

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 661

Introduced by McDonnell, 5.

Read first time January 20, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
2 29-2221, Reissue Revised Statutes of Nebraska, and sections 28-101,
3 28-115, 28-929, 28-929.01, 28-929.02, 28-930, 28-931, 28-934,
4 28-1351, and 28-1354, Revised Statutes Cumulative Supplement, 2020;
5 to prohibit assault on a public transportation driver; to change and
6 eliminate provisions and penalties relating to offenses involving
7 assault on an officer, emergency responder, certain employees, or a
8 health care professional; to define and redefine terms; to harmonize
9 provisions; to repeal the original sections; and to outright repeal
10 section 28-931.01, Revised Statutes Cumulative Supplement, 2020.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and
4 sections 3 to 8 of this act of this act shall be known and may be cited
5 as the Nebraska Criminal Code.

6 Sec. 2. Section 28-115, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 28-115 (1) Except as provided in subsection (2) of this section, any
9 person who commits any of the following criminal offenses against a
10 pregnant woman shall be punished by the imposition of the next higher
11 penalty classification than the penalty classification prescribed for the
12 criminal offense:

13 (a) Assault in the first degree, section 28-308;

14 (b) Assault in the second degree, section 28-309;

15 (c) Assault in the third degree, section 28-310;

16 (d) Assault by strangulation or suffocation, section 28-310.01;

17 (e) Sexual assault in the first degree, section 28-319;

18 (f) Sexual assault in the second or third degree, section 28-320;

19 (g) Sexual assault of a child in the first degree, section
20 28-319.01;

21 (h) Sexual assault of a child in the second or third degree, section
22 28-320.01;

23 (i) Sexual abuse of an inmate or parolee in the first degree,
24 section 28-322.02;

25 (j) Sexual abuse of an inmate or parolee in the second degree,
26 section 28-322.03;

27 (k) Sexual abuse of a protected individual in the first or second
28 degree, section 28-322.04;

29 (l) Sexual abuse of a detainee under section 28-322.05;

30 (m) Domestic assault in the first, second, or third degree, section
31 28-323;

1 (n) Assault on an ~~officer, an emergency responder, a state~~
2 ~~correctional employee, a Department of Health and Human Services~~
3 ~~employee, or a public safety officer, health care professional, or public~~
4 ~~transportation driver~~ in the first degree, section 4 of this act 28-929;

5 (o) Assault on an ~~officer, an emergency responder, a state~~
6 ~~correctional employee, a Department of Health and Human Services~~
7 ~~employee, or a public safety officer, health care professional, or public~~
8 ~~transportation driver~~ in the second degree, section 5 of this act 28-930;

9 (p) Assault on an ~~officer, an emergency responder, a state~~
10 ~~correctional employee, a Department of Health and Human Services~~
11 ~~employee, or a public safety officer, health care professional, or public~~
12 ~~transportation driver~~ in the third degree, section 6 of this act 28-931;

13 (q) ~~Assault on an officer, an emergency responder, a state~~
14 ~~correctional employee, a Department of Health and Human Services~~
15 ~~employee, or a health care professional using a motor vehicle, section~~
16 ~~28-931.01~~;

17 (q) ~~(r)~~ Assault by a confined person, section 28-932;

18 (r) ~~(s)~~ Confined person committing offenses against another person,
19 section 28-933; and

20 (s) ~~(t)~~ Proximately causing serious bodily injury while operating a
21 motor vehicle, section 60-6,198.

22 (2) The enhancement in subsection (1) of this section does not apply
23 to any criminal offense listed in subsection (1) of this section that is
24 already punishable as a Class I, IA, or IB felony. If any criminal
25 offense listed in subsection (1) of this section is punishable as a Class
26 I misdemeanor, the penalty under this section is a Class IIIA felony.

27 (3) The prosecution shall allege and prove beyond a reasonable doubt
28 that the victim was pregnant at the time of the offense.

