

AMENDMENTS TO LB920

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 24-1302, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           24-1302 (1) For purposes of this section, problem solving court  
6 means a drug, veterans, mental health, driving under the influence,  
7 reentry, young adult, or other problem solving court.

8           (2) A district court may establish a problem solving court. A  
9 problem solving court shall function within the existing structure of the  
10 court system. The goals of a problem solving court shall be consistent  
11 with any relevant standards adopted by the United States Department of  
12 Justice and the National Association of Drug Court Professionals, as such  
13 standards existed on January 1, 2022.

14           (3) An individual may participate in a problem solving court through  
15 a pretrial diversion program, as a condition of probation, as a response  
16 to a technical violation of parole, as a sentence imposed by a court, or  
17 as otherwise provided by the Supreme Court's rules.

18           (4) Problem (1) Drug, veterans, mental health, driving under the  
19 influence, reentry, and other problem solving courts shall be subject to  
20 rules which shall be promulgated by the Supreme Court for procedures to  
21 be implemented in the administration of such courts.

22           (5) (2) It is the intent of the Legislature that funds be  
23 appropriated separately to the Supreme Court such that each judicial  
24 district may operate at least one drug, veterans, mental health, driving  
25 under the influence, reentry, and young adult problem solving court. The  
26 State Court Administrator shall ensure that each judicial district has at  
27 least one of such courts by January 1, 2023 for each of the problem

1 ~~solving courts to carry out this section and section 24-1301.~~

2 (6) The State Court Administrator shall track and evaluate outcomes  
3 of problem solving courts. On or before June 1, 2023, and on or before  
4 each June 1 thereafter, the State Court Administrator shall  
5 electronically submit a report to the Legislature regarding the impact of  
6 problem solving courts on recidivism rates in the state. The report shall  
7 also include rates of return to court and program completion. The report  
8 shall identify judicial districts that are underserved by problem solving  
9 courts and what services or funding are needed to properly serve such  
10 districts.

11 Sec. 2. (1) The State Court Administrator shall create a pilot  
12 program to utilize physical space and information technology resources  
13 within Nebraska courts to serve as points of access for virtual  
14 behavioral health services for court-involved individuals.

15 (2) The pilot program shall be limited to a single probation  
16 district. Such district shall be chosen by the State Court Administrator  
17 in consultation with the probation administrator.

18 (3) The purpose of the program is to provide access to safe,  
19 confidential, and reliable behavioral health treatment via telehealth for  
20 Nebraskans involved with the criminal justice system, either as  
21 defendants, probationers, or victims in a criminal proceeding.

22 (4) On or before June 1, 2023, the State Court Administrator shall  
23 electronically submit a report to the Judiciary Committee of the  
24 Legislature regarding the pilot program.

25 Sec. 3. Section 28-101, Revised Statutes Cumulative Supplement,  
26 2020, is amended to read:

27 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section  
28 6 of this act shall be known and may be cited as the Nebraska Criminal  
29 Code.

30 Sec. 4. Section 28-105, Revised Statutes Cumulative Supplement,  
31 2020, is amended to read:

1           28-105 (1) For purposes of the Nebraska Criminal Code and any  
2 statute passed by the Legislature after the date of passage of the code,  
3 felonies are divided into ten classes which are distinguished from one  
4 another by the following penalties which are authorized upon conviction:

- |    |                   |  |
|----|-------------------|--|
| 5  | Class I felony    | Death  |
| 6  | Class IA felony   | Life imprisonment                                    |
| 7  | Class IB felony   | Maximum—life imprisonment                            |
| 8  |                   | Minimum—twenty years imprisonment                    |
| 9  | Class IC felony   | Maximum—fifty years imprisonment                     |
| 10 |                   | Mandatory minimum—five years imprisonment            |
| 11 |                   | <u>(except as provided in section 6 of this act)</u> |
| 12 | Class ID felony   | Maximum—fifty years imprisonment                     |
| 13 |                   | Mandatory minimum—three years imprisonment           |
| 14 |                   | <u>(except as provided in section 6 of this act)</u> |
| 15 | Class II felony   | Maximum—fifty years imprisonment                     |
| 16 |                   | Minimum—one year imprisonment                        |
| 17 | Class IIA felony  | Maximum—twenty years imprisonment                    |
| 18 |                   | Minimum—none   |
| 19 | Class III felony  | Maximum—four years imprisonment and two years        |
| 20 |                   | post-release supervision or                          |
| 21 |                   | twenty-five thousand dollars fine, or both           |
| 22 |                   | Minimum—none for imprisonment and nine months        |
| 23 |                   | post-release supervision if imprisonment is imposed  |
| 24 | Class IIIA felony | Maximum—three years imprisonment                     |
| 25 |                   | and eighteen months post-release supervision or      |
| 26 |                   | ten thousand dollars fine, or both                   |
| 27 |                   | Minimum—none for imprisonment and nine months        |
| 28 |                   | post-release supervision if imprisonment is imposed  |
| 29 | Class IV felony   | Maximum—two years imprisonment and twelve            |

1 months post-release supervision or  
2 ten thousand dollars fine, or both  
3 Minimum—none for imprisonment and none for  
4 post-release supervision

5 (2) All sentences for maximum terms of imprisonment for one year or  
6 more for felonies shall be served in institutions under the jurisdiction  
7 of the Department of Correctional Services. All sentences for maximum  
8 terms of imprisonment of less than one year shall be served in the county  
9 jail.

10 (3) Nothing in this section shall limit the authority granted in  
11 sections 29-2221 and 29-2222 to increase sentences for habitual  
12 criminals.

13 (4) A person convicted of a felony for which a mandatory minimum  
14 sentence is prescribed shall not be eligible for probation.

15 (5) All sentences of post-release supervision shall be served under  
16 the jurisdiction of the Office of Probation Administration and shall be  
17 subject to conditions imposed pursuant to section 29-2262 and subject to  
18 sanctions authorized pursuant to section 29-2266.02.

19 (6) Any person who is sentenced to imprisonment for a Class I, IA,  
20 IB, IC, ID, II, or IIA felony and sentenced concurrently or consecutively  
21 to imprisonment for a Class III, IIIA, or IV felony shall not be subject  
22 to post-release supervision pursuant to subsection (1) of this section.

23 (7) Any person who is sentenced to imprisonment for a Class III,  
24 IIIA, or IV felony committed prior to August 30, 2015, and sentenced  
25 concurrently or consecutively to imprisonment for a Class III, IIIA, or  
26 IV felony committed on or after August 30, 2015, shall not be subject to  
27 post-release supervision pursuant to subsection (1) of this section.

28 (8) The changes made to the penalties for Class III, IIIA, and IV  
29 felonies by Laws 2015, LB605, do not apply to any offense committed prior  
30 to August 30, 2015, as provided in section 28-116.

1           Sec. 5. Section 28-116, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           28-116    (1) The changes made to the sections listed in this  
4 subsection ~~section~~ by Laws 2015, LB605, shall not apply to any offense  
5 committed prior to August 30, 2015. Any such offense shall be construed  
6 and punished according to the provisions of law existing at the time the  
7 offense was committed. For purposes of this subsection ~~section~~, an  
8 offense shall be deemed to have been committed prior to August 30, 2015,  
9 if any element of the offense occurred prior to such date. The following  
10 sections are subject to this provision: Sections 9-262, 9-352, 9-434,  
11 9-652, 23-135.01, 28-105, 28-106, 28-201, 28-204, 28-305, 28-306, 28-309,  
12 28-310.01, 28-311, 28-311.01, 28-311.04, 28-311.08, 28-320, 28-322.02,  
13 28-322.03, 28-322.04, 28-323, 28-393, 28-394, 28-397, 28-416, 28-504,  
14 28-507, 28-514, 28-518, 28-519, 28-603, 28-604, 28-611, 28-611.01,  
15 28-620, 28-621, 28-622, 28-627, 28-631, 28-638, 28-639, 28-703, 28-707,  
16 28-813.01, 28-912, 28-932, 28-1005, 28-1009, 28-1102, 28-1103, 28-1104,  
17 28-1212.03, 28-1222, 28-1224, 28-1344, 28-1345, 28-1463.05, 29-1816,  
18 29-2204, 29-2260, 29-2308, 29-4011, 60-6,197.03, 60-6,197.06, 68-1017,  
19 68-1017.01, 71-2228, and 71-2229.

20           (2) Except as otherwise provided in the sections listed in this  
21 subsection, the changes made to the sections listed in this subsection by  
22 this legislative bill shall apply to offenses committed before, on, or  
23 after the effective date of this act for which a final judgment has not  
24 been entered as of the effective date of this act. The following sections  
25 are subject to this provision: Sections 28-105, 28-416, 28-507, 28-518,  
26 28-1351, 28-1354, 29-2204, 29-2204.02, and 29-2221 and sections 6 and 14  
27 of this act.

28           Sec. 6. A mandatory minimum sentence shall not be imposed for a  
29 violation of section 28-416. The minimum term of imprisonment for a  
30 violation of section 28-416 shall not be a mandatory minimum but a  
31 minimum term only.

1           Sec. 7. Section 28-416, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3           28-416 (1) Except as authorized by the Uniform Controlled Substances  
4 Act, it shall be unlawful for any person knowingly or intentionally: (a)  
5 To manufacture, distribute, deliver, dispense, or possess with intent to  
6 manufacture, distribute, deliver, or dispense a controlled substance; or  
7 (b) to create, distribute, or possess with intent to distribute a  
8 counterfeit controlled substance.

9           (2) Except as provided in subsections (4), (5), (7), (8), (9), and  
10 (10) of this section, any person who violates subsection (1) of this  
11 section with respect to: (a) A controlled substance classified in  
12 Schedule I, II, or III of section 28-405 which is an exceptionally  
13 hazardous drug shall be guilty of a Class II felony; (b) any other  
14 controlled substance classified in Schedule I, II, or III of section  
15 28-405 shall be guilty of a Class IIA felony; or (c) a controlled  
16 substance classified in Schedule IV or V of section 28-405 shall be  
17 guilty of a Class IIIA felony.

18           (3)(a) ~~(3)~~ A person knowingly or intentionally possessing a  
19 controlled substance, except marijuana or any substance containing a  
20 quantifiable amount of the substances, chemicals, or compounds described,  
21 defined, or delineated in subdivision (c)(25) of Schedule I of section  
22 28-405, unless such substance was obtained directly or pursuant to a  
23 medical order issued by a practitioner authorized to prescribe while  
24 acting in the course of his or her professional practice, or except as  
25 otherwise authorized by the act, shall:

26           (i) Except as provided in subdivision (3)(a)(iii) of this section,  
27 if the total weight of the substance is one-half of one gram or less, be  
28 guilty of a Class I misdemeanor;

29           (ii) If the total weight of the substance is more than one-half of  
30 one gram, be guilty of a Class IV felony; or

31           (iii) If the substance is scheduled in section 28-405 and is

1 fantanyl, a fantanyl analogue, or a compound structurally derived from  
2 fantanyl, be guilty of a Class IV felony.

3 (b) A person shall not be in violation of this subsection if section  
4 28-472 applies.

5 (4)(a) Except as authorized by the Uniform Controlled Substances  
6 Act, any person eighteen years of age or older who knowingly or  
7 intentionally manufactures, distributes, delivers, dispenses, or  
8 possesses with intent to manufacture, distribute, deliver, or dispense a  
9 controlled substance or a counterfeit controlled substance (i) to a  
10 person under the age of eighteen years, (ii) in, on, or within one  
11 thousand feet of the real property comprising a public or private  
12 elementary, vocational, or secondary school, a community college, a  
13 public or private college, junior college, or university, or a  
14 playground, or (iii) within one hundred feet of a public or private youth  
15 center, public swimming pool, or video arcade facility shall be punished  
16 by the next higher penalty classification than the penalty prescribed in  
17 subsection (2), (7), (8), (9), or (10) of this section, depending upon  
18 the controlled substance involved, for the first violation and for a  
19 second or subsequent violation shall be punished by the next higher  
20 penalty classification than that prescribed for a first violation of this  
21 subsection, but in no event shall such person be punished by a penalty  
22 greater than a Class IB felony.

