

AMENDMENTS TO LB259

Introduced by Judiciary.

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

3 Section 1. Section 25-1577, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 25-1577 (1) Except as provided in subsection (2) of this section,
6 if ~~If~~ any person, party, or witness disobeys ~~disobey~~ an order of the
7 judge or referee, duly served, such person, party, or witness may be
8 punished by the judge as for contempt, and if a party, he or she shall be
9 committed to the jail of the county wherein the proceedings are pending
10 until he or she complies ~~shall comply~~ with such order; or, in case he or
11 she has, since the service of such order upon him or her, rendered it
12 impossible for him or her to comply therewith, until he or she has
13 restored to the opposite party what such party has lost by such
14 disobedience, or until discharged by due course of law.

15 (2) No imprisonment related to the debt collection process shall be
16 allowed unless, after a hearing, a judgment debtor is found to be in
17 willful contempt of court. A judgment debtor shall not be committed to
18 jail for failing to appear pursuant to section 25-1565 unless, after
19 service of an order to appear and show cause as to why the judgment
20 debtor should not be found in contempt for failing to appear, the
21 judgment debtor is found to be in willful contempt.

22 (3) An indigent judgment debtor shall be entitled to representation
23 by court-appointed counsel for contempt proceedings under this section if
24 imprisonment is a possibility.

25 Sec. 2. Section 29-901, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 29-901 (1) Anyailable defendant shall be ordered released from

1 custody pending judgment on his or her personal recognizance unless the
2 judge determines in the exercise of his or her discretion that such a
3 release will not reasonably assure the appearance of the defendant as
4 required or that such a release could jeopardize the safety and
5 maintenance of evidence or the safety of victims, witnesses, or other
6 persons in the community. The court shall consider all methods of bond
7 and conditions of release to avoid pretrial incarceration. If the court
8 imposes an appearance bond requiring payment of deposit, the court shall
9 appoint counsel to represent such defendant upon finding that the
10 defendant is indigent. If ~~When such determination is made,~~ the judge
11 determines that the defendant shall not be released on his or her
12 personal recognizance, the judge shall consider the defendant's financial
13 ability to pay a bond and shall impose the least onerous of the following
14 conditions that will reasonably assure the defendant's appearance or that
15 will eliminate or minimize the risk of harm to others or the public at
16 large either in lieu of or in addition to such a release impose the first
17 of the following conditions of release which will reasonably assure the
18 appearance of the person for trial or, if no single condition gives that
19 assurance, any combination of the following conditions:

20 (a) ~~(1)~~ Place the defendant in the custody of a designated person or
21 organization agreeing to supervise the defendant;

22 (b) ~~(2)~~ Place restrictions on the travel, association, or place of
23 abode of the defendant during the period of such release; or

24 (c) ~~(3)~~ Require, at the option of any bailable defendant, either of
25 the following:

26 (i) ~~(a)~~ The execution of an appearance bond in a specified amount
27 and the deposit with the clerk of the court in cash of a sum not to
28 exceed ten percent of the amount of the bond, ninety percent of such
29 deposit to be returned to the defendant upon the performance of the
30 appearance or appearances and ten percent to be retained by the clerk as
31 appearance bond costs, except that when no charge is subsequently filed

1 against the defendant or if the charge or charges which are filed are
2 dropped before the appearance of the defendant which the bond was to
3 assure, the entire deposit shall be returned to the defendant. If the
4 bond is subsequently reduced by the court after the original bond has
5 been posted, no additional appearance bond costs shall be retained by the
6 clerk. The difference in the appearance bond costs between the original
7 bond and the reduced bond shall be returned to the defendant. In no event
8 shall the deposit be less than twenty-five dollars. Whenever jurisdiction
9 is transferred from a court requiring an appearance bond under this
10 subdivision to another state court, the transferring court shall transfer
11 the ninety percent of the deposit remaining after the appearance bond
12 costs have been retained. No further costs shall be levied or collected
13 by the court acquiring jurisdiction; or

14 (ii) ~~(b)~~ The execution of a bail bond with such surety or sureties
15 as shall seem proper to the judge or, in lieu of such surety or sureties,
16 at the option of such person, a cash deposit of such sum so fixed,
17 conditioned for his or her appearance before the proper court, to answer
18 the offense with which he or she may be charged and to appear at such
19 times thereafter as may be ordered by the proper court. The cash deposit
20 shall be returned to the defendant upon the performance of all
21 appearances.