29 Sec. 3. Section 28-929.01, Revised Statutes Cumulative Supplement,
30 2020, is amended to read:

31 ~~28-929.01~~ For purposes of sections 3 to 8 of this act 28-929,

1 ~~28-929.02, 28-930, 28-931, and 28-931.01:~~

2 (1) Emergency care provider means (a) an emergency medical
3 responder; (b) an emergency medical technician; (c) an advanced emergency
4 medical technician; (d) a community paramedic; (e) a critical care
5 paramedic; or (f) a paramedic, as those persons are licensed and
6 classified under the Emergency Medical Services Practice Act;

7 (2) Health care professional means a physician or other health care
8 practitioner who is licensed, certified, or registered to perform
9 specified health services consistent with state law who practices at a
10 hospital or a health clinic;

11 (3) Health clinic has the definition found in section 71-416; ~~and~~

12 (4) Hospital has the definition found in section 71-419; ~~and~~

13 (5) Public safety officer means:

14 (a) A peace officer;

15 (b) A probation officer;

16 (c) A firefighter;

17 (d) An emergency care provider;

18 (e) An employee of the Department of Correctional Services; or

19 (f) An employee of the Department of Health and Human Services if
20 the person committing the offense is committed as a dangerous sex
21 offender under the Sex Offender Commitment Act; and

22 (6)(a) Public transportation driver means the driver or operator of
23 a vehicle providing public transportation that is under the jurisdiction
24 of or operated by a municipality, county, transit authority, regional
25 metropolitan transit authority, or other political subdivision.

26 (b) Public transportation driver does not include a tax driver or
27 other driver or operator employed by a private entity.

28 Sec. 4. Section 28-929, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 ~~28-929 (1) A person commits the offense of assault on an officer, an~~
31 ~~emergency responder, a state correctional employee, a Department of~~

1 ~~Health and Human Services employee, or a public safety officer, health~~
2 ~~care professional, or public transportation driver~~ in the first degree if
3 ~~such person intentionally or knowingly causes serious bodily injury to a:~~

4 ~~(a) Public safety officer while such officer is engaged in the~~
5 ~~performance of the officer's official duties;~~

6 ~~(b) Health care professional while such professional is on duty at a~~
7 ~~hospital or health clinic; or~~

8 ~~(c) Public transportation driver while such driver is engaged in the~~
9 ~~performance of such driver's official duties.~~

10 ~~(a) He or she intentionally or knowingly causes serious bodily~~
11 ~~injury:~~

12 ~~(i) To a peace officer, a probation officer, a firefighter, an~~
13 ~~emergency care provider, or an employee of the Department of Correctional~~
14 ~~Services;~~

15 ~~(ii) To an employee of the Department of Health and Human Services~~
16 ~~if the person committing the offense is committed as a dangerous sex~~
17 ~~offender under the Sex Offender Commitment Act; or~~

18 ~~(iii) To a health care professional; and~~

19 ~~(b) The offense is committed while such officer, firefighter,~~
20 ~~emergency care provider, or employee is engaged in the performance of his~~
21 ~~or her official duties or while the health care professional is on duty~~
22 ~~at a hospital or a health clinic.~~

23 ~~(2) Assault on an officer, an emergency responder, a state~~
24 ~~correctional employee, a Department of Health and Human Services~~
25 ~~employee, or a public safety officer, health care professional, or public~~
26 ~~transportation driver~~ in the first degree shall be a Class ID felony.

27 Sec. 5. Section 28-930, Revised Statutes Cumulative Supplement,
28 2020, is amended to read:

29 ~~28-930~~ (1) A person commits the offense of assault on ~~an officer, an~~
30 ~~emergency responder, a state correctional employee, a Department of~~
31 ~~Health and Human Services employee, or a public safety officer, health~~

1 care professional, or public transportation driver in the second degree
2 if such person:

3 (a) Intentionally, knowingly, or recklessly causes bodily injury to
4 a public safety officer, health care professional, or public
5 transportation driver with a dangerous instrument; and

6 (b) Such offense is committed while such public safety officer or
7 public transportation driver is engaged in the performance of the
8 officer's or driver's official duties or while such health care
9 professional is on duty at a hospital or health clinic.

