

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 259

FINAL READING

Introduced by Hansen, 26; Chambers, 11.

Read first time January 11, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to courts; to amend sections 25-1577, 29-901,
2 29-901.01, 29-1823, 29-2206, 29-2206.01, 29-2277, 29-2278, 29-2279,
3 29-2404, 29-2412, and 60-692, Reissue Revised Statutes of Nebraska,
4 and section 60-4,100, Revised Statutes Cumulative Supplement, 2016;
5 to change provisions relating to conditions of and ability to post
6 bail, debt collection procedures, pretrial release, competency in
7 criminal defendants, and financial ability to pay fines or costs or
8 a traffic citation; to provide for hearings, community service, and
9 discharge as prescribed; to change provisions relating to procedures
10 for suspending an operator's license; to harmonize provisions; to
11 provide operative dates; and to repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

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

3 25-1577 (1) Except as provided in subsection (2) of this section,
4 if If any person, party, or witness disobeys ~~disobey~~ an order of the
5 judge or referee, duly served, such person, party, or witness may be
6 punished by the judge as for contempt, and if a party, he or she shall be
7 committed to the jail of the county wherein the proceedings are pending
8 until he or she complies ~~shall comply~~ with such order; or, in case he or
9 she has, since the service of such order upon him or her, rendered it
10 impossible for him or her to comply therewith, until he or she has
11 restored to the opposite party what such party has lost by such
12 disobedience, or until discharged by due course of law.

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

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

22 29-901 (1) Any bailable defendant shall be ordered released from
23 custody pending judgment on his or her personal recognizance unless the
24 judge determines in the exercise of his or her discretion that such a
25 release will not reasonably assure the appearance of the defendant as
26 required or that such a release could jeopardize the safety and
27 maintenance of evidence or the safety of victims, witnesses, or other
28 persons in the community. The court shall consider all methods of bond
29 and conditions of release to avoid pretrial incarceration. If ~~When such~~
30 ~~determination is made,~~ the judge determines that the defendant shall not
31 be released on his or her personal recognizance, the judge shall consider

1 the defendant's financial ability to pay a bond and shall impose the
2 least onerous of the following conditions that will reasonably assure the
3 defendant's appearance or that will eliminate or minimize the risk of
4 harm to others or the public at large ~~either in lieu of or in addition to~~
5 ~~such a release impose the first of the following conditions of release~~
6 ~~which will reasonably assure the appearance of the person for trial or,~~
7 ~~if no single condition gives that assurance, any combination of the~~
8 ~~following conditions:~~

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

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

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

15 (i) ~~(a)~~ The execution of an appearance bond in a specified amount
16 and the deposit with the clerk of the court in cash of a sum not to
17 exceed ten percent of the amount of the bond, ninety percent of such
18 deposit to be returned to the defendant upon the performance of the
19 appearance or appearances and ten percent to be retained by the clerk as
20 appearance bond costs, except that when no charge is subsequently filed
21 against the defendant or if the charge or charges which are filed are
22 dropped before the appearance of the defendant which the bond was to
23 assure, the entire deposit shall be returned to the defendant. If the
24 bond is subsequently reduced by the court after the original bond has
25 been posted, no additional appearance bond costs shall be retained by the
26 clerk. The difference in the appearance bond costs between the original
27 bond and the reduced bond shall be returned to the defendant. In no event
28 shall the deposit be less than twenty-five dollars. Whenever jurisdiction
29 is transferred from a court requiring an appearance bond under this
30 subdivision to another state court, the transferring court shall transfer
31 the ninety percent of the deposit remaining after the appearance bond

1 costs have been retained. No further costs shall be levied or collected
2 by the court acquiring jurisdiction; or

3 (ii) ~~(b)~~ The execution of a bail bond with such surety or sureties
4 as shall seem proper to the judge or, in lieu of such surety or sureties,
5 at the option of such person, a cash deposit of such sum so fixed,
6 conditioned for his or her appearance before the proper court, to answer
7 the offense with which he or she may be charged and to appear at such
8 times thereafter as may be ordered by the proper court. The cash deposit
9 shall be returned to the defendant upon the performance of all
10 appearances.