22 (2) If the amount of bail is deemed insufficient by the court before
23 which the offense is pending, the court may order an increase of such
24 bail and the defendant shall provide the additional undertaking, written
25 or cash, to secure his or her release. All recognizances in criminal
26 cases shall be in writing and be continuous from term to term until final
27 judgment of the court in such cases and shall also extend, when the court
28 has suspended execution of sentence for a limited time, as provided in
29 section 29-2202, or, when the court has suspended execution of sentence
30 to enable the defendant to apply for a writ of error to the Supreme Court
31 or Court of Appeals, as provided in section 29-2301, until the period of

1 suspension has expired. When two or more indictments or informations are
2 returned against the same person at the same term of court, the
3 recognizance given may be made to include all offenses charged therein.
4 Each surety on such recognizance shall be required to justify under oath
5 in a sum twice the amount of such recognizance and give the description
6 of real estate owned by him or her of a value above encumbrance equal to
7 the amount of such justification and shall name all other cases pending
8 in which he or she is a surety. No one shall be accepted as surety on
9 recognizance aggregating a sum in excess of his or her equity in the real
10 estate, but such recognizance shall not constitute a lien on the real
11 estate described therein until judgment is entered thereon against such
12 surety. ~~;~~

13 (3) In order to assure compliance with the conditions of release
14 referred to in subsection (1) of this section, the court may order a
15 defendant to be supervised by an approved person or organization or a
16 pretrial services program. A court shall waive any fees or costs
17 associated with the conditions of release or supervision if the court
18 finds the defendant is unable to pay for such costs. Eligibility for
19 release or supervision by such pretrial release program shall under no
20 circumstances be conditioned upon the defendant's ability to pay. While
21 under supervision of an approved entity, and in addition to the
22 conditions of release referred to in subsection (1) of this section, the
23 court may impose the following conditions:

24 (a) Periodic telephone contact by the defendant with the
25 organization or pretrial services program;

26 (b) Periodic office visits by the defendant to the organization or
27 pretrial services program;

28 (c) Periodic visits to the defendant's home by the organization or
29 pretrial services program;

30 (d) Mental health or substance abuse treatment for the defendant,
31 including residential treatment, if the defendant consents or agrees to

1 the treatment;

2 (e) Periodic alcohol or drug testing of the defendant;

3 (f) Domestic violence counseling for the defendant, if the defendant
4 consents or agrees to the counseling;

5 (g) Electronic or global-positioning monitoring of the defendant;
6 and

7 (h) Any other supervision techniques shown by research to increase
8 court appearance and public safety rates for defendants released on bond.

9 (4) The incriminating results of any drug or alcohol test or any
10 information learned by a representative of an organization or program
11 shall not be admissible in any proceeding, except for a proceeding
12 relating to revocation or amendment of conditions of bond release.

13 ~~(4) Impose any other condition deemed reasonably necessary to assure~~
14 ~~appearances as required, including a condition requiring that the~~
15 ~~defendant return to custody after specified hours.~~

16 Sec. 3. Section 29-901.01, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 29-901.01 In determining which condition or conditions of release
19 shall reasonably assure appearance and deter possible threats to the
20 safety and maintenance of evidence or the safety of victims, witnesses,
21 or other persons in the community, the judge shall, on the basis of
22 available information, consider the defendant's financial ability to pay
23 in setting the amount of bond. The judge may also take into account the
24 nature and circumstances of the offense charged, including any
25 information to indicate that the defendant might engage in additional
26 criminal activity or pose a threat to himself or herself, yet to be
27 collected evidence, alleged victims, potential witnesses, or members of
28 the general public, the defendant's family ties, employment, ~~financial~~
29 ~~resources, character and mental condition,~~ the length of the defendant's
30 residence in the community, the defendant's record of criminal
31 convictions, and the defendant's record of appearances at court

1 proceedings or of flight to avoid prosecution or of failure to appear at
2 court proceedings.