23 (b) For purposes of this subsection:

24 (i) Playground means any outdoor facility, including any parking lot  
25 appurtenant to the facility, intended for recreation, open to the public,  
26 and with any portion containing three or more apparatus intended for the  
27 recreation of children, including sliding boards, swingsets, and  
28 teeterboards;

29 (ii) Video arcade facility means any facility legally accessible to  
30 persons under eighteen years of age, intended primarily for the use of  
31 pinball and video machines for amusement, and containing a minimum of ten

1 pinball or video machines; and

2 (iii) Youth center means any recreational facility or gymnasium,  
3 including any parking lot appurtenant to the facility or gymnasium,  
4 intended primarily for use by persons under eighteen years of age which  
5 regularly provides athletic, civic, or cultural activities.

6 (5)(a) Except as authorized by the Uniform Controlled Substances  
7 Act, it shall be unlawful for any person eighteen years of age or older  
8 to knowingly and intentionally employ, hire, use, cause, persuade, coax,  
9 induce, entice, seduce, or coerce any person under the age of eighteen  
10 years to manufacture, transport, distribute, carry, deliver, dispense,  
11 prepare for delivery, offer for delivery, or possess with intent to do  
12 the same a controlled substance or a counterfeit controlled substance.

13 (b) Except as authorized by the Uniform Controlled Substances Act,  
14 it shall be unlawful for any person eighteen years of age or older to  
15 knowingly and intentionally employ, hire, use, cause, persuade, coax,  
16 induce, entice, seduce, or coerce any person under the age of eighteen  
17 years to aid and abet any person in the manufacture, transportation,  
18 distribution, carrying, delivery, dispensing, preparation for delivery,  
19 offering for delivery, or possession with intent to do the same of a  
20 controlled substance or a counterfeit controlled substance.

21 (c) Any person who violates subdivision (a) or (b) of this  
22 subsection shall be punished by the next higher penalty classification  
23 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of  
24 this section, depending upon the controlled substance involved, for the  
25 first violation and for a second or subsequent violation shall be  
26 punished by the next higher penalty classification than that prescribed  
27 for a first violation of this subsection, but in no event shall such  
28 person be punished by a penalty greater than a Class IB felony.

29 (6) It shall not be a defense to prosecution for violation of  
30 subsection (4) or (5) of this section that the defendant did not know the  
31 age of the person through whom the defendant violated such subsection.



1 (7) Any person who violates subsection (1) of this section with  
2 respect to cocaine or any mixture or substance containing a detectable  
3 amount of cocaine in a quantity of:

4 (a) One hundred forty grams or more shall be guilty of a Class IB  
5 felony;

6 (b) At least twenty-eight grams but less than one hundred forty  
7 grams shall be guilty of a Class IC felony; or

8 (c) At least ten grams but less than twenty-eight grams shall be  
9 guilty of a Class ID felony.

10 (8) Any person who violates subsection (1) of this section with  
11 respect to base cocaine (crack) or any mixture or substance containing a  
12 detectable amount of base cocaine in a quantity of:

13 (a) One hundred forty grams or more shall be guilty of a Class IB  
14 felony;

15 (b) At least twenty-eight grams but less than one hundred forty  
16 grams shall be guilty of a Class IC felony; or

17 (c) At least ten grams but less than twenty-eight grams shall be  
18 guilty of a Class ID felony.

19 (9) Any person who violates subsection (1) of this section with  
20 respect to heroin or any mixture or substance containing a detectable  
21 amount of heroin in a quantity of:

22 (a) One hundred forty grams or more shall be guilty of a Class IB  
23 felony;

24 (b) At least twenty-eight grams but less than one hundred forty  
25 grams shall be guilty of a Class IC felony; or

26 (c) At least ten grams but less than twenty-eight grams shall be  
27 guilty of a Class ID felony.

28 (10) Any person who violates subsection (1) of this section with  
29 respect to amphetamine, its salts, optical isomers, and salts of its  
30 isomers, or with respect to methamphetamine, its salts, optical isomers,  
31 and salts of its isomers, in a quantity of:

1 (a) One hundred forty grams or more shall be guilty of a Class IB  
2 felony;

3 (b) At least twenty-eight grams but less than one hundred forty  
4 grams shall be guilty of a Class IC felony; or

5 (c) At least ten grams but less than twenty-eight grams shall be  
6 guilty of a Class ID felony.

7 (11) Any person knowingly or intentionally possessing marijuana  
8 weighing more than one ounce but not more than one pound shall be guilty  
9 of a Class III misdemeanor.

10 (12) Any person knowingly or intentionally possessing marijuana  
11 weighing more than one pound shall be guilty of a Class IV felony.

12 (13) Any person knowingly or intentionally possessing marijuana  
13 weighing one ounce or less or any substance containing a quantifiable  
14 amount of the substances, chemicals, or compounds described, defined, or  
15 delineated in subdivision (c)(25) of Schedule I of section 28-405 shall:

16 (a) For the first offense, be guilty of an infraction, receive a  
17 citation, be fined three hundred dollars, and be assigned to attend a  
18 course as prescribed in section 29-433 if the judge determines that  
19 attending such course is in the best interest of the individual  
20 defendant;

21 (b) For the second offense, be guilty of a Class IV misdemeanor,  
22 receive a citation, and be fined four hundred dollars and may be  
23 imprisoned not to exceed five days; and

24 (c) For the third and all subsequent offenses, be guilty of a Class  
25 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and  
26 be imprisoned not to exceed seven days.

27 (14) Any person convicted of violating this section, if placed on  
28 probation, shall, as a condition of probation, satisfactorily attend and  
29 complete appropriate treatment and counseling on drug abuse provided by a  
30 program authorized under the Nebraska Behavioral Health Services Act or  
31 other licensed drug treatment facility.

1 (15) Any person convicted of violating this section, if sentenced to  
2 the Department of Correctional Services, shall attend appropriate  
3 treatment and counseling on drug abuse.

4 (16) Any person knowingly or intentionally possessing a firearm  
5 while in violation of subsection (1) of this section shall be punished by  
6 the next higher penalty classification than the penalty prescribed in  
7 subsection (2), (7), (8), (9), or (10) of this section, but in no event  
8 shall such person be punished by a penalty greater than a Class IB  
9 felony.

10 (17) A person knowingly or intentionally in possession of money used  
11 or intended to be used to facilitate a violation of subsection (1) of  
12 this section shall be guilty of a Class IV felony.

13 (18) In addition to the existing penalties available for a violation  
14 of subsection (1) of this section, including any criminal attempt or  
15 conspiracy to violate subsection (1) of this section, a sentencing court  
16 may order that any money, securities, negotiable instruments, firearms,  
17 conveyances, or electronic communication devices as defined in section  
18 28-833 or any equipment, components, peripherals, software, hardware, or  
19 accessories related to electronic communication devices be forfeited as a  
20 part of the sentence imposed if it finds by clear and convincing evidence  
21 adduced at a separate hearing in the same prosecution, following  
22 conviction for a violation of subsection (1) of this section, and  
23 conducted pursuant to section 28-1601, that any or all such property was  
24 derived from, used, or intended to be used to facilitate a violation of  
25 subsection (1) of this section.

26 (19) In addition to the penalties provided in this section:

27 (a) If the person convicted or adjudicated of violating this section  
28 is eighteen years of age or younger and has one or more licenses or  
29 permits issued under the Motor Vehicle Operator's License Act:

30 (i) For the first offense, the court may, as a part of the judgment  
31 of conviction or adjudication, (A) impound any such licenses or permits

1 for thirty days and (B) require such person to attend a drug education  
2 class;

3 (ii) For a second offense, the court may, as a part of the judgment  
4 of conviction or adjudication, (A) impound any such licenses or permits  
5 for ninety days and (B) require such person to complete no fewer than  
6 twenty and no more than forty hours of community service and to attend a  
7 drug education class; and

8 (iii) For a third or subsequent offense, the court may, as a part of  
9 the judgment of conviction or adjudication, (A) impound any such licenses  
10 or permits for twelve months and (B) require such person to complete no  
11 fewer than sixty hours of community service, to attend a drug education  
12 class, and to submit to a drug assessment by a licensed alcohol and drug  
13 counselor; and

14 (b) If the person convicted or adjudicated of violating this section  
15 is eighteen years of age or younger and does not have a permit or license  
16 issued under the Motor Vehicle Operator's License Act:

17 (i) For the first offense, the court may, as part of the judgment of  
18 conviction or adjudication, (A) prohibit such person from obtaining any  
19 permit or any license pursuant to the act for which such person would  
20 otherwise be eligible until thirty days after the date of such order and  
21 (B) require such person to attend a drug education class;

22 (ii) For a second offense, the court may, as part of the judgment of  
23 conviction or adjudication, (A) prohibit such person from obtaining any  
24 permit or any license pursuant to the act for which such person would  
25 otherwise be eligible until ninety days after the date of such order and  
26 (B) require such person to complete no fewer than twenty hours and no  
27 more than forty hours of community service and to attend a drug education  
28 class; and

29 (iii) For a third or subsequent offense, the court may, as part of  
30 the judgment of conviction or adjudication, (A) prohibit such person from  
31 obtaining any permit or any license pursuant to the act for which such

1 person would otherwise be eligible until twelve months after the date of  
2 such order and (B) require such person to complete no fewer than sixty  
3 hours of community service, to attend a drug education class, and to  
4 submit to a drug assessment by a licensed alcohol and drug counselor.

5 A copy of an abstract of the court's conviction or adjudication  
6 shall be transmitted to the Director of Motor Vehicles pursuant to  
7 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a  
8 juvenile is prohibited from obtaining a license or permit under this  
9 subsection.

10 Sec. 8. Section 28-507, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 28-507 (1)(a) (1) A person commits burglary in the first degree if  
13 such person willfully, maliciously, and forcibly breaks and enters any  
14 dwelling real estate or any improvements erected thereon with intent to  
15 commit any felony or with intent to steal property of any value.

16 (b) (2) Burglary in the first degree is a Class IIA felony.

17 (2)(a) A person commits burglary in the second degree if such person  
18 willfully, maliciously, and forcibly breaks and enters any building,  
19 other than a dwelling, while occupied, with intent to commit any felony  
20 or with intent to steal property of any value.

21 (b) Burglary in the second degree is a Class III felony.

22 (3)(a) A person commits burglary in the third degree if such person  
23 willfully, maliciously, and forcibly breaks and enters any real estate or  
24 any improvements erected thereon, other than a dwelling, while  
25 unoccupied, with intent to commit any felony or with intent to steal  
26 property of any value.

27 (b) Burglary in the third degree is a Class IIIA felony.

28 (4) For purposes of this section, occupied means that a person,  
29 other than the defendant or a coconspirator, accomplice, or other person  
30 acting in concert with the defendant, is actually present.

31 Sec. 9. Section 28-518, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 28-518 (1) Theft constitutes a Class IIA felony when the value of  
3 the thing involved is five thousand dollars or more.

4 (2) Theft constitutes a Class IV felony when the value of the thing  
5 involved is one thousand five hundred dollars or more but less than five  
6 thousand dollars.

7 (3) Theft constitutes a Class I misdemeanor when the value of the  
8 thing involved is more than five hundred dollars but less than one  
9 thousand five hundred dollars.

10 (4) Theft constitutes a Class II misdemeanor when the value of the  
11 thing involved is five hundred dollars or less.

12 (5) For any second or subsequent conviction under subsection (3) of  
13 this section, any person so offending shall be guilty of a Class IV  
14 felony.

15 (6) For any second conviction under subsection (4) of this section,  
16 any person so offending shall be guilty of a Class I misdemeanor, and for  
17 any third or subsequent conviction under subsection (4) of this section,  
18 the person so offending shall be guilty of a Class IV felony.

19 (7) For a prior conviction to be used to enhance the penalty under  
20 subsection (5) or (6) of this section, the prior conviction must have  
21 occurred no more than ten years prior to the date of commission of the  
22 current offense.

23 (8) {7} Amounts taken pursuant to one scheme or course of conduct  
24 from one or more persons may be aggregated in the indictment or  
25 information in determining the classification of the offense, except that  
26 amounts may not be aggregated into more than one offense.

27 (9) {8} In any prosecution for theft under sections 28-509 to  
28 28-518, value shall be an essential element of the offense that must be  
29 proved beyond a reasonable doubt.

