

TWENTIETH DAY - FEBRUARY 6, 2019**LEGISLATIVE JOURNAL****ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION****TWENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 6, 2019

PRAYER

The prayer was offered by Reverend Scott Jones, First Central Congregational Church, Omaha.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Scheer presiding.

The roll was called and all members were present except Senator Halloran who was excused; and Senator Wishart who was excused until she arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the nineteenth day was approved.

GENERAL FILE

LEGISLATIVE BILL 65. Senator Chambers offered his amendment, FA4, found on page 433.

Senator Chambers withdrew his amendment.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 102. Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 301. Title read. Considered.

SENATOR LINDSTROM PRESIDING

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 4 present and not voting, and 7 excused and not voting.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 33. Placed on Final Reading.
LEGISLATIVE BILL 33A. Placed on Final Reading.
LEGISLATIVE BILL 79. Placed on Final Reading.
LEGISLATIVE BILL 82. Placed on Final Reading.
LEGISLATIVE BILL 117. Placed on Final Reading.
LEGISLATIVE BILL 190. Placed on Final Reading.

(Signed) Julie Slama, Chairperson

COMMITTEE REPORT(S)

Banking, Commerce and Insurance

LEGISLATIVE BILL 159. Placed on General File.
LEGISLATIVE BILL 380. Placed on General File.
LEGISLATIVE BILL 469. Placed on General File.

(Signed) Matt Williams, Chairperson

NOTICE OF COMMITTEE HEARING(S)

Executive Board

Room 1525

Thursday, February 14, 2019 12:00 p.m.

LB253
LB261
LB466
LB467

(Signed) Mike Hilgers, Chairperson

Natural Resources

Room 1525

Wednesday, February 13, 2019 1:30 p.m.

Bradley B. Bird - Nebraska Ethanol Board
Michael S. Thede - Nebraska Ethanol Board
Walter Dennis Strauch - Nebraska Natural Resources Commission
John Heaston - Nebraska Natural Resources Commission
LB48

Thursday, February 14, 2019 1:30 p.m.

Bradley A. Arrowsmith - Niobrara Council
Don Kraus - Nebraska Natural Resources Commission
LB53
LB177

(Signed) Dan Hughes, Chairperson

GENERAL FILE

LEGISLATIVE BILL 359. Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 306. Title read. Considered.

Committee AM71, found on page 377, was offered.

PRESIDENT FOLEY PRESIDING

Pending.

ANNOUNCEMENT(S)

Priority designation(s) received:

Brewer - LB155

AMENDMENT(S) - Print in Journal

Senator Cavanaugh filed the following amendment to LB532:
AM54

1 1. Insert the following new section:
2 Sec. 3. Section 28-1206, Revised Statutes Cumulative Supplement,
3 2018, is amended to read:
4 28-1206 (1) A person commits the offense of possession of a deadly
5 weapon by a prohibited person if he or she:
6 (a) Possesses a firearm, a knife, or brass or iron knuckles and he
7 or she:
8 (i) Has previously been convicted of a felony;
9 (ii) Is a fugitive from justice; or
10 (iii) Is the subject of a current and validly issued domestic
11 violence protection order, harassment protection order, or sexual assault
12 protection order of which the person has actual notice and, in the case
13 of possession of a firearm, such order enjoins the person from possessing
14 or purchasing a firearm and is knowingly violating such order; or
15 (b) Possesses a firearm or brass or iron knuckles and he or she has
16 been convicted ~~within the past seven years~~ of a misdemeanor crime of

17 domestic violence.

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

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

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

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

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

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

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

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

9 (ii) Has, as an element, the use or attempted use of physical force
10 or the threatened use of a deadly weapon; and

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (a) Archery equipment means:

9 (i) A longbow, recurve bow, compound bow, or nonelectric crossbow
10 that is drawn or cocked with human power and released by human power; and

11 (ii) Target or hunting arrows, including arrows with broad, fixed,
12 or removable heads or that contain multiple sharp cutting edges;

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

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

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

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

27 2. On page 5, line 30, strike "the" and insert "or" and strike the
28 last comma; and in line 31 after "and" insert "the respondent".

