim's Reparations Act and any other matters
13 the commission ~~committee~~ considers appropriate, including special
14 circumstances, such as when expenses of job retraining or similar
15 employment-related rehabilitative services are involved, under which an
16 award from the Victim's Compensation Fund may exceed twenty-five ~~ten~~
17 thousand dollars. If the rules and regulations authorize awards in excess
18 of twenty-five thousand dollars for special circumstances, the amount of
19 an award in excess of twenty-five thousand dollars shall only be used for
20 such special circumstances. The committee shall make available all forms
21 and educational materials necessary to promote the existence of the
22 programs to persons throughout the state.

23 Sec. 80. Section 81-1823, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-1823 Except as provided in section 81-1813, no compensation shall
26 be awarded under the Nebraska Crime Victim's Reparations Act from the
27 Victim's Compensation Fund in an amount in excess of twenty-five ~~ten~~
28 ~~thousand dollars for each applicant per incident unless expenses for job~~
29 ~~retraining or similar employment-related rehabilitative services for the~~
30 ~~victim are deemed necessary. In such case, amounts in excess of ten~~
31 ~~thousand dollars shall be used only for such purposes. Each award shall~~

1 be paid in installments unless the hearing officer or committee decides
2 otherwise.

3 Sec. 81. Section 83-182.01, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 83-182.01 (1) Structured programming shall be planned for all adult
6 persons committed to the department. The structured programming shall
7 include any of the following: Work programs, vocational training,
8 behavior management and modification, money management, and substance
9 abuse awareness, counseling, or treatment. Programs and treatment
10 services shall address:

11 (a) Behavioral impairments, severe emotional disturbances, and other
12 mental health or psychiatric disorders;

13 (b) Drug and alcohol use and addiction;

14 (c) Health and medical needs;

15 (d) Education and related services;

16 (e) Counseling services for persons committed to the department who
17 have been physically or sexually abused;

18 (f) Work ethic and structured work programs;~~and~~

19 (g) The development and enhancement of job acquisition skills and
20 job performance skills; and -

21 (h) Cognitive behavioral intervention.

22 Structured programming may also include classes and activities
23 organized by inmate self-betterment clubs, cultural clubs, and other
24 inmate-led or volunteer-led groups.

25 (2) The goal of such structured programming is to provide the skills
26 necessary for the person committed to the department to successfully
27 return to his or her home or community or to a suitable alternative
28 community upon his or her release from the adult correctional facility.
29 The Legislature recognizes that many inmate self-betterment clubs and
30 cultural clubs help achieve this goal by providing constructive
31 opportunities for personal growth.

1 (3) If a person committed to the department refuses to participate
2 in the structured programming described in subsection (1) of this
3 section, he or she shall be subject to disciplinary action, except that a
4 person committed to the department who refuses to participate in
5 structured programming consisting of classes and activities organized by
6 inmate self-betterment clubs, cultural clubs, or other inmate-led or
7 volunteer-led groups shall not be subject to disciplinary action.

8 (4) Any person committed to the department who is qualified by
9 reason of education, training, or experience to teach academic or
10 vocational classes may be given the opportunity to teach such classes to
11 committed offenders as part of the structured programming described in
12 this section.

13 (5) The department shall evaluate the quality of programs funded by
14 the department. The evaluation shall focus on whether program
15 participation reduces recidivism. Subject to the availability of funding,
16 the department may contract with an independent contractor or academic
17 institution for each program evaluation. Each program evaluation shall be
18 standardized and shall include a site visit, interviews with key staff,
19 interviews with offenders, group observation, if applicable, and review
20 of materials used for the program. The evaluation shall include adherence
21 to concepts that are linked with program effectiveness, such as program
22 procedures, staff qualifications, and fidelity to the program model of
23 delivering offender assessment and treatment. Each program evaluation
24 shall also include feedback to the department concerning program
25 strengths, weaknesses, and recommendations for better adherence to
26 evidence-based programming.

27 Sec. 82. Section 83-183, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 83-183 (1) To establish good habits of work and responsibility, to
30 foster vocational training, and to reduce the cost of operating the
31 facilities, persons committed to the department shall be employed, eight

1 hours per day, so far as possible in constructive and diversified
2 activities in the production of goods, services, and foodstuffs to
3 maintain the facilities, for state use, and for other purposes authorized
4 by law. To accomplish these purposes, the director may establish and
5 maintain industries and farms in appropriate facilities and may enter
6 into arrangements with any other board or agency of the state, any
7 natural resources district, or any other political subdivision, except
8 that any arrangements entered into with school districts, educational
9 service units, community colleges, state colleges, or universities shall
10 include supervision provided by the department, for the employment of
11 persons committed to the department for state or governmental purposes.
12 Nothing in this subsection shall be construed to effect a reduction in
13 the number of work release positions.

