

AMENDMENTS TO LB322

Introduced by Ballard, 21.

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

3 **Section 1.** Section 28-101, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
6 and sections 3 to 9 of this act shall be known and may be cited as the
7 Nebraska Criminal Code.

8 **Sec. 2.** Section 28-115, Revised Statutes Cumulative Supplement,
9 2024, is amended to read:

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

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

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

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

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

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

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

21 (g) Sexual assault of a child in the first degree, section
22 28-319.01;

23 (h) Sexual assault of a child in the second or third degree, section
24 28-320.01;

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

27 (j) Sexual abuse of an inmate or parolee in the second degree,

1 section 28-322.03;

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

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

5 (m) Domestic assault in the first, second, or third degree, section
6 28-323;

7 (n) Assault on a public safety officer, health care professional, or
8 pharmacy staff member in the first degree, section 4 of this act; an
9 officer, an emergency responder, a state correctional employee, a
10 Department of Health and Human Services employee, or a health care
11 professional in the first degree, section 28-929;

12 (o) Assault on a public safety officer, health care professional, or
13 pharmacy staff member in the second degree, section 5 of this act; an
14 officer, an emergency responder, a state correctional employee, a
15 Department of Health and Human Services employee, or a health care
16 professional in the second degree, section 28-930;

17 (p) Assault on a public safety officer, health care professional, or
18 pharmacy staff member in the third degree, section 6 of this act; an
19 officer, an emergency responder, a state correctional employee, a
20 Department of Health and Human Services employee, or a health care
21 professional in the third degree, section 28-931;

22 ~~(q) Assault on an officer, an emergency responder, a state~~
23 ~~correctional employee, a Department of Health and Human Services~~
24 ~~employee, or a health care professional using a motor vehicle, section~~
25 ~~28-931.01;~~

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

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

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

31 (2) The enhancement in subsection (1) of this section does not apply

1 to any criminal offense listed in subsection (1) of this section that is
2 already punishable as a Class I, IA, or IB felony. If any criminal
3 offense listed in subsection (1) of this section is punishable as a Class
4 I misdemeanor, the penalty under this section is a Class IIIA felony.

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

7 **Sec. 3.** Section 28-929.01, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 ~~28-929.01~~ For purposes of sections 3 to 9 of this act ~~28-929,~~
10 ~~28-929.02, 28-930, 28-931, and 28-931.01:~~

11 (1) Emergency care provider means (a) an emergency medical
12 responder; (b) an emergency medical technician; (c) an advanced emergency
13 medical technician; (d) a community paramedic; (e) a critical care
14 paramedic; or (f) a paramedic, as those persons are licensed and
15 classified under the Emergency Medical Services Practice Act;

16 (2) Health care practitioner facility has the same meaning as in
17 section 71-414;

18 (3) (2) Health care professional means:

19 (a) A a physician or other health care practitioner who is licensed,
20 certified, or registered to perform specified health services consistent
21 with state law who practices at a medical facility; or hospital or a
22 health clinic;

23 (b) Any other employee of a medical facility;

24 (4) (3) Health clinic has the definition found in section 71-416;
25 and

26 (5) (4) Hospital has the definition found in section 71-419; -

27 (6) Medical facility means a health care practitioner facility,
28 health clinic, or hospital;

29 (7) Pharmacist means any person who is licensed by the State of
30 Nebraska to practice pharmacy;

31 (8) Pharmacy has the same meaning as in section 71-425;

1 (9) Pharmacy staff member means a pharmacist or an individual
2 working under the supervision of a pharmacist;

3 (10) Public safety officer means:

4 (a) A peace officer;

5 (b) A probation officer;

6 (c) A firefighter;

7 (d) An emergency care provider;

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

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

12 (11) Specialized service has the same meaning as in section 83-1208.

13 **Sec. 4.** Section 28-929, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 ~~28-929 (1) A person commits the offense of assault on an officer, an~~
16 ~~emergency responder, a state correctional employee, a Department of~~
17 ~~Health and Human Services employee, or a public safety officer, health~~
18 ~~care professional, or pharmacy staff member in the first degree if such~~
19 ~~person intentionally or knowingly causes serious bodily injury to a:~~

20 (a) Public safety officer while such officer is engaged in the
21 performance of the officer's official duties;

22 (b) Health care professional while such professional is on duty at a
23 medical facility; or

24 (c) Pharmacy staff member while such pharmacy staff member is on
25 duty at a pharmacy or medical facility.