11 (2) If the amount of bail is deemed insufficient by the court before
12 which the offense is pending, the court may order an increase of such
13 bail and the defendant shall provide the additional undertaking, written
14 or cash, to secure his or her release. All recognizances in criminal
15 cases shall be in writing and be continuous from term to term until final
16 judgment of the court in such cases and shall also extend, when the court
17 has suspended execution of sentence for a limited time, as provided in
18 section 29-2202, or, when the court has suspended execution of sentence
19 to enable the defendant to apply for a writ of error to the Supreme Court
20 or Court of Appeals, as provided in section 29-2301, until the period of
21 suspension has expired. When two or more indictments or informations are
22 returned against the same person at the same term of court, the
23 recognizance given may be made to include all offenses charged therein.
24 Each surety on such recognizance shall be required to justify under oath
25 in a sum twice the amount of such recognizance and give the description
26 of real estate owned by him or her of a value above encumbrance equal to
27 the amount of such justification and shall name all other cases pending
28 in which he or she is a surety. No one shall be accepted as surety on
29 recognizance aggregating a sum in excess of his or her equity in the real
30 estate, but such recognizance shall not constitute a lien on the real
31 estate described therein until judgment is entered thereon against such

1 surety. ~~if~~

2 (3) In order to assure compliance with the conditions of release
3 referred to in subsection (1) of this section, the court may order a
4 defendant to be supervised by a person, an organization, or a pretrial
5 services program approved by the county board. A court shall waive any
6 fees or costs associated with the conditions of release or supervision if
7 the court finds the defendant is unable to pay for such costs.
8 Eligibility for release or supervision by such pretrial release program
9 shall under no circumstances be conditioned upon the defendant's ability
10 to pay. While under supervision of an approved entity, and in addition to
11 the conditions of release referred to in subsection (1) of this section,
12 the court may impose the following conditions:

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

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

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

19 (d) Mental health or substance abuse treatment for the defendant,
20 including residential treatment, if the defendant consents or agrees to
21 the treatment;

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

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

25 (g) Electronic or global-positioning monitoring of the defendant;
26 and

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

29 (4) The incriminating results of any drug or alcohol test or any
30 information learned by a representative of an organization or program
31 shall not be admissible in any proceeding, except for a proceeding

1 relating to revocation or amendment of conditions of bond release.

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

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

7 29-901.01 In determining which condition or conditions of release
8 shall reasonably assure appearance and deter possible threats to the
9 safety and maintenance of evidence or the safety of victims, witnesses,
10 or other persons in the community, the judge shall, on the basis of
11 available information, consider the defendant's financial ability to pay
12 in setting the amount of bond. The judge may also take into account the
13 nature and circumstances of the offense charged, including any
14 information to indicate that the defendant might engage in additional
15 criminal activity or pose a threat to himself or herself, yet to be
16 collected evidence, alleged victims, potential witnesses, or members of
17 the general public, the defendant's family ties, employment, ~~financial~~
18 ~~resources, character and mental condition,~~ the length of the defendant's
19 residence in the community, the defendant's record of criminal
20 convictions, and the defendant's record of appearances at court
21 proceedings or of flight to avoid prosecution or of failure to appear at
22 court proceedings.

