

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 958

Introduced by Cavanaugh, 6.

Read first time January 13, 2020

Committee: Judiciary

1 A BILL FOR AN ACT relating to protection orders; to amend sections
2 28-311.09, 28-311.11, 28-1206, 42-924, 42-925, and 42-926, Revised
3 Statutes Supplement, 2019; to change provisions relating to the
4 possession or purchase of a firearm by any person convicted of a
5 misdemeanor crime of domestic violence or subject to a harassment,
6 sexual assault, or domestic abuse protection order; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-311.09, Revised Statutes Supplement, 2019, is
2 amended to read:

3 28-311.09 (1) Any victim who has been harassed as defined by section
4 28-311.02 may file a petition and affidavit for a harassment protection
5 order as provided in subsection ~~(4)~~ ~~(3)~~ of this section. Upon the filing
6 of such a petition and affidavit in support thereof, the court may issue
7 a harassment protection order without bond enjoining the respondent from
8 (a) imposing any restraint upon the person or liberty of the petitioner,
9 (b) harassing, threatening, assaulting, molesting, attacking, or
10 otherwise disturbing the peace of the petitioner, or (c) telephoning,
11 contacting, or otherwise communicating with the petitioner. The
12 harassment protection order shall specify to whom relief under this
13 section was granted.

14 (2) Upon the issuance of a final protection order or an order deemed
15 a final protection order under subdivision (10)(c) of this section, the
16 court shall enjoin the respondent from possessing or purchasing a firearm
17 as defined in section 28-1201 for the duration of the order.

18 ~~(3)~~ ~~(2)~~ The petition for a harassment protection order shall state
19 the events and dates or approximate dates of acts constituting the
20 alleged harassment, including the most recent and most severe incident or
21 incidents.

22 ~~(4)~~ ~~(3)~~ A petition for a harassment protection order shall be filed
23 with the clerk of the district court, and the proceeding may be heard by
24 the county court or the district court as provided in section 25-2740.

25 ~~(5)~~ ~~(4)~~ A petition for a harassment protection order filed pursuant
26 to subsection (1) of this section may not be withdrawn except upon order
27 of the court. An order issued pursuant to subsection (1) of this section
28 shall specify that it is effective for a period of one year unless
29 otherwise dismissed or modified by the court. Any person, except the
30 petitioner, who knowingly violates an order issued pursuant to subsection
31 (1) of this section after service or notice as described in subdivision

1 ~~(10)(b)~~ ~~(9)(b)~~ of this section shall be guilty of a Class II misdemeanor.

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

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

13 ~~(7)~~ ~~(6)~~ The clerk of the district court shall make available
14 standard application and affidavit forms for a harassment protection
15 order with instructions for completion to be used by a petitioner.
16 Affidavit forms shall request all relevant information, including, but
17 not limited to: A description of the incidents that are the basis for the
18 application for a harassment protection order, including the most severe
19 incident, and the date or approximate date of such incidents. The clerk
20 and his or her employees shall not provide assistance in completing the
21 forms. The State Court Administrator shall adopt and promulgate the
22 standard application and affidavit forms provided for in this section as
23 well as the standard temporary ex parte and final harassment protection
24 order forms and provide a copy of such forms to all clerks of the
25 district courts in this state. These standard temporary ex parte and
26 final harassment protection order forms shall be the only such forms used
27 in this state.

28 ~~(8)~~ ~~(7)~~ Any order issued under subsection (1) of this section may be
29 issued ex parte without notice to the respondent if it reasonably appears
30 from the specific facts shown by affidavit of the petitioner that
31 irreparable harm, loss, or damage will result before the matter can be

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

1 (9) ~~(8)~~ A court may treat a petition for a harassment protection
2 order as a petition for a sexual assault protection order or a domestic
3 abuse protection order if it appears from the facts in the petition,
4 affidavit, and evidence presented at a show-cause hearing that such other
5 protection order is more appropriate and if:

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

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

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

28 (b) If the respondent is present at a hearing convened pursuant to
29 this section and the harassment protection order is not dismissed, such
30 respondent shall be deemed to have notice by the court at such hearing
31 that the harassment protection order will be granted and remain in effect

1 and further service of such notice described in this subsection shall not
2 be required for purposes of prosecution under this section.