29 3. On page 6, line 20, strike beginning with "The" through
30 "petitioner" and insert "When provided by the petitioner, the court shall
31 make"; in line 22 after the comma insert "available"; and in line 24
1 strike the comma.

2 4. On page 11, line 6, strike "the" and insert "or" and strike the
3 last comma; and in line 7 after "and" insert "the respondent".

4 5. On page 13, lines 4 and 5, strike "(2) and (3)", show as
5 stricken, and insert "(4) and (5)"; and in line 31 after "(2)" insert
6 "Upon the issuance of a final protection order or an order deemed a final
7 protection order under subsection (2) of section 42-925, the court shall
8 enjoin the respondent from possessing or purchasing a firearm as defined
9 in section 28-1201 for the duration of the order.
10 (3)".

11 6. On page 14, line 4, strike "(3)(a)", show as stricken, and insert
12 "(4)(a)"; and in line 30 strike "(4)", show as stricken, and insert
13 "(5)".

14 7. On page 15, line 5, strike "(5)", show as stricken, and insert
15 "(6)".

16 8. On page 17, line 15, strike "(3)", show as stricken, and insert
17 "(4)".

18 9. On page 18, line 27, strike "(4)", show as stricken, and insert
19 "(5)".

20 10. On page 19, line 5, after the second comma insert "28-1206".

21 11. Renumber the remaining sections accordingly.

Senator Pansing Brooks filed the following amendment to LB55:
AM191

1 1. Strike the original sections and all amendments thereto and

2 insert the following new sections:

3 Section 1. Section 30-2478, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 30-2478 If two or more persons are appointed corepresentatives and
6 unless the will provides otherwise, the concurrence of all is required on
7 all acts connected with the administration and distribution of the
8 estate. This restriction does not apply when any corepresentative
9 receives and receipts for property due the estate, when the concurrence
10 of all cannot readily be obtained in the time reasonably available for
11 emergency action necessary to preserve the estate, ~~or~~ when a
12 corepresentative has been delegated to act for the others, or as provided
13 in section 2 of this act. Persons dealing with a corepresentative, if
14 actually unaware that another has been appointed to serve with him or her
15 or if advised by the personal representative with whom they deal that he
16 or she has authority to act alone for any of the reasons mentioned
17 herein, are as fully protected as if the person with whom they dealt had
18 been the sole personal representative.

19 Sec. 2. On and after January 1, 2020, in any case in which
20 copersonal representatives, cotrustees, coguardians, or coconservators
21 have been appointed, unless specifically restricted in a will, a trust,
22 or an order of appointment, such copersonal representatives, cotrustees,
23 coguardians, or coconservators shall have the authority to act
24 independently with respect to, and shall not be required to act in
25 concert with respect to, banking transactions involving trust or estate
26 assets.

27 Sec. 3. Section 30-2723, Reissue Revised Statutes of Nebraska, is
1 amended to read:

2 30-2723 (a) Except as otherwise provided in sections 30-2716 to
3 30-2733, on death of a party sums on deposit in a multiple-party account
4 belong to the surviving party or parties. If two or more parties survive
5 and one is the surviving spouse of the decedent, the amount to which the
6 decedent, immediately before death, was beneficially entitled under
7 section 30-2722 belongs to the surviving spouse. If two or more parties
8 survive and none is the surviving spouse of the decedent, the amount to
9 which the decedent, immediately before death, was beneficially entitled
10 under such section belongs to the surviving parties in equal shares, and
11 augments the proportion to which each survivor, immediately before the
12 decedent's death, was beneficially entitled under section 30-2722, and
13 the right of survivorship continues between the surviving parties.