30 Sec. 10. Section 28-1351, Revised Statutes Cumulative Supplement,  
31 2020, is amended to read:

1           28-1351 (1) A person commits the offense of unlawful membership  
2 recruitment into an organization or association when he or she knowingly  
3 and intentionally coerces, intimidates, threatens, or inflicts bodily  
4 harm upon another person in order to entice that other person to join or  
5 prevent that other person from leaving any organization, group,  
6 enterprise, or association whose members, individually or collectively,  
7 engage in or have engaged in any of the following criminal acts for the  
8 benefit of, at the direction of, or on behalf of the organization, group,  
9 enterprise, or association or any of its members:

10           (a) Robbery under section 28-324;

11           (b) Arson in the first, second, or third degree under section  
12 28-502, 28-503, or 28-504, respectively;

13           (c) Burglary in the first, second, or third degree under section  
14 28-507;

15           (d) Murder in the first degree, murder in the second degree, or  
16 manslaughter under section 28-303, 28-304, or 28-305, respectively;

17           (e) Violations of the Uniform Controlled Substances Act that involve  
18 possession with intent to deliver, distribution, delivery, or manufacture  
19 of a controlled substance;

20           (f) Unlawful use, possession, or discharge of a firearm or other  
21 deadly weapon under sections 28-1201 to 28-1212.04;

22           (g) Assault in the first degree or assault in the second degree  
23 under section 28-308 or 28-309, respectively;

24           (h) Assault on an officer, an emergency responder, a state  
25 correctional employee, a Department of Health and Human Services  
26 employee, or a health care professional in the first, second, or third  
27 degree under section 28-929, 28-930, or 28-931, respectively, or assault  
28 on an officer, an emergency responder, a state correctional employee, a  
29 Department of Health and Human Services employee, or a health care  
30 professional using a motor vehicle under section 28-931.01;

31           (i) Theft by unlawful taking or disposition under section 28-511;

- 1 (j) Theft by receiving stolen property under section 28-517;  
2 (k) Theft by deception under section 28-512;  
3 (l) Theft by extortion under section 28-513;  
4 (m) Kidnapping under section 28-313;  
5 (n) Any forgery offense under sections 28-602 to 28-605;  
6 (o) Criminal impersonation under section 28-638;  
7 (p) Tampering with a publicly exhibited contest under section  
8 28-614;  
9 (q) Unauthorized use of a financial transaction device or criminal  
10 possession of a financial transaction device under section 28-620 or  
11 28-621, respectively;  
12 (r) Pandering under section 28-802;  
13 (s) Bribery, bribery of a witness, or bribery of a juror under  
14 section 28-917, 28-918, or 28-920, respectively;  
15 (t) Tampering with a witness or an informant or jury tampering under  
16 section 28-919;  
17 (u) Unauthorized application of graffiti under section 28-524;  
18 (v) Dogfighting, cockfighting, bearbaiting, or pitting an animal  
19 against another under section 28-1005; or  
20 (w) Promoting gambling in the first degree under section 28-1102.  
21 (2) Unlawful membership recruitment into an organization or  
22 association is a Class IV felony.

23 Sec. 11. Section 28-1354, Revised Statutes Cumulative Supplement,  
24 2020, is amended to read:

25 28-1354 For purposes of the Public Protection Act:

26 (1) Enterprise means any individual, sole proprietorship,  
27 partnership, corporation, trust, association, or any legal entity, union,  
28 or group of individuals associated in fact although not a legal entity,  
29 and shall include illicit as well as licit enterprises as well as other  
30 entities;

31 (2) Pattern of racketeering activity means a cumulative loss for one



1 or more victims or gains for the enterprise of not less than one thousand  
2 five hundred dollars resulting from at least two acts of racketeering  
3 activity, one of which occurred after August 30, 2009, and the last of  
4 which occurred within ten years, excluding any period of imprisonment,  
5 after the commission of a prior act of racketeering activity;

6 (3) Until January 1, 2017, person means any individual or entity, as  
7 defined in section 21-2014, holding or capable of holding a legal,  
8 equitable, or beneficial interest in property. Beginning January 1, 2017,  
9 person means any individual or entity, as defined in section 21-214,  
10 holding or capable of holding a legal, equitable, or beneficial interest  
11 in property;

12 (4) Prosecutor includes the Attorney General of the State of  
13 Nebraska, the deputy attorney general, assistant attorneys general, a  
14 county attorney, a deputy county attorney, or any person so designated by  
15 the Attorney General, a county attorney, or a court of the state to carry  
16 out the powers conferred by the act;

17 (5) Racketeering activity includes the commission of, criminal  
18 attempt to commit, conspiracy to commit, aiding and abetting in the  
19 commission of, aiding in the consummation of, acting as an accessory to  
20 the commission of, or the solicitation, coercion, or intimidation of  
21 another to commit or aid in the commission of any of the following:

22 (a) Offenses against the person which include: Murder in the first  
23 degree under section 28-303; murder in the second degree under section  
24 28-304; manslaughter under section 28-305; assault in the first degree  
25 under section 28-308; assault in the second degree under section 28-309;  
26 assault in the third degree under section 28-310; terroristic threats  
27 under section 28-311.01; kidnapping under section 28-313; false  
28 imprisonment in the first degree under section 28-314; false imprisonment  
29 in the second degree under section 28-315; sexual assault in the first  
30 degree under section 28-319; and robbery under section 28-324;

31 (b) Offenses relating to controlled substances which include: To

1 unlawfully manufacture, distribute, deliver, dispense, or possess with  
2 intent to manufacture, distribute, deliver, or dispense a controlled  
3 substance under subsection (1) of section 28-416; possession of marijuana  
4 weighing more than one pound under subsection (12) of section 28-416;  
5 possession of money used or intended to be used to facilitate a violation  
6 of subsection (1) of section 28-416 prohibited under subsection (17) of  
7 section 28-416; any violation of section 28-418; to unlawfully  
8 manufacture, distribute, deliver, or possess with intent to distribute or  
9 deliver an imitation controlled substance under section 28-445;  
10 possession of anhydrous ammonia with the intent to manufacture  
11 methamphetamine under section 28-451; and possession of ephedrine,  
12 pseudoephedrine, or phenylpropanolamine with the intent to manufacture  
13 methamphetamine under section 28-452;

14 (c) Offenses against property which include: Arson in the first  
15 degree under section 28-502; arson in the second degree under section  
16 28-503; arson in the third degree under section 28-504; burglary in the  
17 first, second, or third degree under section 28-507; theft by unlawful  
18 taking or disposition under section 28-511; theft by shoplifting under  
19 section 28-511.01; theft by deception under section 28-512; theft by  
20 extortion under section 28-513; theft of services under section 28-515;  
21 theft by receiving stolen property under section 28-517; criminal  
22 mischief under section 28-519; and unlawfully depriving or obtaining  
23 property or services using a computer under section 28-1344;

24 (d) Offenses involving fraud which include: Burning to defraud an  
25 insurer under section 28-505; forgery in the first degree under section  
26 28-602; forgery in the second degree under section 28-603; criminal  
27 possession of a forged instrument under section 28-604; criminal  
28 possession of written instrument forgery devices under section 28-605;  
29 criminal impersonation under section 28-638; identity theft under section  
30 28-639; identity fraud under section 28-640; false statement or book  
31 entry under section 28-612; tampering with a publicly exhibited contest

1 under section 28-614; issuing a false financial statement for purposes of  
2 obtaining a financial transaction device under section 28-619;  
3 unauthorized use of a financial transaction device under section 28-620;  
4 criminal possession of a financial transaction device under section  
5 28-621; unlawful circulation of a financial transaction device in the  
6 first degree under section 28-622; unlawful circulation of a financial  
7 transaction device in the second degree under section 28-623; criminal  
8 possession of a blank financial transaction device under section 28-624;  
9 criminal sale of a blank financial transaction device under section  
10 28-625; criminal possession of a financial transaction forgery device  
11 under section 28-626; unlawful manufacture of a financial transaction  
12 device under section 28-627; laundering of sales forms under section  
13 28-628; unlawful acquisition of sales form processing services under  
14 section 28-629; unlawful factoring of a financial transaction device  
15 under section 28-630; and fraudulent insurance acts under section 28-631;

16 (e) Offenses involving governmental operations which include: Abuse  
17 of public records under section 28-911; perjury or subornation of perjury  
18 under section 28-915; bribery under section 28-917; bribery of a witness  
19 under section 28-918; tampering with a witness or informant or jury  
20 tampering under section 28-919; bribery of a juror under section 28-920;  
21 assault on an officer, an emergency responder, a state correctional  
22 employee, a Department of Health and Human Services employee, or a health  
23 care professional in the first degree under section 28-929; assault on an  
24 officer, an emergency responder, a state correctional employee, a  
25 Department of Health and Human Services employee, or a health care  
26 professional in the second degree under section 28-930; assault on an  
27 officer, an emergency responder, a state correctional employee, a  
28 Department of Health and Human Services employee, or a health care  
29 professional in the third degree under section 28-931; and assault on an  
30 officer, an emergency responder, a state correctional employee, a  
31 Department of Health and Human Services employee, or a health care

1 professional using a motor vehicle under section 28-931.01;

2 (f) Offenses involving gambling which include: Promoting gambling in  
3 the first degree under section 28-1102; possession of gambling records  
4 under section 28-1105; gambling debt collection under section 28-1105.01;  
5 and possession of a gambling device under section 28-1107;

6 (g) Offenses relating to firearms, weapons, and explosives which  
7 include: Carrying a concealed weapon under section 28-1202;  
8 transportation or possession of machine guns, short rifles, or short  
9 shotguns under section 28-1203; unlawful possession of a handgun under  
10 section 28-1204; unlawful transfer of a firearm to a juvenile under  
11 section 28-1204.01; possession of a firearm by a prohibited juvenile  
12 offender under section 28-1204.05; using a deadly weapon to commit a  
13 felony or possession of a deadly weapon during the commission of a felony  
14 under section 28-1205; possession of a deadly weapon by a prohibited  
15 person under section 28-1206; possession of a defaced firearm under  
16 section 28-1207; defacing a firearm under section 28-1208; unlawful  
17 discharge of a firearm under section 28-1212.02; possession, receipt,  
18 retention, or disposition of a stolen firearm under section 28-1212.03;  
19 unlawful possession of explosive materials in the first degree under  
20 section 28-1215; unlawful possession of explosive materials in the second  
21 degree under section 28-1216; unlawful sale of explosives under section  
22 28-1217; use of explosives without a permit under section 28-1218;  
23 obtaining an explosives permit through false representations under  
24 section 28-1219; possession of a destructive device under section  
25 28-1220; threatening the use of explosives or placing a false bomb under  
26 section 28-1221; using explosives to commit a felony under section  
27 28-1222; using explosives to damage or destroy property under section  
28 28-1223; and using explosives to kill or injure any person under section  
29 28-1224;

30 (h) Any violation of the Securities Act of Nebraska pursuant to  
31 section 8-1117;

1 (i) Any violation of the Nebraska Revenue Act of 1967 pursuant to  
2 section 77-2713;

3 (j) Offenses relating to public health and morals which include:  
4 Prostitution under section 28-801; pandering under section 28-802;  
5 keeping a place of prostitution under section 28-804; labor trafficking,  
6 sex trafficking, labor trafficking of a minor, or sex trafficking of a  
7 minor under section 28-831; a violation of section 28-1005; and any act  
8 relating to the visual depiction of sexually explicit conduct prohibited  
9 in the Child Pornography Prevention Act; and

10 (k) A violation of the Computer Crimes Act;

11 (6) State means the State of Nebraska or any political subdivision  
12 or any department, agency, or instrumentality thereof; and

13 (7) Unlawful debt means a debt of at least one thousand five hundred  
14 dollars:

15 (a) Incurred or contracted in gambling activity which was in  
16 violation of federal law or the law of the state or which is  
17 unenforceable under state or federal law in whole or in part as to  
18 principal or interest because of the laws relating to usury; or

19 (b) Which was incurred in connection with the business of gambling  
20 in violation of federal law or the law of the state or the business of  
21 lending money or a thing of value at a rate usurious under state law if  
22 the usurious rate is at least twice the enforceable rate.