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

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

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

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

16 (11) ~~(10)~~ A peace officer may, with or without a warrant, arrest a
17 person if (a) the officer has probable cause to believe that the person
18 has committed a violation of a harassment protection order issued
19 pursuant to this section or a violation of a valid foreign harassment
20 protection order recognized pursuant to section 28-311.10 and (b) a
21 petitioner under this section provides the peace officer with a copy of a
22 harassment protection order or the peace officer determines that such an
23 order exists after communicating with the local law enforcement agency or
24 a person protected under a valid foreign harassment protection order
25 recognized pursuant to section 28-311.10 provides the peace officer with
26 a copy of such order.

27 (12) ~~(11)~~ A peace officer making an arrest pursuant to subsection
28 (11) ~~(10)~~ of this section shall take such person into custody and take
29 such person before the county court or the court which issued the
30 harassment protection order within a reasonable time. At such time the
31 court shall establish the conditions of such person's release from

1 custody, including the determination of bond or recognizance, as the case
2 may be. The court shall issue an order directing that such person shall
3 have no contact with the alleged victim of the harassment.

4 ~~(13)~~ ~~(12)~~ When provided by the petitioner, the court shall make
5 confidential numeric victim identification information, including social
6 security numbers and dates of birth, available to appropriate criminal
7 justice agencies engaged in protection order enforcement efforts. Such
8 agencies shall maintain the confidentiality of this information except
9 for entry into state and federal data bases for protection order
10 enforcement.

11 Sec. 2. Section 28-311.11, Revised Statutes Supplement, 2019, is
12 amended to read:

13 28-311.11 (1) Any victim of a sexual assault offense may file a
14 petition and affidavit for a sexual assault protection order as provided
15 in subsection (4) ~~(3)~~ of this section. Upon the filing of such a petition
16 and affidavit in support thereof, the court may issue a sexual assault
17 protection order without bond enjoining the respondent from (a) imposing
18 any restraint upon the person or liberty of the petitioner, (b)
19 harassing, threatening, assaulting, molesting, attacking, or otherwise
20 disturbing the peace of the petitioner, or (c) telephoning, contacting,
21 or otherwise communicating with the petitioner. The sexual assault
22 protection order shall specify to whom relief under this section was
23 granted.

24 (2) Upon the issuance of a final protection order or an order deemed
25 a final protection order under subdivision (10)(c) of this section, the
26 court shall enjoin the respondent from possessing or purchasing a firearm
27 as defined in section 28-1201 for the duration of the order.

28 ~~(3)~~ ~~(2)~~ The petition for a sexual assault protection order shall
29 state the events and dates or approximate dates of acts constituting the
30 sexual assault offense, including the most recent and most severe
31 incident or incidents.

1 (4) ~~(3)~~ A petition for a sexual assault protection order shall be
2 filed with the clerk of the district court and the proceeding may be
3 heard by the county court or the district court as provided in section
4 25-2740.

5 (5) ~~(4)~~ A petition for a sexual assault protection order may not be
6 withdrawn except upon order of the court. A sexual assault protection
7 order shall specify that it is effective for a period of one year unless
8 renewed pursuant to subsection (13) ~~(12)~~ of this section or otherwise
9 dismissed or modified by the court. Any person, except the petitioner,
10 who knowingly violates a sexual assault protection order after service or
11 notice as described in subdivision (10)(b) ~~(9)(b)~~ of this section shall
12 be guilty of a Class I misdemeanor, except that any person convicted of
13 violating such order who has a prior conviction for violating a sexual
14 assault protection order shall be guilty of a Class IV felony.

15 (6)(a) ~~(5)(a)~~ Fees to cover costs associated with the filing of a
16 petition for issuance or renewal of a sexual assault protection order or
17 the issuance or service of a sexual assault protection order seeking only
18 the relief provided by this section shall not be charged, except that a
19 court may assess such fees and costs if the court finds, by clear and
20 convincing evidence, that the statements contained in the petition were
21 false and that the sexual assault protection order was sought in bad
22 faith.