3 Sec. 4. Section 29-1823, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 29-1823 (1) If at any time prior to trial it appears that the
6 accused has become mentally incompetent to stand trial, such disability
7 may be called to the attention of the district or county court by the
8 county attorney or city attorney, by the accused, or by any person for
9 the accused. The judge of the district or county court of the county
10 where the accused is to be tried shall have the authority to determine
11 whether or not the accused is competent to stand trial. The ~~district~~
12 judge may also cause such medical, psychiatric, or psychological
13 examination of the accused to be made as he or she deems warranted and
14 hold such hearing as he or she deems necessary. The cost of the
15 examination, when ordered by the court, shall be the expense of the
16 county in which the crime is charged. The ~~district~~ judge may allow any
17 physician, psychiatrist, or psychologist a reasonable fee for his or her
18 services, which amount, when determined by the ~~district~~ judge, shall be
19 certified to the county board which shall cause payment to be made.
20 Should the ~~district~~ judge determine after a hearing that the accused is
21 mentally incompetent to stand trial and that there is a substantial
22 probability that the accused will become competent within the foreseeable
23 future, the ~~district~~ judge shall order the accused to be committed to a
24 state hospital for the mentally ill or some other appropriate state-owned
25 or state-operated facility for appropriate treatment until such time as
26 the disability may be removed.

27 (2) Within six months after the commencement of the treatment
28 ordered by the district or county court, and every six months thereafter
29 until either the disability is removed or other disposition of the
30 accused has been made, the court shall hold a hearing to determine (a)
31 whether the accused is competent to stand trial or (b) whether or not

1 there is a substantial probability that the accused will become competent
2 within the foreseeable future.

3 (3) If it is determined that there is not a substantial probability
4 that the accused will become competent within the foreseeable future,
5 then the state shall either (a) commence the applicable civil commitment
6 proceeding that would be required to commit any other person for an
7 indefinite period of time or (b) release the accused. If during the
8 period of time between the six-month review hearings set forth in
9 subsection (2) of this section it is the opinion of the Department of
10 Health and Human Services that the accused is competent to stand trial,
11 the department shall file a report outlining its opinion with the court,
12 and within twenty-one days after such report being filed, the court shall
13 hold a hearing to determine whether or not the accused is competent to
14 stand trial. The state shall pay the cost of maintenance and care of the
15 accused during the period of time ordered by the court for treatment to
16 remove the disability.

17 Sec. 5. Section 29-2206, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 29-2206 (1)(a) {1} In all cases in which courts or magistrates have
20 now or may hereafter have the power to punish offenses, either in whole
21 or in part, by requiring the offender to pay fines or costs, or both,
22 such courts or magistrates may make it a part of the sentence that the
23 party stand committed and be imprisoned in the jail of the proper county
24 until the fines or costs are paid or secured to be paid or the offender
25 is otherwise discharged according to law if the court or magistrate
26 determines that the offender has the financial ability to pay such fines
27 or costs. The court or magistrate may make such determination at the
28 sentencing hearing or at a separate hearing prior to sentencing. A
29 separate hearing shall not be required. In making such determination, the
30 court or magistrate may consider the information or evidence adduced in
31 an earlier proceeding pursuant to section 29-3902, 29-3903, 29-3906, or

1 29-3916. At any such hearing, the offender shall have the opportunity to
2 present information as to his or her income, assets, debts, or other
3 matters affecting his or her financial ability to pay. Following such
4 hearing and prior to imposing sentence, the court or magistrate shall
5 determine the offender's financial ability to pay the fines or costs,
6 including his or her financial ability to pay in installments under
7 subsection (2) of this section.