14 (2) The director shall make rules and regulations governing the
15 hours, conditions of labor, and the rates of compensation of persons
16 committed to the department. In determining the rates of compensation,
17 such regulations may take into consideration the quantity and quality of
18 the work performed by such person, whether or not such work was performed
19 during regular working hours, the skill required for its performance, and
20 the economic value of similar work outside of correctional facilities.

21 (3) Except as provided in section 83-183.01, wage payments to a
22 person committed to the department shall be set aside by the chief
23 executive officer of the facility in a separate fund. The fund shall
24 enable such person committed to the department to contribute to the
25 support of his or her dependents, if any, to make necessary purchases
26 from the commissary, ~~and~~ to set aside sums to be paid to him or her at
27 the time of his or her release from the facility, and to pay restitution
28 if restitution is required.

29 (4) The director shall adopt and promulgate rules and regulations
30 which will protect the committed offender's rights to due process and
31 govern the collection of restitution as provided in section 85 of this

1 act.

2 (5 4) The director may authorize the chief executive officer to
3 invest the earnings of a person committed to the department. Any accrued
4 interest thereon shall be credited to such person's fund.

5 (6 5) The director may authorize the chief executive officer to
6 reimburse the state from the wage fund of a person committed to the
7 department for:

8 (a) The actual value of property belonging to the state or any other
9 person intentionally or recklessly destroyed by such person committed to
10 the department during his or her commitment;

11 (b) The actual value of the damage or loss incurred as a result of
12 unauthorized use of property belonging to the state or any other person
13 by such person committed to the department;

14 (c) The actual cost to the state for injuries or other damages
15 caused by intentional acts of such person committed to the department;
16 and

17 (d) The reasonable costs incurred in returning such person committed
18 to the department to the facility to which he or she is committed in the
19 event of his or her escape.

20 (7 6) No person committed to the department shall be required to
21 engage in excessive labor, and no such person shall be required to
22 perform any work for which he or she is declared unfit by a physician
23 designated by the director. No person who performs labor or work pursuant
24 to this section shall be required to wear manacles, shackles, or other
25 restraints.

26 (8 7) The director may authorize that a portion of the earnings of a
27 person committed to the department be retained by that person for
28 personal use.

29 Sec. 83. Section 83-183.01, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 83-183.01 A person committed to the department, who is earning at

1 least minimum wage and is employed pursuant to sections 81-1827 and
2 83-183, shall have his or her wages set aside by the chief executive
3 officer of the facility in a separate wage fund. The director shall adopt
4 and promulgate rules and regulations which will protect the inmate's
5 rights to due process, provide for hearing as necessary before the Crime
6 Victim's Reparations Committee, and govern the disposition of a confined
7 person's gross monthly wage minus required payroll deductions and payment
8 of necessary work-related incidental expenses for the following purposes:

9 (1) For the support of families and dependent relatives of the
10 respective inmates;

11 (2) For the discharge of any legal obligations, including judgments
12 for restitution as provided in section 85 of this act;

13 (3) To pay all or a part of the cost of their board, room, clothing,
14 medical, dental, and other correctional services;

15 (4) To provide for funds payable to the person committed to the
16 department upon his or her release;

17 (5) For the actual value of state property intentionally or
18 willfully and wantonly destroyed by such person during his or her
19 commitment;

20 (6) For reasonable costs incurred in returning such person to the
21 facility to which he or she is committed in the event of escape; and

22 (7) For deposit in the Victim's Compensation Fund.

23 Sec. 84. Section 83-184, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 83-184 (1) When the conduct, behavior, mental attitude, and
26 conditions indicate that a person committed to the department and the
27 general society of the state will be benefited, and there is reason to
28 believe that the best interests of the people of the state and the person
29 committed to the department will be served thereby, in that order, and
30 upon the recommendation of the board in the case of each committed
31 offender, the director may authorize such person, under prescribed

1 conditions, to:

2 (a) Visit a specifically designated place or places and return to
3 the same or another facility. An extension of limits may be granted to
4 permit a visit to a dying relative, attendance at the funeral of a
5 relative, the obtaining of medical services, the contacting of
6 prospective employers, or for any other reason consistent with the public
7 interest; or

8 (b) Work at paid employment or participate in a training program in
9 the community on a voluntary basis whenever:

10 (i) Such paid employment will not result in the displacement of
11 employed workers, or be applied in skills, crafts, or trades in which
12 there is a surplus of available gainful labor in the locality, or impair
13 existing contracts for services; and

14 (ii) The rates of pay and other conditions of employment will not be
15 less than those paid or provided for work of similar nature in the
16 locality in which the work is to be performed.