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

25 29-1823 (1) If at any time prior to trial it appears that the
26 accused has become mentally incompetent to stand trial, such disability
27 may be called to the attention of the district or county court by the
28 county attorney or city attorney, by the accused, or by any person for
29 the accused. The judge of the district or county court of the county
30 where the accused is to be tried shall have the authority to determine
31 whether or not the accused is competent to stand trial. The ~~district~~

1 judge may also cause such medical, psychiatric, or psychological
2 examination of the accused to be made as he or she deems warranted and
3 hold such hearing as he or she deems necessary. The cost of the
4 examination, when ordered by the court, shall be the expense of the
5 county in which the crime is charged. The ~~district~~ judge may allow any
6 physician, psychiatrist, or psychologist a reasonable fee for his or her
7 services, which amount, when determined by the ~~district~~ judge, shall be
8 certified to the county board which shall cause payment to be made.
9 Should the ~~district~~ judge determine after a hearing that the accused is
10 mentally incompetent to stand trial and that there is a substantial
11 probability that the accused will become competent within the foreseeable
12 future, the ~~district~~ judge shall order the accused to be committed to a
13 state hospital for the mentally ill or some other appropriate state-owned
14 or state-operated facility for appropriate treatment until such time as
15 the disability may be removed.

16 (2) Within six months after the commencement of the treatment
17 ordered by the district or county court, and every six months thereafter
18 until either the disability is removed or other disposition of the
19 accused has been made, the court shall hold a hearing to determine (a)
20 whether the accused is competent to stand trial or (b) whether or not
21 there is a substantial probability that the accused will become competent
22 within the foreseeable future.

23 (3) If it is determined that there is not a substantial probability
24 that the accused will become competent within the foreseeable future,
25 then the state shall either (a) commence the applicable civil commitment
26 proceeding that would be required to commit any other person for an
27 indefinite period of time or (b) release the accused. If during the
28 period of time between the six-month review hearings set forth in
29 subsection (2) of this section it is the opinion of the Department of
30 Health and Human Services that the accused is competent to stand trial,
31 the department shall file a report outlining its opinion with the court,

1 and within twenty-one days after such report being filed, the court shall
2 hold a hearing to determine whether or not the accused is competent to
3 stand trial. The state shall pay the cost of maintenance and care of the
4 accused during the period of time ordered by the court for treatment to
5 remove the disability.

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

8 29-2206 (1)(a) ~~(1)~~ In all cases in which courts or magistrates have
9 now or may hereafter have the power to punish offenses, either in whole
10 or in part, by requiring the offender to pay fines or costs, or both,
11 such courts or magistrates may make it a part of the sentence that the
12 party stand committed and be imprisoned in the jail of the proper county
13 until the fines or costs are paid or secured to be paid or the offender
14 is otherwise discharged according to law if the court or magistrate
15 determines that the offender has the financial ability to pay such fines
16 or costs. The court or magistrate may make such determination at the
17 sentencing hearing or at a separate hearing prior to sentencing. A
18 separate hearing shall not be required. In making such determination, the
19 court or magistrate may consider the information or evidence adduced in
20 an earlier proceeding pursuant to section 29-3902, 29-3903, 29-3906, or
21 29-3916. At any such hearing, the offender shall have the opportunity to
22 present information as to his or her income, assets, debts, or other
23 matters affecting his or her financial ability to pay. Following such
24 hearing and prior to imposing sentence, the court or magistrate shall
25 determine the offender's financial ability to pay the fines or costs,
26 including his or her financial ability to pay in installments under
27 subsection (2) of this section.

28 (b) If the court or magistrate determines that the offender is
29 financially able to pay the fines or costs and the offender refuses to
30 pay, the court or magistrate may:

31 (i) Make it a part of the sentence that the offender stand committed

1 and be imprisoned in the jail of the proper county until the fines or
2 costs are paid or secured to be paid or the offender is otherwise
3 discharged according to law; or

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

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

9 (i) Shall either:

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

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

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

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

19 ~~(2) If Notwithstanding subsection (1) of this section, when any~~
20 ~~offender demonstrates to the court or magistrate determines, pursuant to~~
21 ~~subsection (1) of this section, that an offender he or she is financially~~
22 ~~unable to pay such fines or costs in one lump sum but is financially~~
23 ~~capable of paying in installments, the court or magistrate shall make~~
24 ~~arrangements suitable to the court or magistrate and to the offender by~~
25 ~~which the offender may pay in installments. The court or magistrate shall~~
26 ~~enter an order specifying the terms of such arrangements and the dates on~~
27 ~~which payments are to be made. When the judgment of conviction provides~~
28 ~~for the suspension or revocation of a motor vehicle operator's license~~
29 ~~and the court authorizes the payment of fines or costs by installments,~~
30 ~~the revocation or suspension shall be effective as of the date of~~
31 ~~judgment.~~