26 ~~(a) He or she intentionally or knowingly causes serious bodily~~
27 ~~injury:~~

28 ~~(i) To a peace officer, a probation officer, a firefighter, an~~
29 ~~emergency care provider, or an employee of the Department of Correctional~~
30 ~~Services;~~

31 ~~(ii) To an employee of the Department of Health and Human Services~~

1 ~~if the person committing the offense is committed as a dangerous sex~~
2 ~~offender under the Sex Offender Commitment Act; or~~

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

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

8 ~~(2) A violation of this section is Assault on an officer, an~~
9 ~~emergency responder, a state correctional employee, a Department of~~
10 ~~Health and Human Services employee, or a health care professional in the~~
11 ~~first degree shall be a Class ID felony.~~

12 ~~(3) It is not a violation of this section if the person committing~~
13 ~~the assault is a patient receiving specialized services.~~

14 **Sec. 5.** Section 28-930, Revised Statutes Cumulative Supplement,
15 2024, is amended to read:

16 ~~28-930 (1) A person commits the offense of assault on an officer, an~~
17 ~~emergency responder, a state correctional employee, a Department of~~
18 ~~Health and Human Services employee, or a public safety officer, health~~
19 ~~care professional, or pharmacy staff member in the second degree if such~~
20 ~~person:~~

21 ~~(a) Intentionally, knowingly, or recklessly causes bodily injury to~~
22 ~~a public safety officer, health care professional, or pharmacy staff~~
23 ~~member with a dangerous instrument; and~~

24 ~~(b) Such offense is committed while such:~~

25 ~~(i) Public safety officer is engaged in the performance of the~~
26 ~~officer's official duties;~~

27 ~~(ii) Health care professional is on duty at a medical facility; or~~

28 ~~(iii) Pharmacy staff member is on duty at a pharmacy or medical~~
29 ~~facility.~~

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

31 ~~(i) Intentionally or knowingly causes bodily injury with a dangerous~~

1 instrument:

2 ~~(A) To a peace officer, a probation officer, a firefighter, an~~
3 ~~emergency care provider, or an employee of the Department of Correctional~~
4 ~~Services;~~

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

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

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

10 ~~(A) To a peace officer, a probation officer, a firefighter, an~~
11 ~~emergency care provider, or an employee of the Department of Correctional~~
12 ~~Services;~~

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

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

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

21 ~~(2) A violation of this section is Assault on an officer, an~~
22 ~~emergency responder, a state correctional employee, a Department of~~
23 ~~Health and Human Services employee, or a health care professional in the~~
24 ~~second degree shall be a Class II felony.~~

25 ~~(3) It is not a violation of this section if the person committing~~
26 ~~the assault is a patient receiving specialized services.~~

27 **Sec. 6.** Section 28-931, Revised Statutes Cumulative Supplement,
28 2024, is amended to read:

29 ~~28-931 (1) A person commits the offense of assault on an officer, an~~
30 ~~emergency responder, a state correctional employee, a Department of~~
31 ~~Health and Human Services employee, or a public safety officer, health~~

1 care professional, or pharmacy staff member in the third degree if such
2 person intentionally, knowingly, or recklessly causes bodily injury to a:

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

5 (b) Health care professional while such professional is on duty at a
6 medical facility; or

7 (c) Pharmacy staff member while such pharmacy staff member is on
8 duty at a pharmacy or medical facility.

9 ~~(a) He or she intentionally, knowingly, or recklessly causes bodily~~
10 ~~injury:~~

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

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

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

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

22 (2) A violation of this section is Assault on an officer, an
23 emergency responder, a state correctional employee, a Department of
24 Health and Human Services employee, or a health care professional in the
25 third degree shall be a Class IIIA felony.

26 (3) It is not a violation of this section if the person committing
27 the assault is a patient receiving specialized services.