17 (2) The wages earned by a person authorized to work at paid
18 employment in the community under the provisions of this section shall be
19 credited by the chief executive officer of the facility to such person's
20 wage fund. The director shall authorize the chief executive officer to
21 withhold up to five percent of such person's net wages. The funds
22 withheld pursuant to this subsection shall be remitted to the State
23 Treasurer for credit as provided in subsection (2) of section 33-157.

24 (3) A person authorized to work at paid employment in the community
25 under the provisions of this section may be required to pay, and the
26 director is authorized to collect, such costs incident to the person's
27 confinement as the director deems appropriate and reasonable. Collections
28 shall be deposited in the state treasury as miscellaneous receipts.

29 (4) A person authorized to work at paid employment in the community
30 under the provisions of this section may be required to pay restitution.
31 The director shall adopt and promulgate rules and regulations which will

1 protect the committed offender's rights to due process and govern the
2 collection of restitution as provided in section 85 of this act.

3 (5 4) The willful failure of a person to remain within the extended
4 limits of his or her confinement or to return within the time prescribed
5 to a facility designated by the director may be deemed an escape from
6 custody punishable as provided in section 28-912.

7 (6 5) No person employed in the community under the provisions of
8 this section or otherwise released shall, while working in such
9 employment in the community or going to or from such employment or during
10 the time of such release, be deemed to be an agent, employee, or servant
11 of the state.

12 Sec. 85. (1) The department, in consultation with the State Court
13 Administrator, shall adopt and promulgate rules and regulations to
14 provide an effective process for the transfer of funds for the purpose of
15 satisfying restitution orders.

16 (2) A sentencing order requiring an inmate to pay restitution shall
17 be treated as a court order authorizing the department to withhold and
18 transfer funds for the purpose of satisfying a restitution order.

19 (3) This section applies to funds in the wage fund of any inmate
20 confined in a correctional facility on or after the effective date of
21 this act.

22 (4) The department shall report annually to the Legislature on the
23 collection of restitution from wage funds. The report shall include the
24 total number of inmates with restitution judgments, the total number of
25 inmates with wage funds, the total number of inmates with both, the
26 number of payments made to either victims or clerks of the court, the
27 average amount of payments, and the total amount of restitution
28 collected. The report shall be submitted electronically.

29 Sec. 86. Section 83-1,100, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 83-1,100 There is hereby created within the department the Office of

1 Parole Administration. The office shall consist of the Parole
2 Administrator, the field parole service, and all other office staff. The
3 office shall be responsible for the following:

4 (1) The administration of parole services in the community;

5 (2) The maintenance of all records and files associated with the
6 Board of Parole;

7 (3) The daily supervision and training of staff members of the
8 office, including training regarding evidence-based practices in
9 supervision pursuant to section 87 of this act; and

10 (4) The assessment, evaluation, and supervision of individuals who
11 are subject to parole supervision, including lifetime community
12 supervision pursuant to section 83-174.03.

13 Nothing in this section shall be construed to prohibit the office
14 from maintaining daily records and files associated with the Board of
15 Pardons.

16 Sec. 87. (1) For purposes of this section:

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

19 (i) Supervision contact requirements, including the frequency,
20 location, methods, and nature of contact with the parole officer;

21 (ii) Substance abuse testing requirements and frequency;

22 (iii) Contact restrictions;

23 (iv) Curfew restrictions;

24 (v) Access to available programs and treatment, with priority given
25 to moderate-risk and high-risk parolees; and

26 (vi) Severity of graduated responses to violations of supervision
27 conditions; and

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

31 (2) The Office of Parole Administration shall establish an evidence-

1 based process that utilizes a risk and needs assessment to measure
2 criminal risk factors and specific individual needs.

3 (3) The risk and needs assessment shall be performed at the
4 commencement of the parole term and every six months thereafter by office
5 staff trained and certified, if certification is available, in the use of
6 the risk and needs assessment.

7 (4) The office shall test the validity of the risk and needs
8 assessment at least every five years.