14 (b) In an account with a POD designation:

15 (1) On death of one of two or more parties, the rights in sums on
16 deposit are governed by subsection (a) of this section.
17 ~~(2)(A) (2)~~ On death of the sole party or the last survivor of two or
18 more parties, sums on deposit belong to the surviving beneficiary or
19 beneficiaries. If two or more beneficiaries survive, sums on deposit
20 belong to them in such proportions as specified in the POD designation
21 or, if the POD designation does not specify different proportions, in
22 equal and undivided shares, and there is no right of survivorship in the
23 event of death of a beneficiary thereafter. If no beneficiary survives,

24 sums on deposit belong to the estate of the last surviving party.
25 (B) Except as otherwise specified in the POD designation, if there
26 are two or more beneficiaries, and if any beneficiary fails to survive
27 the sole party or the last survivor of two or more parties, sums on
28 deposit belong to the surviving beneficiaries in proportion to their
29 respective interests as beneficiaries under subdivision (2)(A) of this
30 subsection.

31 (c) Sums on deposit in a single-party account without a POD
1 designation, or in a multiple-party account that, by the terms of the
2 account, is without right of survivorship, are not affected by death of a
3 party, but the amount to which the decedent, immediately before death,
4 was beneficially entitled under section 30-2722 is transferred as part of
5 the decedent's estate. A POD designation in a multiple-party account
6 without right of survivorship is ineffective. For purposes of this
7 section, designation of an account as a tenancy in common establishes
8 that the account is without right of survivorship.

9 (d) The ownership right of a surviving party or beneficiary, or of
10 the decedent's estate, in sums on deposit is subject to requests for
11 payment made by a party before the party's death, whether paid by the
12 financial institution before or after death, or unpaid. The surviving
13 party or beneficiary, or the decedent's estate, is liable to the payee of
14 an unpaid request for payment. The liability is limited to a
15 proportionate share of the amount transferred under this section, to the
16 extent necessary to discharge the request for payment.

17 Sec. 4. Section 30-3859, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 30-3859 (UTC 703) (a) Cotrustees who are unable to reach a unanimous
20 decision may act by majority decision, except that any cotrustee may act
21 independently as provided in section 2 of this act.

22 (b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees
23 may act for the trust.

24 (c) A cotrustee must participate in the performance of a trustee's
25 function unless the cotrustee is unavailable to perform the function
26 because of absence, illness, disqualification under other law, or other
27 temporary incapacity or the cotrustee has properly delegated the
28 performance of the function to another trustee.

29 (d) If a cotrustee is unavailable to perform duties because of
30 absence, illness, disqualification under other law, or other temporary
31 incapacity, and prompt action is necessary to achieve the purposes of the
1 trust or to avoid injury to the trust property, the remaining cotrustee
2 or a majority of the remaining cotrustees may act for the trust.

3 (e) A trustee may not delegate to a cotrustee the performance of a
4 function the settlor reasonably expected the trustees to perform jointly.
5 Unless a delegation was irrevocable, a trustee may revoke a delegation
6 previously made.

7 (f) Except as otherwise provided in subsection (g) of this section,
8 a trustee who does not join in an action of another trustee is not liable
9 for the action.

10 (g) Each trustee shall exercise reasonable care to:

11 (1) prevent a cotrustee from committing a serious breach of trust;
 12 and
 13 (2) compel a cotrustee to redress a serious breach of trust.
 14 (h) A dissenting trustee who joins in an action at the direction of
 15 the majority of the trustees and who notified any cotrustee of the
 16 dissent at or before the time of the action is not liable for the action
 17 unless the action is a serious breach of trust.
 18 Sec. 5. Section 43-2101, Revised Statutes Cumulative Supplement,
 19 2018, is amended to read:
 20 43-2101 (1) All persons under nineteen years of age are declared to
 21 be minors, but in case any person marries under the age of nineteen
 22 years, his or her minority ends.
 23 (2) Upon becoming the age of majority, a person is considered an
 24 adult and acquires all rights and responsibilities granted or imposed by
 25 statute or common law, except that a person:
 26 (A) Eighteen (1) eighteen years of age or older and who is not a
 27 ward of the state may:
 28 (i) Enter enter into a binding contract or lease of whatever kind or
 29 nature and shall be legally responsible for such contract or lease,
 30 including legal responsibility to third parties;
 31 (ii) Execute, sign, authorize, or otherwise authenticate (A) an
 1 effective financing statement, (B) a promissory note or other instrument
 2 evidencing an obligation to repay, or (C) a mortgage, trust deed,
 3 security agreement, financing statement, or other security instrument to
 4 grant a lien or security interest in real or personal property or
 5 fixtures, and shall be legally responsible for such document, including
 6 legal responsibility to third parties; and
 7 (iii) Acquire or convey title to real property and shall have legal
 8 responsibility for such acquisition or conveyance, including legal
 9 responsibility to third parties; ~~be legally responsible therefor~~ and
 10 (b) Eighteen (2) eighteen years of age or older may consent to
 11 mental health services for himself or herself without the consent of his
 12 or her parent or guardian.
 13 Sec. 6. Original sections 30-2478, 30-2723, and 30-3859, Reissue
 14 Revised Statutes of Nebraska, and section 43-2101, Revised Statutes
 15 Cumulative Supplement, 2018, are repealed.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 20. Introduced by Walz, 15; Albrecht, 17; Arch, 14; Blood, 3; Bolz, 29; Bostelman, 23; Brandt, 32; Brewer, 43; Briese, 41; Cavanaugh, 6; Chambers, 11; Clements, 2; Crawford, 45; DeBoer, 10; Dorn, 30; Erdman, 47; Friesen, 34; Geist, 25; Gragert, 40; Groene, 42; Hansen, B., 16; Hansen, M., 26; Hilgers, 21; Hilkemann, 4; Howard, 9; Hughes, 44; Hunt, 8; Kolowski, 31; Kolterman, 24; La Grone, 49; Lathrop, 12; Lindstrom, 18; Linehan, 39; McCollister, 20; Morfeld, 46; Moser, 22; Murman, 38; Pansing Brooks, 28; Quick, 35; Scheer, 19; Slama, 1; Stinner, 48; Vargis, 7; Wayne, 13; Williams, 36.

WHEREAS, on August 2, 1919, during a special legislative session, Nebraska became the fourteenth state to ratify the Nineteenth Amendment to the Constitution of the United States, granting women the right to vote; and

WHEREAS, on February 14, 1920, the national League of Women Voters was founded at the annual convention of the National American Woman Suffrage Association; and

WHEREAS, in June of 1920, the Nebraska Woman Suffrage Association reorganized as the Nebraska League of Women Voters to "unite all parties on certain issues" and to "establish a reputation for power as an organization"; and

WHEREAS, on August 26, 1920, United States Secretary of State Bainbridge Colby issued a proclamation officially declaring the Nineteenth Amendment to be part of the Constitution of the United States after Tennessee became the thirty-sixth state to ratify the Nineteenth Amendment; and

WHEREAS, the League of Women Voters of Nebraska will launch a year-long celebration of woman's suffrage and the right to vote enshrined in the Nineteenth Amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes August 2019 as Nebraska Woman's Suffrage Month.

Laid over.

ANNOUNCEMENT(S)

Senator Linehan announced the Revenue Committee will meet February 14, 2019, at 12:30 p.m. instead of 1:30 p.m. in Room 1524.

UNANIMOUS CONSENT - Add Cointroducer(s)

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So ordered.

Senator B. Hansen name added to LB153.

VISITOR(S)

Visitors to the Chamber were former Senator Mike Gloor from Grand Island; groups from Scottsbluff, Gering, Chadron, and Alliance; management trainees and executive development associates from First National Bank of Omaha; students from Bryan Elementary, Lexington; and Taylor Bushnell from Elkhorn.

The Doctor of the Day was Dr. Jeff Gotschall from Columbus.

ADJOURNMENT

At 11:52 a.m., on a motion by Senator Kolterman, the Legislature adjourned until 9:00 a.m., Thursday, February 7, 2019.

Patrick J. O'Donnell
Clerk of the Legislature