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

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

9 29-2206.01 Installments provided for in section 29-2206 shall be
10 paid pursuant to the order entered by the court or magistrate. Any person
11 who fails to comply with the terms of such order shall be liable for
12 punishment for contempt, unless such person ~~he~~ has the leave of the court
13 or magistrate in regard to such noncompliance or such person requests a
14 hearing pursuant to section 29-2412 and establishes at such hearing that
15 he or she is financially unable to pay.

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

18 29-2277 As used in sections 29-2277 to 29-2279, unless the context
19 otherwise requires:

20 (1) Agency means ~~shall mean~~ any public or governmental unit,
21 institution, division, or agency or any private nonprofit organization
22 which provides services intended to enhance the social welfare or general
23 well-being of the community, which agrees to accept community service
24 from offenders and to supervise and report the progress of such community
25 service to the court or its representative; ~~and~~

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

28 (3) {2} Community service means shall mean uncompensated labor for
29 an agency to be performed by an offender when the offender is not working
30 or attending school.

31 Sec. 8. Section 29-2278, Reissue Revised Statutes of Nebraska, is

1 amended to read:

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

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

21 29-2279 The length of a community service sentence shall be as
22 follows:

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

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

28 (3) ~~(1)~~ For a Class IV or Class V misdemeanor, not less than four
29 nor more than eighty hours;

30 (4) ~~(2)~~ For a Class III or Class IIIA misdemeanor, not less than
31 eight nor more than one hundred fifty hours;

1 (5) ~~(3)~~ For a Class I or Class II misdemeanor, not less than twenty
2 nor more than four hundred hours;

3 (6) ~~(4)~~ For a Class IIIA or Class IV felony, not less than two
4 hundred nor more than three thousand hours; and

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

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

9 29-2404 In all cases of misdemeanor in which courts or magistrates
10 shall have power to fine any offender, and shall render judgment for such
11 fine, it shall be lawful to issue executions for the same, with the costs
12 taxed against the offender, to be levied on the goods and chattels of any
13 such offender, and, for want of the same, upon the body of the offender,
14 who shall, following a determination that the offender has the financial
15 ability to pay such fine pursuant to section 29-2412, thereupon be
16 committed to the jail of the proper county until the fine and costs be
17 paid, or secured to be paid, or the offender be otherwise discharged
18 according to law.

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

21 29-2412 (1) Beginning July 1, 2019:

22 (a) Any person arrested and brought into custody on a warrant for
23 failure to pay fines or costs, for failure to appear before a court or
24 magistrate on the due date of such fines or costs, or for failure to
25 comply with the terms of an order pursuant to sections 29-2206 and
26 29-2206.01, shall be entitled to a hearing on the first regularly
27 scheduled court date following the date of arrest. The purpose of such
28 hearing shall be to determine the person's financial ability to pay such
29 fines or costs. At the hearing, the person shall have the opportunity to
30 present information as to his or her income, assets, debts, or other
31 matters affecting his or her financial ability to pay. Following the

1 hearing, the court or magistrate shall determine the person's ability to
2 pay the fines or costs, including his or her financial ability to pay by
3 installment payments as described in section 29-2206;

4 (b) If the court or magistrate determines that the person is
5 financially able to pay the fines or costs and the person refuses to pay,
6 the court or magistrate may:

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

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

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

16 (i) Shall either:

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

19 (B) If the person is subject to an order to pay installments
20 pursuant to section 29-2206, the court or magistrate shall either enter
21 an order pursuant to subdivision (1)(d) of this section discharging the
22 person of such obligation or make any necessary modifications to the
23 order specifying the terms of the installment payments as justice may
24 require and that will enable the person to pay the fines or costs; and