10 ~~(a) He or she:~~

11 ~~(i) Intentionally or knowingly causes bodily injury with a dangerous~~
12 ~~instrument:~~

13 ~~(A) To a peace officer, a probation officer, a firefighter, an~~
14 ~~emergency care provider, or an employee of the Department of Correctional~~
15 ~~Services;~~

16 ~~(B) To an employee of the Department of Health and Human Services if~~
17 ~~the person committing the offense is committed as a dangerous sex~~
18 ~~offender under the Sex Offender Commitment Act; or~~

19 ~~(C) To a health care professional; or~~

20 ~~(ii) Recklessly causes bodily injury with a dangerous instrument:~~

21 ~~(A) To a peace officer, a probation officer, a firefighter, an~~
22 ~~emergency care provider, or an employee of the Department of Correctional~~
23 ~~Services;~~

24 ~~(B) To an employee of the Department of Health and Human Services if~~
25 ~~the person committing the offense is committed as a dangerous sex~~
26 ~~offender under the Sex Offender Commitment Act; or~~

27 ~~(C) To a health care professional; and~~

28 ~~(b) The offense is committed while such officer, firefighter,~~
29 ~~emergency care provider, or employee is engaged in the performance of his~~
30 ~~or her official duties or while the health care professional is on duty~~
31 ~~at a hospital or a health clinic.~~

1 (2) Assault on an ~~officer, an emergency responder, a state~~
2 ~~correctional employee, a Department of Health and Human Services~~
3 ~~employee, or a public safety officer, health care professional, or public~~
4 ~~transportation driver~~ in the second degree shall be a Class II felony.

5 Sec. 6. Section 28-931, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 ~~28-931~~ (1) A person commits the offense of assault on an ~~officer, an~~
8 ~~emergency responder, a state correctional employee, a Department of~~
9 ~~Health and Human Services employee, or a public safety officer, health~~
10 ~~care professional, or public transportation driver~~ in the third degree if
11 ~~such person intentionally, knowingly, or recklessly causes bodily injury~~
12 ~~to a:~~

13 ~~(a) Public safety officer while such officer is engaged in the~~
14 ~~performance of the officer's official duties;~~

15 ~~(b) Health care professional while such professional is on duty at a~~
16 ~~hospital or health clinic; or~~

17 ~~(c) Public transportation driver while such driver is engaged in the~~
18 ~~performance of such driver's official duties.~~

19 ~~(a) He or she intentionally, knowingly, or recklessly causes bodily~~
20 ~~injury:~~

21 ~~(i) To a peace officer, a probation officer, a firefighter, an~~
22 ~~emergency care provider, or an employee of the Department of Correctional~~
23 ~~Services;~~

24 ~~(ii) To an employee of the Department of Health and Human Services~~
25 ~~if the person committing the offense is committed as a dangerous sex~~
26 ~~offender under the Sex Offender Commitment Act; or~~

27 ~~(iii) To a health care professional; and~~

28 ~~(b) The offense is committed while such officer, firefighter,~~
29 ~~emergency care provider, or employee is engaged in the performance of his~~
30 ~~or her official duties or while the health care professional is on duty~~
31 ~~at a hospital or a health clinic.~~

1 (2) Assault on an ~~officer, an emergency responder, a state~~
2 ~~correctional employee, a Department of Health and Human Services~~
3 ~~employee, or a public safety officer, health care professional, or public~~
4 ~~transportation driver~~ in the third degree shall be a Class IIIA felony.

5 Sec. 7. Section 28-934, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 ~~28-934 (1) A person commits an offense if such person: Any person~~
8 ~~who knowingly and intentionally strikes any public safety officer with~~
9 ~~any bodily fluid is guilty of assault with a bodily fluid against a~~
10 ~~public safety officer.~~

11 (a) Knowingly or intentionally strikes a public safety officer,
12 health care professional, or public transportation driver with a bodily
13 fluid; and

14 (b) Such offense is committed while such public safety officer or
15 public transportation driver is engaged in the performance of the
16 officer's or driver's official duties or while such health care
17 professional is on duty at a hospital or health clinic.

18 (2) Except as provided in subsection (3) of this section, a
19 violation of this section ~~assault with a bodily fluid against a public~~
20 ~~safety officer~~ is a Class I misdemeanor.