23 Sec. 12. Section 29-2204, Revised Statutes Cumulative Supplement,  
24 2020, is amended to read:

25 29-2204 (1) Except when a term of life imprisonment is required by  
26 law, in imposing a sentence upon an offender for any class of felony  
27 other than a Class III, IIIA, or IV felony, the court shall fix the  
28 minimum and the maximum terms of the sentence to be served within the  
29 limits provided by law. The maximum term shall not be greater than the  
30 maximum limit provided by law, and:

31 (a) The minimum term fixed by the court shall be:

1        (i) For a violation other than as described in subdivision (1)(a)  
2 (ii) of this section, any term of years less than or equal to fifty  
3 percent of the maximum term imposed by the court; or

4        (ii) For a violation of section 28-316.01, 28-319, 28-319.01,  
5 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03, 28-322.04,  
6 or 28-322.05, any term of years less than or equal to seventy percent of  
7 the maximum term imposed by the court; or

8        (b) The minimum term shall be the minimum limit provided by law.

9        (2) When a maximum term of life is imposed by the court for a Class  
10 IB felony, the minimum term fixed by the court shall be:

11        (a) Any term of years not less than the minimum limit provided by  
12 law; or

13        (b) A term of life imprisonment.

14        (3) When a maximum term of life is imposed by the court for a Class  
15 IA felony, the minimum term fixed by the court shall be:

16        (a) A term of life imprisonment; or

17        (b) Any term of years not less than the minimum limit provided by  
18 law after consideration of the mitigating factors in section 28-105.02,  
19 if the defendant was under eighteen years of age at the time he or she  
20 committed the crime for which he or she was convicted.

21        (4) When the court is of the opinion that imprisonment may be  
22 appropriate but desires more detailed information as a basis for  
23 determining the sentence to be imposed than has been provided by the  
24 presentence report required by section 29-2261, the court may commit an  
25 offender to the Department of Correctional Services. During that time,  
26 the department shall conduct a complete study of the offender as provided  
27 in section 29-2204.03.

28        (5) Except when a term of life is required by law, whenever the  
29 defendant was under eighteen years of age at the time he or she committed  
30 the crime for which he or she was convicted, the court may, in its  
31 discretion, instead of imposing the penalty provided for the crime, make

1 such disposition of the defendant as the court deems proper under the  
2 Nebraska Juvenile Code.

3 (6)(a) When determining whether to impose a consecutive or  
4 concurrent sentence, a court shall impose a concurrent sentence unless  
5 the court, on the record, identifies one or more aggravating factors  
6 under section 14 of this act that necessitate a consecutive sentence.

7 (b) This subsection does not apply when a consecutive sentence is  
8 required by statute.

9 (7)(a) ~~(6)(a)~~ When imposing an indeterminate sentence upon an  
10 offender under this section, the court shall:

11 (i) Advise the offender on the record the time the offender will  
12 serve on his or her minimum term before attaining parole eligibility  
13 assuming that no good time for which the offender will be eligible is  
14 lost; and

15 (ii) Advise the offender on the record the time the offender will  
16 serve on his or her maximum term before attaining mandatory release  
17 assuming that no good time for which the offender will be eligible is  
18 lost.

19 (b) If any discrepancy exists between the statement of the minimum  
20 limit of the sentence and the statement of parole eligibility or between  
21 the statement of the maximum limit of the sentence and the statement of  
22 mandatory release, the statements of the minimum limit and the maximum  
23 limit shall control the calculation of the offender's term.

24 (c) If the court imposes more than one sentence upon an offender or  
25 imposes a sentence upon an offender who is at that time serving another  
26 sentence, the court shall state whether the sentences are to be  
27 concurrent or consecutive.

28 Sec. 13. Section 29-2204.02, Reissue Revised Statutes of Nebraska,  
29 is amended to read:

30 29-2204.02 (1) Except when a term of probation is required by law as  
31 provided in subsection (2) of this section or except as otherwise

1 provided in subsection (4) of this section, in imposing a sentence upon  
2 an offender for a Class III, IIIA, or IV felony, the court shall:

3 (a) Impose a determinate sentence of imprisonment within the  
4 applicable range in section 28-105; and

5 (b) Impose a sentence of post-release supervision, under the  
6 jurisdiction of the Office of Probation Administration, within the  
7 applicable range in section 28-105.

8 (2) If the criminal offense is a Class IV felony, the court shall  
9 impose a sentence of probation unless:

10 (a) The defendant is concurrently or consecutively sentenced to  
11 imprisonment for any felony other than another Class IV felony;

12 (b) The defendant has been deemed a habitual criminal pursuant to  
13 section 29-2221; or

14 (c) There are substantial and compelling reasons why the defendant  
15 cannot effectively and safely be supervised in the community, including,  
16 but not limited to, the criteria in subsections (2) and (3) of section  
17 29-2260. Unless other reasons are found to be present, that the offender  
18 has not previously succeeded on probation is not, standing alone, a  
19 substantial and compelling reason.

20 (3) If a sentence of probation is not imposed, the court shall state  
21 its reasoning on the record, advise the defendant of his or her right to  
22 appeal the sentence, and impose a sentence as provided in subsection (1)  
23 of this section.

24 (4) For any sentence of imprisonment for a Class III, IIIA, or IV  
25 felony for an offense committed on or after August 30, 2015, imposed  
26 consecutively or concurrently with (a) a sentence for a Class III, IIIA,  
27 or IV felony for an offense committed prior to August 30, 2015, or (b) a  
28 sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA  
29 felony, the court shall impose an indeterminate sentence within the  
30 applicable range in section 28-105 that does not include a period of  
31 post-release supervision, in accordance with the process set forth in



1 section 29-2204.

2 (5) For any sentence of imprisonment for a misdemeanor imposed  
3 consecutively or concurrently with a sentence of imprisonment for a Class  
4 III, IIIA, or IV felony for an offense committed on or after August 30,  
5 2015, the court shall impose a determinate sentence within the applicable  
6 range in section 28-106 unless the person is also committed to the  
7 Department of Correctional Services in accordance with section 29-2204  
8 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony  
9 committed prior to August 30, 2015, or (b) a sentence of imprisonment for  
10 a Class I, IA, IB, IC, ID, II, or IIA felony.

11 (6) If the defendant was under eighteen years of age at the time he  
12 or she committed the crime for which he or she was convicted, the court  
13 may, in its discretion, instead of imposing the penalty provided for the  
14 crime, make such disposition of the defendant as the court deems proper  
15 under the Nebraska Juvenile Code.

16 (7)(a) When determining whether to impose a consecutive or  
17 concurrent sentence, a court shall impose a concurrent sentence unless  
18 the court, on the record, identifies one or more aggravating factors  
19 under section 14 of this act that necessitate a consecutive sentence.

20 (b) This subsection does not apply when a consecutive sentence is  
21 required by statute.

22 (8)(a) ~~(7)(a)~~ When imposing a determinate sentence upon an offender  
23 under this section, the court shall:

24 (i) Advise the offender on the record the time the offender will  
25 serve on his or her term of imprisonment before his or her term of post-  
26 release supervision assuming that no good time for which the offender  
27 will be eligible is lost;

28 (ii) Advise the offender on the record the time the offender will  
29 serve on his or her term of post-release supervision; and

30 (iii) When imposing a sentence following revocation of post-release  
31 supervision, advise the offender on the record the time the offender will

1 serve on his or her term of imprisonment, including credit for time  
2 served, assuming that no good time for which the offender will be  
3 eligible is lost.

4 (b) If a period of post-release supervision is required but not  
5 imposed by the sentencing court, the term of post-release supervision  
6 shall be the minimum provided by law.

7 (c) If the court imposes more than one sentence upon an offender or  
8 imposes a sentence upon an offender who is at that time serving another  
9 sentence, the court shall state whether the sentences are to be  
10 concurrent or consecutive.

11 (d) If the offender has been sentenced to two or more determinate  
12 sentences and one or more terms of post-release supervision, the offender  
13 shall serve all determinate sentences before being released on post-  
14 release supervision.

15 Sec. 14. Except when a consecutive sentence is required by statute,  
16 a court shall not order a sentence to run consecutive to another  
17 sentence, whether being imposed at the same time or already being served,  
18 unless the court finds, on the record, that at least one of the following  
19 aggravating factors applies:

20 (1) The offenses occurred on different days;

21 (2) The offenses involved the use of force or threat of serious  
22 bodily harm against separate victims;

23 (3) One of the offenses was a violation of section 28-316.01,  
24 28-319, 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02,  
25 28-322.03, 28-322.04, or 28-322.05 or otherwise involved a sexual  
26 assault; or

27 (4) One of the offenses was especially heinous, atrocious, or cruel  
28 or manifested exceptional depravity by ordinary standards of morality and  
29 intelligence.

30 Sec. 15. Section 29-2221, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           29-2221 (1) Whoever has been twice convicted of a covered felony  
2 ~~crime~~, sentenced, and committed to prison, in this or any other state or  
3 by the United States or once in this state and once at least in any other  
4 state or by the United States, for terms of not less than one year each  
5 shall, upon conviction of any a felony committed in this state, be deemed  
6 to be a habitual criminal and shall be punished by imprisonment in a  
7 Department of Correctional Services adult correctional facility for a  
8 mandatory minimum term of ten years and a maximum term of not more than  
9 sixty years, except that:

10           (a) If the felony committed is in violation of section 28-303,  
11 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, 28-929, or 28-1222,  
12 and at least one of the habitual criminal's prior covered felony  
13 convictions was for a violation of one of the sections listed in this  
14 subdivision or of a similar statute in another state or of the United  
15 States, the mandatory minimum term shall be twenty-five years and the  
16 maximum term not more than sixty years;

17           (b) If the felony committed is in violation of subsection (3) of  
18 section 28-306 and at least one of the prior convictions is in violation  
19 of subsection (3) of section 28-306 and the other is in violation of one  
20 of the sections set forth in subdivision (a) of this subsection or if the  
21 felony committed is in violation of one of the sections set forth in  
22 subdivision (a) of this subsection and both of the prior convictions are  
23 in violation of subsection (3) of section 28-306, the mandatory minimum  
24 term shall be twenty-five years and the maximum term not more than sixty  
25 years; and

26           (c) If a greater punishment is otherwise provided by statute, the  
27 law creating the greater punishment shall govern.

28           (2) When punishment of an accused as a habitual criminal is sought,  
29 the facts with reference thereto shall be charged in the indictment or  
30 information which contains the charge of the felony upon which the  
31 accused is prosecuted, but the fact that the accused is charged with

1 being a habitual criminal shall not be an issue upon the trial of the  
2 felony charge and shall not in any manner be disclosed to the jury. If  
3 the accused is convicted of a felony, before sentence is imposed a  
4 hearing shall be had before the court alone as to whether such person has  
5 been previously convicted of prior covered felonies. The court shall fix  
6 a time for the hearing and notice thereof shall be given to the accused  
7 at least three days prior thereto. At the hearing, if the court finds  
8 from the evidence submitted that the accused has been convicted two or  
9 more times of covered felonies and sentences imposed therefor by the  
10 courts of this or any other state or by the United States, the court  
11 shall sentence such person so convicted as a habitual criminal.

12 (3) If the person so convicted shows to the satisfaction of the  
13 court before which the conviction was had that he or she was released  
14 from imprisonment upon either of such sentences upon a pardon granted for  
15 the reason that he or she was innocent, such conviction and sentence  
16 shall not be considered as such under this section and section 29-2222.

