

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 352

Introduced by Wayne, 13.

Read first time January 12, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal justice; to amend sections
2 24-1302, 28-116, 28-507, 28-518, 29-2204.02, 29-2221, 29-2263,
3 29-2269, 29-2281, 29-3603, 50-434, 71-5661, 71-5662, 71-5663,
4 71-5665, 71-5666, 71-5669.01, and 83-1,110, Reissue Revised Statutes
5 of Nebraska, and sections 28-101, 28-105, 28-416, 28-1351, 28-1354,
6 29-2204, 71-5668, 83-1,100.02, 83-1,111, 83-1,114, 83-1,122.01,
7 83-1,135, and 83-1,135.02, Revised Statutes Cumulative Supplement,
8 2022; to change provisions regarding problem solving courts,
9 mandatory minimums, penalties and provisions relating to controlled
10 substances, theft, burglary, sentencing, set asides, restitution,
11 pretrial diversion, and parole; to provide for applicability; to
12 state legislative intent regarding appropriations; to create pilot
13 programs relating to courts, probation, and parole; to create the
14 Justice Reinvestment Oversight Task Force; to terminate the
15 Committee on Justice Reinvestment Oversight; to provide for parole
16 for geriatric offenders; to define terms; to provide duties for
17 courts, the probation administrator, the Board of Parole, the
18 Division of Parole Supervision, the State Court Administrator, and
19 the Department of Correctional Services; to provide for additional
20 benefits under the Rural Health Systems and Professional Incentive
21 Act; to harmonize provisions; and to repeal the original sections.
22 Be it enacted by the people of the State of Nebraska,

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

3 24-1302 (1) For purposes of this section, problem solving court
4 means a drug, veterans, mental health, driving under the influence,
5 reentry, young adult, or other problem solving court.

6 (2) A district court may establish a problem solving court. A
7 problem solving court shall function within the existing structure of the
8 court system. The goals of a problem solving court shall be consistent
9 with any relevant standards adopted by the United States Department of
10 Justice and the National Association of Drug Court Professionals, as such
11 standards existed on January 1, 2023.

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

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

20 (5) (2) It is the intent of the Legislature that funds be
21 appropriated separately to the Supreme Court such that each judicial
22 district may operate at least one drug, veterans, mental health, driving
23 under the influence, reentry, and young adult problem solving court. The
24 State Court Administrator shall ensure that each judicial district has at
25 least one of such courts by January 1, 2024 for each of the problem
26 solving courts to carry out this section and section 24-1301.

27 (6) The State Court Administrator shall track and evaluate outcomes
28 of problem solving courts. On or before June 1, 2024, and on or before
29 each June 1 thereafter, the State Court Administrator shall
30 electronically submit a report to the Legislature regarding the impact of
31 problem solving courts on recidivism rates in the state. The report shall

1 also include rates of return to court and program completion. The report
2 shall identify judicial districts that are underserved by problem solving
3 courts and what services or funding are needed to properly serve such
4 districts.

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

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

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

16 (4) On or before June 1, 2024, the State Court Administrator shall
17 electronically submit a report to the Judiciary Committee of the
18 Legislature regarding the pilot program.

19 Sec. 3. Section 28-101, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
22 and section 6 of this act shall be known and may be cited as the Nebraska
23 Criminal Code.

24 Sec. 4. Section 28-105, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 28-105 (1) For purposes of the Nebraska Criminal Code and any
27 statute passed by the Legislature after the date of passage of the code,
28 felonies are divided into ten classes which are distinguished from one
29 another by the following penalties which are authorized upon conviction:

30 Class I felony Death
31 Class IA felony Life imprisonment

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

28 (2) All sentences for maximum terms of imprisonment for one year or
29 more for felonies shall be served in institutions under the jurisdiction
30 of the Department of Correctional Services. All sentences for maximum

1 terms of imprisonment of less than one year shall be served in the county
2 jail.

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

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

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

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

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

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

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

26 28-116 (1) The changes made to the sections listed in this
27 subsection ~~section~~ by Laws 2015, LB605, shall not apply to any offense
28 committed prior to August 30, 2015. Any such offense shall be construed
29 and punished according to the provisions of law existing at the time the
30 offense was committed. For purposes of this subsection ~~section~~, an
31 offense shall be deemed to have been committed prior to August 30, 2015,

1 if any element of the offense occurred prior to such date. The following
2 sections are subject to this provision: Sections 9-262, 9-352, 9-434,
3 9-652, 23-135.01, 28-105, 28-106, 28-201, 28-204, 28-305, 28-306, 28-309,
4 28-310.01, 28-311, 28-311.01, 28-311.04, 28-311.08, 28-320, 28-322.02,
5 28-322.03, 28-322.04, 28-323, 28-393, 28-394, 28-397, 28-416, 28-504,
6 28-507, 28-514, 28-518, 28-519, 28-603, 28-604, 28-611, 28-611.01,
7 28-620, 28-621, 28-622, 28-627, 28-631, 28-638, 28-639, 28-703, 28-707,
8 28-813.01, 28-912, 28-932, 28-1005, 28-1009, 28-1102, 28-1103, 28-1104,
9 28-1212.03, 28-1222, 28-1224, 28-1344, 28-1345, 28-1463.05, 29-1816,
10 29-2204, 29-2260, 29-2308, 29-4011, 60-6,197.03, 60-6,197.06, 68-1017,
11 68-1017.01, 71-2228, and 71-2229.

12 (2) Except as otherwise provided in the sections listed in this
13 subsection, the changes made to the sections listed in this subsection by
14 this legislative bill shall apply to offenses committed before, on, or
15 after the effective date of this act for which a final judgment has not
16 been entered as of the effective date of this act. The following sections
17 are subject to this provision: Sections 28-105, 28-416, 28-507, 28-518,
18 28-1351, 28-1354, 29-2204, 29-2204.02, and 29-2221 and sections 6 and 14
19 of this act.

20 Sec. 6. A mandatory minimum sentence shall not be imposed for a
21 violation of section 28-416. The minimum term of imprisonment for a
22 violation of section 28-416 shall not be a mandatory minimum but a
23 minimum term only.

24 Sec. 7. Section 28-416, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 28-416 (1) Except as authorized by the Uniform Controlled Substances
27 Act, it shall be unlawful for any person knowingly or intentionally: (a)
28 To manufacture, distribute, deliver, dispense, or possess with intent to
29 manufacture, distribute, deliver, or dispense a controlled substance; or
30 (b) to create, distribute, or possess with intent to distribute a
31 counterfeit controlled substance.

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

10 (3)(a) ~~(3)~~ A person knowingly or intentionally possessing a
11 controlled substance, except marijuana or any substance containing a
12 quantifiable amount of the substances, chemicals, or compounds described,
13 defined, or delineated in subdivision (c)(26) of Schedule I of section
14 28-405, unless such substance was obtained directly or pursuant to a
15 medical order issued by a practitioner authorized to prescribe while
16 acting in the course of his or her professional practice, or except as
17 otherwise authorized by the act, shall:

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

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

23 (iii) If the substance is scheduled in section 28-405 and is
24 fentanyl, a fentanyl analogue, or a compound structurally derived from
25 fentanyl, be guilty of a Class IV felony.

26 (b) A person shall not be in violation of this subsection if section
27 28-472 or 28-1701 applies.

