

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 881

FINAL READING

Introduced by Hansen, M., 26.

Read first time January 09, 2020

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal and civil procedure; to amend
2 sections 27-1103, 28-713.01, and 29-1406, Reissue Revised Statutes
3 of Nebraska, sections 29-901, 29-1407.01, 29-1822, 29-2004, 29-2005,
4 29-2206, 29-2264, and 29-3005, Revised Statutes Cumulative
5 Supplement, 2018, and sections 27-404, 27-413, 28-101, 28-311.11,
6 28-318, 28-710, 28-713, 29-110, 29-1823, and 29-4003, Revised
7 Statutes Supplement, 2019; to require cities of the primary class
8 and metropolitan class to make an annual report on the number of
9 untested sexual assault evidence collection kits; to change
10 provisions relating to evidence; to define and redefine terms; to
11 provide for the admission of expert testimony on eyewitness
12 identification and memory as prescribed; to change provisions
13 relating to sex offenses and the Child Protection and Family Safety
14 Act; to create the offense of sexual abuse by a school employee and
15 provide a penalty; to change the statute of limitations for failure
16 to report child abuse or neglect; to change provisions relating to
17 bail; to require appointment of counsel as prescribed; to change
18 provisions relating to grand jury transcripts and competency for
19 criminal proceedings; to provide powers for the Department of Health
20 and Human Services; to change provisions relating to alternate
21 jurors; to state intent regarding construction; to prohibit holding
22 a defendant in custody awaiting trial beyond a prescribed period; to

1 change provisions relating to collection of fines and costs and
2 setting aside convictions; to provide for applicability; to change
3 provisions under the Sex Offender Registration Act; to harmonize
4 provisions; to provide a duty for the Revisor of Statutes; and to
5 repeal the original sections.

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

1 Section 1. On or before December 1, 2020, and annually thereafter,
2 each city of the primary class and city of the metropolitan class shall
3 make a report listing the number of untested sexual assault evidence
4 collection kits for such city. The report shall contain aggregate data
5 only and shall not contain any personal identifying information. The
6 report shall be made publicly available on the city's web site and shall
7 be electronically submitted to the Attorney General and to the
8 Legislature.

9 Sec. 2. Section 27-404, Revised Statutes Supplement, 2019, is
10 amended to read:

11 27-404 (1) Evidence of a person's character or a trait of his or her
12 character is not admissible for the purpose of proving that he or she
13 acted in conformity therewith on a particular occasion, except:

14 (a) Evidence of a pertinent trait of his or her character offered by
15 an accused, or by the prosecution to rebut the same;

16 (b) Evidence of a pertinent trait of character of the victim of the
17 crime offered by an accused or by the prosecution to rebut the same, or
18 evidence of a character trait of peacefulness of the victim offered by
19 the prosecution in a homicide case to rebut evidence that the victim was
20 the first aggressor. In a sexual assault case, reputation, opinion, or
21 other evidence of past sexual behavior of the victim is governed by
22 section 27-412; or

23 (c) Evidence of the character of a witness as provided in sections
24 27-607 to 27-609.

25 (2) Evidence of other crimes, wrongs, or acts is not admissible to
26 prove the character of a person in order to show that he or she acted in
27 conformity therewith. It may, however, be admissible for other purposes,
28 such as proof of motive, opportunity, intent, preparation, plan,
29 knowledge, identity, or absence of mistake or accident.

30 (3) When such evidence is admissible pursuant to this section, in
31 criminal cases evidence of other crimes, wrongs, or acts of the accused

1 may be offered in evidence by the prosecution if the prosecution proves
2 to the court by clear and convincing evidence that the accused committed
3 the crime, wrong, or act. Such proof shall first be made outside the
4 presence of any jury.

5 (4) Regarding the admissibility in a civil or criminal action of
6 evidence of a person's commission of another offense or offenses of
7 sexual assault under sections 28-319 to 28-322.05 and section 12 of this
8 act, see sections 27-413 to 27-415.

9 Sec. 3. Section 27-413, Revised Statutes Supplement, 2019, is
10 amended to read:

11 27-413 For purposes of sections 27-414 and 27-415, offense of sexual
12 assault means sexual assault under section 28-319 or 28-320, sexual abuse
13 by a school employee under section 12 of this act, sexual assault of a
14 child under section 28-319.01 or 28-320.01, sexual assault by use of an
15 electronic communication device under section 28-320.02, sexual abuse of
16 an inmate or parolee under sections 28-322.01 to 28-322.03, sexual abuse
17 of a protected individual under section 28-322.04, sexual abuse of a
18 detainee under section 28-322.05, an attempt or conspiracy to commit any
19 of the crimes listed in this section, or the commission of or conviction
20 for a crime in another jurisdiction that is substantially similar to any
21 crime listed in this section.

22 Sec. 4. The testimony of an expert witness regarding eyewitness
23 identification and memory may be admitted in any criminal or civil
24 proceeding pursuant to the rules governing admissibility of evidence set
25 forth in the Nebraska Evidence Rules.

26 Sec. 5. Section 27-1103, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 27-1103 These rules and section 4 of this act ~~sections 27-412 to~~
29 ~~27-415~~ may be known and cited as the Nebraska Evidence Rules.

30 Sec. 6. Section 28-101, Revised Statutes Supplement, 2019, is
31 amended to read:

1 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
2 12 of this act shall be known and may be cited as the Nebraska Criminal
3 Code.

4 Sec. 7. Section 28-311.11, Revised Statutes Supplement, 2019, is
5 amended to read:

6 28-311.11 (1) Any victim of a sexual assault offense may file a
7 petition and affidavit for a sexual assault protection order as provided
8 in subsection (3) of this section. Upon the filing of such a petition and
9 affidavit in support thereof, the court may issue a sexual assault
10 protection order without bond enjoining the respondent from (a) imposing
11 any restraint upon the person or liberty of the petitioner, (b)
12 harassing, threatening, assaulting, molesting, attacking, or otherwise
13 disturbing the peace of the petitioner, or (c) telephoning, contacting,
14 or otherwise communicating with the petitioner. The sexual assault
15 protection order shall specify to whom relief under this section was
16 granted.

17 (2) The petition for a sexual assault protection order shall state
18 the events and dates or approximate dates of acts constituting the sexual
19 assault offense, including the most recent and most severe incident or
20 incidents.

21 (3) A petition for a sexual assault protection order shall be filed
22 with the clerk of the district court and the proceeding may be heard by
23 the county court or the district court as provided in section 25-2740.

24 (4) A petition for a sexual assault protection order may not be
25 withdrawn except upon order of the court. A sexual assault protection
26 order shall specify that it is effective for a period of one year unless
27 renewed pursuant to subsection (12) of this section or otherwise
28 dismissed or modified by the court. Any person, except the petitioner,
29 who knowingly violates a sexual assault protection order after service or
30 notice as described in subdivision (9)(b) of this section shall be guilty
31 of a Class I misdemeanor, except that any person convicted of violating

1 such order who has a prior conviction for violating a sexual assault
2 protection order shall be guilty of a Class IV felony.

3 (5)(a) Fees to cover costs associated with the filing of a petition
4 for issuance or renewal of a sexual assault protection order or the
5 issuance or service of a sexual assault protection order seeking only the
6 relief provided by this section shall not be charged, except that a court
7 may assess such fees and costs if the court finds, by clear and
8 convincing evidence, that the statements contained in the petition were
9 false and that the sexual assault protection order was sought in bad
10 faith.

11 (b) A court may also assess costs associated with the filing of a
12 petition for issuance or renewal of a sexual assault protection order or
13 the issuance or service of a sexual assault protection order seeking only
14 the relief provided by this section against the respondent.

15 (6) The clerk of the district court shall make available standard
16 application and affidavit forms for issuance and renewal of a sexual
17 assault protection order with instructions for completion to be used by a
18 petitioner. Affidavit forms shall request all relevant information,
19 including, but not limited to: A description of the most recent incident
20 that was the basis for the application for a sexual assault protection
21 order and the date or approximate date of the incident and, if there was
22 more than one incident, the most severe incident and the date or
23 approximate date of such incident. The clerk and his or her employees
24 shall not provide assistance in completing the forms. The State Court
25 Administrator shall adopt and promulgate the standard application and
26 affidavit forms provided for in this section as well as the standard
27 temporary ex parte and final sexual assault protection order forms and
28 provide a copy of such forms to all clerks of the district courts in this
29 state. Such standard temporary ex parte and final sexual assault
30 protection order forms shall be the only forms used in this state.

31 (7) A sexual assault protection order may be issued or renewed ex

1 parte without notice to the respondent if it reasonably appears from the
2 specific facts shown by affidavit of the petitioner that irreparable
3 harm, loss, or damage will result before the matter can be heard on
4 notice. If a sexual assault protection order is not issued ex parte, the
5 court shall immediately schedule an evidentiary hearing to be held within
6 fourteen days after the filing of the petition, and the court shall cause
7 notice of the application to be given to the respondent stating that he
8 or she may show cause why such order should not be entered. Any notice
9 provided to the respondent shall include notification that a court may
10 treat a petition for a sexual assault protection order as a petition for
11 a harassment protection order or a domestic abuse protection order if it
12 appears from the facts that such other protection order is more
13 appropriate and that the respondent shall have an opportunity to show
14 cause as to why such protection order should not be entered. If such ex
15 parte order is issued or renewed without notice to the respondent, the
16 court shall forthwith cause notice of the petition and order and a form
17 with which to request a show-cause hearing to be given the respondent
18 stating that, upon service on the respondent, the order shall remain in
19 effect for a period of one year unless the respondent shows cause why the
20 order should not remain in effect for a period of one year. If the
21 respondent wishes to appear and show cause why the order should not
22 remain in effect for a period of one year, he or she shall affix his or
23 her current address, telephone number, and signature to the form and
24 return it to the clerk of the district court within ten business days
25 after service upon him or her. Upon receipt of a timely request for a
26 show-cause hearing, the court shall immediately schedule a show-cause
27 hearing to be held within thirty days after the receipt of the request
28 for a show-cause hearing and shall notify the petitioner and respondent
29 of the hearing date. The petition and affidavit shall be deemed to have
30 been offered into evidence at any show-cause hearing. The petition and
31 affidavit shall be admitted into evidence unless specifically excluded by

1 the court.