21 (3) A violation of this section ~~Assault with a bodily fluid against~~
22 ~~a public safety officer~~ is a Class IIIA felony if the person committing
23 the offense strikes with a bodily fluid the eyes, mouth, or skin of a
24 public safety officer, health care professional, or public transportation
25 driver and knew the source of the bodily fluid was infected with the
26 human immunodeficiency virus, hepatitis B, or hepatitis C at the time the
27 offense was committed.

28 (4) Upon a showing of probable cause by affidavit to a judge of this
29 state that an offense under ~~as defined in subsection (1) of this section~~
30 has been committed and that identifies the probable source of the bodily
31 fluid or bodily fluids used to commit the offense, the judge shall grant

1 an order or issue a search warrant authorizing the collection of any
2 evidence, including any bodily fluid or medical records or the
3 performance of any medical or scientific testing or analysis, that may
4 assist with the determination of whether or not the person committing the
5 offense or the person from whom the person committing the offense
6 obtained the bodily fluid or bodily fluids is infected with the human
7 immunodeficiency virus, hepatitis B, or hepatitis C.

8 (5) As used in this section:

9 (a) Bodily fluid means any naturally produced secretion or waste
10 product generated by the human body and shall include, but not be limited
11 to, any quantity of human blood, urine, saliva, mucus, vomitus, seminal
12 fluid, or feces; and

13 (b) Public safety officer has the same meaning as in section 3 of
14 this act, but as used in this section, also includes an employee of a:

15 (i) County includes any of the following persons who are engaged in
16 the performance of their official duties at the time of the offense: A
17 peace officer; a probation officer; a firefighter; an emergency care
18 provider as defined in section 28-929.01; a health care professional as
19 defined in section 28-929.01; an employee of a county, city, or village
20 jail;

21 (ii) Secure an employee of the Department of Correctional Services;
22 an employee of the secure youth confinement facility operated by the
23 Department of Correctional Services, if the person committing the offense
24 is committed to such facility; or

25 (iii) Youth rehabilitation and treatment center an employee of the
26 Youth Rehabilitation and Treatment Center Geneva or the Youth
27 Rehabilitation and Treatment Center Kearney; or an employee of the
28 Department of Health and Human Services if the person committing the
29 offense is committed as a dangerous sex offender under the Sex Offender
30 Commitment Act.

31 Sec. 8. Section 28-929.02, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 ~~28-929.02~~ Every hospital and health clinic shall display at all
3 times in a prominent place a printed sign with a minimum height of twenty
4 inches and a minimum width of fourteen inches, with each letter to be a
5 minimum of one-fourth inch in height, which shall read as follows:

6 WARNING: ASSAULTING A HEALTH CARE PROFESSIONAL WHO IS ENGAGED IN THE
7 PERFORMANCE OF HIS OR HER OFFICIAL DUTIES, INCLUDING STRIKING A HEALTH
8 CARE PROFESSIONAL WITH ANY BODILY FLUID, IS A SERIOUS CRIME WHICH MAY BE
9 PUNISHABLE AS A FELONY.

10 Sec. 9. Section 28-1351, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 28-1351 (1) A person commits the offense of unlawful membership
13 recruitment into an organization or association when he or she knowingly
14 and intentionally coerces, intimidates, threatens, or inflicts bodily
15 harm upon another person in order to entice that other person to join or
16 prevent that other person from leaving any organization, group,
17 enterprise, or association whose members, individually or collectively,
18 engage in or have engaged in any of the following criminal acts for the
19 benefit of, at the direction of, or on behalf of the organization, group,
20 enterprise, or association or any of its members:

21 (a) Robbery under section 28-324;

22 (b) Arson in the first, second, or third degree under section
23 28-502, 28-503, or 28-504, respectively;

24 (c) Burglary under section 28-507;