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

27 (7) ~~(6)~~ The clerk of the district court shall make available
28 standard application and affidavit forms for issuance and renewal of a
29 sexual assault protection order with instructions for completion to be
30 used by a petitioner. Affidavit forms shall request all relevant
31 information, including, but not limited to: A description of the most

1 recent incident that was the basis for the application for a sexual
2 assault protection order and the date or approximate date of the incident
3 and, if there was more than one incident, the most severe incident and
4 the date or approximate date of such incident. The clerk and his or her
5 employees shall not provide assistance in completing the forms. The State
6 Court Administrator shall adopt and promulgate the standard application
7 and affidavit forms provided for in this section as well as the standard
8 temporary ex parte and final sexual assault protection order forms and
9 provide a copy of such forms to all clerks of the district courts in this
10 state. Such standard temporary ex parte and final sexual assault
11 protection order forms shall be the only forms used in this state.

12 (8) ~~(7)~~ A sexual assault protection order may be issued or renewed
13 ex parte without notice to the respondent if it reasonably appears from
14 the specific facts shown by affidavit of the petitioner that irreparable
15 harm, loss, or damage will result before the matter can be heard on
16 notice. If a sexual assault protection order is not issued ex parte, the
17 court shall immediately schedule an evidentiary hearing to be held within
18 fourteen days after the filing of the petition, and the court shall cause
19 notice of the application to be given to the respondent stating that he
20 or she may show cause why such order should not be entered. Any notice
21 provided to the respondent shall include notification that a court may
22 treat a petition for a sexual assault protection order as a petition for
23 a harassment protection order or a domestic abuse protection order if it
24 appears from the facts that such other protection order is more
25 appropriate and that the respondent shall have an opportunity to show
26 cause as to why such protection order should not be entered. If such ex
27 parte order is issued or renewed without notice to the respondent, the
28 court shall forthwith cause notice of the petition and order and a form
29 with which to request a show-cause hearing to be given the respondent
30 stating that, upon service on the respondent, the order shall remain in
31 effect for a period of one year unless the respondent shows cause why the

1 order should not remain in effect for a period of one year. If the
2 respondent wishes to appear and show cause why the order should not
3 remain in effect for a period of one year, he or she shall affix his or
4 her current address, telephone number, and signature to the form and
5 return it to the clerk of the district court within ten business days
6 after service upon him or her. Upon receipt of a timely request for a
7 show-cause hearing, the court shall immediately schedule a show-cause
8 hearing to be held within thirty days after the receipt of the request
9 for a show-cause hearing and shall notify the petitioner and respondent
10 of the hearing date. The petition and affidavit shall be deemed to have
11 been offered into evidence at any show-cause hearing. The petition and
12 affidavit shall be admitted into evidence unless specifically excluded by
13 the court.

14 (9) ~~(8)~~ A court may treat a petition for a sexual assault protection
15 order as a petition for a harassment protection order or a domestic abuse
16 protection order if it appears from the facts in the petition, affidavit,
17 and evidence presented at a show-cause hearing that such other protection
18 order is more appropriate and if:

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

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

22 (10)(a) ~~(9)(a)~~ Upon the issuance or renewal of any temporary ex
23 parte or final sexual assault protection order, the clerk of the court
24 shall forthwith provide the petitioner, without charge, with two
25 certified copies of such order. The clerk of the court shall also
26 forthwith provide the local police department or local law enforcement
27 agency and the local sheriff's office, without charge, with one copy each
28 of such order and one copy each of the sheriff's return thereon. The
29 clerk of the court shall also forthwith provide a copy of the sexual
30 assault protection order to the sheriff's office in the county where the
31 respondent may be personally served together with instructions for

1 service. Upon receipt of the order and instructions for service, such
2 sheriff's office shall forthwith serve the sexual assault protection
3 order upon the respondent and file its return thereon with the clerk of
4 the court which issued the sexual assault protection order within
5 fourteen days of the issuance of the initial or renewed sexual assault
6 protection order. If any sexual assault protection order is dismissed or
7 modified by the court, the clerk of the court shall forthwith provide the
8 local police department or local law enforcement agency and the local
9 sheriff's office, without charge, with one copy each of the order of
10 dismissal or modification.

11 (b) If the respondent is present at a hearing convened pursuant to
12 this section and the sexual assault protection order is not dismissed,
13 such respondent shall be deemed to have notice by the court at such
14 hearing that the protection order will be granted and remain in effect
15 and further service of such notice described in this subsection shall not
16 be required for purposes of prosecution under this section.