2 (8) A court may treat a petition for a sexual assault protection
3 order as a petition for a harassment protection order or a domestic abuse
4 protection order if it appears from the facts in the petition, affidavit,
5 and evidence presented at a show-cause hearing that such other protection
6 order is more appropriate and if:

7 (a) The court makes specific findings that such other order is more
8 appropriate; or

9 (b) The petitioner has requested the court to so treat the petition.

10 (9)(a) Upon the issuance or renewal of any temporary ex parte or
11 final sexual assault protection order, the clerk of the court shall
12 forthwith provide the petitioner, without charge, with two certified
13 copies of such order. The clerk of the court shall also forthwith provide
14 the local police department or local law enforcement agency and the local
15 sheriff's office, without charge, with one copy each of such order and
16 one copy each of the sheriff's return thereon. The clerk of the court
17 shall also forthwith provide a copy of the sexual assault protection
18 order to the sheriff's office in the county where the respondent may be
19 personally served together with instructions for service. Upon receipt of
20 the order and instructions for service, such sheriff's office shall
21 forthwith serve the sexual assault protection order upon the respondent
22 and file its return thereon with the clerk of the court which issued the
23 sexual assault protection order within fourteen days of the issuance of
24 the initial or renewed sexual assault protection order. If any sexual
25 assault protection order is dismissed or modified by the court, the clerk
26 of the court shall forthwith provide the local police department or local
27 law enforcement agency and the local sheriff's office, without charge,
28 with one copy each of the order of dismissal or modification.

29 (b) If the respondent is present at a hearing convened pursuant to
30 this section and the sexual assault protection order is not dismissed,
31 such respondent shall be deemed to have notice by the court at such

1 hearing that the protection order will be granted and remain in effect
2 and further service of such notice described in this subsection shall not
3 be required for purposes of prosecution under this section.

4 (c) A temporary ex parte sexual assault protection order shall be
5 affirmed and deemed the final protection order and service of the
6 temporary ex parte order shall be notice of the final protection order if
7 the respondent has been properly served with the ex parte order and:

8 (i) The respondent fails to request a show-cause hearing within ten
9 business days after service upon him or her and no hearing was requested
10 by the petitioner or upon the court's own motion;

11 (ii) The respondent has been properly served with notice of any
12 hearing requested by the respondent or petitioner or upon the court's own
13 motion and the respondent fails to appear at such hearing; or

14 (iii) The respondent has been properly served with notice of any
15 hearing requested by the respondent, the petitioner, or upon the court's
16 own motion and the protection order was not dismissed at the hearing.

17 (10) A peace officer shall, with or without a warrant, arrest a
18 person if (a) the officer has probable cause to believe that the person
19 has committed a violation of a sexual assault protection order issued
20 pursuant to this section or a violation of a valid foreign sexual assault
21 protection order recognized pursuant to section 28-311.12 and (b) a
22 petitioner under this section provides the peace officer with a copy of
23 such order or the peace officer determines that such an order exists
24 after communicating with the local law enforcement agency.

25 (11) A peace officer making an arrest pursuant to subsection (10) of
26 this section shall take such person into custody and take such person
27 before the county court or the court which issued the sexual assault
28 protection order within a reasonable time. At such time the court shall
29 establish the conditions of such person's release from custody, including
30 the determination of bond or recognizance, as the case may be. The court
31 shall issue an order directing that such person shall have no contact

1 with the alleged victim of the sexual assault offense.

2 (12)(a) An order issued under subsection (1) of this section may be
3 renewed annually. To request renewal of the order, the petitioner shall
4 file a petition for renewal and affidavit in support thereof at any time
5 within forty-five days prior to the date the order is set to expire,
6 including the date the order expires.

7 (b) A sexual assault protection order may be renewed on the basis of
8 the petitioner's affidavit stating that there has been no material change
9 in relevant circumstances since entry of the order and stating the reason
10 for the requested renewal if:

11 (i) The petitioner seeks no modification of the order; and

12 (ii)(A) The respondent has been properly served with notice of the
13 petition for renewal and notice of hearing and fails to appear at the
14 hearing; or

15 (B) The respondent indicates that he or she does not contest the
16 renewal.

17 (c) The petition for renewal shall state the reasons a renewal is
18 sought and shall be filed with the clerk of the district court, and the
19 proceeding thereon may be heard by the county court or the district court
20 as provided in section 25-2740. A petition for renewal will otherwise be
21 governed in accordance with the procedures set forth in subsections (4)
22 through (11) of this section. The renewed order shall specify that it is
23 effective for one year commencing on the first calendar day after
24 expiration of the previous order or on the calendar day the court grants
25 the renewal if such day is subsequent to the first calendar day after
26 expiration of the previous order.

27 (13) When provided by the petitioner, the court shall make
28 confidential numeric victim identification information, including social
29 security numbers and dates of birth, available to appropriate criminal
30 justice agencies engaged in protection order enforcement efforts. Such
31 agencies shall maintain the confidentiality of this information, except

1 for entry into state and federal data bases for protection order
2 enforcement.

3 (14) For purposes of this section, sexual assault offense means:

4 (a) Conduct amounting to sexual assault under section 28-319 or
5 28-320, sexual abuse by a school employee under section 12 of this act,
6 ~~or~~ sexual assault of a child under section 28-319.01 or 28-320.01, or an
7 attempt to commit any of such offenses; or

8 (b) Subjecting or attempting to subject another person to sexual
9 contact or sexual penetration without his or her consent, as such terms
10 are defined in section 28-318.

11 Sec. 8. Section 28-318, Revised Statutes Supplement, 2019, is
12 amended to read:

13 28-318 As used in sections 28-317 to 28-322.05, unless the context
14 otherwise requires:

15 (1) Actor means a person accused of sexual assault;

16 (2) Intimate parts means the genital area, groin, inner thighs,
17 buttocks, or breasts;

18 (3) Past sexual behavior means sexual behavior other than the sexual
19 behavior upon which the sexual assault is alleged;

20 (4) Serious personal injury means great bodily injury or
21 disfigurement, extreme mental anguish or mental trauma, pregnancy,
22 disease, or loss or impairment of a sexual or reproductive organ;

23 (5) Sexual contact means the intentional touching of the victim's
24 sexual or intimate parts or the intentional touching of the victim's
25 clothing covering the immediate area of the victim's sexual or intimate
26 parts. Sexual contact also means the touching by the victim of the
27 actor's sexual or intimate parts or the clothing covering the immediate
28 area of the actor's sexual or intimate parts when such touching is
29 intentionally caused by the actor. Sexual contact includes only such
30 conduct which can be reasonably construed as being for the purpose of
31 sexual arousal or gratification of either party. Sexual contact also

1 includes the touching of a child with the actor's sexual or intimate
2 parts on any part of the child's body for purposes of sexual abuse by a
3 school employee under section 12 of this act or sexual assault of a child
4 under sections 28-319.01 and 28-320.01;

5 (6) Sexual penetration means sexual intercourse in its ordinary
6 meaning, cunnilingus, fellatio, anal intercourse, or any intrusion,
7 however slight, of any part of the actor's or victim's body or any object
8 manipulated by the actor into the genital or anal openings of the
9 victim's body which can be reasonably construed as being for nonmedical,
10 nonhealth, or nonlaw enforcement purposes. Sexual penetration shall not
11 require emission of semen;

12 (7) Victim means the person alleging to have been sexually
13 assaulted;

14 (8) Without consent means:

15 (a)(i) The victim was compelled to submit due to the use of force or
16 threat of force or coercion, or (ii) the victim expressed a lack of
17 consent through words, or (iii) the victim expressed a lack of consent
18 through conduct, or (iv) the consent, if any was actually given, was the
19 result of the actor's deception as to the identity of the actor or the
20 nature or purpose of the act on the part of the actor;

21 (b) The victim need only resist, either verbally or physically, so
22 as to make the victim's refusal to consent genuine and real and so as to
23 reasonably make known to the actor the victim's refusal to consent; and

24 (c) A victim need not resist verbally or physically where it would
25 be useless or futile to do so; and

26 (9) Force or threat of force means (a) the use of physical force
27 which overcomes the victim's resistance or (b) the threat of physical
28 force, express or implied, against the victim or a third person that
29 places the victim in fear of death or in fear of serious personal injury
30 to the victim or a third person where the victim reasonably believes that
31 the actor has the present or future ability to execute the threat.

1 Sec. 9. Section 28-710, Revised Statutes Supplement, 2019, is
2 amended to read:

3 28-710 (1) Sections 28-710 to 28-727 shall be known and may be cited
4 as the Child Protection and Family Safety Act.