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

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

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

- 1 (g) Assault in the first degree or assault in the second degree
2 under section 28-308 or 28-309, respectively;
- 3 (h) Assault on ~~an officer, an emergency responder, a state~~
4 ~~correctional employee, a Department of Health and Human Services~~
5 ~~employee, or a public safety officer, health care professional, or public~~
6 ~~transportation driver~~ in the first, second, or third degree under section
7 ~~4, 5, or 6 of this act 28-929, 28-930, or 28-931, respectively, or~~
8 ~~assault on an officer, an emergency responder, a state correctional~~
9 ~~employee, a Department of Health and Human Services employee, or a health~~
10 ~~care professional using a motor vehicle under section 28-931.01;~~
- 11 (i) Theft by unlawful taking or disposition under section 28-511;
- 12 (j) Theft by receiving stolen property under section 28-517;
- 13 (k) Theft by deception under section 28-512;
- 14 (l) Theft by extortion under section 28-513;
- 15 (m) Kidnapping under section 28-313;
- 16 (n) Any forgery offense under sections 28-602 to 28-605;
- 17 (o) Criminal impersonation under section 28-638;
- 18 (p) Tampering with a publicly exhibited contest under section
19 28-614;
- 20 (q) Unauthorized use of a financial transaction device or criminal
21 possession of a financial transaction device under section 28-620 or
22 28-621, respectively;
- 23 (r) Pandering under section 28-802;
- 24 (s) Bribery, bribery of a witness, or bribery of a juror under
25 section 28-917, 28-918, or 28-920, respectively;
- 26 (t) Tampering with a witness or an informant or jury tampering under
27 section 28-919;
- 28 (u) Unauthorized application of graffiti under section 28-524;
- 29 (v) Dogfighting, cockfighting, bearbaiting, or pitting an animal
30 against another under section 28-1005; or
- 31 (w) Promoting gambling in the first degree under section 28-1102.

1 (2) Unlawful membership recruitment into an organization or
2 association is a Class IV felony.

3 Sec. 10. Section 28-1354, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 28-1354 For purposes of the Public Protection Act:

6 (1) Enterprise means any individual, sole proprietorship,
7 partnership, corporation, trust, association, or any legal entity, union,
8 or group of individuals associated in fact although not a legal entity,
9 and shall include illicit as well as licit enterprises as well as other
10 entities;

11 (2) Pattern of racketeering activity means a cumulative loss for one
12 or more victims or gains for the enterprise of not less than one thousand
13 five hundred dollars resulting from at least two acts of racketeering
14 activity, one of which occurred after August 30, 2009, and the last of
15 which occurred within ten years, excluding any period of imprisonment,
16 after the commission of a prior act of racketeering activity;

17 (3) Until January 1, 2017, person means any individual or entity, as
18 defined in section 21-2014, holding or capable of holding a legal,
19 equitable, or beneficial interest in property. Beginning January 1, 2017,
20 person means any individual or entity, as defined in section 21-214,
21 holding or capable of holding a legal, equitable, or beneficial interest
22 in property;

23 (4) Prosecutor includes the Attorney General of the State of
24 Nebraska, the deputy attorney general, assistant attorneys general, a
25 county attorney, a deputy county attorney, or any person so designated by
26 the Attorney General, a county attorney, or a court of the state to carry
27 out the powers conferred by the act;

28 (5) Racketeering activity includes the commission of, criminal
29 attempt to commit, conspiracy to commit, aiding and abetting in the
30 commission of, aiding in the consummation of, acting as an accessory to
31 the commission of, or the solicitation, coercion, or intimidation of

1 another to commit or aid in the commission of any of the following:

2 (a) Offenses against the person which include: Murder in the first
3 degree under section 28-303; murder in the second degree under section
4 28-304; manslaughter under section 28-305; assault in the first degree
5 under section 28-308; assault in the second degree under section 28-309;
6 assault in the third degree under section 28-310; terroristic threats
7 under section 28-311.01; kidnapping under section 28-313; false
8 imprisonment in the first degree under section 28-314; false imprisonment
9 in the second degree under section 28-315; sexual assault in the first
10 degree under section 28-319; and robbery under section 28-324;

11 (b) Offenses relating to controlled substances which include: To
12 unlawfully manufacture, distribute, deliver, dispense, or possess with
13 intent to manufacture, distribute, deliver, or dispense a controlled
14 substance under subsection (1) of section 28-416; possession of marijuana
15 weighing more than one pound under subsection (12) of section 28-416;
16 possession of money used or intended to be used to facilitate a violation
17 of subsection (1) of section 28-416 prohibited under subsection (17) of
18 section 28-416; any violation of section 28-418; to unlawfully
19 manufacture, distribute, deliver, or possess with intent to distribute or
20 deliver an imitation controlled substance under section 28-445;
21 possession of anhydrous ammonia with the intent to manufacture
22 methamphetamine under section 28-451; and possession of ephedrine,
23 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
24 methamphetamine under section 28-452;