28 (4)(a) Except as authorized by the Uniform Controlled Substances
29 Act, any person eighteen years of age or older who knowingly or
30 intentionally manufactures, distributes, delivers, dispenses, or
31 possesses with intent to manufacture, distribute, deliver, or dispense a

1 controlled substance or a counterfeit controlled substance (i) to a
2 person under the age of eighteen years, (ii) in, on, or within one
3 thousand feet of the real property comprising a public or private
4 elementary, vocational, or secondary school, a community college, a
5 public or private college, junior college, or university, or a
6 playground, or (iii) within one hundred feet of a public or private youth
7 center, public swimming pool, or video arcade facility shall be punished
8 by the next higher penalty classification than the penalty prescribed in
9 subsection (2), (7), (8), (9), or (10) of this section, depending upon
10 the controlled substance involved, for the first violation and for a
11 second or subsequent violation shall be punished by the next higher
12 penalty classification than that prescribed for a first violation of this
13 subsection, but in no event shall such person be punished by a penalty
14 greater than a Class IB felony.

15 (b) For purposes of this subsection:

16 (i) Playground means any outdoor facility, including any parking lot
17 appurtenant to the facility, intended for recreation, open to the public,
18 and with any portion containing three or more apparatus intended for the
19 recreation of children, including sliding boards, swingsets, and
20 teeterboards;

21 (ii) Video arcade facility means any facility legally accessible to
22 persons under eighteen years of age, intended primarily for the use of
23 pinball and video machines for amusement, and containing a minimum of ten
24 pinball or video machines; and

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

29 (5)(a) Except as authorized by the Uniform Controlled Substances
30 Act, it shall be unlawful for any person eighteen years of age or older
31 to knowingly and intentionally employ, hire, use, cause, persuade, coax,

1 induce, entice, seduce, or coerce any person under the age of eighteen
2 years to manufacture, transport, distribute, carry, deliver, dispense,
3 prepare for delivery, offer for delivery, or possess with intent to do
4 the same a controlled substance or a counterfeit controlled substance.

5 (b) Except as authorized by the Uniform Controlled Substances Act,
6 it shall be unlawful for any person eighteen years of age or older to
7 knowingly and intentionally employ, hire, use, cause, persuade, coax,
8 induce, entice, seduce, or coerce any person under the age of eighteen
9 years to aid and abet any person in the manufacture, transportation,
10 distribution, carrying, delivery, dispensing, preparation for delivery,
11 offering for delivery, or possession with intent to do the same of a
12 controlled substance or a counterfeit controlled substance.

13 (c) Any person who violates subdivision (a) or (b) of this
14 subsection shall be punished by the next higher penalty classification
15 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
16 this section, depending upon the controlled substance involved, for the
17 first violation and for a second or subsequent violation shall be
18 punished by the next higher penalty classification than that prescribed
19 for a first violation of this subsection, but in no event shall such
20 person be punished by a penalty greater than a Class IB felony.

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

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

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

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

31 (c) At least ten grams but less than twenty-eight grams shall be

1 guilty of a Class ID felony.

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

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

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

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

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

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

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

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

20 (10) Any person who violates subsection (1) of this section with
21 respect to amphetamine, its salts, optical isomers, and salts of its
22 isomers, or with respect to methamphetamine, its salts, optical isomers,
23 and salts of its isomers, in a quantity of:

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

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

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

30 (11) Any person knowingly or intentionally possessing marijuana
31 weighing more than one ounce but not more than one pound shall be guilty

1 of a Class III misdemeanor.

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

4 (13) Except as provided in section 28-1701, any person knowingly or
5 intentionally possessing marijuana weighing one ounce or less or any
6 substance containing a quantifiable amount of the substances, chemicals,
7 or compounds described, defined, or delineated in subdivision (c)(26) of
8 Schedule I of section 28-405 shall:

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

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

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

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

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

28 (16) Any person knowingly or intentionally possessing a firearm
29 while in violation of subsection (1) of this section shall be punished by
30 the next higher penalty classification than the penalty prescribed in
31 subsection (2), (7), (8), (9), or (10) of this section, but in no event

1 shall such person be punished by a penalty greater than a Class IB
2 felony.

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

6 (18) In addition to the existing penalties available for a violation
7 of subsection (1) of this section, including any criminal attempt or
8 conspiracy to violate subsection (1) of this section, a sentencing court
9 may order that any money, securities, negotiable instruments, firearms,
10 conveyances, or electronic communication devices as defined in section
11 28-833 or any equipment, components, peripherals, software, hardware, or
12 accessories related to electronic communication devices be forfeited as a
13 part of the sentence imposed if it finds by clear and convincing evidence
14 adduced at a separate hearing in the same prosecution, following
15 conviction for a violation of subsection (1) of this section, and
16 conducted pursuant to section 28-1601, that any or all such property was
17 derived from, used, or intended to be used to facilitate a violation of
18 subsection (1) of this section.

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

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

23 (i) For the first offense, the court may, as a part of the judgment
24 of conviction or adjudication, (A) impound any such licenses or permits
25 for thirty days and (B) require such person to attend a drug education
26 class;

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

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

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

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

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

22 (iii) For a third or subsequent offense, the court may, as part of
23 the judgment of conviction or adjudication, (A) prohibit such person from
24 obtaining any permit or any license pursuant to the act for which such
25 person would otherwise be eligible until twelve months after the date of
26 such order and (B) require such person to complete no fewer than sixty
27 hours of community service, to attend a drug education class, and to
28 submit to a drug assessment by a licensed alcohol and drug counselor.

29 A copy of an abstract of the court's conviction or adjudication
30 shall be transmitted to the Director of Motor Vehicles pursuant to
31 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a

1 juvenile is prohibited from obtaining a license or permit under this
2 subsection.

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

5 28-507 ~~(1)(a) (1)~~ A person commits burglary in the first degree if
6 such person willfully, maliciously, and forcibly breaks and enters any
7 dwelling real estate or any improvements erected thereon with intent to
8 commit any felony or with intent to steal property of any value.

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

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

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

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

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

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

24 Sec. 9. Section 28-518, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 28-518 (1) Theft constitutes a Class IIA felony when the value of
27 the thing involved is five thousand dollars or more.

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

31 (3) Theft constitutes a Class I misdemeanor when the value of the

1 thing involved is more than five hundred dollars but less than one
2 thousand five hundred dollars.

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

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

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

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

16 (8) {7} Amounts taken pursuant to one scheme or course of conduct
17 from one or more persons may be aggregated in the indictment or
18 information in determining the classification of the offense, except that
19 amounts may not be aggregated into more than one offense.

20 (9) {8} In any prosecution for theft under sections 28-509 to
21 28-518, value shall be an essential element of the offense that must be
22 proved beyond a reasonable doubt.