9 (5) Based on the results of the risk and needs assessment, the
10 office shall determine levels of supervision to target parolee criminal
11 risk and need factors by focusing sanction, program, and treatment
12 resources on moderate-risk and high-risk parolees.

13 (6) The office shall provide training to its parole officers on use
14 of a risk and needs assessment, risk-based supervision strategies,
15 relationship skills, cognitive behavioral interventions, community-based
16 resources, criminal risk factors, targeting criminal risk factors to
17 reduce recidivism, and proper use of a matrix of administrative
18 sanctions, custodial sanctions, and rewards developed pursuant to section
19 83-1,119. All parole officers employed on the effective date of this act
20 shall complete the training requirements set forth in this subsection on
21 or before July 1, 2016. Each parole officer hired on or after the
22 effective date of this section shall complete the training requirements
23 set forth in this subsection within one year after his or her hire date.

24 (7) The office shall provide training for chief parole officers to
25 become trainers so as to ensure long-term and self-sufficient training
26 capacity in the state.

27 Sec. 88. (1) The board, in consultation with the department, shall
28 adopt and promulgate rules and regulations to achieve a reduction in the
29 number of inmates under the custody of the department who serve their
30 entire sentence in a correctional facility and are released without
31 supervision.

1 (2) By February 1, 2016, and by February 1 of each year thereafter,
2 the board and the department shall submit a report to the Legislature,
3 the Supreme Court, and the Governor that describes the percentage of
4 offenders sentenced to the custody of the department who complete their
5 entire sentence and are released with no supervision. The report shall
6 document characteristics of the individuals released without supervision,
7 including the highest felony class of conviction, offense type of
8 conviction, most recent risk assessment, status of the individualized
9 release or reentry plan, and reasons for the release without supervision.
10 The report also shall provide recommendations from the department and
11 board for changes to policy and practice to meet the goal of achieving a
12 reduction in the number of inmates under the custody of the department
13 who serve their entire sentence in a correctional facility and are
14 released without supervision. The report to the Legislature shall be
15 submitted electronically.

16 Sec. 89. Section 83-1,107, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 83-1,107 (1)(a) Within sixty days after initial classification and
19 assignment of any offender committed to the department, all available
20 information regarding such committed offender shall be reviewed and a
21 committed offender department-approved personalized program plan document
22 shall be drawn up. The document shall specifically describe the
23 department-approved personalized program plan and the specific goals the
24 department expects the committed offender to achieve. The document shall
25 also contain a realistic schedule for completion of the department-
26 approved personalized program plan. The department-approved personalized
27 program plan shall be fully explained to the committed offender. The
28 department shall provide programs to allow compliance by the committed
29 offender with the department-approved personalized program plan.

30 Programming may include, but is not limited to:

31 (i) Academic and vocational education, including teaching such

1 classes by qualified offenders;

2 (ii) Substance abuse treatment;

3 (iii) Mental health and psychiatric treatment, including criminal
4 personality programming;

5 (iv) Constructive, meaningful work programs; and

6 (v) Any other program deemed necessary and appropriate by the
7 department.

8 (b) A modification in the department-approved personalized program
9 plan may be made to account for the increased or decreased abilities of
10 the committed offender or the availability of any program. Any
11 modification shall be made only after notice is given to the committed
12 offender. The department may not impose disciplinary action upon any
13 committed offender solely because of the committed offender's failure to
14 comply with the department-approved personalized program plan, but such
15 failure may be considered by the board in its deliberations on whether or
16 not to grant parole to a committed offender.

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

20 (b) In addition to reductions granted in subdivision (2)(a) of this
21 section, the department shall reduce the term of a committed offender by
22 three days on the first day of each month following a twelve-month period
23 of incarceration within the department during which the offender has not
24 been found guilty of (i) a Class I or Class II offense or (ii) more than
25 three Class III offenses under the department's disciplinary code.
26 Reductions earned under this subdivision shall not be subject to forfeit
27 or withholding by the department.

28 (c) The total reductions under this subsection shall be credited
29 from the date of sentence, which shall include any term of confinement
30 prior to sentence and commitment as provided pursuant to section
31 83-1,106, and shall be deducted from the maximum term, to determine the

1 date when discharge from the custody of the state becomes mandatory.

2 (3) While the offender is in the custody of the department,
3 reductions of terms granted pursuant to subdivision (2)(a) of this
4 section may be forfeited, withheld, and restored by the chief executive
5 officer of the facility with the approval of the director after the
6 offender has been notified regarding the charges of misconduct.