28 **Sec. 7.** Section 28-934, Revised Statutes Cumulative Supplement,
29 2024, is amended to read:

30 28-934 (1) A person commits an offense if such person:

31 (a) Knowingly or intentionally strikes a public safety officer,

1 health care professional, or pharmacy staff member with a bodily fluid;
2 and

3 (b) Such offense is committed while such:

4 (i) Public safety officer is engaged in the performance of the
5 officer's official duties;

6 (ii) Health care professional is on duty at a medical facility; or

7 (iii) Pharmacy staff member is on duty at a pharmacy or medical
8 facility.

9 ~~(1) Any person who knowingly and intentionally strikes any public~~
10 ~~safety officer with any bodily fluid is guilty of assault with a bodily~~
11 ~~fluid against a public safety officer.~~

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

15 (3) A violation of this section ~~Assault with a bodily fluid against~~
16 ~~a public safety officer~~ is a Class IIIA felony if the person committing
17 the offense strikes with a bodily fluid the eyes, mouth, or skin of a
18 public safety officer, health care professional, or pharmacy staff member
19 and knew the source of the bodily fluid was infected with the human
20 immunodeficiency virus, hepatitis B, or hepatitis C at the time the
21 offense was committed.

22 (4) Upon a showing of probable cause by affidavit to a judge of this
23 state that an offense under ~~as defined in subsection (1) of this section~~
24 has been committed and that identifies the probable source of the bodily
25 fluid or bodily fluids used to commit the offense, the judge shall grant
26 an order or issue a search warrant authorizing the collection of any
27 evidence, including any bodily fluid or medical records or the
28 performance of any medical or scientific testing or analysis, that may
29 assist with the determination of whether or not the person committing the
30 offense or the person from whom the person committing the offense
31 obtained the bodily fluid or bodily fluids is infected with the human

1 immunodeficiency virus, hepatitis B, or hepatitis C.

2 (5) It is not a violation of this section if the person committing
3 the assault is a patient receiving specialized services.

4 (6) (5) As used in this section:

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

9 (b) Public safety officer has the same meaning as in section 3 of
10 this act, but as used in this section, also includes an employee of a:
11 ~~includes any of the following persons who are engaged in the performance~~
12 ~~of their official duties at the time of the offense: A peace officer; a~~
13 ~~probation officer; a firefighter; an emergency care provider as defined~~
14 ~~in section 28-929.01; a health care professional as defined in section~~
15 ~~28-929.01; an employee of a county,~~

16 (i) County, city, or village jail; an employee of the Department of
17 Correctional Services; an employee of the secure

18 (ii) Secure youth confinement facility operated by the Department of
19 Correctional Services, if the person committing the offense is committed
20 to such facility; or

21 (iii) Youth rehabilitation and treatment center. an employee of a
22 youth rehabilitation and treatment center; or an employee of the
23 Department of Health and Human Services if the person committing the
24 offense is committed as a dangerous sex offender under the Sex Offender
25 Commitment Act.

26 **Sec. 8.** Section 28-929.02, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 28-929.02 (1) Every medical facility hospital and health clinic
29 shall display at all times in a prominent place a printed sign with a
30 minimum height of twenty inches and a minimum width of fourteen inches,
31 with each letter to be a minimum of one-fourth inch in height, which

1 shall read as follows:

2 WARNING: ASSAULTING A HEALTH CARE PROFESSIONAL OR PHARMACY STAFF
3 MEMBER WHO IS ENGAGED IN THE PERFORMANCE OF HIS OR HER OFFICIAL DUTIES,
4 INCLUDING STRIKING A HEALTH CARE PROFESSIONAL OR PHARMACY STAFF MEMBER
5 WITH ANY BODILY FLUID, IS A SERIOUS CRIME WHICH MAY BE PUNISHABLE AS A
6 FELONY.

7 (2) Every pharmacy shall display at all times in a prominent place a
8 printed sign with a minimum height of twenty inches and a minimum width
9 of fourteen inches, with each letter to be a minimum of one-fourth inch
10 in height, which shall read as follows:

11 WARNING: ASSAULTING A PHARMACY STAFF MEMBER WHO IS ENGAGED IN THE
12 PERFORMANCE OF HIS OR HER OFFICIAL DUTIES, INCLUDING STRIKING A PHARMACY
13 STAFF MEMBER WITH ANY BODILY FLUID, IS A SERIOUS CRIME WHICH MAY BE
14 PUNISHABLE AS A FELONY.