5 (2) For purposes of the Child Protection and Family Safety Act:

6 (a) Alternative response means a comprehensive assessment of (i)
7 child safety, (ii) the risk of future child abuse or neglect, (iii)
8 family strengths and needs, and (iv) the provision of or referral for
9 necessary services and support. Alternative response is an alternative to
10 traditional response and does not include an investigation or a formal
11 determination as to whether child abuse or neglect has occurred, and the
12 subject of the report shall not be entered into the central registry of
13 child protection cases maintained pursuant to section 28-718;

14 (b) Child abuse or neglect means knowingly, intentionally, or
15 negligently causing or permitting a minor child to be:

16 (i) Placed in a situation that endangers his or her life or physical
17 or mental health;

18 (ii) Cruelly confined or cruelly punished;

19 (iii) Deprived of necessary food, clothing, shelter, or care;

20 (iv) Left unattended in a motor vehicle if such minor child is six
21 years of age or younger;

22 (v) Placed in a situation to be sexually abused;

23 (vi) Placed in a situation to be sexually exploited through sex
24 trafficking of a minor as defined in section 28-830 or by allowing,
25 encouraging, or forcing such person to engage in debauchery, public
26 indecency, or obscene or pornographic photography, films, or depictions;
27 or

28 (vii) Placed in a situation to be a trafficking victim as defined in
29 section 28-830;

30 (c) Comprehensive assessment means an analysis of child safety, risk
31 of future child abuse or neglect, and family strengths and needs on a

1 report of child abuse or neglect. Comprehensive assessment does not
2 include a determination as to whether the child abuse or neglect occurred
3 but does determine the need for services and support to address the
4 safety of children and the risk of future abuse or neglect;

5 (d) Department means the Department of Health and Human Services;

6 (e) Investigation means fact gathering related to the current safety
7 of a child and the risk of future child abuse or neglect that determines
8 whether child abuse or neglect has occurred and whether child protective
9 services are needed;

10 (f) Law enforcement agency means the police department or town
11 marshal in incorporated municipalities, the office of the sheriff in
12 unincorporated areas, and the Nebraska State Patrol;

13 (g) Out-of-home child abuse or neglect means child abuse or neglect
14 occurring outside of a child's family home, including in day care homes,
15 foster homes, day care centers, residential child-caring agencies as
16 defined in section 71-1926, other child care facilities or institutions,
17 and the community. Out-of-home child abuse or neglect also includes cases
18 in which the subject of the report of child abuse or neglect is not a
19 member of the child's household, no longer has access to the child, is
20 unknown, or cannot be identified;

21 (h) Review, Evaluate, and Decide Team means an internal team of
22 staff within the department and shall include no fewer than two
23 supervisors or administrators and two staff members knowledgeable on the
24 policies and practices of the department, including, but not limited to,
25 the structured review process. County attorneys, child advocacy centers,
26 or law enforcement agency personnel may attend team reviews upon request
27 of a party;

28 (i) School employee means a person nineteen years of age or older
29 who is employed by a public, private, denominational, or parochial school
30 approved or accredited by the State Department of Education;

31 (j) Student means a person less than nineteen years of age enrolled

1 in or attending a public, private, denominational, or parochial school
2 approved or accredited by the State Department of Education, or who was
3 such a person enrolled in or who attended such a school within ninety
4 days of any violation of section 12 of this act;

5 (k) ~~(i)~~ Traditional response means an investigation by a law
6 enforcement agency or the department pursuant to section 28-713 which
7 requires a formal determination of whether child abuse or neglect has
8 occurred; and

9 (l) ~~(j)~~ Subject of the report of child abuse or neglect or subject
10 of the report means the person or persons identified in the report as
11 responsible for the child abuse or neglect.

12 Sec. 10. Section 28-713, Revised Statutes Supplement, 2019, is
13 amended to read:

14 28-713 (1) Unless an intake is assigned to alternative response,
15 upon the receipt of a call reporting child abuse and neglect as required
16 by section 28-711:

17 (a) It is the duty of the law enforcement agency to investigate the
18 report, to take immediate steps to protect the child, and to institute
19 legal proceedings if appropriate. In situations of alleged out-of-home
20 child abuse or neglect if the person or persons to be notified have not
21 already been notified and the person to be notified is not the subject of
22 the report of child abuse or neglect, the law enforcement agency shall
23 immediately notify the person or persons having custody of each child who
24 has allegedly been abused or neglected that such report of alleged child
25 abuse or neglect has been made and shall provide such person or persons
26 with information of the nature of the alleged child abuse or neglect. The
27 law enforcement agency may request assistance from the department during
28 the investigation and shall, by the next working day, notify either the
29 hotline or the department of receipt of the report, including whether or
30 not an investigation is being undertaken by the law enforcement agency. A
31 copy of all reports, whether or not an investigation is being undertaken,

1 shall be provided to the department;

2 (b) In situations of alleged out-of-home child abuse or neglect if
3 the person or persons to be notified have not already been notified and
4 the person to be notified is not the subject of the report of child abuse
5 or neglect, the department shall immediately notify the person or persons
6 having custody of each child who has allegedly been abused or neglected
7 that such report of alleged child abuse or neglect has been made and
8 shall provide such person or persons with information of the nature of
9 the alleged child abuse or neglect and any other information that the
10 department deems necessary. The department shall investigate for the
11 purpose of assessing each report of child abuse or neglect to determine
12 the risk of harm to the child involved. The department shall also provide
13 such social services as are necessary and appropriate under the
14 circumstances to protect and assist the child and to preserve the family;

15 (c) In situations of alleged out-of-home child abuse or neglect, if
16 the subject of the report of child abuse or neglect is a school employee
17 and the child is a student in the school to which such school employee is
18 assigned for work, the department shall immediately notify the
19 Commissioner of Education of receipt of the report, including whether or
20 not an investigation is being undertaken by the law enforcement agency or
21 the department;

22 (d) ~~(c)~~ The department may make a request for further assistance
23 from the appropriate law enforcement agency or take such legal action as
24 may be appropriate under the circumstances;

25 (e) ~~(d)~~ The department shall, by the next working day after
26 receiving a report of child abuse or neglect under this subsection of
27 this section, make a written report or a summary on forms provided by the
28 department to the proper law enforcement agency in the county and enter
29 in the tracking system of child protection cases maintained pursuant to
30 section 28-715 all reports of child abuse or neglect opened for
31 investigation and any action taken; and

1 (f) ~~(e)~~ The department shall, upon request, make available to the
2 appropriate investigating law enforcement agency and the county attorney
3 a copy of all reports relative to a case of suspected child abuse or
4 neglect.

5 (2)(a) In addition to the responsibilities under subsection (1) of
6 this section, upon the receipt of any report that a child is a reported
7 or suspected victim of sex trafficking of a minor or labor trafficking of
8 a minor as defined in section 28-830 and without regard to the subject of
9 the report, the department shall:

10 (i) Assign the case to staff for an in-person investigation. The
11 department shall assign a report for investigation regardless of whether
12 or not the subject of the report is a member of the child's household or
13 family or whether the subject is known or unknown, including cases of
14 out-of-home child abuse and neglect;

15 (ii) Conduct an in-person investigation and appropriately coordinate
16 with law enforcement agencies, the local child advocacy center, and the
17 child abuse and neglect investigation team under section 28-729;

18 (iii) Use specialized screening and assessment instruments to
19 identify whether the child is a victim of sex trafficking of a minor or
20 labor trafficking of a minor or at high risk of becoming such a victim
21 and determine the needs of the child and family to prevent or respond to
22 abuse, neglect, and exploitation. On or before December 1, 2019, the
23 department shall develop and adopt these instruments in consultation with
24 knowledgeable organizations and individuals, including representatives of
25 child advocacy centers, behavioral health providers, child welfare and
26 juvenile justice service providers, law enforcement representatives, and
27 prosecutors; and

28 (iv) Provide for or refer and connect the child and family to
29 services deemed appropriate by the department in the least restrictive
30 environment, or provide for safe and appropriate placement, medical
31 services, mental health care, or other needs as determined by the

1 department based upon the department's assessment of the safety, risk,
2 and needs of the child and family to respond to or prevent abuse,
3 neglect, and exploitation.

4 (b) On or before July 1, 2020, the department shall adopt rules and
5 regulations on the process of investigation, screening, and assessment of
6 reports of child abuse or neglect and the criteria for opening an ongoing
7 case upon allegations of sex trafficking of a minor or labor trafficking
8 of a minor.

9 (3) When a preponderance of the evidence indicates that a child is a
10 victim of abuse or neglect as a result of being a trafficking victim as
11 defined in section 28-830, the department shall identify the child as a
12 victim of trafficking, regardless of whether the subject of the report is
13 a member of the child's household or family or whether the subject is
14 known or unknown. The child shall be included in the department's data
15 and reporting on the numbers of child victims of abuse, neglect, and
16 trafficking.

17 Sec. 11. Section 28-713.01, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 28-713.01 (1) Upon completion of the investigation pursuant to
20 section 28-713:

21 (a) In situations of alleged out-of-home child abuse or neglect, the
22 person or persons having custody of the allegedly abused or neglected
23 child or children shall be given written notice of the results of the
24 investigation and any other information the law enforcement agency or
25 department deems necessary. Such notice and information shall be sent by
26 first-class mail; ~~and~~

27 (b) The subject of the report of child abuse or neglect shall be
28 given written notice of the determination of the case and whether the
29 subject of the report of child abuse or neglect will be entered into the
30 central registry of child protection cases maintained pursuant to section
31 28-718 under the criteria provided in section 28-720; ~~and~~ -

1 (c) If the subject of the report of child abuse or neglect is a
2 school employee and the child is a student in the school to which such
3 school employee is assigned for work, the notice described in subdivision
4 (1)(b) of this section shall also be sent to the Commissioner of
5 Education.

6 (2) If the subject of the report will be entered into the central
7 registry, the notice to the subject shall be sent by certified mail with
8 return receipt requested or first-class mail to the last-known address of
9 the subject of the report of child abuse or neglect and shall include:

10 (a) The nature of the report;

11 (b) The classification of the report under section 28-720;

12 (c) Notification of the right of the subject of the report of child
13 abuse or neglect to request the department to amend or expunge
14 identifying information from the report or to remove the substantiated
15 report from the central registry in accordance with section 28-723; and

16 (d) If the subject of the report of child abuse or neglect is a
17 minor child who is twelve years of age or older but younger than nineteen
18 years of age:

19 (i) Notification of the mandatory expungement hearing to be held
20 according to section 28-721, a waiver form to waive the hearing, and an
21 explanation of the hearing process;

22 (ii) An explanation of the implications of being entered in the
23 central registry as a subject;

24 (iii) Notification of any other procedures determined appropriate in
25 rules and regulations adopted and promulgated by the department; and

26 (iv) Provision of a copy of all notice materials required to be
27 provided to the subject under this subsection to the minor child's
28 attorney of record, parent or guardian, and guardian ad litem, if
29 applicable.