25 (c) Offenses against property which include: Arson in the first
26 degree under section 28-502; arson in the second degree under section
27 28-503; arson in the third degree under section 28-504; burglary under
28 section 28-507; theft by unlawful taking or disposition under section
29 28-511; theft by shoplifting under section 28-511.01; theft by deception
30 under section 28-512; theft by extortion under section 28-513; theft of
31 services under section 28-515; theft by receiving stolen property under

1 section 28-517; criminal mischief under section 28-519; and unlawfully
2 depriving or obtaining property or services using a computer under
3 section 28-1344;

4 (d) Offenses involving fraud which include: Burning to defraud an
5 insurer under section 28-505; forgery in the first degree under section
6 28-602; forgery in the second degree under section 28-603; criminal
7 possession of a forged instrument under section 28-604; criminal
8 possession of written instrument forgery devices under section 28-605;
9 criminal impersonation under section 28-638; identity theft under section
10 28-639; identity fraud under section 28-640; false statement or book
11 entry under section 28-612; tampering with a publicly exhibited contest
12 under section 28-614; issuing a false financial statement for purposes of
13 obtaining a financial transaction device under section 28-619;
14 unauthorized use of a financial transaction device under section 28-620;
15 criminal possession of a financial transaction device under section
16 28-621; unlawful circulation of a financial transaction device in the
17 first degree under section 28-622; unlawful circulation of a financial
18 transaction device in the second degree under section 28-623; criminal
19 possession of a blank financial transaction device under section 28-624;
20 criminal sale of a blank financial transaction device under section
21 28-625; criminal possession of a financial transaction forgery device
22 under section 28-626; unlawful manufacture of a financial transaction
23 device under section 28-627; laundering of sales forms under section
24 28-628; unlawful acquisition of sales form processing services under
25 section 28-629; unlawful factoring of a financial transaction device
26 under section 28-630; and fraudulent insurance acts under section 28-631;

27 (e) Offenses involving governmental operations which include: Abuse
28 of public records under section 28-911; perjury or subornation of perjury
29 under section 28-915; bribery under section 28-917; bribery of a witness
30 under section 28-918; tampering with a witness or informant or jury
31 tampering under section 28-919; bribery of a juror under section 28-920;

1 ~~assault on an officer, an emergency responder, a state correctional~~
2 ~~employee, a Department of Health and Human Services employee, or a public~~
3 ~~safety officer, health care professional, or public transportation driver~~
4 ~~in the first degree under section 4 of this act 28-929; assault on an~~
5 ~~officer, an emergency responder, a state correctional employee, a~~
6 ~~Department of Health and Human Services employee, or a public safety~~
7 ~~officer, health care professional, or public transportation driver in the~~
8 ~~second degree under section 5 of this act 28-930; and assault on an~~
9 ~~officer, an emergency responder, a state correctional employee, a~~
10 ~~Department of Health and Human Services employee, or a public safety~~
11 ~~officer, health care professional, or public transportation driver in the~~
12 ~~third degree under section 6 of this act 28-931; and assault on an~~
13 ~~officer, an emergency responder, a state correctional employee, a~~
14 ~~Department of Health and Human Services employee, or a health care~~
15 ~~professional using a motor vehicle under section 28-931.01;~~

16 (f) Offenses involving gambling which include: Promoting gambling in
17 the first degree under section 28-1102; possession of gambling records
18 under section 28-1105; gambling debt collection under section 28-1105.01;
19 and possession of a gambling device under section 28-1107;