7 (4) The department shall ensure that a release or reentry plan is
8 complete or near completion when the offender has served at least eighty
9 percent of his or her sentence. For purposes of this subsection, release
10 or reentry plan means a comprehensive and individualized strategic plan
11 to ensure an individual's safe and effective transition or reentry into
12 the community to which he or she resides with the primary goal of
13 reducing recidivism. At a minimum, the release or reentry plan shall
14 include, but not be limited to, consideration of the individual's housing
15 needs, medical or mental health care needs, and transportation and job
16 needs and shall address an individual's barriers to successful release or
17 reentry in order to prevent recidivism. The release or reentry plan does
18 not include an individual's programming needs included in the
19 individual's personalized program plan for use inside the prison.

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

24 (6)(a) Within thirty days after any committed offender has been
25 paroled, all available information regarding such parolee shall be
26 reviewed and a parolee personalized program plan document shall be drawn
27 up and approved by the Office of Parole Administration. The document
28 shall specifically describe the approved personalized program plan and
29 the specific goals the office expects the parolee to achieve. The
30 document shall also contain a realistic schedule for completion of the
31 approved personalized program plan. The approved personalized program

1 plan shall be fully explained to the parolee. During the term of parole,
2 the parolee shall comply with the approved personalized program plan and
3 the office shall provide programs to allow compliance by the parolee with
4 the approved personalized program plan.

5 Programming may include, but is not limited to:

6 (i) Academic and vocational education;

7 (ii) Substance abuse treatment;

8 (iii) Mental health and psychiatric treatment, including criminal
9 personality programming;

10 (iv) Constructive, meaningful work programs;

11 (v) Community service programs; and

12 (vi) Any other program deemed necessary and appropriate by the
13 office.

14 (b) A modification in the approved personalized program plan may be
15 made to account for the increased or decreased abilities of the parolee
16 or the availability of any program. Any modification shall be made only
17 after notice is given to the parolee. Intentional failure to comply with
18 the approved personalized program plan by any parolee as scheduled for
19 any year, or pro rata part thereof, shall cause disciplinary action to be
20 taken by the office resulting in the forfeiture of up to a maximum of
21 three months' good time for the scheduled year.

22 (7) While the offender is in the custody of the board, reductions of
23 terms granted pursuant to subdivision (2)(a) of this section may be
24 forfeited, withheld, and restored by the administrator with the approval
25 of the director after the offender has been notified regarding the
26 charges of misconduct or breach of the conditions of parole. In addition,
27 the board may recommend such forfeitures of good time to the director.

28 (8) Good time or other reductions of sentence granted under the
29 provisions of any law prior to July 1, 1996, may be forfeited, withheld,
30 or restored in accordance with the terms of the Nebraska Treatment and
31 Corrections Act.

1 (9) Pursuant to rules and regulations adopted by the Probation
2 Administrator and the Director of Correctional Services, an
3 individualized post-release supervision plan shall be collaboratively
4 prepared by the Office of Probation Administration and the Department of
5 Correctional Services and provided to the court to prepare individuals
6 under custody of the Department of Correctional Services for post-release
7 supervision. All records created during the period of incarceration shall
8 be shared with the Office of Probation Administration and considered in
9 preparation of the release and reentry plan.

10 Sec. 90. Section 83-1,119, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 83-1,119 (1) For purposes of this section:

13 (a) Administrative sanction means additional parole requirements
14 imposed upon a parolee by his or her parole officer, with the full
15 knowledge and consent of the parolee, designed to hold the parolee
16 accountable for substance abuse or technical violations of conditions of
17 parole, including, but not limited to:

18 (i) Counseling or reprimand by the adult parole administration of
19 the department;

20 (ii) Increased supervision contact requirements;

21 (iii) Increased substance abuse testing;

22 (iv) Referral for substance abuse or mental health evaluation or
23 other specialized assessment, counseling, or treatment;

24 (v) Imposition of a designated curfew for a period to be determined
25 by the adult parole administration; and

26 (vi) Travel restrictions to stay within his or her county of
27 residence or employment unless otherwise permitted by the adult parole
28 administration;

29 (b) Contract facility means a county jail that contracts with the
30 Department of Correctional Services to house parolees or other offenders
31 under the jurisdiction of the department;

1 (c ~~b~~) Substance abuse violation means a parolee's activities or
2 behaviors associated with the use of chemical substances or related
3 treatment services resulting in a violation of an original condition of
4 parole, including:

5 (i) Positive breath test for the consumption of alcohol if the
6 parolee is required to refrain from alcohol consumption;

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

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

9 (iv) Failure to appear for or complete substance abuse or mental
10 health treatment evaluations or inpatient or outpatient treatment; and

11 (d ~~e~~) Technical violation means a parolee's activities or behaviors
12 which create the opportunity for re-offending or diminish the
13 effectiveness of parole supervision resulting in a violation of an
14 original condition of parole, including, but not limited to:

15 (i) Moving traffic violations;

16 (ii) Failure to report to his or her parole officer;

17 (iii) Leaving the state without the permission of the Board of
18 Parole;

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

20 (v) Failure to notify his or her parole officer of change of address
21 or employment;

22 (vi) Frequenting places where controlled substances are illegally
23 sold, used, distributed, or administered; and

24 (vii) Failure to pay fines, court costs, restitution, or any fees
25 imposed pursuant to section 83-1,107.01 as directed.

26 (2) The Office of Parole Administration shall develop a matrix of
27 rewards for compliance and positive behaviors and graduated
28 administrative sanctions and custodial sanctions for use in responding to
29 and deterring substance abuse violations and technical violations. A
30 custodial sanction of thirty days in a correctional facility or a
31 contract facility shall be designated as the most severe response to a

1 violation in lieu of revocation.

2 (3 2) Whenever a parole officer has reasonable cause to believe that
3 a parolee has committed or is about to commit a substance abuse violation
4 or technical violation while on parole, but that the parolee will not
5 attempt to leave the jurisdiction and will not place lives or property in
6 danger, the parole officer shall either:

7 (a) Impose one or more administrative sanctions based upon the
8 parolee's risk level, the severity of the violation, and the parolee's
9 response to the violation. If administrative sanctions are to be imposed,
10 the parolee shall acknowledge in writing the nature of the violation and
11 agree upon the administrative sanction. The parolee has the right to
12 decline to acknowledge the violation. If he or she declines to
13 acknowledge the violation, the parole officer shall take action pursuant
14 to subdivision (3 2)(b) of this section. A copy of the report shall be
15 submitted to the Board of Parole; or

16 (b) Submit a written report to the Board of Parole, outlining the
17 nature of the parole violation, and request the imposition of a custodial
18 sanction of thirty days in a correctional facility or a contract
19 facility. On the basis of the report and such further investigation as
20 the board may deem appropriate, the board shall determine whether and how
21 the parolee violated the conditions of parole and may: that formal
22 revocation proceedings be instituted against the parolee.

23 (i) Dismiss the charge of violation; or

24 (ii) If the board finds a violation justifying a custodial sanction,
25 issue a warrant if necessary and impose a custodial sanction of thirty
26 days in a correctional facility or a contract facility.

27 (4 3) Whenever a parole officer has reasonable cause to believe that
28 a parolee has violated or is about to violate a condition of parole by a
29 violation other than a substance abuse violation or a technical violation
30 and the parole officer has reasonable cause to believe that the parolee
31 will not attempt to leave the jurisdiction and will not place lives or

1 property in danger, the parole officer shall submit a written report to
2 the Board of Parole which may, on the basis of such report and such
3 further investigation as it may deem appropriate:

4 (a) Dismiss the charge of violation;

5 (b) Determine whether the parolee violated the conditions of his or
6 her parole;

7 (c) Impose a custodial sanction of thirty days in a correctional
8 facility or a contract facility;

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

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

12 (5 4) Whenever a parole officer has reasonable cause to believe that
13 a parolee has violated or is about to violate a condition of parole and
14 that the parolee will attempt to leave the jurisdiction or will place
15 lives or property in danger, the parole officer shall arrest the parolee
16 without a warrant and call on any peace officer to assist him or her in
17 doing so.

18 (6 5) Whenever a parolee is arrested with or without a warrant, he
19 or she shall be detained in a local jail or other detention facility.
20 Immediately after such arrest and detention, the parole officer shall
21 notify the Board of Parole and submit a written report of the reason for
22 such arrest. A complete investigation shall be made by the parole
23 administration and submitted to the board. After prompt consideration of
24 such written report, the board shall order the parolee's release from
25 detention or continued confinement to await a final decision on
26 imposition of a custodial sanction or the revocation of parole.

27 (7 6) The Board of Parole shall adopt and promulgate rules and
28 regulations necessary to carry out this section.