30 (3) If the subject of the report will not be entered into the
31 central registry, the notice to the subject shall be sent by first-class

1 mail and shall include:

2 (a) The nature of the report; and

3 (b) The classification of the report under section 28-720.

4 Sec. 12. (1) For purposes of this section:

5 (a) Sexual contact has the same meaning as in section 28-318;

6 (b) Sexual penetration has the same meaning as in section 28-318;

7 (c) School employee means a person nineteen years of age or older
8 who is employed by a public, private, denominational, or parochial school
9 approved or accredited by the State Department of Education; and

10 (d) Student means a person at least sixteen but not more than
11 nineteen years of age enrolled in or attending a public, private,
12 denominational, or parochial school approved or accredited by the State
13 Department of Education, or who was such a person enrolled in or who
14 attended such a school within ninety days of any violation of this
15 section.

16 (2) A person commits the offense of sexual abuse by a school
17 employee if a school employee subjects a student in the school to which
18 such employee is assigned for work to sexual penetration or sexual
19 contact, or engages in a pattern or scheme of conduct to subject a
20 student in the school to which such employee is assigned for work to
21 sexual penetration or sexual contact. It is not a defense to a charge
22 under this section that the student consented to such sexual penetration
23 or sexual contact.

24 (3) Any school employee who engages in sexual penetration with a
25 student is guilty of sexual abuse by a school employee in the first
26 degree. Sexual abuse by a school employee in the first degree is a Class
27 IIA felony.

28 (4) Any school employee who engages in sexual contact with a student
29 is guilty of sexual abuse by a school employee in the second degree.
30 Sexual abuse by a school employee in the second degree is a Class IIIA
31 felony.

1 (5) Any school employee who engages in a pattern or scheme of
2 conduct with the intent to subject a student to sexual penetration or
3 sexual contact is guilty of sexual abuse by a school employee in the
4 third degree. Sexual abuse by a school employee in the third degree is a
5 Class IV felony.

6 Sec. 13. Section 29-110, Revised Statutes Supplement, 2019, is
7 amended to read:

8 29-110 (1) Except as otherwise provided by law, no person shall be
9 prosecuted for any felony unless the indictment is found by a grand jury
10 within three years next after the offense has been done or committed or
11 unless a complaint for the same is filed before the magistrate within
12 three years next after the offense has been done or committed and a
13 warrant for the arrest of the defendant has been issued.

14 (2) Except as otherwise provided by law, no person shall be
15 prosecuted, tried, or punished for any misdemeanor or other indictable
16 offense below the grade of felony or for any fine or forfeiture under any
17 penal statute unless the suit, information, or indictment for such
18 offense is instituted or found within one year and six months from the
19 time of committing the offense or incurring the fine or forfeiture or
20 within one year for any offense the punishment of which is restricted by
21 a fine not exceeding one hundred dollars and to imprisonment not
22 exceeding three months.

23 (3) Except as otherwise provided by law, no person shall be
24 prosecuted for kidnapping under section 28-313, false imprisonment under
25 section 28-314 or 28-315, child abuse under section 28-707, pandering
26 under section 28-802, debauching a minor under section 28-805, or an
27 offense under section 28-813 when the victim is under sixteen years of
28 age at the time of the offense (a) unless the indictment for such offense
29 is found by a grand jury within seven years next after the offense has
30 been committed or within seven years next after the victim's sixteenth
31 birthday, whichever is later, or (b) unless a complaint for such offense

1 is filed before the magistrate within seven years next after the offense
2 has been committed or within seven years next after the victim's
3 sixteenth birthday, whichever is later, and a warrant for the arrest of
4 the defendant has been issued.

5 (4) Except as otherwise provided by law, no person shall be
6 prosecuted for a violation of subsection (2) or (3) of section 28-831 (a)
7 unless the indictment for such offense is found by a grand jury within
8 seven years next after the offense has been committed or within seven
9 years next after the victim's eighteenth birthday, whichever is later, or
10 (b) unless a complaint for such offense is filed before the magistrate
11 within seven years next after the offense has been committed or within
12 seven years next after the victim's eighteenth birthday, whichever is
13 later, and a warrant for the arrest of the defendant has been issued.

14 (5) Except as otherwise provided by law, no person shall be
15 prosecuted for an offense under section 28-813.01 or 28-1463.05 (a)
16 unless the indictment for such offense is found by a grand jury within
17 seven years next after the offense has been committed or within seven
18 years next after the victim's eighteenth birthday, whichever is later, or
19 (b) unless a complaint for such offense is filed before the magistrate
20 within seven years next after the offense has been committed or within
21 seven years next after the victim's eighteenth birthday, whichever is
22 later, and a warrant for the arrest of the defendant has been issued.

23 (6) No person shall be prosecuted for a violation of the Securities
24 Act of Nebraska under section 8-1117 unless the indictment for such
25 offense is found by a grand jury within five years next after the offense
26 has been done or committed or unless a complaint for such offense is
27 filed before the magistrate within five years next after the offense has
28 been done or committed and a warrant for the arrest of the defendant has
29 been issued.

30 (7) No person shall be prosecuted for criminal impersonation under
31 section 28-638, identity theft under section 28-639, or identity fraud

1 under section 28-640 unless the indictment for such offense is found by a
2 grand jury within five years next after the offense has been done or
3 committed or unless a complaint for such offense is filed before the
4 magistrate within five years next after the offense has been done or
5 committed and a warrant for the arrest of the defendant has been issued.

6 (8) No person shall be prosecuted for a violation of section 68-1017
7 if the aggregate value of all funds and other benefits obtained or
8 attempted to be obtained is five hundred dollars or more unless the
9 indictment for such offense is found by a grand jury within five years
10 next after the offense has been done or committed or unless a complaint
11 for such offense is filed before the magistrate within five years next
12 after the offense has been done or committed and a warrant for the arrest
13 of the defendant has been issued.

14 (9) No person shall be prosecuted for knowing and intentional abuse,
15 neglect, or exploitation of a vulnerable adult or senior adult under
16 section 28-386 unless the indictment for such offense is found by a grand
17 jury within six years next after the offense has been done or committed
18 or unless a complaint for such offense is filed before the magistrate
19 within six years next after the offense has been done or committed and a
20 warrant for the arrest of the defendant has been issued.

21 (10) Except as otherwise provided by law, no person shall be
22 prosecuted for an offense under section 28-717 (a) unless the indictment
23 for such offense is found by a grand jury within one year and six months
24 next after the offense has been committed or within one year and six
25 months next after the child reaches the age of majority, whichever is
26 later, or (b) unless a complaint for such offense is filed before the
27 magistrate within one year and six months next after the offense has been
28 committed or within one year and six months next after the child reaches
29 the age of majority, whichever is later, and a warrant for the arrest of
30 the defendant has been issued.

31 (11) (10) There shall not be any time limitations for prosecution or

1 punishment for treason, murder, arson, forgery, sexual assault in the
2 first or second degree under section 28-319 or 28-320, sexual assault of
3 a child in the second or third degree under section 28-320.01, incest
4 under section 28-703, sexual assault of a child in the first degree under
5 section 28-319.01, labor trafficking of a minor or sex trafficking of a
6 minor under subsection (1) of section 28-831, or an offense under section
7 28-1463.03; nor shall there be any time limitations for prosecution or
8 punishment for sexual assault in the third degree under section 28-320
9 when the victim is under sixteen years of age at the time of the offense.

10 (12) ~~(11)~~ The time limitations prescribed in this section shall
11 include all inchoate offenses pursuant to the Nebraska Criminal Code and
12 compounding a felony pursuant to section 28-301.

13 (13) ~~(12)~~ The time limitations prescribed in this section shall not
14 extend to any person fleeing from justice.

15 (14) ~~(13)~~ When any suit, information, or indictment for any crime or
16 misdemeanor is limited by any statute to be brought or exhibited within
17 any other time than is limited by this section, then the suit,
18 information, or indictment shall be brought or exhibited within the time
19 limited by such statute.

20 (15) ~~(14)~~ If any suit, information, or indictment is quashed or the
21 proceedings set aside or reversed on writ of error, the time during the
22 pendency of such suit, information, or indictment so quashed, set aside,
23 or reversed shall not be reckoned within this statute so as to bar any
24 new suit, information, or indictment for the same offense.

25 (16) ~~(15)~~ The changes made to this section by Laws 2004, LB 943,
26 shall apply to offenses committed prior to April 16, 2004, for which the
27 statute of limitations has not expired as of such date and to offenses
28 committed on or after such date.

29 (17) ~~(16)~~ The changes made to this section by Laws 2005, LB 713,
30 shall apply to offenses committed prior to September 4, 2005, for which
31 the statute of limitations has not expired as of such date and to

1 offenses committed on or after such date.

2 (18) ~~(17)~~ The changes made to this section by Laws 2009, LB 97, and
3 Laws 2006, LB 1199, shall apply to offenses committed prior to May 21,
4 2009, for which the statute of limitations has not expired as of such
5 date and to offenses committed on or after such date.

6 (19) ~~(18)~~ The changes made to this section by Laws 2010, LB809,
7 shall apply to offenses committed prior to July 15, 2010, for which the
8 statute of limitations has not expired as of such date and to offenses
9 committed on or after such date.

10 (20) ~~(19)~~ The changes made to this section by Laws 2016, LB934,
11 shall apply to offenses committed prior to April 19, 2016, for which the
12 statute of limitations has not expired as of such date and to offenses
13 committed on or after such date.