23 Sec. 10. Section 28-1351, Revised Statutes Cumulative Supplement,
24 2022, is amended to read:

25 28-1351 (1) A person commits the offense of unlawful membership
26 recruitment into an organization or association when he or she knowingly
27 and intentionally coerces, intimidates, threatens, or inflicts bodily
28 harm upon another person in order to entice that other person to join or
29 prevent that other person from leaving any organization, group,
30 enterprise, or association whose members, individually or collectively,
31 engage in or have engaged in any of the following criminal acts for the

1 benefit of, at the direction of, or on behalf of the organization, group,
2 enterprise, or association or any of its members:

3 (a) Robbery under section 28-324;

4 (b) Arson in the first, second, or third degree under section
5 28-502, 28-503, or 28-504, respectively;

6 (c) Burglary in the first, second, or third degree under section
7 28-507;

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

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

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

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

17 (h) Assault on an officer, an emergency responder, a state
18 correctional employee, a Department of Health and Human Services
19 employee, or a health care professional in the first, second, or third
20 degree under section 28-929, 28-930, or 28-931, respectively, or assault
21 on an officer, an emergency responder, a state correctional employee, a
22 Department of Health and Human Services employee, or a health care
23 professional using a motor vehicle under section 28-931.01;

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

25 (j) Theft by receiving stolen property under section 28-517;

26 (k) Theft by deception under section 28-512;

27 (l) Theft by extortion under section 28-513;

28 (m) Kidnapping under section 28-313;

29 (n) Any forgery offense under sections 28-602 to 28-605;

30 (o) Criminal impersonation under section 28-638;

31 (p) Tampering with a publicly exhibited contest under section

1 28-614;

2 (q) Unauthorized use of a financial transaction device or criminal
3 possession of a financial transaction device under section 28-620 or
4 28-621, respectively;

5 (r) Pandering under section 28-802;

6 (s) Bribery, bribery of a witness, or bribery of a juror under
7 section 28-917, 28-918, or 28-920, respectively;

8 (t) Tampering with a witness or an informant or jury tampering under
9 section 28-919;

10 (u) Unauthorized application of graffiti under section 28-524;

11 (v) Dogfighting, cockfighting, bearbaiting, or pitting an animal
12 against another under section 28-1005; or

13 (w) Promoting gambling in the first degree under section 28-1102.

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

16 Sec. 11. Section 28-1354, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 28-1354 For purposes of the Public Protection Act:

19 (1) Enterprise means any individual, sole proprietorship,
20 partnership, corporation, trust, association, or any legal entity, union,
21 or group of individuals associated in fact although not a legal entity,
22 and shall include illicit as well as licit enterprises as well as other
23 entities;

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

30 (3) Until January 1, 2017, person means any individual or entity, as
31 defined in section 21-2014, holding or capable of holding a legal,

1 equitable, or beneficial interest in property. Beginning January 1, 2017,
2 person means any individual or entity, as defined in section 21-214,
3 holding or capable of holding a legal, equitable, or beneficial interest
4 in property;

5 (4) Prosecutor includes the Attorney General of the State of
6 Nebraska, the deputy attorney general, assistant attorneys general, a
7 county attorney, a deputy county attorney, or any person so designated by
8 the Attorney General, a county attorney, or a court of the state to carry
9 out the powers conferred by the act;

10 (5) Racketeering activity includes the commission of, criminal
11 attempt to commit, conspiracy to commit, aiding and abetting in the
12 commission of, aiding in the consummation of, acting as an accessory to
13 the commission of, or the solicitation, coercion, or intimidation of
14 another to commit or aid in the commission of any of the following:

15 (a) Offenses against the person which include: Murder in the first
16 degree under section 28-303; murder in the second degree under section
17 28-304; manslaughter under section 28-305; assault in the first degree
18 under section 28-308; assault in the second degree under section 28-309;
19 assault in the third degree under section 28-310; terroristic threats
20 under section 28-311.01; kidnapping under section 28-313; false
21 imprisonment in the first degree under section 28-314; false imprisonment
22 in the second degree under section 28-315; sexual assault in the first
23 degree under section 28-319; and robbery under section 28-324;

24 (b) Offenses relating to controlled substances which include: To
25 unlawfully manufacture, distribute, deliver, dispense, or possess with
26 intent to manufacture, distribute, deliver, or dispense a controlled
27 substance under subsection (1) of section 28-416; possession of marijuana
28 weighing more than one pound under subsection (12) of section 28-416;
29 possession of money used or intended to be used to facilitate a violation
30 of subsection (1) of section 28-416 prohibited under subsection (17) of
31 section 28-416; any violation of section 28-418; to unlawfully

1 manufacture, distribute, deliver, or possess with intent to distribute or
2 deliver an imitation controlled substance under section 28-445;
3 possession of anhydrous ammonia with the intent to manufacture
4 methamphetamine under section 28-451; and possession of ephedrine,
5 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
6 methamphetamine under section 28-452;

7 (c) Offenses against property which include: Arson in the first
8 degree under section 28-502; arson in the second degree under section
9 28-503; arson in the third degree under section 28-504; burglary in the
10 first, second, or third degree under section 28-507; theft by unlawful
11 taking or disposition under section 28-511; theft by shoplifting under
12 section 28-511.01; theft by deception under section 28-512; theft by
13 extortion under section 28-513; theft of services under section 28-515;
14 theft by receiving stolen property under section 28-517; criminal
15 mischief under section 28-519; and unlawfully depriving or obtaining
16 property or services using a computer under section 28-1344;

17 (d) Offenses involving fraud which include: Burning to defraud an
18 insurer under section 28-505; forgery in the first degree under section
19 28-602; forgery in the second degree under section 28-603; criminal
20 possession of a forged instrument under section 28-604; criminal
21 possession of written instrument forgery devices under section 28-605;
22 criminal impersonation under section 28-638; identity theft under section
23 28-639; identity fraud under section 28-640; false statement or book
24 entry under section 28-612; tampering with a publicly exhibited contest
25 under section 28-614; issuing a false financial statement for purposes of
26 obtaining a financial transaction device under section 28-619;
27 unauthorized use of a financial transaction device under section 28-620;
28 criminal possession of a financial transaction device under section
29 28-621; unlawful circulation of a financial transaction device in the
30 first degree under section 28-622; unlawful circulation of a financial
31 transaction device in the second degree under section 28-623; criminal

1 possession of a blank financial transaction device under section 28-624;
2 criminal sale of a blank financial transaction device under section
3 28-625; criminal possession of a financial transaction forgery device
4 under section 28-626; unlawful manufacture of a financial transaction
5 device under section 28-627; laundering of sales forms under section
6 28-628; unlawful acquisition of sales form processing services under
7 section 28-629; unlawful factoring of a financial transaction device
8 under section 28-630; and fraudulent insurance acts under section 28-631;

9 (e) Offenses involving governmental operations which include: Abuse
10 of public records under section 28-911; perjury or subornation of perjury
11 under section 28-915; bribery under section 28-917; bribery of a witness
12 under section 28-918; tampering with a witness or informant or jury
13 tampering under section 28-919; bribery of a juror under section 28-920;
14 assault on an officer, an emergency responder, a state correctional
15 employee, a Department of Health and Human Services employee, or a health
16 care professional in the first degree under section 28-929; assault on an
17 officer, an emergency responder, a state correctional employee, a
18 Department of Health and Human Services employee, or a health care
19 professional in the second degree under section 28-930; assault on an
20 officer, an emergency responder, a state correctional employee, a
21 Department of Health and Human Services employee, or a health care
22 professional in the third degree under section 28-931; and assault on an
23 officer, an emergency responder, a state correctional employee, a
24 Department of Health and Human Services employee, or a health care
25 professional using a motor vehicle under section 28-931.01;

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

30 (g) Offenses relating to firearms, weapons, and explosives which
31 include: Carrying a concealed weapon under section 28-1202;

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

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

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

27 (j) Offenses relating to public health and morals which include:
28 Prostitution under section 28-801; pandering under section 28-802;
29 keeping a place of prostitution under section 28-804; labor trafficking,
30 sex trafficking, labor trafficking of a minor, or sex trafficking of a
31 minor under section 28-831; a violation of section 28-1005; and any act