15 **Sec. 9.** In a prosecution for a violation of section 4, 5, 6, or 7
16 of this act, it shall be an affirmative defense that the defendant is a
17 person with a developmental disability as defined in section 83-1205 or
18 autism spectrum disorder as defined in section 44-7,106.

19 **Sec. 10.** Section 28-1351, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 28-1351 (1) A person commits the offense of unlawful membership
22 recruitment into an organization or association when he or she knowingly
23 and intentionally coerces, intimidates, threatens, or inflicts bodily
24 harm upon another person in order to entice that other person to join or
25 prevent that other person from leaving any organization, group,
26 enterprise, or association whose members, individually or collectively,
27 engage in or have engaged in any of the following criminal acts for the
28 benefit of, at the direction of, or on behalf of the organization, group,
29 enterprise, or association or any of its members:

30 (a) Robbery under section 28-324;

31 (b) Arson in the first, second, or third degree under section

1 28-502, 28-503, or 28-504, respectively;

2 (c) Burglary under section 28-507;

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

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

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

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

12 (h) Assault on ~~an officer, an emergency responder, a state~~
13 ~~correctional employee, a Department of Health and Human Services~~
14 ~~employee, or a public safety officer, health care professional, or~~
15 ~~pharmacy staff member~~ in the first, second, or third degree under section
16 ~~4, 5, or 6 of this act 28-929, 28-930, or 28-931, respectively, or~~
17 ~~assault on an officer, an emergency responder, a state correctional~~
18 ~~employee, a Department of Health and Human Services employee, or a health~~
19 ~~care professional using a motor vehicle under section 28-931.01;~~

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

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

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

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

24 (m) Kidnapping under section 28-313;

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

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

27 (p) Tampering with a publicly exhibited contest under section
28 28-614;

29 (q) Unauthorized use of a financial transaction device or criminal
30 possession of a financial transaction device under section 28-620 or
31 28-621, respectively;

1 (r) Pandering under section 28-802;

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

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

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

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

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

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

12 **Sec. 11.** Section 28-1354, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

14 28-1354 For purposes of the Public Protection Act:

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

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

26 (3) Until January 1, 2017, person means any individual or entity, as
27 defined in section 21-2014, holding or capable of holding a legal,
28 equitable, or beneficial interest in property. Beginning January 1, 2017,
29 person means any individual or entity, as defined in section 21-214,
30 holding or capable of holding a legal, equitable, or beneficial interest
31 in property;

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

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

11 (a) Offenses against the person which include: Murder in the first
12 degree under section 28-303; murder in the second degree under section
13 28-304; manslaughter under section 28-305; assault in the first degree
14 under section 28-308; assault in the second degree under section 28-309;
15 assault in the third degree under section 28-310; terroristic threats
16 under section 28-311.01; kidnapping under section 28-313; false
17 imprisonment in the first degree under section 28-314; false imprisonment
18 in the second degree under section 28-315; sexual assault in the first
19 degree under section 28-319; and robbery under section 28-324;

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

1 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
2 methamphetamine under section 28-452;

3 (c) Offenses against property which include: Arson in the first
4 degree under section 28-502; arson in the second degree under section
5 28-503; arson in the third degree under section 28-504; burglary under
6 section 28-507; theft by unlawful taking or disposition under section
7 28-511; theft by shoplifting under section 28-511.01; theft by deception
8 under section 28-512; theft by extortion under section 28-513; theft of
9 services under section 28-515; theft by receiving stolen property under
10 section 28-517; criminal mischief under section 28-519; and unlawfully
11 depriving or obtaining property or services using a computer under
12 section 28-1344;

13 (d) Offenses involving fraud which include: Burning to defraud an
14 insurer under section 28-505; forgery in the first degree under section
15 28-602; forgery in the second degree under section 28-603; criminal
16 possession of a forged instrument under section 28-604; criminal
17 possession of written instrument forgery devices under section 28-605;
18 criminal impersonation under section 28-638; identity theft under section
19 28-639; identity fraud under section 28-640; false statement or book
20 entry under section 28-612; tampering with a publicly exhibited contest
21 under section 28-614; issuing a false financial statement for purposes of
22 obtaining a financial transaction device under section 28-619;
23 unauthorized use of a financial transaction device under section 28-620;
24 criminal possession of a financial transaction device under section
25 28-621; unlawful circulation of a financial transaction device in the
26 first degree under section 28-622; unlawful circulation of a financial
27 transaction device in the second degree under section 28-623; criminal
28 possession of a blank financial transaction device under section 28-624;
29 criminal sale of a blank financial transaction device under section
30 28-625; criminal possession of a financial transaction forgery device
31 under section 28-626; unlawful manufacture of a financial transaction