14 (21) ~~(20)~~ The changes made to this section by Laws 2019, LB519,
15 shall apply to offenses committed prior to September 1, 2019, for which
16 the statute of limitations has not expired as of such date and to
17 offenses committed on or after such date.

18 Sec. 14. Section 29-901, Revised Statutes Cumulative Supplement,
19 2018, is amended to read:

20 29-901 (1) Except as provided in subsection (2) of this section, any
21 ~~Any~~ bailable defendant shall be ordered released from custody pending
22 judgment on his or her personal recognizance unless the judge determines
23 in the exercise of his or her discretion that such a release will not
24 reasonably assure the appearance of the defendant as required or that
25 such a release could jeopardize the safety and maintenance of evidence or
26 the safety of victims, witnesses, or other persons in the community.

27 (2)(a) This subsection applies to any bailable defendant who is
28 charged with one or more Class IIIA, IV, or V misdemeanors or violations
29 of city or county ordinances, except when:

30 (i) The victim is an intimate partner as defined in section 28-323;
31 or

1 (ii) The defendant is charged with one or more violations of section
2 60-6,196 or 60-6,197 or city or village ordinances enacted in conformance
3 with section 60-6,196 or 60-6,197.

4 (b) Any bailable defendant described in this subsection shall be
5 ordered released from custody pending judgment on his or her personal
6 recognizance or under other conditions of release, other than payment of
7 a bond, unless:

8 (i) The defendant has previously failed to appear in the instant
9 case or any other case in the previous six months;

10 (ii) The judge determines in the exercise of his or her discretion
11 that such a release will not reasonably assure the appearance of the
12 defendant as required or that such a release could jeopardize the safety
13 and maintenance of evidence or the safety of the defendant, victims,
14 witnesses, or other persons; and

15 (iii) The defendant was arrested pursuant to a warrant.

16 (3) The court shall consider all methods of bond and conditions of
17 release to avoid pretrial incarceration. If the judge determines that the
18 defendant shall not be released on his or her personal recognizance, the
19 judge shall consider the defendant's financial ability to pay a bond and
20 shall impose the least onerous of the following conditions that will
21 reasonably assure the defendant's appearance or that will eliminate or
22 minimize the risk of harm to others or the public at large:

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

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

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

29 (i) The execution of an appearance bond in a specified amount and
30 the deposit with the clerk of the court in cash of a sum not to exceed
31 ten percent of the amount of the bond, ninety percent of such deposit to

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

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

25 (4) If the court requires the defendant to execute an appearance
26 bond requiring the defendant to post money or requires the defendant to
27 execute a bail bond, the court shall appoint counsel for the defendant if
28 the court finds the defendant is financially unable to pay the amount
29 required and is indigent.

30 (5) ~~(2)~~ If the amount of bail is deemed insufficient by the court
31 before which the offense is pending, the court may order an increase of

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

21 (6) ~~(3)~~ In order to assure compliance with the conditions of release
22 referred to in subsection (3) ~~(1)~~ of this section, the court may order a
23 defendant to be supervised by a person, an organization, or a pretrial
24 services program approved by the county board. A court shall waive any
25 fees or costs associated with the conditions of release or supervision if
26 the court finds the defendant is unable to pay for such costs.
27 Eligibility for release or supervision by such pretrial release program
28 shall under no circumstances be conditioned upon the defendant's ability
29 to pay. While under supervision of an approved entity, and in addition to
30 the conditions of release referred to in subsection (3) ~~(1)~~ of this
31 section, the court may impose the following conditions:

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

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

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

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

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

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

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

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

17 ~~(7) (4)~~ The incriminating results of any drug or alcohol test or any
18 information learned by a representative of an organization or program
19 shall not be admissible in any proceeding, except for a proceeding
20 relating to revocation or amendment of conditions of bond release.

21 Sec. 15. Section 29-1406, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 29-1406 (1) The grand jury, after being sworn, shall be charged as
24 to their duty by the judge, who shall call their attention particularly
25 to the obligation of secrecy which their oaths impose, and to such
26 offenses as he or she is by law required to specially charge.

27 (2) Upon impanelment of each grand jury, the court shall give to
28 such grand jury adequate and reasonable written notice of and shall
29 assure that the grand jury reasonably understands the nature of:

30 (a) Its duty to inquire into offenses against the criminal laws of
31 the State of Nebraska alleged to have been committed or, in the case of a

1 grand jury impaneled pursuant to subsection (4) of section 29-1401, its
2 duty to inquire into offenses against the criminal laws of the State of
3 Nebraska regarding the death of a person who has died while being
4 apprehended or while in the custody of a law enforcement officer or
5 detention personnel;

6 (b) Its right to call and interrogate witnesses;

7 (c) Its right to request the production of documents or other
8 evidence;

9 (d) The subject matter of the investigation and the criminal
10 statutes or other statutes involved, if these are known at the time the
11 grand jury is impaneled;

12 (e) The duty of the grand jury by an affirmative vote of twelve or
13 more members of the grand jury to determine, based on the evidence
14 presented before it, whether or not there is probable cause for finding
15 indictments and to determine the violations to be included in any such
16 indictments;

17 (f) The requirement that the grand jury may not return an indictment
18 in cases of perjury unless at least two witnesses to the same fact
19 present evidence establishing probable cause to return such an
20 indictment; and

21 (g) In the case of a grand jury impaneled pursuant to subsection (4)
22 of section 29-1401, if the grand jury returns a no true bill:

23 (i) The grand jury shall create a grand jury report with the
24 assistance of the prosecuting attorney. The grand jury report shall
25 briefly provide an explanation of the grand jury's findings and any
26 recommendations the grand jury determines to be appropriate based upon
27 the grand jury's investigation and deliberations; and

28 (ii) The no true bill and the grand jury report shall be filed with
29 the court, where they shall be available for public review, along with
30 the grand jury transcript provided for in subsection (3) subdivision (2)
31 ~~(b)~~ of section 29-1407.01.

1 Sec. 16. Section 29-1407.01, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 29-1407.01 (1) A certified or authorized reporter shall be present
4 at all grand jury sessions. All grand jury proceedings and testimony from
5 commencement to adjournment shall be reported. Except as otherwise
6 provided in this section, no copies of transcripts of, or exhibits from,
7 such proceedings shall be made available.

8 ~~(2) (2)(a)~~ Except as provided in subsection (3) of this section:
9 ~~subdivision (2)(b) of this section, the~~

10 (a) The reporter's stenography notes and tape recordings shall be
11 preserved and sealed and any transcripts which may be prepared shall be
12 preserved, sealed, and filed with the court; -

13 (b) No release or destruction of the notes or transcripts shall
14 occur without prior court approval; and -

15 (c) No copies of such transcript or exhibits shall be made
16 available.

17 ~~(3)(a) This subsection applies to (b) In the case of a grand jury~~
18 ~~impaneled pursuant to subsection (4) of section 29-1401, -a~~

19 (b) A transcript, including any exhibits of the grand jury
20 proceedings, and a copy of such transcript and copies of such exhibits
21 shall be prepared at court expense and shall be filed with the court
22 where it shall be available for public review. Such transcript shall not
23 include the names of grand jurors or their deliberations.

24 (c) If the grand jury returns a no true bill, a copy of the
25 transcript, including a copy of any exhibits, shall be available for
26 public review upon written request to the clerk of the district court.
27 Such review shall be made at a reasonable time set by the clerk of the
28 district court. Except as otherwise provided in this subdivision, no
29 copies of such transcript or exhibits shall be made available.

30 (d)(i) If the grand jury returns a true bill, once a trial court is
31 assigned and the criminal case docketed, any of the parties to the

1 criminal case, within five days of the criminal case being docketed, may
2 file a motion for a protective order requesting a hearing before the
3 trial court to request a delay of the public review of the transcript,
4 including any exhibits, of the grand jury proceedings. Except as
5 otherwise provided in this subdivision, no copies of such transcript or
6 exhibits shall be made available.

7 (ii) If after a hearing the trial court grants the request for a
8 protective order, then any public review of the transcript, including any
9 exhibits, of the grand jury proceedings shall not take place until the
10 conclusion of the criminal prosecution. Conclusion of the criminal
11 prosecution means an acquittal, a dismissal, or, if there is a
12 conviction, when the direct appeal process has concluded. Once the
13 criminal prosecution has concluded, a copy of the transcript, including a
14 copy of any exhibits, shall be available for public review upon written
15 request to the clerk of the district court. Such review shall be made at
16 a reasonable time set by the clerk of the district court. Except as
17 otherwise provided in this subdivision, no copies of such transcript or
18 exhibits shall be made available.

19 (iii) If after a hearing the trial court denies the request for a
20 protective order, then a copy of the transcript, including a copy of any
21 exhibits, shall be available for public review once the trial court's
22 order is filed and upon written request to the clerk of the district
23 court. Such review shall be made at a reasonable time set by the clerk of
24 the district court. Except as otherwise provided in this subdivision, no
25 copies of such transcript or exhibits shall be made available.

26 (iv) If no party to the criminal case files a motion for a
27 protective order within the time provided in subdivision (3)(d)(i) of
28 this section, then a copy of the transcript, including a copy of any
29 exhibits, shall be available for public review upon written request to
30 the clerk of the district court. Such review shall be made at a
31 reasonable time set by the clerk of the district court. Except as

1 otherwise provided in this subdivision, no copies of such transcript or
2 exhibits shall be made available.

3 (4) {3} Upon application by the prosecutor or by any witness after
4 notice to the prosecutor, the court, for good cause, may enter an order
5 to furnish to that witness a transcript of his or her own grand jury
6 testimony or exhibits relating thereto.