8 (b) If the court or magistrate determines that the offender is
9 financially able to pay the fines or costs and the offender refuses to
10 pay, the court or magistrate may:

11 (i) Make it a part of the sentence that the offender stand committed
12 and be imprisoned in the jail of the proper county until the fines or
13 costs are paid or secured to be paid or the offender is otherwise
14 discharged according to law; or

15 (ii) Order the offender, in lieu of paying such fines or costs, to
16 complete community service for a specified number of hours pursuant to
17 sections 29-2277 to 29-2279.

18 (c) If the court or magistrate determines that the offender is
19 financially unable to pay the fines or costs, the court or magistrate:

20 (i) Shall either:

21 (A) Impose a sentence without such fines or costs; or

22 (B) Enter an order pursuant to subdivision (1)(d) of this section
23 discharging the offender of such fines or costs; and

24 (ii) May order, as a term of the offender's sentence or as a
25 condition of probation, that he or she complete community service for a
26 specified number of hours pursuant to sections 29-2277 to 29-2279.

27 (d) An order discharging the offender of any fines or costs shall be
28 set forth in or accompanied by a judgment entry. Such order shall operate
29 as a complete release of such fines or costs.

30 (2) ~~If Notwithstanding subsection (1) of this section, when any~~
31 ~~offender demonstrates to the court or magistrate determines, pursuant to~~

1 subsection (1) of this section, that an offender he or she is financially
2 unable to pay such fines or costs in one lump sum but is financially
3 capable of paying in installments, the court or magistrate shall make
4 arrangements suitable to the court or magistrate and to the offender by
5 which the offender may pay in installments. The court or magistrate shall
6 enter an order specifying the terms of such arrangements and the dates on
7 which payments are to be made. When the judgment of conviction provides
8 for the suspension or revocation of a motor vehicle operator's license
9 and the court authorizes the payment of fines or costs by installments,
10 the revocation or suspension shall be effective as of the date of
11 judgment.

12 (3) As an alternative to a lump-sum payment or as an alternative or
13 in conjunction with installment payments, the court or magistrate may
14 deduct fines or costs from a bond posted by the offender to the extent
15 that such bond is not otherwise encumbered by a valid lien, levy,
16 execution, or assignment to counsel of record or the person who posted
17 the bond.

18 Sec. 6. Section 29-2206.01, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 29-2206.01 Installments provided for in section 29-2206 shall be
21 paid pursuant to the order entered by the court or magistrate. Any person
22 who fails to comply with the terms of such order shall be liable for
23 punishment for contempt, unless such person ~~he~~ has the leave of the court
24 or magistrate in regard to such noncompliance or such person requests a
25 hearing pursuant to section 29-2412 and establishes at such hearing that
26 he or she is financially unable to pay.

27 Sec. 7. Section 29-2277, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 29-2277 As used in sections 29-2277 to 29-2279, unless the context
30 otherwise requires:

31 (1) Agency means ~~shall mean~~ any public or governmental unit,

1 institution, division, or agency or any private nonprofit organization
2 which provides services intended to enhance the social welfare or general
3 well-being of the community, which agrees to accept community service
4 from offenders and to supervise and report the progress of such community
5 service to the court or its representative; ~~and~~

6 (2) Community correctional facility or program has the same meaning
7 as in section 47-621; and

8 (3) (2) Community service means shall mean uncompensated labor for
9 an agency to be performed by an offender when the offender is not working
10 or attending school.

11 Sec. 8. Section 29-2278, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 29-2278 An offender may be sentenced to community service (1) as an
14 alternative to a fine, incarceration, or supervised probation, or in lieu
15 of incarceration if he or she fails to pay a fine as ordered, except when
16 the violation of a misdemeanor or felony requires mandatory incarceration
17 or imposition of a fine, (2) as a condition of probation, or (3) in
18 addition to any other sanction. The court or magistrate shall establish
19 the terms and conditions of community service including, but not limited
20 to, a reasonable time limit for completion. The performance or completion
21 of a sentence of community service or an order to complete community
22 service may be supervised or confirmed by a community correctional
23 facility or program or another similar entity, as ordered by the court or
24 magistrate. If an offender fails to perform community service as ordered
25 by the court or magistrate, he or she may be arrested and after a hearing
26 may be resentenced on the original charge, have probation revoked, or be
27 found in contempt of court. No person convicted of an offense involving
28 serious bodily injury or sexual assault shall be eligible for community
29 service.