20 (g) Offenses relating to firearms, weapons, and explosives which
21 include: Carrying a concealed weapon under section 28-1202;
22 transportation or possession of machine guns, short rifles, or short
23 shotguns under section 28-1203; unlawful possession of a handgun under
24 section 28-1204; unlawful transfer of a firearm to a juvenile under
25 section 28-1204.01; possession of a firearm by a prohibited juvenile
26 offender under section 28-1204.05; using a deadly weapon to commit a
27 felony or possession of a deadly weapon during the commission of a felony
28 under section 28-1205; possession of a deadly weapon by a prohibited
29 person under section 28-1206; possession of a defaced firearm under
30 section 28-1207; defacing a firearm under section 28-1208; unlawful
31 discharge of a firearm under section 28-1212.02; possession, receipt,

1 retention, or disposition of a stolen firearm under section 28-1212.03;
2 unlawful possession of explosive materials in the first degree under
3 section 28-1215; unlawful possession of explosive materials in the second
4 degree under section 28-1216; unlawful sale of explosives under section
5 28-1217; use of explosives without a permit under section 28-1218;
6 obtaining an explosives permit through false representations under
7 section 28-1219; possession of a destructive device under section
8 28-1220; threatening the use of explosives or placing a false bomb under
9 section 28-1221; using explosives to commit a felony under section
10 28-1222; using explosives to damage or destroy property under section
11 28-1223; and using explosives to kill or injure any person under section
12 28-1224;

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

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

17 (j) Offenses relating to public health and morals which include:
18 Prostitution under section 28-801; pandering under section 28-802;
19 keeping a place of prostitution under section 28-804; labor trafficking,
20 sex trafficking, labor trafficking of a minor, or sex trafficking of a
21 minor under section 28-831; a violation of section 28-1005; and any act
22 relating to the visual depiction of sexually explicit conduct prohibited
23 in the Child Pornography Prevention Act; and

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

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

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

29 (a) Incurred or contracted in gambling activity which was in
30 violation of federal law or the law of the state or which is
31 unenforceable under state or federal law in whole or in part as to

1 principal or interest because of the laws relating to usury; or

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

6 Sec. 11. Section 29-2221, Reissue Revised Statutes of Nebraska, is
7 amended to read:

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

17 (a) If the felony committed is in violation of section 28-303,
18 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, ~~28-929~~, or 28-1222 or
19 section 4 of this act, and at least one of the habitual criminal's prior
20 felony convictions was for a violation of one of the sections listed in
21 this subdivision or of a similar statute in another state or of the
22 United States, the mandatory minimum term shall be twenty-five years and
23 the maximum term not more than sixty years;

24 (b) If the felony committed is in violation of subsection (3) of
25 section 28-306 and at least one of the prior convictions is in violation
26 of subsection (3) of section 28-306 and the other is in violation of one
27 of the sections set forth in subdivision (a) of this subsection or if the
28 felony committed is in violation of one of the sections set forth in
29 subdivision (a) of this subsection and both of the prior convictions are
30 in violation of subsection (3) of section 28-306, the mandatory minimum
31 term shall be twenty-five years and the maximum term not more than sixty

1 years; and

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

4 (2) When punishment of an accused as a habitual criminal is sought,
5 the facts with reference thereto shall be charged in the indictment or
6 information which contains the charge of the felony upon which the
7 accused is prosecuted, but the fact that the accused is charged with
8 being a habitual criminal shall not be an issue upon the trial of the
9 felony charge and shall not in any manner be disclosed to the jury. If
10 the accused is convicted of a felony, before sentence is imposed a
11 hearing shall be had before the court alone as to whether such person has
12 been previously convicted of prior felonies. The court shall fix a time
13 for the hearing and notice thereof shall be given to the accused at least
14 three days prior thereto. At the hearing, if the court finds from the
15 evidence submitted that the accused has been convicted two or more times
16 of felonies and sentences imposed therefor by the courts of this or any
17 other state or by the United States, the court shall sentence such person
18 so convicted as a habitual criminal.

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

24 Sec. 12. Original section 29-2221, Reissue Revised Statutes of
25 Nebraska, and sections 28-101, 28-115, 28-929, 28-929.01, 28-929.02,
26 28-930, 28-931, 28-934, 28-1351, and 28-1354, Revised Statutes Cumulative
27 Supplement, 2020, are repealed.

28 Sec. 13. The following section is outright repealed: Section
29 28-931.01, Revised Statutes Cumulative Supplement, 2020.