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

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

30 (2) ~~(1)~~ Whenever it is made satisfactorily to appear to the district
31 court, or to the county judge of the proper county, after all legal means

1 have been exhausted, that any person who ~~is subject to being~~ or is
2 confined in jail for any ~~fine~~ finer or costs of prosecution for any
3 criminal offense has no estate with which to pay such ~~fine~~ finer or
4 costs, it shall be the duty of such court or judge, on his or her own
5 motion or upon the motion of the person so confined, to discharge such
6 person from further imprisonment for such ~~fine~~ finer or costs, which
7 discharge shall operate as a complete release of such ~~fine~~ finer or
8 costs.

9 (3) ~~(2)~~ Nothing in this section shall authorize any person to be
10 discharged from imprisonment before the expiration of the time for which
11 he or she may be sentenced to be imprisoned, as part of his or her
12 punishment, ~~or when such person shall default on a payment due pursuant~~
13 ~~to an installment agreement arranged by the court.~~

14 (4)(a) ~~(3)~~ Any person held in custody for nonpayment of a ~~fine~~ finer
15 or costs or for default on an installment shall be entitled to a credit
16 on the ~~fine~~ finer, costs, or installment of one hundred fifty ninety
17 dollars for each day so held.

18 (b) In no case shall a person held in custody for nonpayment of a
19 ~~fine~~ finer or costs be held in such custody for more days than the
20 maximum number to which he or she could have been sentenced if the
21 penalty set by law includes the possibility of confinement.

22 Sec. 12. (1) A person who has been ordered to pay fines or costs
23 and who has not been arrested or brought into custody as described in
24 subdivision (1)(a) of section 29-2412 but who believes himself or herself
25 to be financially unable to pay such fines or costs may request a hearing
26 to determine such person's financial ability to pay such fines or costs.
27 The hearing shall be scheduled on the first regularly scheduled court
28 date following the date of the request. Pending the hearing, the person
29 shall not be arrested or brought into custody for failure to pay such
30 fines or costs or failure to appear before a court or magistrate on the
31 due date of such fines or costs.

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

7 (3) If the court or magistrate determines that the person is
8 financially able to pay the fines or costs and the person refuses to pay,
9 the court or magistrate may:

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

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

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

17 (a) Shall either:

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

20 (ii) If the person is subject to an order to pay installments
21 pursuant to section 29-2206, the court or magistrate shall either enter
22 an order pursuant to subsection (5) of this section discharging the
23 person of such obligation or make any necessary modifications to the
24 order specifying the terms of the installment payments as justice may
25 require and that will enable the person to pay the fines or costs; and

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

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

31 Sec. 13. Section 60-4,100, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2 60-4,100 ~~(1) The director shall suspend the operator's license of~~
3 ~~any resident of this state:~~

4 (1) Any resident of this state who ~~(a) who~~ has violated a promise to
5 comply with the terms of a traffic citation issued by a law enforcement
6 officer for a moving violation in any jurisdiction outside this state
7 pursuant to the Nonresident Violator Compact of 1977 or in any
8 jurisdiction inside this state shall be subject to having his or her
9 operator's license suspended pursuant to this section. ~~until satisfactory~~
10 ~~evidence of compliance with the terms of the citation has been furnished~~
11 ~~to the director; or~~

12 ~~(b) who has violated a promise to comply with the terms of a traffic~~
13 ~~citation issued by a law enforcement officer for a moving violation in~~
14 ~~any jurisdiction inside this state until satisfactory evidence of~~
15 ~~compliance with the terms of the citation has been furnished to the~~
16 ~~director.~~

17 (2) The court having jurisdiction over the offense for which the
18 citation has been issued shall notify the director of a resident's
19 violation of a promise to comply with the terms of the citation ~~only~~
20 after thirty ~~twenty~~ working days have elapsed from the date of the
21 failure to comply, unless within such thirty working days the resident
22 appears before the clerk of the county court having jurisdiction over the
23 offense to request a hearing pursuant to subsection (3) of this section
24 to establish that such resident lacks the financial ability to pay the
25 citation.