17 (c) A temporary ex parte sexual assault protection order shall be
18 affirmed and deemed the final protection order and service of the
19 temporary ex parte order shall be notice of the final protection order if
20 the respondent has been properly served with the ex parte order and:

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

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

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

30 (11) ~~(10)~~ A peace officer shall, with or without a warrant, arrest a
31 person if (a) the officer has probable cause to believe that the person

1 has committed a violation of a sexual assault protection order issued
2 pursuant to this section or a violation of a valid foreign sexual assault
3 protection order recognized pursuant to section 28-311.12 and (b) a
4 petitioner under this section provides the peace officer with a copy of
5 such order or the peace officer determines that such an order exists
6 after communicating with the local law enforcement agency.

7 ~~(12)~~ ~~(11)~~ A peace officer making an arrest pursuant to subsection
8 ~~(11)~~ ~~(10)~~ of this section shall take such person into custody and take
9 such person before the county court or the court which issued the sexual
10 assault protection order within a reasonable time. At such time the court
11 shall establish the conditions of such person's release from custody,
12 including the determination of bond or recognizance, as the case may be.
13 The court shall issue an order directing that such person shall have no
14 contact with the alleged victim of the sexual assault offense.

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

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

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

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

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

30 (c) The petition for renewal shall state the reasons a renewal is
31 sought and shall be filed with the clerk of the district court, and the

1 proceeding thereon may be heard by the county court or the district court
2 as provided in section 25-2740. A petition for renewal will otherwise be
3 governed in accordance with the procedures set forth in subsections (5)
4 ~~(4)~~ through (12) ~~(11)~~ of this section. The renewed order shall specify
5 that it is effective for one year commencing on the first calendar day
6 after expiration of the previous order or on the calendar day the court
7 grants the renewal if such day is subsequent to the first calendar day
8 after expiration of the previous order.

9 (14) ~~(13)~~ When provided by the petitioner, the court shall make
10 confidential numeric victim identification information, including social
11 security numbers and dates of birth, available to appropriate criminal
12 justice agencies engaged in protection order enforcement efforts. Such
13 agencies shall maintain the confidentiality of this information, except
14 for entry into state and federal data bases for protection order
15 enforcement.

16 (15) ~~(14)~~ For purposes of this section, sexual assault offense
17 means:

18 (a) Conduct amounting to sexual assault under section 28-319 or
19 28-320 or sexual assault of a child under section 28-319.01 or 28-320.01
20 or an attempt to commit any of such offenses; or

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

24 Sec. 3. Section 28-1206, Revised Statutes Supplement, 2019, is
25 amended to read:

26 28-1206 (1) A person commits the offense of possession of a deadly
27 weapon by a prohibited person if he or she:

28 (a) Possesses a firearm, a knife, or brass or iron knuckles and he
29 or she:

30 (i) Has previously been convicted of a felony;

31 (ii) Is a fugitive from justice;

1 (iii) Is the subject of a current and validly issued domestic
2 violence protection order, harassment protection order, or sexual assault
3 protection order of which the person has actual notice and, in the case
4 of possession of a firearm, either:

5 (A) Such order enjoins the person from possessing or purchasing a
6 firearm; or

7 (B) The person ~~and~~ is knowingly violating such order; or

8 (iv) Is on probation pursuant to a deferred judgment for a felony
9 under section 29-2292; or

10 (b) Possesses a firearm or brass or iron knuckles and he or she has
11 been convicted ~~within the past seven years~~ of a misdemeanor crime of
12 domestic violence.

13 (2) The felony conviction may have been had in any court in the
14 United States, the several states, territories, or possessions, or the
15 District of Columbia.

16 (3)(a) Possession of a deadly weapon which is not a firearm by a
17 prohibited person is a Class III felony.

18 (b) Possession of a deadly weapon which is a firearm by a prohibited
19 person is a Class ID felony for a first offense and a Class IB felony for
20 a second or subsequent offense.

21 (4) Subdivision (1)(a)(i) of this section shall not prohibit:

22 (a) Possession of archery equipment for lawful purposes; or

23 (b) If in possession of a recreational license, possession of a
24 knife for purposes of butchering, dressing, or otherwise processing or
25 harvesting game, fish, or furs.