1 relating to the visual depiction of sexually explicit conduct prohibited
2 in the Child Pornography Prevention Act; and

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

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

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

8 (a) Incurred or contracted in gambling activity which was in
9 violation of federal law or the law of the state or which is
10 unenforceable under state or federal law in whole or in part as to
11 principal or interest because of the laws relating to usury; or

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

16 Sec. 12. Section 29-2204, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 29-2204 (1) Except when a term of life imprisonment is required by
19 law, in imposing a sentence upon an offender for any class of felony
20 other than a Class III, IIIA, or IV felony, the court shall fix the
21 minimum and the maximum terms of the sentence to be served within the
22 limits provided by law. The maximum term shall not be greater than the
23 maximum limit provided by law, and:

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

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

28 (ii) For a violation of section 28-316.01, 28-319, 28-319.01,
29 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03, 28-322.04,
30 or 28-322.05, any term of years less than or equal to seventy percent of
31 the maximum term imposed by the court; or

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

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

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

6 (b) A term of life imprisonment.

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

9 (a) A term of life imprisonment; or

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

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

21 (5) Except when a term of life is required by law, whenever the
22 defendant was under eighteen years of age at the time he or she committed
23 the crime for which he or she was convicted, the court may, in its
24 discretion, instead of imposing the penalty provided for the crime, make
25 such disposition of the defendant as the court deems proper under the
26 Nebraska Juvenile Code.

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

31 (b) This subsection does not apply when a consecutive sentence is

1 required by statute.

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

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

8 (ii) Advise the offender on the record the time the offender will
9 serve on his or her maximum term before attaining mandatory release
10 assuming that no good time for which the offender will be eligible is
11 lost.

12 (b) If any discrepancy exists between the statement of the minimum
13 limit of the sentence and the statement of parole eligibility or between
14 the statement of the maximum limit of the sentence and the statement of
15 mandatory release, the statements of the minimum limit and the maximum
16 limit shall control the calculation of the offender's term.

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

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

23 29-2204.02 (1) Except when a term of probation is required by law as
24 provided in subsection (2) of this section or except as otherwise
25 provided in subsection (4) of this section, in imposing a sentence upon
26 an offender for a Class III, IIIA, or IV felony, the court shall:

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

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

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

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

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

7 (c) There are substantial and compelling reasons why the defendant
8 cannot effectively and safely be supervised in the community, including,
9 but not limited to, the criteria in subsections (2) and (3) of section
10 29-2260. Unless other reasons are found to be present, that the offender
11 has not previously succeeded on probation is not, standing alone, a
12 substantial and compelling reason.

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

17 (4) For any sentence of imprisonment for a Class III, IIIA, or IV
18 felony for an offense committed on or after August 30, 2015, imposed
19 consecutively or concurrently with (a) a sentence for a Class III, IIIA,
20 or IV felony for an offense committed prior to August 30, 2015, or (b) a
21 sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA
22 felony, the court shall impose an indeterminate sentence within the
23 applicable range in section 28-105 that does not include a period of
24 post-release supervision, in accordance with the process set forth in
25 section 29-2204.

26 (5) For any sentence of imprisonment for a misdemeanor imposed
27 consecutively or concurrently with a sentence of imprisonment for a Class
28 III, IIIA, or IV felony for an offense committed on or after August 30,
29 2015, the court shall impose a determinate sentence within the applicable
30 range in section 28-106 unless the person is also committed to the
31 Department of Correctional Services in accordance with section 29-2204

1 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony
2 committed prior to August 30, 2015, or (b) a sentence of imprisonment for
3 a Class I, IA, IB, IC, ID, II, or IIA felony.

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

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

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

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

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

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

23 (iii) When imposing a sentence following revocation of post-release
24 supervision, advise the offender on the record the time the offender will
25 serve on his or her term of imprisonment, including credit for time
26 served, assuming that no good time for which the offender will be
27 eligible is lost.

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

31 (c) If the court imposes more than one sentence upon an offender or

1 imposes a sentence upon an offender who is at that time serving another
2 sentence, the court shall state whether the sentences are to be
3 concurrent or consecutive.

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

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

13 (1) The offenses occurred on different days;

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

16 (3) One of the offenses was a violation of section 28-316.01,
17 28-319, 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02,
18 28-322.03, 28-322.04, or 28-322.05 or otherwise involved a sexual
19 assault; or

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

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

25 29-2221 (1) Whoever has been twice convicted of a covered felony
26 crime, sentenced, and committed to prison, in this or any other state or
27 by the United States or once in this state and once at least in any other
28 state or by the United States, for terms of not less than one year each
29 shall, upon conviction of any a felony committed in this state, be deemed
30 to be a habitual criminal and shall be punished by imprisonment in a
31 Department of Correctional Services adult correctional facility for a

1 mandatory minimum term of ten years and a maximum term of not more than
2 sixty years, except that:

3 (a) If the felony committed is in violation of section 28-303,
4 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, 28-929, or 28-1222,
5 and at least one of the habitual criminal's prior covered felony
6 convictions was for a violation of one of the sections listed in this
7 subdivision or of a similar statute in another state or of the United
8 States, the mandatory minimum term shall be twenty-five years and the
9 maximum term not more than sixty years;

10 (b) If the felony committed is in violation of subsection (3) of
11 section 28-306 and at least one of the prior convictions is in violation
12 of subsection (3) of section 28-306 and the other is in violation of one
13 of the sections set forth in subdivision (a) of this subsection or if the
14 felony committed is in violation of one of the sections set forth in
15 subdivision (a) of this subsection and both of the prior convictions are
16 in violation of subsection (3) of section 28-306, the mandatory minimum
17 term shall be twenty-five years and the maximum term not more than sixty
18 years; and

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

21 (2) When punishment of an accused as a habitual criminal is sought,
22 the facts with reference thereto shall be charged in the indictment or
23 information which contains the charge of the felony upon which the
24 accused is prosecuted, but the fact that the accused is charged with
25 being a habitual criminal shall not be an issue upon the trial of the
26 felony charge and shall not in any manner be disclosed to the jury. If
27 the accused is convicted of a felony, before sentence is imposed a
28 hearing shall be had before the court alone as to whether such person has
29 been previously convicted of prior covered felonies. The court shall fix
30 a time for the hearing and notice thereof shall be given to the accused
31 at least three days prior thereto. At the hearing, if the court finds

1 from the evidence submitted that the accused has been convicted two or
2 more times of covered felonies and sentences imposed therefor by the
3 courts of this or any other state or by the United States, the court
4 shall sentence such person so convicted as a habitual criminal.