1 device under section 28-627; laundering of sales forms under section
2 28-628; unlawful acquisition of sales form processing services under
3 section 28-629; unlawful factoring of a financial transaction device
4 under section 28-630; and fraudulent insurance acts under section 28-631;

5 (e) Offenses involving governmental operations which include: Abuse
6 of public records under section 28-911; perjury or subornation of perjury
7 under section 28-915; bribery under section 28-917; bribery of a witness
8 under section 28-918; tampering with a witness or informant or jury
9 tampering under section 28-919; bribery of a juror under section 28-920;
10 assault on a public safety officer, health care professional, or pharmacy
11 staff member in the first degree under section 4 of this act; assault on
12 a public safety officer, health care professional, or pharmacy staff
13 member in the second degree under section 5 of this act; and assault on a
14 public safety officer, health care professional, or pharmacy staff member
15 in the third degree under section 6 of this act; assault on an officer,
16 an emergency responder, a state correctional employee, a Department of
17 Health and Human Services employee, or a health care professional in the
18 first degree under section 28-929; assault on an officer, an emergency
19 responder, a state correctional employee, a Department of Health and
20 Human Services employee, or a health care professional in the second
21 degree under section 28-930; assault on an officer, an emergency
22 responder, a state correctional employee, a Department of Health and
23 Human Services employee, or a health care professional in the third
24 degree under section 28-931; and assault on an officer, an emergency
25 responder, a state correctional employee, a Department of Health and
26 Human Services employee, or a health care professional using a motor
27 vehicle under section 28-931.01;

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

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

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

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

30 (j) Offenses relating to public health and morals which include:
31 Prostitution under section 28-801; pandering under section 28-802;

1 keeping a place of prostitution under section 28-804; labor trafficking,
2 sex trafficking, labor trafficking of a minor, or sex trafficking of a
3 minor under section 28-831; a violation of section 28-1005; and any act
4 relating to the visual depiction of sexually explicit conduct prohibited
5 in the Child Pornography Prevention Act; and

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

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

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

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

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

19 **Sec. 12.** Section 29-2221, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 29-2221 (1) Whoever has been twice convicted of a crime, sentenced,
22 and committed to prison, in this or any other state or by the United
23 States or once in this state and once at least in any other state or by
24 the United States, for terms of not less than one year each shall, upon
25 conviction of a felony committed in this state, be deemed to be a
26 habitual criminal and shall be punished by imprisonment in a Department
27 of Correctional Services adult correctional facility for a mandatory
28 minimum term of ten years and a maximum term of not more than sixty
29 years, except that:

30 (a) If the felony committed is in violation of section 28-303,
31 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, ~~28-929~~, or 28-1222 or

1 section 4 of this act, and at least one of the habitual criminal's prior
2 felony convictions was for a violation of one of the sections listed in
3 this subdivision or of a similar statute in another state or of the
4 United States, the mandatory minimum term shall be twenty-five years and
5 the maximum term not more than sixty years;

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

15 (c) If the felony committed and at least one of the prior felony
16 convictions do not involve sexual contact, sexual penetration, the threat
17 to inflict serious bodily injury or death on another person, the
18 infliction of serious bodily injury on another person, a deadly or
19 dangerous weapon, or a firearm, the mandatory minimum term shall be three
20 years and the maximum term not more than the maximum term for the felony
21 committed or twenty years, whichever is greater. For this subdivision (1)
22 (c) to apply, no prior felony conviction may be a violation described in
23 subdivision (1)(a) of this section; and

24 (d) If a greater punishment is otherwise provided by statute, the
25 law creating the greater punishment shall govern.