30 Sec. 9. Section 29-2279, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 29-2279 The length of a community service sentence shall be as
2 follows:

3 (1) Pursuant to section 29-2206, 29-2412, or section 12 of this act,
4 for an infraction, not less than four nor more than twenty hours;

5 (2) For a violation of a city ordinance that is an infraction and
6 not pursuant to section 29-2206, 29-2412, or section 12 of this act, not
7 less than four hours;

8 (3) ~~(1)~~ For a Class IV or Class V misdemeanor, not less than four
9 nor more than eighty hours;

10 (4) ~~(2)~~ For a Class III or Class IIIA misdemeanor, not less than
11 eight nor more than one hundred fifty hours;

12 (5) ~~(3)~~ For a Class I or Class II misdemeanor, not less than twenty
13 nor more than four hundred hours;

14 (6) ~~(4)~~ For a Class IIIA or Class IV felony, not less than two
15 hundred nor more than three thousand hours; and

16 (7) ~~(5)~~ For a Class III felony, not less than four hundred nor more
17 than six thousand hours.

18 Sec. 10. Section 29-2404, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 29-2404 In all cases of misdemeanor in which courts or magistrates
21 shall have power to fine any offender, and shall render judgment for such
22 fine, it shall be lawful to issue executions for the same, with the costs
23 taxed against the offender, to be levied on the goods and chattels of any
24 such offender, and, for want of the same, upon the body of the offender,
25 who shall, following a determination that the offender has the financial
26 ability to pay such fine pursuant to section 29-2412, thereupon be
27 committed to the jail of the proper county until the fine and costs be
28 paid, or secured to be paid, or the offender be otherwise discharged
29 according to law.

30 Sec. 11. Section 29-2412, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 29-2412 (1) Beginning July 1, 2018:

2 (a) Any person arrested and brought into custody on a warrant for
3 failure to pay fines or costs, for failure to appear before a court or
4 magistrate on the due date of such fines or costs, or for failure to
5 comply with the terms of an order pursuant to sections 29-2206 and
6 29-2206.01, shall be entitled to a hearing on the first regularly
7 scheduled court date following the date of arrest. The purpose of such
8 hearing shall be to determine the person's financial ability to pay such
9 fines or costs. At the hearing, the person shall have the opportunity to
10 present information as to his or her income, assets, debts, or other
11 matters affecting his or her financial ability to pay. Following the
12 hearing, the court or magistrate shall determine the person's ability to
13 pay the fines or costs, including his or her financial ability to pay by
14 installment payments as described in section 29-2206;

15 (b) If the court or magistrate determines that the person is
16 financially able to pay the fines or costs and the person refuses to pay,
17 the court or magistrate may:

18 (i) Order the person to be confined in the jail of the proper county
19 until the fines or costs are paid or secured to be paid or the person is
20 otherwise discharged pursuant to subsection (4) of this section; or

21 (ii) Enter an order pursuant to subdivision (1)(d) of this section
22 discharging the person of such fines or costs and order the person to
23 complete community service for a specified number of hours pursuant to
24 sections 29-2277 to 29-2279;

25 (c) If the court or magistrate determines that the person is
26 financially unable to pay the fines or costs, the court or magistrate:

27 (i) Shall either:

28 (A) Enter an order pursuant to subdivision (1)(d) of this section
29 discharging the person of such fines or costs; or

30 (B) If the person is subject to an order to pay installments
31 pursuant to section 29-2206, the court or magistrate shall either enter

1 an order pursuant to subdivision (1)(d) of this section discharging the
2 person of such obligation or make any necessary modifications to the
3 order specifying the terms of the installment payments as justice may
4 require and that will enable the person to pay the fines or costs; and

5 (ii) May order the person to complete community service for a
6 specified number of hours pursuant to sections 29-2277 to 29-2279; and

7 (d) An order discharging the person of fines or costs shall be set
8 forth in or accompanied by a judgment entry. Such order shall operate as
9 a complete release of such fines or costs.