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

10 (4) For purposes of this section:

11 (a) Covered felony means:

12 (i) A felony violation of any of the following sections: Section
13 28-303, 28-304, 28-305, 28-306, 28-308, 28-309, 28-310.01, 28-311,
14 28-311.01, 28-311.03, 28-311.08, 28-313, 28-314, 28-316.01, 28-319,
15 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.02, 28-322.03, 28-322.04,
16 28-322.05, 28-323, 28-324, 28-386, 28-391, 28-392, 28-393, 28-394,
17 28-397, 28-398, 28-502, 28-503, 28-507, 28-703, 28-707, 28-813.01,
18 28-831, 28-833, 28-904, 28-905, 28-912, 28-929, 28-930, 28-931,
19 28-931.01, 28-932, 28-933, 28-934, 28-1005, 28-1009, 28-1105.01, 28-1205,
20 28-1212.02, 28-1212.04, 28-1221, 28-1222, 28-1223, 28-1224, 28-1351,
21 28-1463.03, or 28-1463.05;

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

23 (A) Sexual contact or sexual penetration; or

24 (B) The threat to inflict serious bodily injury or death on another
25 person, the infliction of serious bodily injury on another person, or
26 causing the death of another person;

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

30 (iv) A felony violation of an offense of any other state or of the
31 United States that is substantially equivalent to any offense listed in

1 subdivision (4)(a)(i), (ii), or (iii) of this section;

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

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

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

8 29-2263 (1)(a) ~~(1)~~ Except as provided in subsection (2) of this
9 section, when a court has sentenced an offender to probation, the court
10 shall specify the term of such probation which shall be not more than
11 five years upon conviction of a felony or second offense misdemeanor and
12 two years upon conviction of a first offense misdemeanor.

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

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

22 (2) When a court has sentenced an offender to post-release
23 supervision, the court shall specify the term of such post-release
24 supervision as provided in section 28-105. The court, on application of a
25 probation officer or of the probationer or on its own motion, may
26 discharge a probationer at any time.

27 (3) During the term of probation, the court on application of a
28 probation officer or of the probationer, or its own motion, may modify or
29 eliminate any of the conditions imposed on the probationer or add further
30 conditions authorized by section 29-2262. This subsection does not
31 preclude a probation officer from imposing administrative sanctions with

1 the probationer's full knowledge and consent as authorized by sections
2 29-2266.01 and 29-2266.02.

3 (4)(a) (4) Upon completion of the term of probation, or the earlier
4 discharge of the probationer, the probationer shall be relieved of any
5 obligations imposed by the order of the court and shall have satisfied
6 the sentence for his or her crime.

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

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

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

25 29-2269 Sections 29-2246 to 29-2269 and sections 18 and 19 of this
26 act shall be known and may be cited as the Nebraska Probation
27 Administration Act.

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

31 (2) The pilot program shall be limited to a single probation

1 district.

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

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

7 (5) On or before June 1, 2024, the probation administrator shall
8 electronically submit a report to the Judiciary Committee of the
9 Legislature regarding the pilot program. The report shall include the
10 total number of persons admitted into the pilot program, including
11 demographic information, criminal history, and top needs according to the
12 results of a risk assessment; conditions of supervision; the total number
13 of violations of supervision conditions; the number of supervision
14 discharges by type of discharge; and recidivism rates.

15 Sec. 19. (1) The probation administrator shall create a pilot
16 program to establish a probationer incentive program as provided in this
17 section.

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

20 (3) The pilot program shall establish a gift fund to be used for the
21 purchase of gift cards, vouchers, and other tangible rewards for
22 probationers who are succeeding at probation, in order to encourage
23 continued success and reduce recidivism. The gifts shall be awarded at
24 the discretion of probation officers, subject to policies and guidelines
25 of the office.

26 (4) On or before June 1, 2024, the probation administrator shall
27 electronically submit a report to the Judiciary Committee of the
28 Legislature regarding the pilot program.

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

31 29-2281 (1) To determine the amount of restitution, the court may

1 hold a hearing at the time of sentencing. The amount of restitution shall
2 be based on the actual damages sustained by the victim and shall be
3 supported by evidence which shall become a part of the court record. The
4 court shall consider the defendant's earning ability, employment status,
5 financial resources, and family or other legal obligations and shall
6 balance such considerations against the obligation to the victim. In
7 considering the earning ability of a defendant who is sentenced to
8 imprisonment, the court may receive evidence of money anticipated to be
9 earned by the defendant during incarceration.

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

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

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

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

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

27 29-3603 A pretrial diversion plan for criminal offenses shall
28 include, but not be limited to:

29 (1) Formal eligibility guidelines established following consultation
30 with criminal justice officials and program representatives. The
31 eligibility guidelines shall not prohibit participation by a defendant

1 charged with a Class IV felony if such defendant has no prior felony
2 convictions and has not previously completed a pretrial diversion program
3 for a felony. The guidelines shall be written and made available and
4 routinely disseminated to all interested parties;

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

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

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

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

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

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

24 Sec. 22. (1) The Legislature finds that while serious crime in the
25 State of Nebraska has not increased, the prison population continues to
26 increase as does the amount spent on correctional issues. The Legislature
27 further finds that a need exists to closely examine the criminal justice
28 system of the State of Nebraska in order to increase public safety while
29 concurrently reducing correctional spending and reinvesting in strategies
30 that decrease crime and strengthen Nebraska communities.

31 (2) The Justice Reinvestment Oversight Task Force is created. The

1 task force shall evaluate implementation of the Nebraska Justice
2 Reinvestment Initiative, this legislative bill, and related issues.

3 (3) The task force shall consist of the following ten members, who
4 shall be selected or appointed no later than October 1, 2023:

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

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

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

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

12 (4) The task force shall monitor and guide analysis and policy
13 development in all aspects of the criminal justice system in Nebraska
14 within the scope of the justice reinvestment initiative, including
15 tracking implementation of evidence-based strategies as established in
16 Laws 2015, LB605, and this legislative bill, and reviewing policies and
17 practices to improve public safety, reduce recidivism, and reduce
18 spending on corrections in Nebraska. The task force shall monitor
19 performance and measure outcomes by collecting data from counties and
20 relevant state agencies for analysis and reporting. The Nebraska
21 Commission on Law Enforcement and Criminal Justice shall provide
22 administrative and staff support to the task force.

23 (5) The task force shall prepare and submit an annual report of its
24 activities and findings and may make recommendations to improve any
25 aspect of the criminal justice system. The task force shall deliver the
26 report to the Governor, the Clerk of the Legislature, and the Chief
27 Justice by September 1, 2024, and by each September 1 thereafter. The
28 report to the Legislature shall be delivered electronically.

29 Sec. 23. Section 50-434, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 50-434 (1) The Legislature finds that while serious crime in the

1 State of Nebraska has not increased in the past five years, the prison
2 population continues to increase as does the amount spent on correctional
3 issues. The Legislature further finds that a need exists to closely
4 examine the criminal justice system of the State of Nebraska in order to
5 increase public safety while concurrently reducing correctional spending
6 and reinvesting in strategies that decrease crime and strengthen Nebraska
7 communities.

8 (2) It is the intent of the Legislature that the State of Nebraska
9 work cooperatively with the Council of State Governments Justice Center
10 to study and identify innovative solutions and evidence-based practices
11 to develop a data-driven approach to reduce correctional spending and
12 reinvest savings in strategies that can decrease recidivism and increase
13 public safety and for the executive, legislative, and judicial branches
14 of Nebraska state government to work with the Council of State
15 Governments Justice Center in this process.

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

19 (4) The special legislative committee shall be comprised of five
20 members of the Legislature selected by the Executive Board of the
21 Legislative Council, including the chairperson of the Judiciary Committee
22 of the Legislature who shall serve as chairperson of the special
23 legislative committee.