7 (5) {4} Any witness summoned to testify before a grand jury, or an
8 attorney for such witness with the witness's written approval, shall be
9 entitled, prior to testifying, to examine and copy at the witness's
10 expense any statement in the possession of the prosecuting attorney or
11 the grand jury which such witness has made that relates to the subject
12 matter under inquiry by the grand jury. If a witness is proceeding in
13 forma pauperis, he or she shall be furnished, upon request, a copy of
14 such transcript and shall not pay a fee.

15 Sec. 17. Section 29-1822, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

17 29-1822 (1) A person who becomes mentally incompetent after the
18 commission of an offense a crime or misdemeanor shall not be tried for
19 the offense until such disability is removed as provided in section
20 29-1823 during the continuance of the incompetency.

21 (2) If, after a the verdict of guilty, but and before judgment is
22 pronounced, a defendant such person becomes mentally incompetent, then no
23 judgment shall be given until such disability is removed.

24 (3) If a defendant is sentenced to death and, while such
25 incompetency shall continue; and if, after judgment, but and before
26 execution of the sentence, such person becomes shall become mentally
27 incompetent, then in case the punishment be capital, the execution of the
28 sentence thereof shall be stayed until such disability is removed the
29 recovery of such person from the incompetency.

30 Sec. 18. Section 29-1823, Revised Statutes Supplement, 2019, is
31 amended to read:

1 29-1823 (1) If at any time prior to or during trial it appears that
2 the defendant has become mentally incompetent to stand trial, such
3 disability may be called to the attention of the district or county court
4 by the county attorney or city attorney, by the defendant, or by any
5 person for the defendant. The judge of the district or county court of
6 the county where the defendant is to be tried shall have the authority to
7 determine whether or not the defendant is competent to stand trial. The
8 judge may also cause such medical, psychiatric, or psychological
9 examination of the defendant to be made as he or she deems warranted and
10 hold such hearing as he or she deems necessary. The cost of the
11 examination, when ordered by the court, shall be the expense of the
12 county in which the crime is charged. The judge may allow any physician,
13 psychiatrist, or psychologist a reasonable fee for his or her services,
14 which amount, when determined by the judge, shall be certified to the
15 county board which shall cause payment to be made. Should the judge
16 determine after a hearing that the defendant is mentally incompetent to
17 stand trial and that there is a substantial probability that the
18 defendant will become competent within the reasonably foreseeable future,
19 the judge shall order the defendant to be committed to the Department of
20 Health and Human Services to provide appropriate treatment to restore
21 competency. This may include commitment to a state hospital for the
22 mentally ill, another appropriate state-owned or state-operated facility,
23 or a contract facility or provider pursuant to an alternative treatment
24 plan proposed by the department and approved by the court under
25 subsection (2) of this section until such time as the disability may be
26 removed.

27 (2)(a) If the department determines that treatment by a contract
28 facility or provider is appropriate, the department shall file a report
29 outlining its determination and such alternative treatment plan with the
30 court. Within twenty-one days after the filing of such report, the court
31 shall hold a hearing to determine whether such treatment is appropriate.

1 The court may approve or deny such alternative treatment plan.

2 (b) A defendant shall not be eligible for treatment by a contract
3 facility or provider under this subsection if the judge determines that
4 the public's safety would be at risk.

5 (3) Within sixty days after entry of the order committing the
6 defendant to the department ~~six months after the commencement of the~~
7 ~~treatment ordered by the district or county court,~~ and every sixty days
8 ~~six months~~ thereafter until either the disability is removed or other
9 disposition of the defendant has been made, the court shall hold a
10 hearing to determine (a) whether the defendant is competent to stand
11 trial or (b) whether or not there is a substantial probability that the
12 defendant will become competent within the reasonably foreseeable future.

13 (4) If it is determined that there is not a substantial probability
14 that the defendant will become competent within the reasonably
15 foreseeable future, then the state shall either (a) commence the
16 applicable civil commitment proceeding that would be required to commit
17 any other person for an indefinite period of time or (b) release the
18 defendant. If during the period of time between the sixty-day ~~six-month~~
19 review hearings set forth in subsection (3) of this section it is the
20 opinion of the department that the defendant is competent to stand trial,
21 the department shall file a report outlining its opinion with the court
22 and within seven ~~twenty-one~~ days after such report being filed the court
23 shall hold a hearing to determine whether or not the defendant is
24 competent to stand trial. The state shall pay the cost of maintenance and
25 care of the defendant during the period of time ordered by the court for
26 treatment to remove the disability.

27 (5) The defendant, by and through counsel, may move to be discharged
28 from the offenses charged in the complaint or information for the reason
29 that there is not a substantial probability that the defendant will
30 become competent within the reasonably foreseeable future.

31 (6) In determining whether there is a substantial probability that a

1 defendant will become competent in the reasonably foreseeable future, the
2 court shall take into consideration the likely length of any sentence
3 that would be imposed upon the defendant. If the court discharges the
4 defendant, the court shall state whether such discharge is with or
5 without prejudice. The department may establish a network of contract
6 facilities and providers to provide competency restoration treatment
7 pursuant to alternative treatment plans under this section. The
8 department may create criteria for participation in such network and
9 establish training in competency restoration treatment for participating
10 contract facilities and providers.

11 Sec. 19. The Department of Health and Human Services may establish
12 a network of contract facilities and providers to provide competency
13 restoration treatment pursuant to alternative treatment plans under
14 section 29-1823. The department may create criteria for participation in
15 such network and establish training in competency restoration treatment
16 for participating contract facilities and providers.

17 Sec. 20. Section 29-2004, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 29-2004 (1) All parties may stipulate that the jury may be selected
20 up to thirty-one days prior to the date of trial. The stipulation must be
21 unanimous among all parties and evidenced by a joint stipulation to the
22 county court.

23 (2) In all cases, except as may be otherwise expressly provided, the
24 accused shall be tried by a jury drawn, summoned, and impaneled according
25 to provisions of the code of civil procedure, except that whenever in the
26 opinion of the court the trial is likely to be a protracted one, the
27 court may, immediately after the jury is impaneled and sworn, direct the
28 calling of ~~one or two~~ additional jurors, to be known as alternate jurors.

29 (3)(a) The court may impanel up to six alternate jurors to replace
30 any jurors who are unable to perform or who are disqualified from
31 performing their duties.

1 (b) Alternate jurors must have the same qualifications and shall be
2 selected and sworn in the same manner as any other juror.

3 (c) Unless a party objects, alternate jurors shall replace jurors in
4 the same sequence in which the alternates were selected. An alternate
5 juror who replaces a juror has the same authority as the other jurors.

6 ~~(4) Such jurors shall be drawn from the same source and in the same~~
7 ~~manner, and have the same qualifications as regular jurors, and be~~
8 ~~subject to examination and challenge as such jurors, except that each~~
9 ~~party shall be allowed one peremptory challenge to each alternate juror.~~

10 The alternate jurors shall take the proper oath or affirmation and shall
11 be seated near the regular jurors with equal facilities for seeing and
12 hearing the proceedings in the cause, and shall attend at all times upon
13 the trial of the cause in company with the regular jurors. They shall
14 obey all orders and admonitions of the court, and if the regular jurors
15 are ordered to be kept in the custody of an officer during the trial of
16 the cause, the alternate jurors shall also be kept with the other jurors.

17 (5)(a) The court may retain alternate jurors after the jury retires
18 to deliberate, except that if and, except as hereinafter provided, shall
19 be discharged upon the final submission of the cause to the jury. If an
20 information charging a violation of section 28-303 and in which the death
21 penalty is sought contains a notice of aggravation, the alternate jurors
22 shall be retained as provided in section 29-2520.

23 (b) The court shall ensure that a retained alternate does not
24 discuss the case with anyone until that alternate replaces a juror or is
25 discharged. If an alternate replaces a juror after deliberations have
26 begun, the court shall instruct the jury to begin its deliberations anew.

27 (6)(a) Each party is entitled to the following number of additional
28 peremptory challenges to prospective alternate jurors:

29 (i) One additional peremptory challenge is permitted when one or two
30 alternates are impaneled;

31 (ii) Two additional peremptory challenges are permitted when three

1 or four alternates are impaneled; and

2 (iii) Three additional peremptory challenges are permitted when five
3 or six alternates are impaneled.

4 (b) The additional peremptory challenges provided in this subsection
5 may only be used to remove alternate jurors.

6 (7) In construing and applying this section, courts shall consider
7 Federal Rule of Criminal Procedure 24 and case law interpreting such
8 rule. If, before the final submission of the cause a regular juror dies
9 or is discharged, the court shall order the alternate juror, if there is
10 but one, to take his or her place in the jury box. If there are two
11 alternate jurors the court shall select one by lot, who shall then take
12 his or her place in the jury box. After an alternate juror is in the jury
13 box he or she shall be subject to the same rules as a regular juror.

14 Sec. 21. Section 29-2005, Revised Statutes Cumulative Supplement,
15 2018, is amended to read:

16 29-2005 Except as otherwise provided in section 29-2004 for
17 peremptory challenges to alternate jurors:

18 (1) Every Every person arraigned for any crime punishable with
19 death, or imprisonment for life, shall be admitted on his or her trial to
20 a peremptory challenge of twelve jurors, and no more;

21 (2) Every every person arraigned for any offense that may be
22 punishable by imprisonment for a term exceeding eighteen months and less
23 than life, shall be admitted to a peremptory challenge of six jurors;

24 (3) In and in all other criminal trials, the defendant shall be
25 allowed a peremptory challenge of three jurors; and -

26 (4) The attorney prosecuting on behalf of the state shall be
27 admitted to a peremptory challenge of twelve jurors in all cases when the
28 offense is punishable with death or imprisonment for life, six jurors
29 when the offense is punishable by imprisonment for a term exceeding
30 eighteen months and less than life, and three jurors in all other cases;
31 Provided, that in all cases where alternate jurors are called, as

1 ~~provided in section 29-2004, then in that case both the defendant and the~~
2 ~~attorney prosecuting for the state shall each be allowed one added~~
3 ~~peremptory challenge to each alternate juror.~~

4 Sec. 22. A defendant charged with any offense or offenses shall not
5 be held in custody awaiting trial on such offense or offenses for a
6 period of time longer than the maximum possible sentence of imprisonment
7 authorized for such offense or offenses. On the next judicial day after
8 expiration of such deadline, the defendant shall be released on such
9 defendant's personal recognizance, subject to conditions of release the
10 court may impose after a hearing.