26 (5)(a) For purposes of this section, misdemeanor crime of domestic
27 violence means a crime that:

28 (i) Is classified as a misdemeanor under the laws of the United
29 States or the District of Columbia or the laws of any state, territory,
30 possession, or tribe;

31 (ii) Has, as an element, the use or attempted use of physical force

1 or the threatened use of a deadly weapon; and

2 (iii) Is committed by another against his or her spouse, his or her
3 former spouse, a person with whom he or she has a child in common whether
4 or not they have been married or lived together at any time, or a person
5 with whom he or she is or was involved in a dating relationship as
6 defined in section 28-323.

7 (b) For purposes of this section, misdemeanor crime of domestic
8 violence also includes the following offenses, if committed by a person
9 against his or her spouse, his or her former spouse, a person with whom
10 he or she is or was involved in a dating relationship as defined in
11 section 28-323, or a person with whom he or she has a child in common
12 whether or not they have been married or lived together at any time:

13 (i) Assault in the third degree under section 28-310;

14 (ii) Stalking under subsection (1) of section 28-311.04;

15 (iii) False imprisonment in the second degree under section 28-315;

16 (iv) First offense domestic assault in the third degree under
17 subsection (1) of section 28-323; or

18 (v) Any attempt or conspiracy to commit any of such offenses.

19 (c) A person shall not be considered to have been convicted of a
20 misdemeanor crime of domestic violence unless:

21 (i) The person was represented by counsel in the case or knowingly
22 and intelligently waived the right to counsel in the case; and

23 (ii) In the case of a prosecution for a misdemeanor crime of
24 domestic violence for which a person was entitled to a jury trial in the
25 jurisdiction in which the case was tried, either:

26 (A) The case was tried to a jury; or

27 (B) The person knowingly and intelligently waived the right to have
28 the case tried to a jury.

29 (6) In addition, for purposes of this section:

30 (a) Archery equipment means:

31 (i) A longbow, recurve bow, compound bow, or nonelectric crossbow

1 that is drawn or cocked with human power and released by human power; and
2 (ii) Target or hunting arrows, including arrows with broad, fixed,
3 or removable heads or that contain multiple sharp cutting edges;

4 (b) Domestic violence protection order means a protection order
5 issued pursuant to section 42-924;

6 (c) Harassment protection order means a protection order issued
7 pursuant to section 28-311.09 or that meets or exceeds the criteria set
8 forth in section 28-311.10 regarding protection orders issued by a court
9 in any other state or a territory, possession, or tribe;

10 (d) Recreational license means a state-issued license, certificate,
11 registration, permit, tag, sticker, or other similar document or
12 identifier evidencing permission to hunt, fish, or trap for furs in the
13 State of Nebraska; and

14 (e) Sexual assault protection order means a protection order issued
15 pursuant to section 28-311.11 or that meets or exceeds the criteria set
16 forth in section 28-311.12 regarding protection orders issued by a court
17 in any other state or a territory, possession, or tribe.

18 Sec. 4. Section 42-924, Revised Statutes Supplement, 2019, is
19 amended to read:

20 42-924 (1)(a) Any victim of domestic abuse may file a petition and
21 affidavit for a protection order as provided in this section. Upon the
22 filing of such a petition and affidavit in support thereof, the court may
23 issue a protection order without bond granting the following relief:

24 (i) Enjoining the respondent from imposing any restraint upon the
25 petitioner or upon the liberty of the petitioner;

26 (ii) Enjoining the respondent from threatening, assaulting,
27 molesting, attacking, or otherwise disturbing the peace of the
28 petitioner;

29 (iii) Enjoining the respondent from telephoning, contacting, or
30 otherwise communicating with the petitioner;

31 (iv) Removing and excluding the respondent from the residence of the

1 petitioner, regardless of the ownership of the residence;

2 (v) Ordering the respondent to stay away from any place specified by
3 the court;

4 (vi) Awarding the petitioner temporary custody of any minor children
5 not to exceed ninety days; or

6 ~~(vii) Enjoining the respondent from possessing or purchasing a~~
7 ~~firearm as defined in section 28-1201; or~~

8 (vii) ~~(viii)~~ Ordering such other relief deemed necessary to provide
9 for the safety and welfare of the petitioner and any designated family or
10 household member.