29 Sec. 91. Section 83-1,122, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 83-1,122 (1) If the board finds that the parolee has engaged in

1 criminal conduct, ~~used drugs or alcohol, or refused to submit to a drug~~
2 ~~or alcohol test while on parole,~~ the board may order revocation of the
3 parolee's parole.

4 (2) If the board finds that the parolee did violate a condition of
5 parole but is of the opinion that revocation of parole is not
6 appropriate, the board may order that:

7 (a) The parolee receive a reprimand and warning;

8 (b) Parole supervision and reporting be intensified;

9 (c) Good time granted pursuant to section 83-1,108 be forfeited or
10 withheld;~~or~~

11 (d) The parolee serve a custodial sanction of thirty days in a
12 correctional facility or a contract facility as defined in section
13 83-1,119; or

14 (e) The parolee be required to conform to one or more additional
15 conditions of parole which may be imposed in accordance with the Nebraska
16 Treatment and Corrections Act.

17 (3) Cumulative custodial sanctions of thirty days in a correctional
18 facility or a contract facility under this section and section 83-1,119
19 shall not exceed sixty days. If a parolee has previously received two
20 thirty-day custodial sanctions before the current violation, the board
21 shall either order revocation of the parolee's parole or one or more of
22 the other sanctions described in subsection (2) of this section.

23 (4) Time spent in custodial sanctions under this section and section
24 83-1,119 shall be credited to the parolee's sentence.

25 Sec. 92. The board shall not have jurisdiction over persons who are
26 committed to the Department of Correctional Services in accordance with
27 subdivision (2)(b) of section 29-2204 unless the defendant is also
28 sentenced for an offense in accordance with subdivision (1)(a) of section
29 29-2204.

30 Sec. 93. Section 83-1,135, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 83-1,135 Sections 83-170 to 83-1,135.02 and sections 85, 87, 88, and
2 92 of this act ~~83-1,135~~ shall be known and may be cited as the Nebraska
3 Treatment and Corrections Act.

4 Sec. 94. Section 83-1,135.02, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 83-1,135.02 (1) It is the intent of the Legislature that the
7 changes made to the Nebraska Treatment and Corrections Act by Laws 2003,
8 LB 46, with respect to parole eligibility apply to all committed
9 offenders under sentence and not on parole on May 24, 2003, and to all
10 persons sentenced on and after such date.

11 (2) It is the intent of the Legislature that the changes made to
12 sections 29-2266, 29-2281, 83-182.01, 83-183.01, 83-1,119, and 83-1,122
13 by this legislative bill and sections 87 and 88 of this act apply to all
14 committed offenders under sentence, on parole, or on probation on the
15 effective date of this act and to all persons sentenced on and after such
16 date.

17 Sec. 95. (1) It is the intent of the Legislature to ensure that
18 human services agencies, correctional facilities, and detention
19 facilities recognize that:

20 (a) Federal law generally does not authorize federal financial
21 participation for medicaid when a person is an inmate of a public
22 institution as defined in federal law but that federal financial
23 participation is available after an inmate is released from
24 incarceration; and

25 (b) The fact that an applicant is currently an inmate does not, in
26 and of itself, preclude the Department of Health and Human Services from
27 processing an application submitted to it by, or on behalf of, the
28 inmate.

29 (2)(a) Medical assistance under the medical assistance program shall
30 be suspended, rather than canceled or terminated, for a person who is an
31 inmate of a public institution if:

1 (i) The Department of Health and Human Services is notified of the
2 person's entry into the public institution;

3 (ii) On the date of entry, the person was enrolled in the medical
4 assistance program; and

5 (iii) The person is eligible for the medical assistance program
6 except for institutional status.

7 (b) A suspension under subdivision (2)(a) of this section shall end
8 on the date the person is no longer an inmate of a public institution.

9 (c) Upon release from incarceration, such person shall continue to
10 be eligible for receipt of medical assistance until such time as the
11 person is otherwise determined to no longer be eligible for the medical
12 assistance program.

13 (3)(a) The Department of Correctional Services shall notify the
14 Department of Health and Human Services:

15 (i) Within twenty days after receiving information that a person
16 receiving medical assistance under the medical assistance program is or
17 will be an inmate of a public institution; and

18 (ii) Within forty-five days prior to the release of a person who
19 qualified for suspension under subdivision (2)(a) of this section.

20 (b) Local correctional facilities, juvenile detention facilities,
21 and other temporary detention centers shall notify the Department of
22 Health and Human Services within ten days after receiving information
23 that a person receiving medical assistance under the medical assistance
24 program is or will be an inmate of a public institution.

