

LEGISLATIVE BILL 259

Approved by the Governor May 12, 2017

Introduced by Hansen, 26; Chambers, 11.

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

Be it enacted by the people of the State of Nebraska,

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

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

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

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

29-901 (1) Any bailable defendant shall be ordered released from custody pending judgment on his or her personal recognizance unless the judge determines in the exercise of his or her discretion that such a release will not reasonably assure the appearance of the defendant as required or that such a release could jeopardize the safety and maintenance of evidence or the safety of victims, witnesses, or other persons in the community. The court shall consider all methods of bond and conditions of release to avoid pretrial incarceration. If when such determination is made, the judge determines that the defendant shall not be released on his or her personal recognizance, the judge shall consider the defendant's financial ability to pay a bond and shall impose the least onerous of the following conditions that will reasonably assure the defendant's appearance or that will eliminate or minimize the risk of harm to others or the public at large either in lieu of or in addition to such a release impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

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

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

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

(i) (a) The execution of an appearance bond in a specified amount and the deposit with the clerk of the court in cash of a sum not to exceed ten percent of the amount of the bond, ninety percent of such deposit to be returned to the defendant upon the performance of the appearance or appearances and ten percent to be retained by the clerk as appearance bond costs, except that when no charge is subsequently filed against the defendant or if the charge or charges which are filed are dropped before the appearance of the defendant which the bond was to assure, the entire deposit shall be returned to the defendant. If the bond is subsequently reduced by the court after the original bond has been posted, no additional appearance bond costs shall be retained by the clerk. The difference in the appearance bond costs between the original bond and the reduced bond shall be returned to the defendant. In no event shall the deposit be less than twenty-five dollars. Whenever jurisdiction is transferred from a court requiring an appearance bond under this subdivision to another state court, the transferring court shall transfer the ninety percent of the deposit remaining after the appearance bond costs have been retained. No further costs shall be levied or collected by the court acquiring jurisdiction; or

(ii) (b) The execution of a bail bond with such surety or sureties as

shall seem proper to the judge or, in lieu of such surety or sureties, at the option of such person, a cash deposit of such sum so fixed, conditioned for his or her appearance before the proper court, to answer the offense with which he or she may be charged and to appear at such times thereafter as may be ordered by the proper court. The cash deposit shall be returned to the defendant upon the performance of all appearances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Shall either:

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

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

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

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

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

costs by installments, the revocation or suspension shall be effective as of the date of judgment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Any person arrested and brought into custody on a warrant for failure to pay fines or costs, for failure to appear before a court or magistrate on

the due date of such fines or costs, or for failure to comply with the terms of an order pursuant to sections 29-2206 and 29-2206.01, shall be entitled to a hearing on the first regularly scheduled court date following the date of arrest. The purpose of such hearing shall be to determine the person's financial ability to pay such fines or costs. At the hearing, the person shall have the opportunity to present information as to his or her income, assets, debts, or other matters affecting his or her financial ability to pay. Following the hearing, the court or magistrate shall determine the person's ability to pay the fines or costs, including his or her financial ability to pay by installment payments as described in section 29-2206;

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

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

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

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

(i) Shall either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Shall either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(c) If the court or magistrate determines under subsection (3) of this section that the resident is financially able to pay in installments and the resident agrees to make such payments, the court or magistrate shall make~~

arrangements suitable to the court or magistrate and to the resident by which the resident may pay in installments. The court or magistrate shall enter an order specifying the terms of such arrangements and the dates on which payments are to be made. If the resident fails to pay an installment, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation unless the resident requests a hearing from the clerk of the county court on or before ten working days after such installment was due. At the hearing, the resident shall show good cause for such failure, including financial inability to pay. If, following such hearing, the court or magistrate finds:

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

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

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

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

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

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

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

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

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

(9) For purposes of this section:

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

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

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

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

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

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

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

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