17 (4) For purposes of this section:

18 (a) Covered felony means:

19 (i) A felony violation of any of the following sections: Section  
20 28-303, 28-304, 28-305, 28-306, 28-308, 28-309, 28-310.01, 28-311,  
21 28-311.01, 28-311.03, 28-311.08, 28-313, 28-314, 28-316.01, 28-319,  
22 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.02, 28-322.03, 28-322.04,  
23 28-322.05, 28-323, 28-324, 28-386, 28-391, 28-392, 28-393, 28-394,  
24 28-397, 28-398, 28-502, 28-503, 28-507, 28-703, 28-707, 28-813.01,  
25 28-831, 28-833, 28-904, 28-905, 28-912, 28-929, 28-930, 28-931,  
26 28-931.01, 28-932, 28-933, 28-934, 28-1005, 28-1009, 28-1105.01, 28-1205,  
27 28-1212.02, 28-1212.04, 28-1221, 28-1222, 28-1223, 28-1224, 28-1351,  
28 28-1463.03, or 28-1463.05;

29 (ii) A felony that has as an element of the offense:

30 (A) Sexual contact or sexual penetration; or

31 (B) The threat to inflict serious bodily injury or death on another

1 person, the infliction of serious bodily injury on another person, or  
2 causing the death of another person;

3 (iii) Attempt, solicitation, aiding or abetting, being an accessory,  
4 or conspiracy to commit an offense listed in subdivision (4)(a)(i) or  
5 (ii) of this section; or

6 (iv) A felony violation of an offense of any other state or of the  
7 United States that is substantially equivalent to any offense listed in  
8 subdivision (4)(a)(i), (ii), or (iii) of this section;

9 (b) Serious bodily injury has the same meaning as in section 28-109;  
10 and

11 (c) Sexual contact and sexual penetration have the same meanings as  
12 in section 28-318.

13 Sec. 16. Section 29-2263, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 29-2263 (1)(a) ~~(1)~~ Except as provided in subsection (2) of this  
16 section, when a court has sentenced an offender to probation, the court  
17 shall specify the term of such probation which shall be not more than  
18 five years upon conviction of a felony or second offense misdemeanor and  
19 two years upon conviction of a first offense misdemeanor.

20 (b) At sentencing, the court shall provide notice to the offender  
21 that the offender may be eligible to have the conviction set aside as  
22 provided in subsection (2) of section 29-2264 and shall provide  
23 information on how to file such a petition. The State Court Administrator  
24 shall develop standardized advisement language and any forms necessary to  
25 carry out this subdivision.

26 (c) The court, on application of a probation officer or of the  
27 probationer or on its own motion, may discharge a probationer at any  
28 time.

29 (2) When a court has sentenced an offender to post-release  
30 supervision, the court shall specify the term of such post-release  
31 supervision as provided in section 28-105. The court, on application of a

1 probation officer or of the probationer or on its own motion, may  
2 discharge a probationer at any time.

3 (3) During the term of probation, the court on application of a  
4 probation officer or of the probationer, or its own motion, may modify or  
5 eliminate any of the conditions imposed on the probationer or add further  
6 conditions authorized by section 29-2262. This subsection does not  
7 preclude a probation officer from imposing administrative sanctions with  
8 the probationer's full knowledge and consent as authorized by sections  
9 29-2266.01 and 29-2266.02.

10 (4)(a) {4} Upon completion of the term of probation, or the earlier  
11 discharge of the probationer, the probationer shall be relieved of any  
12 obligations imposed by the order of the court and shall have satisfied  
13 the sentence for his or her crime.

14 (b) Upon satisfactory fulfillment of the conditions of probation for  
15 the entire period or after discharge from probation prior to the  
16 termination of the period of probation, a probation officer shall notify  
17 the probationer that the probationer may be eligible to have the  
18 conviction set aside as provided in subsection (2) of section 29-2264.  
19 The notice shall include an explanation of the requirements for a  
20 conviction to be set aside, how to file a petition for a conviction to be  
21 set aside, and the effect of and limitations of having a conviction set  
22 aside and an advisement that the probationer consult with an attorney  
23 prior to filing a petition. The State Court Administrator shall develop  
24 standardized advisement language and any forms necessary to carry out  
25 this subdivision.

26 (5) Whenever a probationer disappears or leaves the jurisdiction of  
27 the court without permission, the time during which he or she keeps his  
28 or her whereabouts hidden or remains away from the jurisdiction of the  
29 court shall be added to the original term of probation.

30 Sec. 17. Section 29-2269, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           29-2269 Sections 29-2246 to 29-2269 and sections 18 and 19 of this  
2 act shall be known and may be cited as the Nebraska Probation  
3 Administration Act.

4           Sec. 18. (1) The probation administrator shall create a pilot  
5 program to hire additional assistant probation officers as provided in  
6 this section.

7           (2) The pilot program shall be limited to a single probation  
8 district.

9           (3) Assistant probation officers hired under this section shall  
10 assist probation officers in the supervision of high-risk caseloads.

11           (4) The purpose of the pilot program is to determine whether  
12 additional support for probation officers results in probationers  
13 completing their terms of probation with fewer violations.

14           (5) On or before June 1, 2023, the probation administrator shall  
15 electronically submit a report to the Judiciary Committee of the  
16 Legislature regarding the pilot program. The report shall include the  
17 total number of persons admitted into the pilot program, including  
18 demographic information, criminal history, and top needs according to the  
19 results of a risk assessment; conditions of supervision; the total number  
20 of violations of supervision conditions; the number of supervision  
21 discharges by type of discharge; and recidivism rates.

22           Sec. 19. (1) The probation administrator shall create a pilot  
23 program to establish a probationer incentive program as provided in this  
24 section.

25           (2) The pilot program shall be limited to a single probation  
26 district. Such district shall be chosen by the State Court Administrator.

27           (3) The pilot program shall establish a gift fund to be used for the  
28 purchase of gift cards, vouchers, and other tangible rewards for  
29 probationers who are succeeding at probation, in order to encourage  
30 continued success and reduce recidivism. The gifts shall be awarded at  
31 the discretion of probation officers, subject to policies and guidelines

1 of the office.

2 (4) On or before June 1, 2023, the probation administrator shall  
3 electronically submit a report to the Judiciary Committee of the  
4 Legislature regarding the pilot program.

5 Sec. 20. Section 29-2281, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 29-2281 (1) To determine the amount of restitution, the court may  
8 hold a hearing at the time of sentencing. The amount of restitution shall  
9 be based on the actual damages sustained by the victim and shall be  
10 supported by evidence which shall become a part of the court record. The  
11 court shall consider the defendant's earning ability, employment status,  
12 financial resources, and family or other legal obligations and shall  
13 balance such considerations against the obligation to the victim. In  
14 considering the earning ability of a defendant who is sentenced to  
15 imprisonment, the court may receive evidence of money anticipated to be  
16 earned by the defendant during incarceration.

17 (2) A person may not be granted or denied probation or parole either  
18 solely or primarily due to his or her financial resources or ability or  
19 inability to pay restitution.

20 (3) The court may order that restitution be made immediately, in  
21 specified installments, or within a specified period of time not to  
22 exceed five years after the date of judgment or defendant's final release  
23 date from imprisonment, whichever is later.

24 (4) If, in addition to restitution, a defendant is ordered to pay  
25 finances and costs as part of the judgment and the defendant fails to pay  
26 the full amount owed, funds shall first be applied to a restitution  
27 obligation with the remainder applied towards fines and costs only when  
28 the restitution obligation is satisfied in full.

29 (5) Restitution payments shall be made through the clerk of the  
30 court ordering restitution. The clerk shall maintain a record of all  
31 receipts and disbursements.



1           Sec. 21. Section 29-3603, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           29-3603 A pretrial diversion plan for criminal offenses shall  
4 include, but not be limited to:

5           (1) Formal eligibility guidelines established following consultation  
6 with criminal justice officials and program representatives. The  
7 eligibility guidelines shall not prohibit participation by a defendant  
8 charged with a Class IV felony if such defendant has no prior felony  
9 convictions and has not previously completed a pretrial diversion program  
10 for a felony. The guidelines shall be written and made available and  
11 routinely disseminated to all interested parties;

12           (2) A maximum time limit for any defendant's participation in a  
13 diversion program, beyond which no defendant shall be required or  
14 permitted to participate. Such maximum term shall be long enough to  
15 effect sufficient change in participants to deter them from criminal  
16 activity, but not so long as to prejudice the prosecution or defense of  
17 the case should the participant be returned to the ordinary course of  
18 prosecution;

19           (3) The opportunity for eligible defendants to review, with their  
20 counsel present, a copy of general diversion program requirements  
21 including average program duration and possible outcome, prior to making  
22 the decision to enter a diversion program;

23           (4) Dismissal of the diverted case upon completion of the program;

24           (5) A provision that participants shall be able to withdraw at any  
25 time before the program is completed and be remanded to the court process  
26 without prejudice to them during the ordinary course of prosecution;

27           (6) Enrollment shall not be conditioned on a plea of guilty; and

28           (7) Defendants who are denied enrollment in a diversion program  
29 shall be afforded an administrative review of the decision and written  
30 reasons for denial.

31           Sec. 22. Section 47-706, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 47-706 (1) It is the intent of the Legislature to ensure that human  
3 services agencies, correctional facilities, and detention facilities  
4 recognize that:

5 (a) Federal law generally does not authorize federal financial  
6 participation for medicaid when a person is an inmate of a public  
7 institution as defined in federal law but that federal financial  
8 participation is available after an inmate is released from  
9 incarceration; and

10 (b) The fact that an applicant is currently an inmate does not, in  
11 and of itself, preclude the Department of Health and Human Services from  
12 processing an application submitted to it by, or on behalf of, the  
13 inmate.

14 (2)(a) Medical assistance under the medical assistance program shall  
15 be suspended, rather than canceled or terminated, for a person who is an  
16 inmate of a public institution if:

17 (i) The Department of Health and Human Services is notified of the  
18 person's entry into the public institution;

19 (ii) On the date of entry, the person was enrolled in the medical  
20 assistance program; and

21 (iii) The person is eligible for the medical assistance program  
22 except for institutional status.

23 (b) A suspension under subdivision (2)(a) of this section shall end  
24 on the date the person is no longer an inmate of a public institution.

25 (c) Upon release from incarceration, such person shall continue to  
26 be eligible for receipt of medical assistance until such time as the  
27 person is otherwise determined to no longer be eligible for the medical  
28 assistance program.

29 (3)(a) The Department of Correctional Services shall notify the  
30 Department of Health and Human Services:

31 (i) Within twenty days after receiving information that a person

1 receiving medical assistance under the medical assistance program is or  
2 will be an inmate of a public institution; and

3 (ii) Within forty-five days prior to the release of a person who  
4 qualified for suspension under subdivision (2)(a) of this section.

5 (b)(i) The Department of Correctional Services shall record the  
6 number of notifications it provides under this subsection to the  
7 Department of Health and Human Services and the number of individuals  
8 released from custody who are eligible for the medical assistance program  
9 who do not have the suspension under subdivision (2)(a) of this section  
10 ended upon release from a public institution.

11 (ii) The Department of Health and Human Services shall record the  
12 number of suspensions under subdivision (2)(a) of this section that have  
13 ended on the date a person is no longer an inmate of a public  
14 institution.

15 (c) ~~(b)~~ Local correctional facilities, juvenile detention  
16 facilities, and other temporary detention centers shall notify the  
17 Department of Health and Human Services within ten days after receiving  
18 information that a person receiving medical assistance under the medical  
19 assistance program is or will be an inmate of a public institution.

20 (4) Nothing in this section shall create a state-funded benefit or  
21 program.

22 (5) For purposes of this section, medical assistance program means  
23 the medical assistance program under the Medical Assistance Act and the  
24 State Children's Health Insurance Program.

25 (6) This section shall be implemented only if, and to the extent,  
26 allowed by federal law. This section shall be implemented only to the  
27 extent that any necessary federal approval of state plan amendments or  
28 other federal approvals are obtained. The Department of Health and Human  
29 Services shall seek such approval if required.

30 (7) Local correctional facilities, the Nebraska Commission on Law  
31 Enforcement and Criminal Justice, and the Office of Probation

1 Administration shall cooperate with the Department of Health and Human  
2 Services and the Department of Correctional Services for purposes of  
3 facilitating information sharing to achieve the purposes of this section.

4 (8)(a) The Department of Correctional Services shall adopt and  
5 promulgate rules and regulations, in consultation with the Department of  
6 Health and Human Services and local correctional facilities, to carry out  
7 this section.

8 (b) The Department of Health and Human Services shall adopt and  
9 promulgate rules and regulations, in consultation with the Department of  
10 Correctional Services and local correctional facilities, to carry out  
11 this section.