24 (5) The Committee on Justice Reinvestment Oversight shall monitor
25 and guide analysis and policy development in all aspects of the criminal
26 justice system in Nebraska within the scope of the justice reinvestment
27 initiative, including tracking implementation of evidence-based
28 strategies as established in Laws 2015, LB605, and reviewing policies to
29 improve public safety, reduce recidivism, and reduce spending on
30 corrections in Nebraska. With assistance from the Council of State
31 Governments Justice Center, the committee shall monitor performance and

1 measure outcomes by collecting data from counties and relevant state
2 agencies for analysis and reporting.

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

9 (7) The committee terminates on September 30, 2023.

10 Sec. 24. Section 71-5661, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 71-5661 (1) The financial incentives provided by the Rural Health
13 Systems and Professional Incentive Act shall consist of (a) student loans
14 to eligible students for attendance at an eligible school as determined
15 pursuant to section 71-5662, (b) the repayment of qualified educational
16 debts owed by physicians and psychiatrists in an approved medical
17 specialty residency program in Nebraska as determined pursuant to section
18 71-5662, and (c) the repayment of qualified educational debts owed by
19 eligible health professionals as determined pursuant to section 71-5662.
20 Funds for such incentives shall be appropriated from the General Fund to
21 the department for such purposes.

22 (2) The Rural Health Professional Incentive Fund is created. The
23 fund shall be used to carry out the purposes of the act, except that
24 transfers may be made from the fund to the General Fund at the direction
25 of the Legislature. Money credited pursuant to section 71-5670.01 and
26 payments received pursuant to sections 71-5666, 71-5668, and 71-5669.01
27 shall be remitted to the State Treasurer for credit to the Rural Health
28 Professional Incentive Fund. Any money in the fund available for
29 investment shall be invested by the state investment officer pursuant to
30 the Nebraska Capital Expansion Act and the Nebraska State Funds
31 Investment Act.

1 Sec. 25. Section 71-5662, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-5662 (1) To be eligible for a student loan under the Rural Health
4 Systems and Professional Incentive Act, an applicant or a recipient shall
5 be enrolled or accepted for enrollment in an accredited medical or dental
6 education program or physician assistant education program or an approved
7 mental health practice program in Nebraska.

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

11 (3) To be eligible for loan repayment under the act, an applicant or
12 a recipient shall be a pharmacist, a dentist, a physical therapist, an
13 occupational therapist, a mental health practitioner, a psychologist
14 licensed under the requirements of section 38-3114 or the equivalent
15 thereof, a nurse practitioner, a physician assistant, a psychiatrist, or
16 a physician in an approved specialty and shall be licensed to practice in
17 Nebraska, not be enrolled in a residency program, not be practicing under
18 a provisional or temporary license, and enter practice in a designated
19 health profession shortage area in Nebraska.

20 Sec. 26. Section 71-5663, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 71-5663 (1) The amount of financial assistance provided through
23 student loans pursuant to the Rural Health Systems and Professional
24 Incentive Act shall be limited to thirty thousand dollars for each
25 recipient for each academic year and, except as provided in subdivision
26 (4)(a) of this section, shall not exceed one hundred twenty thousand
27 dollars per medical, dental, or doctorate-level mental health student or
28 thirty thousand dollars per master's level mental health or physician
29 assistant student.

30 (2) The amount of financial assistance provided through the medical
31 resident incentive program pursuant to the act shall be limited to forty

1 thousand dollars for each recipient for each year of residency and,
2 except as provided in subdivision (4)(b) of this section, shall not
3 exceed one hundred twenty thousand dollars.

4 (3) The amount of financial assistance provided by the state through
5 loan repayments pursuant to the act (a) for physicians, psychiatrists,
6 dentists, and psychologists shall be limited to thirty thousand dollars
7 per recipient per year of full-time practice in a designated health
8 profession shortage area and, except as provided in subdivision (4)(c) of
9 this section, shall not exceed ninety thousand dollars per recipient and
10 (b) for physician assistants, nurse practitioners, pharmacists, physical
11 therapists, occupational therapists, and mental health practitioners
12 shall be limited to fifteen thousand dollars per recipient per year of
13 full-time practice in a designated health profession shortage area and,
14 except as provided in subdivision (4)(c) of this section, shall not
15 exceed forty-five thousand dollars per recipient.

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

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

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

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

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

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

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

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

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

10 (5) For purposes of this section, community supervision population
11 means persons on probation, post-release supervision, and pretrial
12 release.

13 Sec. 27. Section 71-5665, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 71-5665 The commission shall periodically designate health
16 profession shortage areas within the state for the following professions:
17 Medicine and surgery, psychiatry, physician assistants' practice, nurse
18 practitioners' practice, psychology, and mental health practitioner's
19 practice. The commission shall also periodically designate separate
20 health profession shortage areas for each of the following professions:
21 Pharmacy, dentistry, physical therapy, and occupational therapy. In
22 making such designations the commission shall consider, after
23 consultation with other appropriate agencies concerned with health
24 services and with appropriate professional organizations, among other
25 factors:

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

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

30 (3) Particular local health problems;

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

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

2 Sec. 28. Section 71-5666, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 71-5666 Each student loan recipient shall execute an agreement with
5 the state. Such agreement shall be exempt from the requirements of
6 sections 73-501 to 73-510 and shall include the following terms, as
7 appropriate:

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

14 (2) If the borrower practices an approved specialty in a designated
15 health profession shortage area in Nebraska, the loan shall be forgiven
16 as provided in this section and subdivision (4)(a) of section 71-5663.
17 Practice in a designated area shall commence within three months of the
18 completion of formal education, which may include a period not to exceed
19 five years to complete specialty training in an approved specialty. The
20 commission may approve exceptions to any period required for completion
21 of training upon showing good cause. Loan forgiveness shall occur on a
22 quarterly basis, with completion of the equivalent of three months of
23 full-time practice resulting in the cancellation of one-fourth of the
24 annual loan amount. Part-time practice in a shortage area shall result in
25 a prorated reduction in the cancellation of the loan amount;

26 (3) If the borrower practices an approved specialty in Nebraska but
27 not in a designated health profession shortage area, practices a
28 specialty other than an approved specialty in Nebraska, does not practice
29 the profession for which the loan was given, discontinues practice of the
30 profession for which the loan was given, or practices outside Nebraska,
31 the borrower shall repay one hundred fifty percent of the outstanding

1 loan principal with interest at a rate of eight percent simple interest
2 per year from the date of default. Such repayment shall commence within
3 six months of the completion of formal education, which may include a
4 period not to exceed five years to complete specialty training in an
5 approved specialty, and shall be completed within a period not to exceed
6 twice the number of years for which loans were awarded;

7 (4) If a borrower who is a medical, dental, or doctorate-level
8 mental health student determines during the first or second year of
9 medical, dental, or doctorate-level mental health education that his or
10 her commitment to the loan program cannot be honored, the borrower may
11 repay the outstanding loan principal, plus six percent simple interest
12 per year from the date the loan was granted, prior to graduation from
13 medical or dental school or a mental health practice program without
14 further penalty or obligation. Master's level mental health and physician
15 assistant student loan recipients shall not be eligible for this
16 provision;

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

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

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

29 Sec. 29. Section 71-5668, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 71-5668 Each loan repayment recipient shall execute an agreement

1 with the department and a local entity. Such agreement shall be exempt
2 from the requirements of sections 73-501 to 73-510 and shall include, at
3 a minimum, the following terms:

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

10 (2) In consideration of the agreement by the recipient, the State of
11 Nebraska and a local entity within the designated health profession
12 shortage area will provide equal funding for the repayment of the
13 recipient's qualified educational debts except as provided in subdivision
14 (5) of this section, in amounts up to thirty thousand dollars per year
15 per recipient for physicians, psychiatrists, dentists, and psychologists
16 and up to fifteen thousand dollars per year per recipient for physician
17 assistants, nurse practitioners, pharmacists, physical therapists,
18 occupational therapists, and mental health practitioners toward qualified
19 educational debts for up to three years or a longer period as required by
20 subdivision (4)(c) of section 71-5663. The department shall make payments
21 directly to the recipient;

22 (3) If the loan repayment recipient discontinues practice in the
23 shortage area prior to completion of the three-year requirement or the
24 period required by subdivision (4)(c) of section 71-5663, as applicable,
25 the recipient shall repay to the state one hundred fifty percent of the
26 total amount of funds provided to the recipient for loan repayment with
27 interest at a rate of eight percent simple interest per year from the
28 date of default. Upon repayment by the recipient to the department, the
29 department shall reimburse the local entity its share of the funds which
30 shall not be more than the local entity's share paid to the loan
31 repayment recipient;

1 (4) Any practice or payment obligation incurred by the loan
2 repayment recipient under the loan repayment program is canceled in the
3 event of the loan repayment recipient's total and permanent disability or
4 death;~~and~~

5 (5) For a loan repayment recipient seeking benefits under
6 subdivision (4)(c) of section 71-5663, the recipient agrees to such other
7 terms as the department deems appropriate; and

8 (6) (5) Beginning on July 1, 2022, any agreements entered into by
9 December 31, 2024, shall first use federal funds from the federal
10 American Rescue Plan Act of 2021 for the purposes of repaying qualified
11 educational debts prior to using any state or local funds. Agreements
12 using federal funds from the federal American Rescue Plan Act of 2021
13 shall not require equal funding from a local entity. Any federal funds
14 from the act committed to agreements during this time period shall be
15 used by December 31, 2026.

16 Sec. 30. Section 71-5669.01, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 71-5669.01 Each medical resident incentive recipient shall execute
19 an agreement with the department. Such agreement shall be exempt from the
20 requirements of sections 73-501 to 73-510 and shall include, at a
21 minimum, the following terms:

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

27 (2) In consideration of the agreement by the medical resident
28 incentive recipient, the State of Nebraska will provide funding for the
29 repayment of the recipient's qualified educational debts, in amounts up
30 to forty thousand dollars per year for up to three years while in an
31 approved medical specialty residency program in Nebraska, or for a longer

1 period as required by subdivision (4)(b) of section 71-5663. The
2 department shall make payments directly to the medical resident incentive
3 recipient;

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

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

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

25 Sec. 31. Section 83-1,100.02, Revised Statutes Cumulative
26 Supplement, 2022, is amended to read:

27 83-1,100.02 (1) For purposes of this section:

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

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

- 1 (ii) Substance abuse testing requirements and frequency;
- 2 (iii) Contact restrictions;
- 3 (iv) Curfew restrictions;
- 4 (v) Access to available programs and treatment, with priority given
- 5 to moderate-risk and high-risk parolees; and
- 6 (vi) Severity of graduated responses to violations of supervision
- 7 conditions; ~~and~~

8 (b) Responsivity factors means characteristics of a parolee that
9 affect the parolee's ability to respond favorably or unfavorably to any
10 treatment goals; and

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

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

18 (3) The risk and needs assessment shall be performed at the
19 commencement of the parole term and every six months thereafter by
20 division staff trained and certified in the use of the risk and needs
21 assessment.

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

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

28 (6) The division shall provide training to its parole officers on
29 (a) use of a risk and needs assessment, (b) risk-based supervision
30 strategies, (c) relationship skills, (d) cognitive behavioral
31 interventions, (e) community-based resources, (f) criminal risk factors,

1 (g) targeting criminal risk factors to reduce recidivism, (h) and proper
2 use of a matrix of administrative sanctions, custodial sanctions, and
3 rewards developed pursuant to section 83-1,119, and (i) addressing
4 responsivity factors. All parole officers employed on August 30, 2015,
5 shall complete the training requirements set forth in this subsection on
6 or before January 1, 2017. Each parole officer hired on or after August
7 30, 2015, shall complete the training requirements set forth in this
8 subsection within one year after his or her hire date or September 1,
9 2024, whichever is later.

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

13 Sec. 32. Section 83-1,110, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 83-1,110 (1) Except as provided in subsections (2) and (3) of this
16 section, every Every committed offender shall be eligible for parole:

17 (a) For an offender sentenced to a minimum of less than five years,
18 upon serving when the offender has served one-half the minimum term of
19 the offender's his or her sentence as provided in sections 83-1,107 and
20 83-1,108; or -

21 (b) For an offender sentenced to a minimum of five years or more,
22 upon the earlier of:

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

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

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

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

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

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

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

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

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

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

21 (b) Serving one-half of the total minimum term of the offender's
22 sentence as provided in sections 83-1,107 and 83-1,108.

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

28 Sec. 33. Section 83-1,111, Revised Statutes Cumulative Supplement,
29 2022, is amended to read:

30 83-1,111 (1)(a) ~~(1)~~ A committed offender serving an indeterminate
31 sentence under which he or she may become eligible for parole shall be

1 interviewed and have his or her record reviewed by two or more members of
2 the board ~~Board of Parole~~ or a person designated by the board by the
3 deadline ~~within sixty days before the expiration of his or her minimum~~
4 ~~term less any reductions~~ as provided in section 83-1,110.

5 (b) If the committed offender is a qualified offender as defined in
6 section 34 of this act, the committed offender shall enter into a
7 streamlined parole contract as provided in such section.

8 (2) If the committed offender is a qualified offender, the review
9 shall be limited to verifying that the committed offender is a qualified
10 offender and whether the committed offender has already fulfilled the
11 streamlined parole contract. If the committed offender has not yet
12 fulfilled the streamlined parole contract, a subsequent review shall be
13 set for the date the committed offender will fulfill the streamlined
14 parole contract, assuming the committed offender will meet the
15 requirements of subsection (3) of section 34 of this act.

16 (3)(a) This subsection applies if the committed offender is not a
17 qualified offender or has been found at a review under subsection (2) of
18 this section to have not fulfilled the terms of the streamlined parole
19 contract. If, in the opinion of the reviewers, the review indicates the
20 offender is reasonably likely to be granted parole and has a potential
21 parole term of no less than one month, the board ~~Board of Parole~~ shall
22 schedule a public hearing before a majority of its members. At such
23 hearing the offender may present evidence, call witnesses, and be
24 represented by counsel. If, in the opinion of the reviewers, the review
25 indicates the offender should be denied parole, the offender may request
26 an additional review by a majority of the members of the board. A review
27 by the majority of the members of the board may be conducted not more
28 than once annually. Any hearing and review shall be conducted in an
29 informal manner, but a complete record of the proceedings shall be made
30 and preserved.

31 (b) (2) The board shall render its decision regarding the committed

1 offender's release on parole within a reasonable time after the hearing
2 or review. The decision shall be by majority vote of the board. The
3 decision shall be based on the entire record before the board which shall
4 include the opinion of the person who conducted the review. If the board
5 denies parole, written notification listing the reasons for such denial
6 and the recommendations for correcting deficiencies which cause the
7 denial shall be given to the committed offender within thirty days
8 following the hearing.