11 (b) The petition for a protection order shall state the events and
12 dates or approximate dates of acts constituting the alleged domestic
13 abuse, including the most recent and most severe incident or incidents.

14 (c) The protection order shall specify to whom relief under this
15 section was granted.

16 (2) Upon the issuance of a final protection order or an order deemed
17 a final protection order under subsection (2) of section 42-925, the
18 court shall enjoin the respondent from possessing or purchasing a firearm
19 as defined in section 28-1201 for the duration of the order.

20 (3) ~~(2)~~ Petitions for protection orders shall be filed with the
21 clerk of the district court, and the proceeding may be heard by the
22 county court or the district court as provided in section 25-2740. A
23 petition for a protection order may not be withdrawn except upon order of
24 the court.

25 (4)(a) ~~(3)(a)~~ A protection order shall specify that it is effective
26 for a period of one year and, if the order grants temporary custody, the
27 number of days of custody granted to the petitioner unless otherwise
28 modified by the court.

29 (b)(i) Any victim of domestic abuse may file a petition and
30 affidavit to renew a protection order. Such petition and affidavit for
31 renewal shall be filed any time within forty-five days before the

1 expiration of the previous protection order, including the date the order
2 expires.

3 (ii) A protection order may be renewed on the basis of the
4 petitioner's affidavit stating that there has been no material change in
5 relevant circumstances since entry of the order and stating the reason
6 for the requested renewal if:

7 (A) The petitioner seeks no modification of the order; and

8 (B)(I) The respondent has been properly served with notice of the
9 petition for renewal and notice of hearing and fails to appear at the
10 hearing; or

11 (II) The respondent indicates that he or she does not contest the
12 renewal.

13 (iii) Such renewed order shall specify that it is effective for a
14 period of one year to commence on the first calendar day following the
15 expiration of the previous order or on the calendar day the court grants
16 the renewal if such day is subsequent to the first calendar day after
17 expiration of the previous order and, if the court grants temporary
18 custody, the number of days of custody granted to the petitioner unless
19 otherwise modified by the court.

20 ~~(5)~~ ~~(4)~~ Any person, except the petitioner, who knowingly violates a
21 protection order issued pursuant to this section or section 42-931 after
22 service or notice as described in subsection (2) of section 42-926 shall
23 be guilty of a Class I misdemeanor, except that any person convicted of
24 violating such order who has a prior conviction for violating a
25 protection order shall be guilty of a Class IV felony.

26 ~~(6)~~ ~~(5)~~ If there is any conflict between sections 42-924 to 42-926
27 and any other provision of law, sections 42-924 to 42-926 shall govern.

28 Sec. 5. Section 42-925, Revised Statutes Supplement, 2019, is
29 amended to read:

30 42-925 (1) An order issued under section 42-924 may be issued ex
31 parte to the respondent if it reasonably appears from the specific facts

1 included in the affidavit that the petitioner will be in immediate danger
2 of abuse before the matter can be heard on notice. If an order is issued
3 ex parte, such order is a temporary order and the court shall forthwith
4 cause notice of the petition and order to be given to the respondent. The
5 court shall also cause a form to request a show-cause hearing to be
6 served upon the respondent. If the respondent wishes to appear and show
7 cause why the order should not remain in effect, he or she shall affix
8 his or her current address, telephone number, and signature to the form
9 and return it to the clerk of the district court within ten business days
10 after service upon him or her. Upon receipt of a timely request for a
11 show-cause hearing, the request of the petitioner, or upon the court's
12 own motion, the court shall immediately schedule a show-cause hearing to
13 be held within thirty days after the receipt of the request for a show-
14 cause hearing and shall notify the petitioner and respondent of the
15 hearing date. The petition and affidavit shall be deemed to have been
16 offered into evidence at any show-cause hearing. The petition and
17 affidavit shall be admitted into evidence unless specifically excluded by
18 the court. If the respondent appears at the hearing and shows cause why
19 such order should not remain in effect, the court shall rescind the
20 temporary order.