12 Sec. 23. (1) The Legislature finds that while serious crime in the  
13 State of Nebraska has not increased, the prison population continues to  
14 increase as does the amount spent on correctional issues. The Legislature  
15 further finds that a need exists to closely examine the criminal justice  
16 system of the State of Nebraska in order to increase public safety while  
17 concurrently reducing correctional spending and reinvesting in strategies  
18 that decrease crime and strengthen Nebraska communities.

19 (2) The Justice Reinvestment Oversight Task Force is created. The  
20 task force shall evaluate implementation of the Nebraska Justice  
21 Reinvestment Initiative, this legislative bill, and related issues.

22 (3) The task force shall consist of the following ten members, who  
23 shall be selected or appointed no later than October 1, 2022:

24 (a) The chairperson of the Judiciary Committee of the Legislature,  
25 who shall serve as chairperson of the task force;

26 (b) Two other members of the Legislature selected by the Executive  
27 Board of the Legislative Council;

28 (c) Four members who are key criminal justice stakeholders appointed  
29 by the Governor; and

30 (d) Three members selected by the Chief Justice.

31 (4) The task force shall monitor and guide analysis and policy

1 development in all aspects of the criminal justice system in Nebraska  
2 within the scope of the justice reinvestment initiative, including  
3 tracking implementation of evidence-based strategies as established in  
4 Laws 2015, LB605, and this legislative bill, and reviewing policies and  
5 practices to improve public safety, reduce recidivism, and reduce  
6 spending on corrections in Nebraska. The task force shall monitor  
7 performance and measure outcomes by collecting data from counties and  
8 relevant state agencies for analysis and reporting. The Nebraska  
9 Commission on Law Enforcement and Criminal Justice shall provide  
10 administrative and staff support to the task force.

11 (5) The task force shall prepare and submit an annual report of its  
12 activities and findings and may make recommendations to improve any  
13 aspect of the criminal justice system. The task force shall deliver the  
14 report to the Governor, the Clerk of the Legislature, and the Chief  
15 Justice by September 1, 2023, and by each September 1 thereafter. The  
16 report to the Legislature shall be delivered electronically.

17 Sec. 24. Section 50-434, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 50-434 (1) The Legislature finds that while serious crime in the  
20 State of Nebraska has not increased in the past five years, the prison  
21 population continues to increase as does the amount spent on correctional  
22 issues. The Legislature further finds that a need exists to closely  
23 examine the criminal justice system of the State of Nebraska in order to  
24 increase public safety while concurrently reducing correctional spending  
25 and reinvesting in strategies that decrease crime and strengthen Nebraska  
26 communities.

27 (2) It is the intent of the Legislature that the State of Nebraska  
28 work cooperatively with the Council of State Governments Justice Center  
29 to study and identify innovative solutions and evidence-based practices  
30 to develop a data-driven approach to reduce correctional spending and  
31 reinvest savings in strategies that can decrease recidivism and increase

1 public safety and for the executive, legislative, and judicial branches  
2 of Nebraska state government to work with the Council of State  
3 Governments Justice Center in this process.

4 (3) The Committee on Justice Reinvestment Oversight is created as a  
5 special legislative committee to maintain continuous oversight of the  
6 Nebraska Justice Reinvestment Initiative and related issues.

7 (4) The special legislative committee shall be comprised of five  
8 members of the Legislature selected by the Executive Board of the  
9 Legislative Council, including the chairperson of the Judiciary Committee  
10 of the Legislature who shall serve as chairperson of the special  
11 legislative committee.

12 (5) The Committee on Justice Reinvestment Oversight shall monitor  
13 and guide analysis and policy development in all aspects of the criminal  
14 justice system in Nebraska within the scope of the justice reinvestment  
15 initiative, including tracking implementation of evidence-based  
16 strategies as established in Laws 2015, LB605, and reviewing policies to  
17 improve public safety, reduce recidivism, and reduce spending on  
18 corrections in Nebraska. With assistance from the Council of State  
19 Governments Justice Center, the committee shall monitor performance and  
20 measure outcomes by collecting data from counties and relevant state  
21 agencies for analysis and reporting.

22 (6) The committee shall prepare and submit an annual report of its  
23 activities and findings and may make recommendations to improve any  
24 aspect of the criminal justice system. The committee shall deliver the  
25 report to the Governor, the Clerk of the Legislature, and the Chief  
26 Justice by September 1 of each year. The report to the clerk shall be  
27 delivered electronically.

28 (7) The committee terminates on September 30, 2022.

29 Sec. 25. Section 71-5661, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 71-5661 (1) The financial incentives provided by the Rural Health

1 Systems and Professional Incentive Act shall consist of (a) student loans  
2 to eligible students for attendance at an eligible school as determined  
3 pursuant to section 71-5662, (b) the repayment of qualified educational  
4 debts owed by physicians and psychiatrists in an approved medical  
5 specialty residency program in Nebraska as determined pursuant to section  
6 71-5662, and (c) the repayment of qualified educational debts owed by  
7 eligible health professionals as determined pursuant to section 71-5662.  
8 Funds for such incentives shall be appropriated from the General Fund to  
9 the department for such purposes.

10 (2) The Rural Health Professional Incentive Fund is created. The  
11 fund shall be used to carry out the purposes of the act, except that  
12 transfers may be made from the fund to the General Fund at the direction  
13 of the Legislature. Money credited pursuant to section 71-5670.01 and  
14 payments received pursuant to sections 71-5666, 71-5668, and 71-5669.01  
15 shall be remitted to the State Treasurer for credit to the Rural Health  
16 Professional Incentive Fund. Any money in the fund available for  
17 investment shall be invested by the state investment officer pursuant to  
18 the Nebraska Capital Expansion Act and the Nebraska State Funds  
19 Investment Act.

20 Sec. 26. Section 71-5662, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 71-5662 (1) To be eligible for a student loan under the Rural Health  
23 Systems and Professional Incentive Act, an applicant or a recipient shall  
24 be enrolled or accepted for enrollment in an accredited medical or dental  
25 education program or physician assistant education program or an approved  
26 mental health practice program in Nebraska.

27 (2) To be eligible for the medical resident incentive under the act,  
28 an applicant or a recipient shall be enrolled or accepted for enrollment  
29 in an approved medical specialty residency program in Nebraska.

30 (3) To be eligible for loan repayment under the act, an applicant or  
31 a recipient shall be a pharmacist, a dentist, a physical therapist, an

1 occupational therapist, a mental health practitioner, a psychologist  
2 licensed under the requirements of section 38-3114 or the equivalent  
3 thereof, a nurse practitioner, a physician assistant, a psychiatrist, or  
4 a physician in an approved specialty and shall be licensed to practice in  
5 Nebraska, not be enrolled in a residency program, not be practicing under  
6 a provisional or temporary license, and enter practice in a designated  
7 health profession shortage area in Nebraska.

8 Sec. 27. Section 71-5663, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 71-5663 (1) The amount of financial assistance provided through  
11 student loans pursuant to the Rural Health Systems and Professional  
12 Incentive Act shall be limited to thirty thousand dollars for each  
13 recipient for each academic year and, except as provided in subdivision  
14 (4)(a) of this section, shall not exceed one hundred twenty thousand  
15 dollars per medical, dental, or doctorate-level mental health student or  
16 thirty thousand dollars per master's level mental health or physician  
17 assistant student.

18 (2) The amount of financial assistance provided through the medical  
19 resident incentive program pursuant to the act shall be limited to forty  
20 thousand dollars for each recipient for each year of residency and,  
21 except as provided in subdivision (4)(b) of this section, shall not  
22 exceed one hundred twenty thousand dollars.

23 (3) The amount of financial assistance provided by the state through  
24 loan repayments pursuant to the act (a) for physicians, psychiatrists,  
25 dentists, and psychologists shall be limited to thirty thousand dollars  
26 per recipient per year of full-time practice in a designated health  
27 profession shortage area and, except as provided in subdivision (4)(c) of  
28 this section, shall not exceed ninety thousand dollars per recipient and  
29 (b) for physician assistants, nurse practitioners, pharmacists, physical  
30 therapists, occupational therapists, and mental health practitioners  
31 shall be limited to fifteen thousand dollars per recipient per year of



1 full-time practice in a designated health profession shortage area and,  
2 except as provided in subdivision (4)(c) of this section, shall not  
3 exceed forty-five thousand dollars per recipient.

4 (4)(a) The total amount of financial assistance provided through  
5 student loans for a doctorate-level mental health student or master's  
6 level mental health student shall be the full amount of such loans for a  
7 person who practices psychiatry, psychology, or mental health practice:

8 (i) For at least five years in a designated health profession  
9 shortage area; and

10 (ii) If all or a majority of such practice consists of the treatment  
11 of members of the community supervision population.

12 (b) The total amount of financial assistance provided through the  
13 medical resident incentive program for a psychiatrist shall be the full  
14 amount of such psychiatrist's qualified educational debts if such person  
15 practices psychiatry:

16 (i) For at least five years in a designated health profession  
17 shortage area; and

18 (ii) If all or a majority of such practice consists of the treatment  
19 of members of the community supervision population.

20 (c) The total amount of financial assistance provided through loan  
21 repayments pursuant to the act for psychiatrists, psychologists, and  
22 mental health practitioners shall be the full amount of such person's  
23 qualified educational debts if such person practices psychiatry,  
24 psychology, or mental health practice:

25 (i) For at least five years in a designated health profession  
26 shortage area; and

27 (ii) If all or a majority of such practice consists of the treatment  
28 of members of the community supervision population.

29 (5) For purposes of this section, community supervision population  
30 means persons on probation, post-release supervision, and pretrial  
31 release.

1           Sec. 28. Section 71-5665, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           71-5665 The commission shall periodically designate health  
4 profession shortage areas within the state for the following professions:  
5 Medicine and surgery, psychiatry, physician assistants' practice, nurse  
6 practitioners' practice, psychology, and mental health practitioner's  
7 practice. The commission shall also periodically designate separate  
8 health profession shortage areas for each of the following professions:  
9 Pharmacy, dentistry, physical therapy, and occupational therapy. In  
10 making such designations the commission shall consider, after  
11 consultation with other appropriate agencies concerned with health  
12 services and with appropriate professional organizations, among other  
13 factors:

14           (1) The latest reliable statistical data available regarding the  
15 number of health professionals practicing in an area and the population  
16 to be served by such practitioners;

17           (2) Inaccessibility of health care services to residents of an area;

18           (3) Particular local health problems;

19           (4) Age or incapacity of local practitioners rendering services; and

20           (5) Demographic trends in an area both past and future.

21           Sec. 29. Section 71-5666, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23           71-5666 Each student loan recipient shall execute an agreement with  
24 the state. Such agreement shall be exempt from the requirements of  
25 sections 73-501 to 73-510 and shall include the following terms, as  
26 appropriate:

27           (1) The borrower agrees to practice the equivalent of one year of  
28 full-time practice of an approved specialty in a designated health  
29 profession shortage area in Nebraska for each year of education for which  
30 a loan is received, or a longer period as required in subdivision (4)(a)  
31 of section 71-5663, and agrees to accept medicaid patients in his or her

1 practice;

2 (2) If the borrower practices an approved specialty in a designated  
3 health profession shortage area in Nebraska, the loan shall be forgiven  
4 as provided in this section and subdivision (4)(a) of section 71-5663.  
5 Practice in a designated area shall commence within three months of the  
6 completion of formal education, which may include a period not to exceed  
7 five years to complete specialty training in an approved specialty. The  
8 commission may approve exceptions to any period required for completion  
9 of training upon showing good cause. Loan forgiveness shall occur on a  
10 quarterly basis, with completion of the equivalent of three months of  
11 full-time practice resulting in the cancellation of one-fourth of the  
12 annual loan amount. Part-time practice in a shortage area shall result in  
13 a prorated reduction in the cancellation of the loan amount;

14 (3) If the borrower practices an approved specialty in Nebraska but  
15 not in a designated health profession shortage area, practices a  
16 specialty other than an approved specialty in Nebraska, does not practice  
17 the profession for which the loan was given, discontinues practice of the  
18 profession for which the loan was given, or practices outside Nebraska,  
19 the borrower shall repay one hundred fifty percent of the outstanding  
20 loan principal with interest at a rate of eight percent simple interest  
21 per year from the date of default. Such repayment shall commence within  
22 six months of the completion of formal education, which may include a  
23 period not to exceed five years to complete specialty training in an  
24 approved specialty, and shall be completed within a period not to exceed  
25 twice the number of years for which loans were awarded;

26 (4) If a borrower who is a medical, dental, or doctorate-level  
27 mental health student determines during the first or second year of  
28 medical, dental, or doctorate-level mental health education that his or  
29 her commitment to the loan program cannot be honored, the borrower may  
30 repay the outstanding loan principal, plus six percent simple interest  
31 per year from the date the loan was granted, prior to graduation from

1 medical or dental school or a mental health practice program without  
2 further penalty or obligation. Master's level mental health and physician  
3 assistant student loan recipients shall not be eligible for this  
4 provision;

5 (5) If the borrower discontinues the course of study for which the  
6 loan was granted, the borrower shall repay one hundred percent of the  
7 outstanding loan principal. Such repayment shall commence within six  
8 months of the date of discontinuation of the course of study and shall be  
9 completed within a period of time not to exceed the number of years for  
10 which loans were awarded;~~and~~

11 (6) Any practice or payment obligation incurred by the student loan  
12 recipient under the student loan program is canceled in the event of the  
13 student loan recipient's total and permanent disability or death; and -

14 (7) For a borrower seeking benefits under subdivision (4)(a) of  
15 section 71-5663, the borrower agrees to such other terms as the  
16 department deems appropriate.