11 Sec. 23. Section 29-2206, Revised Statutes Cumulative Supplement,
12 2018, is amended to read:

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

1 subsection (2) of this section.

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

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

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

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

14 (i) Shall either:

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

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

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

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

24 (2) If the court or magistrate determines, pursuant to subsection
25 (1) of this section, that an offender is financially unable to pay such
26 fines or costs in one lump sum but is financially capable of paying in
27 installments, the court or magistrate shall make arrangements suitable to
28 the court or magistrate and to the offender by which the offender may pay
29 in installments. The court or magistrate shall enter an order specifying
30 the terms of such arrangements and the dates on which payments are to be
31 made. When the judgment of conviction provides for the suspension or

1 revocation of a motor vehicle operator's license and the court authorizes
2 the payment of fines or costs by installments, the revocation or
3 suspension shall be effective as of the date of judgment.

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

15 Sec. 24. Section 29-2264, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

17 29-2264 (1) Whenever any person is placed on probation by a court
18 and satisfactorily completes the conditions of his or her probation for
19 the entire period or is discharged from probation prior to the
20 termination of the period of probation, the sentencing court shall issue
21 an order releasing the offender from probation. Such order in all felony
22 cases shall provide notice that the person's voting rights are restored
23 two years after completion of probation. The order shall include
24 information on restoring other civil rights through the pardon process,
25 including application to and hearing by the Board of Pardons.

26 (2) Whenever any person is convicted of an offense ~~infraction,~~
27 ~~misdemeanor,~~ ~~or a felony~~ and is placed on probation by the court, ~~or~~ is
28 sentenced to a fine only, or is sentenced to community service, he or she
29 may, after satisfactory fulfillment of the conditions of probation for
30 the entire period or after discharge from probation prior to the
31 termination of the period of probation and after payment of any fine and

1 completion of any community service, petition the sentencing court to set
2 aside the conviction.

3 (3)(a) Except as provided in subdivision (3)(b) of this section,
4 whenever any person is convicted of an offense and is sentenced other
5 than as provided in subsection (2) of this section, but is not sentenced
6 to a term of imprisonment of more than one year, such person may, after
7 completion of his or her sentence, petition the sentencing court to set
8 aside the conviction.

9 (b) A petition under subdivision (3)(a) of this section shall be
10 denied if filed:

11 (i) By any person with a criminal charge pending in any court in the
12 United States or in any other country;

13 (ii) During any period in which the person is required to register
14 under the Sex Offender Registration Act;

15 (iii) For any misdemeanor or felony motor vehicle offense under
16 section 28-306 or the Nebraska Rules of the Road; or

17 (iv) Within two years after a denial of a petition to set aside a
18 conviction under this subsection.

19 (4) ~~(3)~~ In determining whether to set aside the conviction, the
20 court shall consider:

21 (a) The behavior of the offender after sentencing;

22 (b) The likelihood that the offender will not engage in further
23 criminal activity; and

24 (c) Any other information the court considers relevant.

25 (5) ~~(4)~~ The court may grant the offender's petition and issue an
26 order setting aside the conviction when in the opinion of the court the
27 order will be in the best interest of the offender and consistent with
28 the public welfare. The order shall:

29 (a) Nullify the conviction; ~~and~~

30 (b) Remove all civil disabilities and disqualifications imposed as a
31 result of the conviction; ~~and~~ -

1 (c) Notify the offender that he or she should consult with an
2 attorney regarding the effect of the order, if any, on the offender's
3 ability to possess a firearm under state or federal law.

4 ~~(6) (5)~~ The setting aside of a conviction in accordance with the
5 Nebraska Probation Administration Act shall not:

6 (a) Require the reinstatement of any office, employment, or position
7 which was previously held and lost or forfeited as a result of the
8 conviction;

9 (b) Preclude proof of a plea of guilty whenever such plea is
10 relevant to the determination of an issue involving the rights or
11 liabilities of someone other than the offender;

12 (c) Preclude proof of the conviction as evidence of the commission
13 of the offense ~~infraction, misdemeanor, or felony~~ whenever the fact of
14 its commission is relevant for the purpose of impeaching the offender as
15 a witness, except that the order setting aside the conviction may be
16 introduced in evidence;

17 (d) Preclude use of the conviction for the purpose of determining
18 sentence on any subsequent conviction of a criminal offense;

19 (e) Preclude the proof of the conviction as evidence of the
20 commission of the offense ~~infraction, misdemeanor, or felony~~ in the event
21 an offender is charged with a subsequent offense and the penalty provided
22 by law is increased if the prior conviction is proved;

23 (f) Preclude the proof of the conviction to determine whether an
24 offender is eligible to have a subsequent conviction set aside in
25 accordance with the Nebraska Probation Administration Act;

26 (g) Preclude use of the conviction as evidence of commission of the
27 offense ~~infraction, misdemeanor, or felony~~ for purposes of determining
28 whether an application filed or a license issued under sections 71-1901
29 to 71-1906.01, the Child Care Licensing Act, or the Children's
30 Residential Facilities and Placing Licensure Act or a certificate issued
31 under sections 79-806 to 79-815 should be denied, suspended, or revoked;

1 (h) Preclude use of the conviction as evidence of incompetence,
2 neglect of duty, physical, mental, or emotional incapacity, or final
3 conviction of or pleading guilty or nolo contendere to a felony for
4 purposes of determining whether an application filed or a certificate
5 issued under sections 81-1401 to 81-1414.10 should be denied, suspended,
6 or revoked;

7 (i) Preclude proof of the conviction as evidence whenever the fact
8 of the conviction is relevant to a determination of the registration
9 period under section 29-4005; ~~or~~

10 (j) Relieve a person who is convicted of an offense for which
11 registration is required under the Sex Offender Registration Act of the
12 duty to register and to comply with the terms of the act; ~~-~~

13 (k) Preclude use of the conviction for purposes of section 28-1206;

14 (l) Affect the right of a victim of a crime to prosecute or defend a
15 civil action;

16 (m) Affect the assessment or accumulation of points under section
17 60-4,182; or

18 (n) Affect eligibility for, or obligations relating to, a commercial
19 driver's license.

20 (7) For purposes of this section, offense means any violation of the
21 criminal laws of this state or any political subdivision of this state
22 including, but not limited to, any felony, misdemeanor, infraction,
23 traffic infraction, violation of a city or village ordinance, or
24 violation of a county resolution.

25 ~~(8) (6)~~ Except as otherwise provided for the notice in subsection
26 (1) of this section, changes made to this section by Laws 2005, LB 713,
27 shall be retroactive in application and shall apply to all persons,
28 otherwise eligible in accordance with the provisions of this section,
29 whether convicted prior to, on, or subsequent to September 4, 2005.

30 ~~(9) (7)~~ The changes made to this section by Laws 2018, LB146, and
31 this legislative bill shall be retroactive in application and shall apply

1 to all persons, otherwise eligible under ~~in accordance with the~~
2 ~~provisions of this section, without regard to the date of the conviction~~
3 ~~sought to be set aside whether convicted prior to, on, or subsequent to~~
4 ~~July 19, 2018.~~

5 Sec. 25. Section 29-3005, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 29-3005 (1) For purposes of this section:

8 (a) Prostitution-related offense includes:

9 (i) Prostitution under section 28-801, solicitation of prostitution
10 under section 28-801.01, keeping a place of prostitution under section
11 28-804, public indecency under section 28-806, or loitering for the
12 purpose of engaging in prostitution or related or similar offenses under
13 local ordinances; and

14 (ii) Attempt, conspiracy, solicitation, being an accessory to,
15 aiding and abetting, aiding the consummation of, or compounding a felony
16 with any of the offenses in subdivision (1)(a) of this section as the
17 underlying offense;

18 (b) Trafficker means a person who engages in sex trafficking or sex
19 trafficking of a minor as defined in section 28-830; and

20 (c) Victim of sex trafficking means a person subjected to sex
21 trafficking or sex trafficking of a minor, as those terms are defined in
22 section 28-830.

23 (2) At any time following the completion of sentence or disposition,
24 a victim of sex trafficking convicted in county or district court of, or
25 adjudicated in a juvenile court for, (a) a prostitution-related offense
26 committed while the movant was a victim of sex trafficking or proximately
27 caused by the movant's status as a victim of sex trafficking or (b) any
28 other offense committed as a direct result of, or proximately caused by,
29 the movant's status as a victim of sex trafficking, may file a motion to
30 set aside such conviction or adjudication. The motion shall be filed in
31 the county, district, or separate juvenile court of the county in which

1 the movant was convicted or adjudicated.

2 (3)(a) If the court finds that the movant was a victim of sex
3 trafficking at the time of the prostitution-related offense or finds that
4 the movant's participation in the prostitution-related offense was
5 proximately caused by the movant's status as a victim of sex trafficking,
6 the court shall grant the motion to set aside a conviction or an
7 adjudication for such prostitution-related offense.

8 (b) If the court finds that the movant's participation in an offense
9 other than a prostitution-related offense was a direct result of or
10 proximately caused by the movant's status as a victim of sex trafficking,
11 the court shall grant the motion to set aside a conviction or an
12 adjudication for such offense.