10 (2) (1) Whenever it is made satisfactorily to appear to the district
11 court, or to the county judge of the proper county, after all legal means
12 have been exhausted, that any person who is subject to being or is
13 confined in jail for any fine fines or costs of prosecution for any
14 criminal offense has no estate with which to pay such fine fines or
15 costs, it shall be the duty of such court or judge, on his or her own
16 motion or upon the motion of the person so confined, to discharge such
17 person from further imprisonment for such fine fines or costs, which
18 discharge shall operate as a complete release of such fine fines or
19 costs.

20 (3) (2) Nothing in this section shall authorize any person to be
21 discharged from imprisonment before the expiration of the time for which
22 he or she may be sentenced to be imprisoned, as part of his or her
23 punishment, or when such person shall default on a payment due pursuant
24 to an installment agreement arranged by the court.

25 (4)(a) (3) Any person held in custody for nonpayment of a fine fines
26 or costs or for default on an installment shall be entitled to a credit
27 on the fine fines, costs, or installment of one hundred fifty ninety
28 dollars for each day so held.

29 (b) In no case shall a person held in custody for nonpayment of a
30 fine fines or costs be held in such custody for more days than the
31 maximum number to which he or she could have been sentenced if the

1 penalty set by law includes the possibility of confinement.

2 Sec. 12. (1) A person who has been ordered to pay fines or costs
3 and who has not been arrested or brought into custody as described in
4 subdivision (1)(a) of section 29-2412 but who believes himself or herself
5 to be financially unable to pay such fines or costs may request a hearing
6 to determine such person's financial ability to pay such fines or costs.
7 The hearing shall be scheduled on the first regularly scheduled court
8 date following the date of the request. Pending the hearing, the person
9 shall not be arrested or brought into custody for failure to pay such
10 fines or costs or failure to appear before a court or magistrate on the
11 due date of such fines or costs.

12 (2) At the hearing, the person shall have the opportunity to present
13 information as to his or her income, assets, debts, or other matters
14 affecting his or her financial ability to pay. Following the hearing, the
15 court or magistrate shall determine the person's financial ability to pay
16 the fines or costs, including his or her financial ability to pay in
17 installments as described in section 29-2206.

18 (3) If the court or magistrate determines that the person is
19 financially able to pay the fines or costs and the person refuses to pay,
20 the court or magistrate may:

21 (a) Deny the person's request for relief; or

22 (b) Enter an order pursuant to subsection (5) of this section
23 discharging the person of such fines or costs and order the person to
24 complete community service for a specified number of hours pursuant to
25 sections 29-2277 to 29-2279.

26 (4) If the court or magistrate determines that the person is
27 financially unable to pay the fines or costs, the court or magistrate:

28 (a) Shall either:

29 (i) Enter an order pursuant to subsection (5) of this section
30 discharging the person of such fines or costs; or

31 (ii) If the person is subject to an order to pay installments

1 pursuant to section 29-2206, the court or magistrate shall either enter
2 an order pursuant to subsection (5) of this section discharging the
3 person of such obligation or make any necessary modifications to the
4 order specifying the terms of the installment payments as justice may
5 require and that will enable the person to pay the fines or costs; and

6 (b) May order the person to complete community service for a
7 specified number of hours pursuant to sections 29-2277 to 29-2279.

8 (5) An order discharging the person of fines or costs shall be set
9 forth in or accompanied by a judgment entry. Such order shall operate as
10 a complete release of such fines or costs.