17 Sec. 30. Section 71-5668, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 71-5668 Each loan repayment recipient shall execute an agreement  
20 with the department and a local entity. Such agreement shall be exempt  
21 from the requirements of sections 73-501 to 73-510 and shall include, at  
22 a minimum, the following terms:

23 (1) The loan repayment recipient agrees to practice his or her  
24 profession, and a physician, psychiatrist, dentist, nurse practitioner,  
25 or physician assistant also agrees to practice an approved specialty, in  
26 a designated health profession shortage area for at least three years, or  
27 the period required by subdivision (4)(c) of section 71-5663, and to  
28 accept medicaid patients in his or her practice;

29 (2) In consideration of the agreement by the recipient, the State of  
30 Nebraska and a local entity within the designated health profession  
31 shortage area will provide equal funding for the repayment of the

1 recipient's qualified educational debts, in amounts up to thirty thousand  
2 dollars per year per recipient for physicians, psychiatrists, dentists,  
3 and psychologists and up to fifteen thousand dollars per year per  
4 recipient for physician assistants, nurse practitioners, pharmacists,  
5 physical therapists, occupational therapists, and mental health  
6 practitioners toward qualified educational debts for up to three years or  
7 a longer period as required by subdivision (4)(c) of section 71-5663. The  
8 department shall make payments directly to the recipient;

9 (3) If the loan repayment recipient discontinues practice in the  
10 shortage area prior to completion of the three-year requirement or the  
11 period required by subdivision (4)(c) of section 71-5663, as applicable,  
12 the recipient shall repay to the state one hundred fifty percent of the  
13 total amount of funds provided to the recipient for loan repayment with  
14 interest at a rate of eight percent simple interest per year from the  
15 date of default. Upon repayment by the recipient to the department, the  
16 department shall reimburse the local entity its share of the funds which  
17 shall not be more than the local entity's share paid to the loan  
18 repayment recipient; ~~and~~

19 (4) Any practice or payment obligation incurred by the loan  
20 repayment recipient under the loan repayment program is canceled in the  
21 event of the loan repayment recipient's total and permanent disability or  
22 death; and -

23 (5) For a loan repayment recipient seeking benefits under  
24 subdivision (4)(c) of section 71-5663, the recipient agrees to such other  
25 terms as the department deems appropriate.

26 Sec. 31. Section 71-5669.01, Reissue Revised Statutes of Nebraska,  
27 is amended to read:

28 71-5669.01 Each medical resident incentive recipient shall execute  
29 an agreement with the department. Such agreement shall be exempt from the  
30 requirements of sections 73-501 to 73-510 and shall include, at a  
31 minimum, the following terms:

1 (1) The medical resident incentive recipient agrees to practice an  
2 approved medical specialty the equivalent of one year of full-time  
3 practice in a designated health profession shortage area, or for a longer  
4 period as required by subdivision (4)(b) of section 71-5663, and to  
5 accept medicaid patients in his or her practice;

6 (2) In consideration of the agreement by the medical resident  
7 incentive recipient, the State of Nebraska will provide funding for the  
8 repayment of the recipient's qualified educational debts, in amounts up  
9 to forty thousand dollars per year for up to three years while in an  
10 approved medical specialty residency program in Nebraska, or for a longer  
11 period as required by subdivision (4)(b) of section 71-5663. The  
12 department shall make payments directly to the medical resident incentive  
13 recipient;

14 (3) If the medical resident incentive recipient extends his or her  
15 residency training but not in an approved specialty, practices an  
16 approved specialty in Nebraska but not in a designated health profession  
17 shortage area, practices a specialty other than an approved specialty in  
18 Nebraska, does not practice the profession for which the loan was given,  
19 discontinues practice of the profession for which the loan was given, or  
20 practices outside Nebraska, the medical resident incentive recipient  
21 shall repay to the state one hundred fifty percent of the outstanding  
22 loan principal with interest at a rate of eight percent simple interest  
23 per year from the date of default. Such repayment shall commence within  
24 six months of the completion or discontinuation of an approved specialty  
25 residency training in Nebraska and shall be completed within a period not  
26 to exceed twice the number of years for which the medical resident  
27 incentive recipient received awards; ~~and~~

28 (4) Any practice or payment obligation incurred by the medical  
29 resident incentive recipient under the medical resident incentive program  
30 is canceled in the event of the medical resident incentive recipient's  
31 total and permanent disability or death; and -

1       (5) For a medical resident incentive recipient seeking benefits  
2 under subdivision (4)(b) of section 71-5663, the recipient agrees to such  
3 other terms as the department deems appropriate.

4       Sec. 32. Section 83-1,100.02, Revised Statutes Cumulative  
5 Supplement, 2020, is amended to read:

6       83-1,100.02 (1) For purposes of this section:

7       (a) Levels of supervision means the determination of the following  
8 for each person on parole:

9       (i) Supervision contact requirements, including the frequency,  
10 location, methods, and nature of contact with the parole officer;

11       (ii) Substance abuse testing requirements and frequency;

12       (iii) Contact restrictions;

13       (iv) Curfew restrictions;

14       (v) Access to available programs and treatment, with priority given  
15 to moderate-risk and high-risk parolees; and

16       (vi) Severity of graduated responses to violations of supervision  
17 conditions;~~and~~

18       **(b) Responsivity factors means characteristics of a parolee that**  
19 **affect the parolee's ability to respond favorably or unfavorably to any**  
20 **treatment goals; and**

21       **(c) ~~(b)~~ Risk and needs assessment means an actuarial tool that has**  
22 **been validated in Nebraska to determine the likelihood of the parolee**  
23 **engaging in future criminal behavior.**

24       (2) The Division of Parole Supervision shall establish an evidence-  
25 based process that utilizes a risk and needs assessment to measure  
26 criminal risk factors, ~~and~~ specific individual needs, and responsivity  
27 factors.

28       (3) The risk and needs assessment shall be performed at the  
29 commencement of the parole term and every six months thereafter by  
30 division staff trained and certified in the use of the risk and needs  
31 assessment.

1 (4) The validity of the risk and needs assessment shall be tested at  
2 least every five years.

3 (5) Based on the results of the risk and needs assessment, the  
4 division shall target parolee criminal risk and need factors by focusing  
5 sanction, program, and treatment resources on moderate-risk and high-risk  
6 parolees.

7 (6) The division shall provide training to its parole officers on  
8 (a) use of a risk and needs assessment, (b) risk-based supervision  
9 strategies, (c) relationship skills, (d) cognitive behavioral  
10 interventions, (e) community-based resources, (f) criminal risk factors,  
11 (g) targeting criminal risk factors to reduce recidivism, (h) and proper  
12 use of a matrix of administrative sanctions, custodial sanctions, and  
13 rewards developed pursuant to section 83-1,119, and (i) addressing  
14 responsivity factors. All parole officers employed on August 30, 2015,  
15 shall complete the training requirements set forth in this subsection on  
16 or before January 1, 2017. Each parole officer hired on or after August  
17 30, 2015, shall complete the training requirements set forth in this  
18 subsection within one year after his or her hire date or one year after  
19 the effective date of this act, whichever is later.

20 (7) The division shall provide training for chief parole officers to  
21 become trainers so as to ensure long-term and self-sufficient training  
22 capacity in the state.

23 Sec. 33. Section 83-1,110, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 83-1,110 (1) Except as provided in subsections (2) and (3) of this  
26 section, every Every committed offender shall be eligible for parole;

27 (a) For an offender sentenced to a minimum of less than five years,  
28 upon serving when the offender has served one-half the minimum term of  
29 the offender's his or her sentence as provided in sections 83-1,107 and  
30 83-1,108; or -

31 (b) For an offender sentenced to a minimum of five years or more,



1 upon the earlier of:

2 (i) Serving one-half of the minimum term of the offender's sentence  
3 as provided in sections 83-1,107 and 83-1,108; or

4 (ii) Two years prior to the offender's mandatory discharge date The  
5 ~~board shall conduct a parole review not later than sixty days prior to~~  
6 ~~the date a committed offender becomes eligible for parole as provided in~~  
7 ~~this subsection, except that if a committed offender is eligible for~~  
8 ~~parole upon his or her commitment to the department, a parole review~~  
9 ~~shall occur as early as is practical. No such reduction of sentence shall~~  
10 ~~be applied to any sentence imposing a mandatory minimum term.~~

11 (2)(a) Except as provided in subsection (3) of this section, every  
12 ~~(2) Every~~ committed offender sentenced to consecutive terms, whether  
13 received at the same time or at any time during the original sentence,  
14 shall be eligible for release on parole;

15 (i) For an offender sentenced to a total minimum term of less than  
16 five years, upon serving when the offender has served the total of one-  
17 half of the minimum term as provided in sections 83-1,107 and 83-1,108;  
18 or -

19 (ii) For an offender sentenced to a total minimum of five years or  
20 more, upon the earlier of:

21 (A) Serving the total of one-half of the minimum term as provided in  
22 sections 83-1,107 and 83-1,108; or

23 (B) Two years prior to the offender's mandatory discharge date.

24 (b) The maximum terms shall be added to compute the new maximum term  
25 which, less good time, shall determine the date when discharge from the  
26 custody of the state becomes mandatory.

27 (3) A committed offender serving a sentence with one or more  
28 mandatory minimum terms imposed on or after the effective date of this  
29 act shall be eligible for parole upon the later of:

30 (a) Serving all such mandatory minimum terms; or

31 (b) Serving one-half of the total minimum term of the offender's

1 sentence as provided in sections 83-1,107 and 83-1,108.

2 (4) The board shall conduct a parole review not later than sixty  
3 days prior to the date a committed offender becomes eligible for parole  
4 as provided in this section, except that if a committed offender is  
5 eligible for parole upon the offender's commitment to the department, a  
6 parole review shall occur as early as is practical.

7 Sec. 34. Section 83-1,111, Revised Statutes Cumulative Supplement,  
8 2020, is amended to read:

9 83-1,111 (1)(a) (1) A committed offender serving an indeterminate  
10 sentence under which he or she may become eligible for parole shall be  
11 interviewed and have his or her record reviewed by two or more members of  
12 the board ~~Board of Parole~~ or a person designated by the board by the  
13 deadline within sixty days before the expiration of his or her minimum  
14 term less any reductions as provided in section 83-1,110.

15 (b) If the committed offender is a qualified offender as defined in  
16 section 35 of this act, the committed offender shall enter into a  
17 streamlined parole contract as provided in such section.

18 (2) If the committed offender is a qualified offender, the review  
19 shall be limited to verifying that the committed offender is a qualified  
20 offender and whether the committed offender has already fulfilled the  
21 streamlined parole contract. If the committed offender has not yet  
22 fulfilled the streamlined parole contract, a subsequent review shall be  
23 set for the date the committed offender will fulfill the streamlined  
24 parole contract, assuming the committed offender will meet the  
25 requirements of subsection (3) of section 35 of this act.