21 (2) A temporary ex parte order shall be affirmed and deemed the
22 final protection order and service of the temporary ex parte order shall
23 be notice of the final protection order if the respondent has been
24 properly served with the temporary ex parte order and:

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

28 (b) The respondent has been properly served with notice of any
29 hearing requested by the respondent, the petitioner, or upon the court's
30 own motion and fails to appear at such hearing; or

31 (c) The respondent has been properly served with notice of any

1 hearing requested by the respondent, the petitioner, or upon the court's
2 own motion and the protection order was not dismissed at the hearing.

3 (3) If an order under section 42-924 is not issued ex parte, the
4 court shall immediately schedule an evidentiary hearing to be held within
5 fourteen days after the filing of the petition, and the court shall cause
6 notice of the hearing to be given to the petitioner and the respondent.
7 Any notice provided to the respondent shall include notification that a
8 court may treat a petition for a domestic abuse protection order as a
9 petition for a harassment protection order or a sexual assault protection
10 order if it appears from the facts that such other protection order is
11 more appropriate and that the respondent shall have an opportunity to
12 show cause as to why such protection order should not be entered. If the
13 respondent does not appear at the hearing and show cause why such order
14 should not be issued, the court shall issue a final protection order.

15 (4) The court may by rule or order refer or assign all matters
16 regarding orders issued under section 42-924 to a referee for findings
17 and recommendations.

18 (5) An order issued under section 42-924 shall remain in effect for
19 the period provided in subsection (4) ~~(3)~~ of section 42-924, unless
20 dismissed or modified by the court prior to such date. If the order
21 grants temporary custody, such custody shall not exceed the number of
22 days specified by the court unless the respondent shows cause why the
23 order should not remain in effect.

24 (6) The court shall also cause the notice created under section
25 29-2291 to be served upon the respondent notifying the respondent that it
26 may be unlawful under federal law for a person who is subject to a
27 protection order to possess or receive any firearm or ammunition.

28 (7) A court may treat a petition for a domestic abuse protection
29 order as a petition for a harassment protection order or a sexual assault
30 protection order if it appears from the facts in the petition, affidavit,
31 and evidence presented at a show-cause hearing that such other protection

1 order is more appropriate and if:

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

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

5 Sec. 6. Section 42-926, Revised Statutes Supplement, 2019, is
6 amended to read:

7 42-926 (1) Upon the issuance of a temporary ex parte or final
8 protection order under section 42-925, the clerk of the court shall
9 forthwith provide the petitioner, without charge, with two certified
10 copies of such order. The clerk of the court shall also forthwith provide
11 the local police department or local law enforcement agency and the local
12 sheriff's office, without charge, with one copy each of such order and
13 one copy each of the sheriff's return thereon. The clerk of the court
14 shall also forthwith provide a copy of the protection order to the
15 sheriff's office in the county where the respondent may be personally
16 served together with instructions for service. Upon receipt of the order
17 and instructions for service, such sheriff's office shall forthwith serve
18 the protection order upon the respondent and file its return thereon with
19 the clerk of the court which issued the protection order within fourteen
20 days of the issuance of the protection order. If any protection order is
21 dismissed or modified by the court, the clerk of the court shall
22 forthwith provide the local police department or local law enforcement
23 agency and the local sheriff's office, without charge, with one copy each
24 of the order of dismissal or modification. If the respondent has notice
25 as described in subsection (2) of this section, further service under
26 this subsection is unnecessary.

27 (2) If the respondent was present at a hearing convened pursuant to
28 section 42-925 and the protection order was not dismissed, the respondent
29 shall be deemed to have notice by the court at such hearing that the
30 protection order will be granted and remain in effect and further service
31 of notice described in subsection (1) of this section is not required for

1 purposes of prosecution under subsection ~~(5)~~ (4) of section 42-924.

2 (3) When provided by the petitioner, the court shall make
3 confidential numeric victim identification information, including social
4 security numbers and dates of birth, available to appropriate criminal
5 justice agencies engaged in protection order enforcement efforts. Such
6 agencies shall maintain the confidentiality of this information, except
7 for entry into state and federal data bases for protection order
8 enforcement.

9 Sec. 7. Original sections 28-311.09, 28-311.11, 28-1206, 42-924,
10 42-925, and 42-926, Revised Statutes Supplement, 2019, are repealed.