26 (2) When punishment of an accused as a habitual criminal is sought,
27 the facts with reference thereto shall be charged in the indictment or
28 information which contains the charge of the felony upon which the
29 accused is prosecuted, but the fact that the accused is charged with
30 being a habitual criminal shall not be an issue upon the trial of the
31 felony charge and shall not in any manner be disclosed to the jury. If

1 the accused is convicted of a felony, before sentence is imposed a
2 hearing shall be had before the court alone as to whether such person has
3 been previously convicted of prior felonies. The court shall fix a time
4 for the hearing and notice thereof shall be given to the accused at least
5 three days prior thereto. At the hearing, if the court finds from the
6 evidence submitted that the accused has been convicted two or more times
7 of felonies and sentences imposed therefor by the courts of this or any
8 other state or by the United States, the court shall sentence such person
9 so convicted as a habitual criminal.

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

15 **Sec. 13.** Section 84-941.01, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 84-941.01 Potentially disqualifying conviction includes a conviction
18 for:

19 (1) Criminal attempt as provided in section 28-201, conspiracy as
20 provided in section 28-202, or aiding and abetting as provided in section
21 28-206, to commit an offense listed in this section;

22 (2) Murder as provided in sections 28-303 or 28-304;

23 (3) Manslaughter as provided in section 28-305;

24 (4) Motor vehicle homicide as provided in section 28-306;

25 (5) Assault in the first or second degree as provided in sections
26 28-308 and 28-309;

27 (6) Terroristic threats as provided in section 28-311.01;

28 (7) Stalking as provided in section 28-311.03;

29 (8) Kidnapping as provided in section 28-313;

30 (9) False imprisonment as provided in sections 28-314 and 28-315;

31 (10) A sexual act subject to criminal penalties as provided in

1 sections 28-317 to 28-322.05;

2 (11) Domestic assault as provided in section 28-323;

3 (12) Robbery as provided in section 28-324;

4 (13) Arson as provided in sections 28-502, 28-503, and 28-504;

5 (14) Fraud subject to criminal penalties as provided in sections
6 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;

7 (15) Theft as provided in sections 28-511, 28-512, 28-513, and
8 28-515;

9 (16) Forgery as provided in sections 28-602 and 28-603;

10 (17) Incest as provided in section 28-703;

11 (18) Child abuse as provided in section 28-707;

12 (19) Human trafficking, labor trafficking, sex trafficking, labor
13 trafficking of a minor, or sex trafficking of a minor as provided in
14 section 28-831;

15 (20) False reporting as provided in section 28-907;

16 (21) Perjury as provided in section 28-915;

17 (22) Assault on a public safety officer, health care professional,
18 or pharmacy staff member in the first degree, section 4 of this act; an
19 officer, an emergency responder, certain employees, or a health care
20 professional in the first degree as provided in section 28-929;

21 (23) Assault on a public safety officer, health care professional,
22 or pharmacy staff member in the second degree, section 5 of this act; an
23 officer, an emergency responder, certain employees, or a health care
24 professional in the second degree as provided in section 28-930;

25 (24) Assault on a public safety officer, health care professional,
26 or pharmacy staff member in the third degree, section 6 of this act; an
27 officer, an emergency responder, certain employees, or a health care
28 professional in the third degree as provided in section 28-931;

29 ~~(25) Assault on an officer, an emergency responder, certain~~
30 ~~employees, or a health care professional using a motor vehicle as~~
31 ~~provided in section 28-931.01;~~

1 ~~(25)~~ ~~(26)~~ An offense that has as an element the threat to inflict
2 serious bodily injury as defined in section 28-109 or death on another
3 person, the intentional infliction of serious bodily injury as defined in
4 section 28-109 on another person, or intentionally causing the death of
5 another person;

6 ~~(26)~~ ~~(27)~~ An offense for which registration is required under the
7 Sex Offender Registration Act; or

8 ~~(27)~~ ~~(28)~~ Any offense under the laws of another jurisdiction that is
9 substantially equivalent to any of the offenses listed in this section.

10 **Sec. 14.** Original section 84-941.01, Reissue Revised Statutes of
11 Nebraska, and sections 28-101, 28-115, 28-929, 28-929.01, 28-929.02,
12 28-930, 28-931, 28-934, 28-1351, 28-1354, and 29-2221, Revised Statutes
13 Cumulative Supplement, 2024, are repealed.

14 **Sec. 15.** The following section is outright repealed: Section
15 28-931.01, Revised Statutes Cumulative Supplement, 2024.