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

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

17 ~~(4)~~ ~~(5)~~ The release of a committed offender on parole shall not be
18 upon the application of the offender but by the initiative of the board
19 ~~Board of Parole~~. No application for release on parole made by a committed
20 offender or on his or her behalf shall be entertained by the board. This
21 subsection does not prohibit the Director of Correctional Services from
22 recommending to the board that it consider an individual offender for
23 release on parole.

24 Sec. 34. (1) A qualified offender serving a sentence imposed prior
25 to the effective date of this act who has not yet received a review from
26 the board shall, at the review, enter into a streamlined parole contract
27 under this section.

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

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

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

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

10 (4) If a qualified offender does not meet the requirements of
11 subsection (3) of this section, the board shall consider the offender's
12 parole eligibility as provided for nonqualified offenders under section
13 83-1,111.

14 (5) For purposes of this section:

15 (a) Qualified offender means a committed offender who is serving an
16 indeterminate sentence under which the committed offender may become
17 eligible for parole and who is not serving a sentence for a violent
18 felony;

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

20 (c) Sexual contact and sexual penetration have the same meanings as
21 in section 28-318; and

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

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

25 (A) Sexual contact or sexual penetration;

26 (B) The threat to inflict serious bodily injury or death on another
27 person, the infliction of serious bodily injury on another person, or
28 causing the death of another person; or

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

30 (ii) Which consists of attempt, conspiracy, being an accessory to,
31 or aiding and abetting a felony with any of the offenses described in

1 subdivision (5)(d)(i) of this section as the underlying offense.

2 Sec. 35. (1) A committed offender may be eligible for geriatric
3 parole if the committed offender:

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

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

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

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

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

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

18 Sec. 36. Section 83-1,114, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 83-1,114 (1) Whenever the board considers the release of a committed
21 offender who is eligible for release on parole, it shall order his or her
22 release unless it is of the opinion that his or her release should be
23 deferred because:

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

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

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

30 (d) His or her continued correctional treatment, medical care, or
31 vocational or other training in the facility will substantially enhance

1 his or her capacity to lead a law-abiding life when released at a later
2 date.

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

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

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

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

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

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

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

21 ~~(g) The type of residence, neighborhood, or community in which the~~
22 ~~offender plans to live;~~

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

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

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

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

30 ~~(l) The offender's conduct in the facility, including particularly~~
31 ~~whether he or she has taken advantage of the opportunities for self-~~

1 ~~improvement, whether he or she has been punished for misconduct within~~
2 ~~six months prior to his or her hearing or reconsideration for parole~~
3 ~~release, whether any reductions of term have been forfeited, and whether~~
4 ~~such reductions have been restored at the time of hearing or~~
5 ~~reconsideration;~~

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

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

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

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

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

16 Sec. 37. (1) The Division of Parole Supervision and the department
17 shall create a pilot program to establish a technical parole violation
18 residential housing program. The purpose of the program is to provide
19 accountability and intensive support for individuals on parole who commit
20 technical violations, without revoking them fully back to prison.

21 (2) The pilot program shall provide a structured environment for
22 selected individuals on parole who have committed technical violations.
23 The program shall be based upon a therapeutic community model.
24 Participants in the program shall, at a minimum, be required to take part
25 in counseling, educational, and other programs as the department deems
26 appropriate, to provide community service, and to submit to drug and
27 alcohol screening.

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

1 (4) On or before June 1, 2024, the Division of Parole Supervision
2 shall electronically submit a report to the Judiciary Committee of the
3 Legislature regarding the pilot program. The report shall evaluate
4 effects of the pilot program on recidivism and make recommendations
5 regarding expansion of or changes to the program.

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

8 Sec. 38. Section 83-1,122.01, Revised Statutes Cumulative
9 Supplement, 2022, is amended to read:

10 83-1,122.01 (1) Except as provided in subsection (4) ~~(3)~~ of this
11 section, the board does not have jurisdiction over a person who is
12 committed to the department in accordance with section 29-2204.02 for a
13 Class III, IIIA, or IV felony committed on or after August 30, 2015,
14 unless the person is also committed to the department in accordance with
15 section 29-2204 for (a) a sentence of imprisonment for a Class III, IIIA,
16 or IV felony committed prior to August 30, 2015, or (b) a sentence of
17 imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony.

18 (2) Except as provided in subsection (4) ~~(3)~~ of this section, the
19 board does not have jurisdiction over a person committed to the
20 department for a misdemeanor sentence imposed consecutively or
21 concurrently with a Class III, IIIA, or IV felony sentence for an offense
22 committed on or after August 30, 2015, unless the person is also
23 committed to the department in accordance with section 29-2204 for (a) a
24 sentence of imprisonment for a Class III, IIIA, or IV felony committed
25 prior to August 30, 2015, or (b) a sentence of imprisonment for a Class
26 I, IA, IB, IC, ID, II, or IIA felony.

27 (3) This section does not apply to medical parole under section
28 83-1,110.02 or geriatric parole under section 35 of this act.

29 Sec. 39. Section 83-1,135, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 83-1,135 Sections 83-170 to 83-1,135.05 and sections 34 and 35 of

1 this act shall be known and may be cited as the Nebraska Treatment and
2 Corrections Act.

3 Sec. 40. Section 83-1,135.02, Revised Statutes Cumulative
4 Supplement, 2022, is amended to read:

5 83-1,135.02 (1) It is the intent of the Legislature that the changes
6 made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46,
7 with respect to parole eligibility apply to all committed offenders under
8 sentence and not on parole on May 24, 2003, and to all persons sentenced
9 on and after such date.

10 (2) It is the intent of the Legislature that the changes made to
11 sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184,
12 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01,
13 83-1,100.02, and 83-1,100.03 apply to all committed offenders under
14 sentence, on parole, or on probation on August 30, 2015, and to all
15 persons sentenced on and after such date.

16 (3) It is the intent of the Legislature that the changes made to
17 sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267,
18 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by
19 Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03
20 apply to all committed offenders under sentence, on parole, or on
21 probation on or after April 20, 2016, and to all persons sentenced on and
22 after such date.

23 (4) It is the intent of the Legislature that the changes made to
24 sections 83-1,110.02 and 83-1,122.01 by Laws 2018, LB841, apply to all
25 committed offenders under sentence or on parole on or after July 19,
26 2018, and to all persons sentenced on and after such date.

27 (5) It is the intent of the Legislature that the changes made to
28 sections 83-1,100.02, 83-1,110, 83-1,111, 83-1,114, 83-1,122.01, and
29 83-1,135 and sections 34 and 35 of this act by this legislative bill
30 apply to all committed offenders under sentence or on parole on or after
31 the effective date of this act, and to all persons sentenced on and after

1 such date.

2 Sec. 41. Original sections 24-1302, 28-116, 28-507, 28-518,
3 29-2204.02, 29-2221, 29-2263, 29-2269, 29-2281, 29-3603, 50-434, 71-5661,
4 71-5662, 71-5663, 71-5665, 71-5666, 71-5669.01, and 83-1,110, Reissue
5 Revised Statutes of Nebraska, and sections 28-101, 28-105, 28-416,
6 28-1351, 28-1354, 29-2204, 71-5668, 83-1,100.02, 83-1,111, 83-1,114,
7 83-1,122.01, 83-1,135, and 83-1,135.02, Revised Statutes Cumulative
8 Supplement, 2022, are repealed.