26 (3)(a) This subsection applies if the committed offender is not a  
27 qualified offender or has been found at a review under subsection (2) of  
28 this section to have not fulfilled the terms of the streamlined parole  
29 contract. If, in the opinion of the reviewers, the review indicates the  
30 offender is reasonably likely to be granted parole and has a potential  
31 parole term of no less than one month, the board ~~Board of Parole~~ shall

1 schedule a public hearing before a majority of its members. At such  
2 hearing the offender may present evidence, call witnesses, and be  
3 represented by counsel. If, in the opinion of the reviewers, the review  
4 indicates the offender should be denied parole, the offender may request  
5 an additional review by a majority of the members of the board. A review  
6 by the majority of the members of the board may be conducted not more  
7 than once annually. Any hearing and review shall be conducted in an  
8 informal manner, but a complete record of the proceedings shall be made  
9 and preserved.

10 (b) ~~(2)~~ The board shall render its decision regarding the committed  
11 offender's release on parole within a reasonable time after the hearing  
12 or review. The decision shall be by majority vote of the board. The  
13 decision shall be based on the entire record before the board which shall  
14 include the opinion of the person who conducted the review. If the board  
15 denies parole, written notification listing the reasons for such denial  
16 and the recommendations for correcting deficiencies which cause the  
17 denial shall be given to the committed offender within thirty days  
18 following the hearing.

19 (c) ~~(3)~~ If the board fixes the release date, such date shall be not  
20 more than six months from the date of the committed offender's parole  
21 hearing or from the date of last reconsideration of his or her case,  
22 unless there are special reasons for fixing a later release date.

23 (d) ~~(4)~~ If the board defers the case for later reconsideration, the  
24 committed offender shall be afforded a parole review at least once a year  
25 until a release date is fixed. The board may order a reconsideration or a  
26 rehearing of the case at any time.

27 (4) ~~(5)~~ The release of a committed offender on parole shall not be  
28 upon the application of the offender but by the initiative of the Board  
29 of Parole. No application for release on parole made by a committed  
30 offender or on his or her behalf shall be entertained by the board. This  
31 subsection does not prohibit the Director of Correctional Services from

1 recommending to the board that it consider an individual offender for  
2 release on parole.

3 Sec. 35. (1) A qualified offender serving a sentence imposed prior  
4 to the effective date of this act who has not yet received a review from  
5 the board shall, at the review, enter into a streamlined parole contract  
6 under this section.

7 (2) A qualified offender serving a sentence imposed on or after the  
8 effective date of this act shall, at the qualified offender's first  
9 review from the board, enter into a streamlined parole contract under  
10 this section.

11 (3) Under a streamlined parole contract, a qualified offender shall  
12 be released on parole on the qualified offender's eligibility date,  
13 without a hearing before the board, if:

14 (a) In the twenty-four-month period prior to the parole eligibility  
15 date, the qualified offender has not committed a Class I offense under  
16 the department's disciplinary code; and

17 (b) The qualified offender has completed all diagnostic evaluations  
18 provided by the department and any programming or treatment required by  
19 the department for substance abuse, sex offenses, and violence reduction.

20 (4) If a qualified offender does not meet the requirements of  
21 subsection (3) of this section, the board shall consider the offender's  
22 parole eligibility as provided for nonqualified offenders under section  
23 83-1,111.

24 (5) For purposes of this section:

25 (a) Qualified offender means a committed offender who is serving an  
26 indeterminate sentence under which the committed offender may become  
27 eligible for parole and who is not serving a sentence for a violent  
28 felony;

29 (b) Serious bodily injury has the same meaning as in section 28-109;

30 (c) Sexual contact and sexual penetration have the same meaning as  
31 in section 28-318; and

1        (d) Violent felony means an offense which is a Class IIIA felony or  
2 higher and:

3        (i) Which includes, as an element of the offense:

4        (A) Sexual contact or sexual penetration;

5        (B) The threat to inflict serious bodily injury or death on another  
6 person, the infliction of serious bodily injury on another person, or  
7 causing the death of another person; or

8        (C) The use of physical force against another person; or

9        (ii) Which consists of attempt, conspiracy, being an accessory to,  
10 or aiding and abetting a felony with any of the offenses described in  
11 subdivision (5)(d)(i) of this section as the underlying offense.

12        Sec. 36. (1) A committed offender may be eligible for geriatric  
13 parole if the committed offender:

14        (a) Is not serving a sentence for a Class I or IA felony or  
15 otherwise serving a sentence of life imprisonment;

16        (b) Is seventy-five years of age or older; and

17        (c) Has served at least fifteen years of the sentence for which  
18 currently incarcerated.

19        (2) A committed offender may be eligible for geriatric parole in  
20 addition to any other parole. The department shall identify committed  
21 offenders who may be eligible for geriatric parole.

22        (3) The board shall decide to grant geriatric parole only after a  
23 review of the decision guidelines as set forth in the board's rules and  
24 regulations and the factors set forth in section 83-1,114.

25        (4) The parole term of a geriatric parolee shall be for the  
26 remainder of the parolee's sentence as reduced by any adjustment for good  
27 conduct pursuant to the Nebraska Treatment and Corrections Act.

28        Sec. 37. Section 83-1,114, Revised Statutes Cumulative Supplement,  
29 2020, is amended to read:

30        83-1,114 (1) Whenever the board considers the release of a committed  
31 offender who is eligible for release on parole, it shall order his or her

1 release unless it is of the opinion that his or her release should be  
2 deferred because:

3 (a) There is a substantial risk that he or she will not conform to  
4 the conditions of parole;

5 (b) His or her release would depreciate the seriousness of his or  
6 her crime or promote disrespect for law;

7 (c) His or her release would have a substantially adverse effect on  
8 institutional discipline; or

9 (d) His or her continued correctional treatment, medical care, or  
10 vocational or other training in the facility will substantially enhance  
11 his or her capacity to lead a law-abiding life when released at a later  
12 date.

13 (2) In making its determination regarding a committed offender's  
14 release on parole, the board shall give consideration to the ~~its~~ decision  
15 guidelines as set forth in its rules and regulations and shall take into  
16 account each of the following factors:

17 ~~(a) The offender's personality, including his or her maturity,~~  
18 ~~stability, and sense of responsibility and any apparent development in~~  
19 ~~his or her personality which may promote or hinder his or her conformity~~  
20 ~~to law;~~

21 (a) (b) The adequacy of the offender's parole plan, including  
22 sufficiency of residence, employment history, and employability;

23 ~~(c) The offender's ability and readiness to assume obligations and~~  
24 ~~undertake responsibilities;~~

25 ~~(d) The offender's intelligence and training;~~

26 ~~(e) The offender's family status and whether he or she has relatives~~  
27 ~~who display an interest in him or her or whether he or she has other~~  
28 ~~close and constructive associations in the community;~~

29 ~~(f) The offender's employment history, his or her occupational~~  
30 ~~skills, and the stability of his or her past employment;~~

31 ~~(g) The type of residence, neighborhood, or community in which the~~

1 offender plans to live;

2 ~~(h) The offender's past use of narcotics or past habitual and~~  
3 ~~excessive use of alcohol;~~

4 ~~(i) The offender's mental or physical makeup, including any~~  
5 ~~disability or handicap which may affect his or her conformity to law;~~

6 ~~(b) (j) The offender's prior criminal record, including the nature~~  
7 ~~and circumstances, dates, and frequency of previous offenses;~~

8 ~~(k) The offender's attitude toward law and authority;~~

9 ~~(l) The offender's conduct in the facility, including particularly~~  
10 ~~whether he or she has taken advantage of the opportunities for self-~~  
11 ~~improvement, whether he or she has been punished for misconduct within~~  
12 ~~six months prior to his or her hearing or reconsideration for parole~~  
13 ~~release, whether any reductions of term have been forfeited, and whether~~  
14 ~~such reductions have been restored at the time of hearing or~~  
15 ~~reconsideration;~~

16 ~~(c) (m) The offender's institutional behavior and attitude during~~  
17 ~~any previous experience of probation or parole and how recent such~~  
18 ~~experience is;~~

19 ~~(d) The offender's previous experience on parole and how recent such~~  
20 ~~experience is;~~

21 ~~(e) Whether the offender has completed a (n) ~~The risk and needs~~  
22 ~~assessment completed pursuant to section 83-192; and~~~~

23 ~~(f) Any testimony or written statement by a victim as provided in~~  
24 ~~section 81-1848.~~

25 ~~(o) Any other factors the board determines to be relevant.~~

26 Sec. 38. (1) The Division of Parole Supervision and the department  
27 shall create a pilot program to establish a technical parole violation  
28 residential housing program. The purpose of the program is to provide  
29 accountability and intensive support for individuals on parole who commit  
30 technical violations, without revoking them fully back to prison.

31 (2) The pilot program shall provide a structured environment for

1 selected individuals on parole who have committed technical violations.  
2 The program shall be based upon a therapeutic community model.  
3 Participants in the program shall, at a minimum, be required to take part  
4 in counseling, educational, and other programs as the department deems  
5 appropriate, to provide community service, and to submit to drug and  
6 alcohol screening.

7 (3) An individual on parole shall not be placed in the pilot program  
8 until the Division of Parole Supervision has determined the individual is  
9 a suitable candidate in accordance with policies and guidelines developed  
10 by the division.

11 (4) On or before June 1, 2023, the Division of Parole Supervision  
12 shall electronically submit a report to the Judiciary Committee of the  
13 Legislature regarding the pilot program. The report shall evaluate  
14 effects of the pilot program on recidivism and make recommendations  
15 regarding expansion of or changes to the program.

16 (5) For purposes of this section, technical violation has the same  
17 meaning as in section 83-1,119.

18 Sec. 39. Section 83-1,135, Revised Statutes Cumulative Supplement,  
19 2020, is amended to read:

20 83-1,135 Sections 83-170 to 83-1,135.05 and sections 35, 36, and 38  
21 of this act shall be known and may be cited as the Nebraska Treatment and  
22 Corrections Act.

23 Sec. 40. Section 83-1,135.02, Revised Statutes Cumulative  
24 Supplement, 2020, is amended to read:

25 83-1,135.02 (1) It is the intent of the Legislature that the changes  
26 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,  
27 with respect to parole eligibility apply to all committed offenders under  
28 sentence and not on parole on May 24, 2003, and to all persons sentenced  
29 on and after such date.

30 (2) It is the intent of the Legislature that the changes made to  
31 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,



1 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,  
2 83-1,100.02, and 83-1,100.03 apply to all committed offenders under  
3 sentence, on parole, or on probation on August 30, 2015, and to all  
4 persons sentenced on and after such date.

5 (3) It is the intent of the Legislature that the changes made to  
6 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,  
7 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by  
8 Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03  
9 apply to all committed offenders under sentence, on parole, or on  
10 probation on or after April 20, 2016, and to all persons sentenced on and  
11 after such date.

12 (4) It is the intent of the Legislature that the changes made to  
13 sections 83-1,110.02 and 83-1,122.01 by Laws 2018, LB841, apply to all  
14 committed offenders under sentence or on parole on or after July 19,  
15 2018, and to all persons sentenced on and after such date.

16 (5) Except as otherwise provided in sections 83-1,110, 83-1,111, and  
17 83-1,114 and section 35 of this act, it is the intent of the Legislature  
18 that the changes made to sections 83-1,110, 83-1,111, and 83-1,114 and  
19 section 35 of this act by this legislative bill, apply to all committed  
20 offenders under sentence or on parole on or after the effective date of  
21 this act, and to all persons sentenced on and after such date.

22 Sec. 41. Original sections 24-1302, 28-116, 28-507, 28-518,  
23 29-2204.02, 29-2221, 29-2263, 29-2269, 29-2281, 29-3603, 47-706, 50-434,  
24 71-5661, 71-5662, 71-5663, 71-5665, 71-5666, 71-5668, 71-5669.01, and  
25 83-1,110, Reissue Revised Statutes of Nebraska, and sections 28-101,  
26 28-105, 28-416, 28-1351, 28-1354, 29-2204, 83-1,100.02, 83-1,111,  
27 83-1,114, 83-1,135, and 83-1,135.02, Revised Statutes Cumulative  
28 Supplement, 2020, are repealed.