11 Sec. 13. Section 60-4,100, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 60-4,100 ~~(1) The director shall suspend the operator's license of~~
14 ~~any resident of this state:~~

15 (1) Any resident of this state who ~~(a) who~~ has violated a promise to
16 comply with the terms of a traffic citation issued by a law enforcement
17 officer for a moving violation in any jurisdiction outside this state
18 pursuant to the Nonresident Violator Compact of 1977 or in any
19 jurisdiction inside this state shall be subject to having his or her
20 operator's license revoked pursuant to this section. until satisfactory
21 evidence of compliance with the terms of the citation has been furnished
22 to the director; or

23 ~~(b) who has violated a promise to comply with the terms of a traffic~~
24 ~~citation issued by a law enforcement officer for a moving violation in~~
25 ~~any jurisdiction inside this state until satisfactory evidence of~~
26 ~~compliance with the terms of the citation has been furnished to the~~
27 ~~director.~~

28 (2) The court having jurisdiction over the offense for which the
29 citation has been issued shall notify the director of a resident's
30 violation of a promise to comply with the terms of the citation ~~only~~
31 after thirty ~~twenty~~ working days have elapsed from the date of the

1 failure to comply, unless within such thirty working days the resident
2 appears before the clerk of the county court having jurisdiction over the
3 offense to request a hearing pursuant to subsection (3) of this section
4 to establish that such resident lacks the financial ability to pay the
5 citation.

6 (3) A hearing requested under subsection (2) of this section shall
7 be set before the court or magistrate on the first regularly scheduled
8 court date following the request. At the hearing, the resident shall have
9 the opportunity to present information as to his or her income, assets,
10 debts, or other matters affecting his or her financial ability to pay the
11 citation. Following the hearing, the court or magistrate shall determine
12 the resident's financial ability to pay the citation, including his or
13 her financial ability to pay in installments.

14 (4)(a) Except as provided in subdivision (4)(c) of this section, if
15 the court or magistrate determines under subsection (3) of this section
16 that the resident is financially able to pay the citation and the
17 resident refuses to pay, the court or magistrate shall either:

18 (i) Notify the director of the resident's violation of a promise to
19 comply with the terms of the citation; or

20 (ii) Postpone the hearing for a period of no more than one month
21 during which period the court or magistrate may order the resident to
22 complete such hours of community service as the court or magistrate deems
23 appropriate, subject to a total limit of twenty hours. At the end of such
24 period, if the resident has completed such community service to the
25 satisfaction of the court or magistrate, the court or magistrate shall
26 enter an order pursuant to subsection (5) of this section discharging the
27 resident of the obligation to pay such citation. If the resident has not
28 completed such community service to the satisfaction of the court or
29 magistrate, the court or magistrate shall notify the director of the
30 resident's violation of a promise to comply with the terms of the
31 citation. A hearing may only be postponed once under this subdivision.

1 (b) If the court or magistrate determines under subsection (3) of
2 this section that the resident is financially unable to pay the citation,
3 the court or magistrate shall either:

4 (i) Enter an order pursuant to subsection (5) of this section
5 discharging the resident of the obligation to pay such citation;

6 (ii) Postpone the hearing for a period of no more than one month
7 during which period the court or magistrate may order the resident to
8 complete such hours of community service as the court or magistrate deems
9 appropriate, subject to a total limit of twenty hours. At the end of such
10 period, if the resident has completed such community service to the
11 satisfaction of the court or magistrate, the court or magistrate shall
12 enter an order pursuant to subsection (5) of this section discharging the
13 resident of the obligation to pay such citation. If the resident has not
14 completed such community service to the satisfaction of the court or
15 magistrate, the court or magistrate shall notify the director of the
16 resident's violation of a promise to comply with the terms of the
17 citation. A hearing may only be postponed once under this subdivision.

18 (c) If the court or magistrate determines under subsection (3) of
19 this section that the resident is financially able to pay in installments
20 and the resident agrees to make such payments, the court or magistrate
21 shall make arrangements suitable to the court or magistrate and to the
22 resident by which the resident may pay in installments. The court or
23 magistrate shall enter an order specifying the terms of such arrangements
24 and the dates on which payments are to be made. If the resident fails to
25 pay an installment, the court or magistrate shall notify the director of
26 the resident's violation of a promise to comply with the terms of the
27 citation unless the resident requests a hearing from the clerk of the
28 county court on or before ten working days after such installment was
29 due. At the hearing, the resident shall show good cause for such failure,
30 including financial inability to pay. If, following such hearing, the
31 court or magistrate finds:

1 (i) That the resident has not demonstrated good cause for such
2 failure, the court or magistrate shall either notify the director of the
3 resident's violation of a promise to comply with the terms of the
4 citation or postpone the hearing and order community service pursuant to
5 subdivision (4)(a)(ii) of this section;

6 (ii) That the resident remains financially able to pay but has
7 demonstrated good cause for such missed installment, the court or
8 magistrate shall make any necessary modifications to the order specifying
9 the terms of the installment payments; or

10 (iii) That the resident has become financially unable to pay, the
11 court or magistrate shall enter an order discharging the resident of the
12 obligation to pay such citation pursuant to subsection (5) of this
13 section.

14 (5) An order discharging the resident of the obligation to pay a
15 traffic citation shall be set forth in or accompanied by a judgment
16 entry. Such order shall operate as a complete release of such payment
17 obligation.

18 (6) (3) Upon notice to the director that a resident has violated a
19 promise to comply with the terms of a traffic citation as provided in
20 this section, the director shall send not suspend such resident's license
21 until he or she has sent written notice to such resident by regular
22 United States mail to the resident's person's last-known mailing address
23 or, if such address is unknown, to the last-known residence address of
24 such resident person as shown by the records of the department Department
25 of Motor Vehicles. Such notice shall state that such resident has twenty
26 working days after the postmark date of the notice to
27 show the director that the resident has complied with the terms of such
28 traffic citation

29 ~~—No suspension shall be entered by the director if the resident complies~~
30 ~~with the terms of a citation during such twenty working days.~~

31 If the resident fails to show the director that he or she has complied

1 with the terms of such traffic citation ~~comply~~ on or before twenty
2 working days after the postmark date of the notice, the director shall
3 summarily suspend the operator's license and issue an order. The order
4 shall be sent by regular United States mail to the resident's person's
5 last-known mailing address as shown by the records of the department. The
6 suspension shall continue until the resident has furnished the director
7 with satisfactory evidence of compliance with the terms of the citation.

8 (7) ~~(4)~~ The reinstatement fee required under section 60-4,100.01
9 shall be waived if five years have passed since issuance of the license
10 suspension order under this section.

11 (8) The performance or completion of an order to complete community
12 service under this section may be supervised or confirmed by a community
13 correctional facility or program or another similar entity as ordered by
14 the court or magistrate.

15 (9) For purposes of this section:

16 (a) Agency means any public or governmental unit, institution,
17 division, or agency or any private nonprofit organization which provides
18 services intended to enhance the social welfare or general well-being of
19 the community, which agrees to accept community service from residents
20 under this section and to supervise and report the progress of such
21 community service to the court or magistrate;

22 (b) Community correctional facility or program has the same meaning
23 as in section 47-621; and

24 (c) Community service means uncompensated labor for an agency to be
25 performed by a resident when the resident is not working or attending
26 school.

27 Sec. 14. Section 60-692, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 60-692 When any person fails within thirty working ~~ten~~ days to
30 satisfy any judgment imposed for any traffic infraction, it shall be the
31 duty of the clerk of the court in which such judgment is rendered within

1 this state to transmit a copy of such judgment to the Department of Motor
2 Vehicles as provided in section 60-4,100 , ~~immediately after the~~
3 ~~expiration of such ten-day period, a copy of such judgment.~~

4 Sec. 15. Sections 5, 6, 7, 8, 9, 10, 12, 13, 14, and 17 of this act
5 become operative on July 1, 2018. The other sections of this act become
6 operative on their effective date.

7 Sec. 16. Original sections 25-1577, 29-901, 29-901.01, 29-1823, and
8 29-2412, Reissue Revised Statutes of Nebraska, are repealed.

9 Sec. 17. Original sections 29-2206, 29-2206.01, 29-2277, 29-2278,
10 29-2279, 29-2404, and 60-692, Reissue Revised Statutes of Nebraska, and
11 section 60-4,100, Revised Statutes Cumulative Supplement, 2016, are
12 repealed.