26 (3) A hearing requested under subsection (2) of this section shall
27 be set before the court or magistrate on the first regularly scheduled
28 court date following the request. At the hearing, the resident shall have
29 the opportunity to present information as to his or her income, assets,
30 debts, or other matters affecting his or her financial ability to pay the
31 citation. Following the hearing, the court or magistrate shall determine

1 the resident's financial ability to pay the citation, including his or
2 her financial ability to pay in installments.

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

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

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

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

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

27 (ii) Postpone the hearing for a period of no more than one month
28 during which period the court or magistrate may order the resident to
29 complete such hours of community service as the court or magistrate deems
30 appropriate, subject to a total limit of twenty hours. At the end of such
31 period, if the resident has completed such community service to the

1 satisfaction of the court or magistrate, the court or magistrate shall
2 enter an order pursuant to subsection (5) of this section discharging the
3 resident of the obligation to pay such citation and shall notify the
4 director. If the resident has not completed such community service to the
5 satisfaction of the court or magistrate, the court or magistrate shall
6 notify the director of the resident's violation of a promise to comply
7 with the terms of the citation. A hearing may only be postponed once
8 under this subdivision.

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

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

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

1 (iii) That the resident has become financially unable to pay, the
2 court or magistrate shall enter an order pursuant to subsection (5) of
3 this section discharging the resident of the obligation to pay such
4 citation and shall notify the director.

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

9 (6) (3) Upon notice to the director that a resident has violated a
10 promise to comply with the terms of a traffic citation as provided in
11 this section, the director shall send ~~not suspend such resident's license~~
12 ~~until he or she has sent~~ written notice to such resident by regular
13 United States mail to the resident's ~~person's~~ last-known mailing address
14 or, if such address is unknown, to the last-known residence address of
15 such resident ~~person~~ as shown by the records of the department ~~Department~~
16 ~~of Motor Vehicles~~. Such notice shall state that such resident has twenty
17 working days after the date of the notice to
18 show the director that the resident has complied with the terms of such
19 traffic citation

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

22 If the resident fails to show the director that he or she has complied
23 with the terms of such traffic citation ~~comply~~ on or before twenty
24 working days after the date of the notice, the director shall summarily
25 suspend the operator's license and issue an order. The order shall be
26 sent by regular United States mail to the resident's ~~person's~~ last-known
27 mailing address as shown by the records of the department. The suspension
28 shall continue until the resident has furnished the director with
29 satisfactory evidence of compliance with the terms of the citation.

30 (7) (4) The reinstatement fee required under section 60-4,100.01
31 shall be waived if five years have passed since issuance of the license

1 suspension order under this section.

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

6 (9) For purposes of this section:

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

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

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

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

20 60-692 When any person fails within thirty working ~~ten~~ days to
21 satisfy any judgment imposed for any traffic infraction, it shall be the
22 duty of the clerk of the court in which such judgment is rendered within
23 this state to transmit a copy of such judgment to the Department of Motor
24 Vehicles as provided in section 60-4,100 , ~~immediately after the~~
25 ~~expiration of such ten-day period,~~ a copy of such judgment.

26 Sec. 15. Sections 5, 6, 7, 8, 9, 10, 12, 13, 14, and 17 of this act
27 become operative on July 1, 2019. The other sections of this act become
28 operative on their effective date.

29 Sec. 16. Original sections 25-1577, 29-901, 29-901.01, 29-1823, and
30 29-2412, Reissue Revised Statutes of Nebraska, are repealed.

31 Sec. 17. Original sections 29-2206, 29-2206.01, 29-2277, 29-2278,

1 29-2279, 29-2404, and 60-692, Reissue Revised Statutes of Nebraska, and
2 section 60-4,100, Revised Statutes Cumulative Supplement, 2016, are
3 repealed.