25 (4) Nothing in this section shall create a state-funded benefit or
26 program.

27 (5) For purposes of this section, medical assistance program means
28 the medical assistance program under the Medical Assistance Act and the
29 State Children's Health Insurance Program.

30 (6) This section shall be implemented only if, and to the extent,
31 allowed by federal law. This section shall be implemented only to the

1 extent that any necessary federal approval of state plan amendments or
2 other federal approvals are obtained. The Department of Health and Human
3 Services shall seek such approval if required.

4 (7) Local correctional facilities, the Nebraska Commission on Law
5 Enforcement and Criminal Justice, and the Office of Probation
6 Administration shall cooperate with the Department of Health and Human
7 Services and the Department of Correctional Services for the purposes of
8 facilitating information sharing to achieve the purposes of this section.

9 (8)(a) The Department of Correctional Services shall adopt and
10 promulgate rules and regulations, in consultation with the Department of
11 Health and Human Services and local correctional facilities, to carry out
12 this section.

13 (b) The Department of Health and Human Services shall adopt and
14 promulgate rules and regulations, in consultation with the Department of
15 Correctional Services and local correctional facilities, to carry out
16 this section.

17 Sec. 96. The changes made to the sections listed in this section by
18 this legislative bill shall not apply to any offense committed prior to
19 the effective date of this act. Any such offense shall be construed and
20 punished according to the provisions of law existing at the time the
21 offense was committed. For purposes of this section, an offense shall be
22 deemed to have been committed prior to the effective date of this act if
23 any element of the offense occurred prior to such date. The following
24 sections are subject to this provision: Sections 9-262, 9-352, 9-434,
25 9-652, 23-135.01, 28-105, 28-106, 28-201, 28-204, 28-305, 28-309,
26 28-310.01, 28-311, 28-311.04, 28-320, 28-322.02, 28-322.03, 28-322.04,
27 28-323, 28-393, 28-397, 28-504, 28-507, 28-514, 28-518, 28-519, 28-603,
28 28-604, 28-611, 28-611.01, 28-620, 28-631, 28-638, 28-639, 28-703,
29 28-802, 28-813.01, 28-831, 28-912, 28-932, 28-1005, 28-1009, 28-1102,
30 28-1103, 28-1104, 28-1222, 28-1224, 28-1344, 28-1345, 28-1463.05,
31 29-1816, 29-2204, 29-2308, 29-4011, 68-1017, 68-1017.01, 71-2228, and

1 71-2229.

2 Sec. 97. If any section in this act or any part of any section is
3 declared invalid or unconstitutional, the declaration shall not affect
4 the validity or constitutionality of the remaining portions.

5 Sec. 98. Original sections 9-262, 9-352, 9-434, 9-652, 23-135.01,
6 28-204, 28-305, 28-310.01, 28-311.04, 28-320, 28-322.02, 28-322.03,
7 28-322.04, 28-393, 28-397, 28-507, 28-514, 28-519, 28-620, 28-703,
8 28-912, 28-1102, 28-1103, 28-1104, 28-1222, 28-1224, 28-1344, 28-1345,
9 29-2246, 29-2260, 29-2266, 29-2268, 29-2281, 29-2308, 29-3523, 71-2228,
10 71-2229, 81-1415, 81-1416, 81-1423, 81-1802, 81-1803, 81-1813, 81-1823,
11 83-182.01, 83-183, 83-183.01, 83-184, 83-1,100, 83-1,107, 83-1,119,
12 83-1,122, 83-1,135, and 83-1,135.02, Reissue Revised Statutes of
13 Nebraska, and sections 28-105, 28-106, 28-201, 28-309, 28-311, 28-323,
14 28-504, 28-518, 28-603, 28-604, 28-611, 28-611.01, 28-631, 28-638,
15 28-639, 28-802, 28-813.01, 28-831, 28-932, 28-1005, 28-1009, 28-1463.05,
16 29-1816, 29-2204, 29-2252, 29-2252.01, 29-2257, 29-2258, 29-2262,
17 29-4011, 43-412, 68-1017, and 68-1017.01, Revised Statutes Cumulative
18 Supplement, 2014, are repealed.

19 Sec. 99. The following sections are outright repealed: Section
20 83-1,105.01, Reissue Revised Statutes of Nebraska, and sections 28-1501
21 and 43-413, Revised Statutes Cumulative Supplement, 2014.