13 (4) Official documentation of a movant's status as a victim of sex
14 trafficking at the time of the prostitution-related offense or other
15 offense shall create a rebuttable presumption that the movant was a
16 victim of sex trafficking at the time of the prostitution-related offense
17 or other offense. Such official documentation shall not be required to
18 obtain relief under this section. Such official documentation includes:

19 (a) A copy of an official record, certification, or eligibility
20 letter from a federal, state, tribal, or local proceeding, including an
21 approval notice or an enforcement certification generated from a federal
22 immigration proceeding, that shows that the movant is a victim of sex
23 trafficking; or

24 (b) An affidavit or sworn testimony from an attorney, a member of
25 the clergy, a medical professional, a trained professional staff member
26 of a victim services organization, or other professional from whom the
27 movant has sought legal counsel or other assistance in addressing the
28 trauma associated with being a victim of sex trafficking.

29 (5) In considering whether the movant is a victim of sex
30 trafficking, the court may consider any other evidence the court
31 determines is of sufficient credibility and probative value, including an

1 affidavit or sworn testimony. Examples of such evidence include, but are
2 not limited to:

3 (a) Branding or other tattoos on the movant that identified him or
4 her as having a trafficker;

5 (b) Testimony or affidavits from those with firsthand knowledge of
6 the movant's involvement in the commercial sex trade such as solicitors
7 of commercial sex, family members, hotel workers, and other individuals
8 trafficked by the same individual or group of individuals who trafficked
9 the movant;

10 (c) Financial records showing profits from the commercial sex trade,
11 such as records of hotel stays, employment at indoor venues such as
12 massage parlors, bottle clubs, or strip clubs, or employment at an escort
13 service;

14 (d) Internet listings, print advertisements, or business cards used
15 to promote the movant for commercial sex; or

16 (e) Email, text, or voicemail records between the movant, the
17 trafficker, or solicitors of sex that reveal aspects of the sex trade
18 such as behavior patterns, meeting times, or payments or examples of the
19 trafficker exerting force, fraud, or coercion over the movant.

20 (6) Upon request of a movant, any hearing relating to the motion
21 shall be conducted in camera. The rules of evidence shall not apply at
22 any hearing relating to the motion.

23 (7) An order setting aside a conviction or an adjudication under
24 this section shall have the same effect as an order setting aside a
25 conviction as provided in subsections (5) ~~(4)~~ and (6) ~~(5)~~ of section
26 29-2264.

27 Sec. 26. Section 29-4003, Revised Statutes Supplement, 2019, is
28 amended to read:

29 29-4003 (1)(a) The Sex Offender Registration Act applies to any
30 person who on or after January 1, 1997:

31 (i) Has ever pled guilty to, pled nolo contendere to, or been found

1 guilty of any of the following:

2 (A) Kidnapping of a minor pursuant to section 28-313, except when
3 the person is the parent of the minor and was not convicted of any other
4 offense in this section;

5 (B) False imprisonment of a minor pursuant to section 28-314 or
6 28-315;

7 (C) Sexual assault pursuant to section 28-319 or 28-320;

8 (D) Sexual abuse by a school employee pursuant to section 12 of this
9 act;

10 (E) ~~(D)~~ Sexual assault of a child in the second or third degree
11 pursuant to section 28-320.01;

12 (F) ~~(E)~~ Sexual assault of a child in the first degree pursuant to
13 section 28-319.01;

14 (G) ~~(F)~~ Sexual abuse of a vulnerable adult or senior adult pursuant
15 to subdivision (1)(c) of section 28-386;

16 (H) ~~(G)~~ Incest of a minor pursuant to section 28-703;

17 (I) ~~(H)~~ Pandering of a minor pursuant to section 28-802;

18 (J) ~~(I)~~ Visual depiction of sexually explicit conduct of a child
19 pursuant to section 28-1463.03 or subdivision (2)(b) or (c) of section
20 28-1463.05;

21 (K) ~~(J)~~ Knowingly possessing any visual depiction of sexually
22 explicit conduct which has a child as one of its participants or
23 portrayed observers pursuant to subsection (1) or (4) of section
24 28-813.01;

25 (L) ~~(K)~~ Criminal child enticement pursuant to section 28-311;

26 (M) ~~(L)~~ Child enticement by means of an electronic communication
27 device pursuant to section 28-320.02;

28 (N) ~~(M)~~ Debauching a minor pursuant to section 28-805; or

29 (O) ~~(N)~~ Attempt, solicitation, aiding or abetting, being an
30 accessory, or conspiracy to commit an offense listed in subdivisions (1)
31 (a)(i)(A) through (1)(a)(i)(N) ~~(1)(a)(i)(M)~~ of this section;

1 (ii) Has ever pled guilty to, pled nolo contendere to, or been found
2 guilty of any offense that is substantially equivalent to a registrable
3 offense under subdivision (1)(a)(i) of this section by any village, town,
4 city, state, territory, commonwealth, or other jurisdiction of the United
5 States, by the United States Government, by court-martial or other
6 military tribunal, or by a foreign jurisdiction, notwithstanding a
7 procedure comparable in effect to that described under section 29-2264 or
8 any other procedure to nullify a conviction other than by pardon;

9 (iii) Is incarcerated in a jail, a penal or correctional facility,
10 or any other public or private institution or is under probation or
11 parole as a result of pleading guilty to or being found guilty of a
12 registrable offense under subdivision (1)(a)(i) or (ii) of this section
13 prior to January 1, 1997; or

14 (iv) Enters the state and is required to register as a sex offender
15 under the laws of another village, town, city, state, territory,
16 commonwealth, or other jurisdiction of the United States.

17 (b) In addition to the registrable offenses under subdivision (1)(a)
18 of this section, the Sex Offender Registration Act applies to any person
19 who on or after January 1, 2010:

20 (i)(A) Except as provided in subdivision (1)(b)(i)(B) of this
21 section, has ever pled guilty to, pled nolo contendere to, or been found
22 guilty of any of the following:

23 (I) Murder in the first degree pursuant to section 28-303;

24 (II) Murder in the second degree pursuant to section 28-304;

25 (III) Manslaughter pursuant to section 28-305;

26 (IV) Assault in the first degree pursuant to section 28-308;

27 (V) Assault in the second degree pursuant to section 28-309;

28 (VI) Assault in the third degree pursuant to section 28-310;

29 (VII) Stalking pursuant to section 28-311.03;

30 (VIII) Violation of section 28-311.08 requiring registration under
31 the act pursuant to subsection (6) of section 28-311.08;

1 (IX) Kidnapping pursuant to section 28-313;

2 (X) False imprisonment pursuant to section 28-314 or 28-315;

3 (XI) Sexual abuse of an inmate or parolee in the first degree
4 pursuant to section 28-322.02;

5 (XII) Sexual abuse of an inmate or parolee in the second degree
6 pursuant to section 28-322.03;

7 (XIII) Sexual abuse of a protected individual pursuant to section
8 28-322.04;

9 (XIV) Incest pursuant to section 28-703;

10 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of section
11 28-707;

12 (XVI) Enticement by electronic communication device pursuant to
13 section 28-833; or

14 (XVII) Attempt, solicitation, aiding or abetting, being an
15 accessory, or conspiracy to commit an offense listed in subdivisions (1)
16 (b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this section.

17 (B) In order for the Sex Offender Registration Act to apply to the
18 offenses listed in subdivisions (1)(b)(i)(A)(I), (II), (III), (IV), (V),
19 (VI), (VII), (IX), and (X) of this section, a court shall have found that
20 evidence of sexual penetration or sexual contact, as those terms are
21 defined in section 28-318, was present in the record, which shall include
22 consideration of the factual basis for a plea-based conviction and
23 information contained in the presentence report;

24 (ii) Has ever pled guilty to, pled nolo contendere to, or been found
25 guilty of any offense that is substantially equivalent to a registrable
26 offense under subdivision (1)(b)(i) of this section by any village, town,
27 city, state, territory, commonwealth, or other jurisdiction of the United
28 States, by the United States Government, by court-martial or other
29 military tribunal, or by a foreign jurisdiction, notwithstanding a
30 procedure comparable in effect to that described under section 29-2264 or
31 any other procedure to nullify a conviction other than by pardon; or

1 (iii) Enters the state and is required to register as a sex offender
2 under the laws of another village, town, city, state, territory,
3 commonwealth, or other jurisdiction of the United States.

4 (c) In addition to the registrable offenses under subdivisions (1)
5 (a) and (b) of this section, the Sex Offender Registration Act applies to
6 any person who on or after January 1, 2020:

7 (i) Has ever pled guilty to, pled nolo contendere to, or been found
8 guilty of sexual abuse of a detainee under section 28-322.05; or

9 (ii) Has ever pled guilty to, pled nolo contendere to, or been found
10 guilty of any offense that is substantially equivalent to a registrable
11 offense under subdivision (1)(c)(i) of this section by any village, town,
12 city, state, territory, commonwealth, or other jurisdiction of the United
13 States, by the United States Government, by court-martial or other
14 military tribunal, or by a foreign jurisdiction, notwithstanding a
15 procedure comparable in effect to that described under section 29-2264 or
16 any other procedure to nullify a conviction other than by pardon.

17 (2) A person appealing a conviction of a registrable offense under
18 this section shall be required to comply with the act during the appeals
19 process.

20 Sec. 27. The Revisor of Statutes shall assign:

21 (1) Section 4 of this act to Chapter 27, article 7; and

22 (2) Section 19 of this act to Chapter 29, article 18.

23 Sec. 28. Original sections 27-1103, 28-713.01, and 29-1406, Reissue
24 Revised Statutes of Nebraska, sections 29-901, 29-1407.01, 29-1822,
25 29-2004, 29-2005, 29-2206, 29-2264, and 29-3005, Revised Statutes
26 Cumulative Supplement, 2018, and sections 27-404, 27-413, 28-101,
27 28-311.11, 28-318, 28-710, 28-713, 29-110, 29-1823, and 29-4003, Revised
28 Statutes Supplement, 2019, are repealed.