

AMENDMENTS TO LB935

Introduced by Judiciary.

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

3 **Sec. 11.** Section 28-101, Revised Statutes Supplement, 2025, is
4 amended to read:

5 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
6 and sections 12 to 15, 22, and 23 of this act shall be known and may be
7 cited as the Nebraska Criminal Code.

8 **Sec. 12.** For purposes of sections 12 to 15 of this act:

9 (1) Business entity means any form of corporation, company,
10 partnership, association, cooperative, joint venture, business trust, or
11 sole proprietorship that conducts business in this state;

12 (2) Mobile tracking device means any physical device, digital
13 application, software, firmware, account setting, or technological
14 configuration that is used to collect, transmit, record, or disclose
15 information regarding the position or movement of an individual;

16 (3) Private investigator means a person licensed under sections
17 71-3201 to 71-3213;

18 (4) Protection order means any protection order issued or recognized
19 under the Protection Orders Act;

20 (5) Senior adult has the same meaning as in section 28-366.01; and

21 (6) Vulnerable adult has the same meaning as in section 28-371.

22 **Sec. 13.** (1) Except as otherwise provided in section 14 of this
23 act, a person shall not knowingly:

24 (a) Install a mobile tracking device on another person's property
25 without the other person's consent;

26 (b) Cause a mobile tracking device to track the position or movement
27 of another person or another person's property without the other person's

1 consent; or

2 (c) Fail to remove or ensure the removal of a mobile tracking device
3 that has been installed on another person's property with such person's
4 consent when such consent has been revoked.

5 (2) For purposes of this section, if a person has given consent for
6 another person to install a mobile tracking device on the consenting
7 person's property, such consent shall be deemed to have been revoked if
8 any of the following applies:

9 (a) The consenting person communicates to the person to whom consent
10 was given that such consent is revoked;

11 (b) The consenting person and the person to whom consent was given
12 are married and one of them files an action for divorce, annulment, or
13 separate maintenance; or

14 (c) The consenting person receives a protection order against the
15 person to whom consent was given. Revocation under this subdivision (2)
16 (c) is effective when the person to whom consent was given has notice of
17 such protection order.

18 **Sec. 14.** Section 13 of this act does not apply to any of the
19 following:

20 (1) A mobile tracking device installed and used in compliance with
21 sections 86-271 to 86-2,115;

22 (2) A mobile tracking device installed and used pursuant to a court
23 order, including, but not limited to, as a condition of pretrial release,
24 probation, parole, or post-release supervision;

25 (3) A parent or legal guardian of a minor child who installs or uses
26 a mobile tracking device to track the minor child if any of the following
27 applies:

28 (a) The parents or legal guardians of the child are lawfully married
29 to each other and are not separated or otherwise living apart, and either
30 of those parents or legal guardians consents to the installation of the
31 tracking device or tracking application;

1 (b) The parent or legal guardian of the child is the sole surviving
2 parent or legal guardian of the child;

3 (c) The parent or legal guardian of the child has sole custody of
4 the child; or

5 (d) The parents or legal guardians of the child are divorced,
6 separated, or otherwise living apart and neither parent has sole custody
7 of the child, and both consent to the installation of the mobile tracking
8 device;

9 (4) A caregiver of a vulnerable adult or senior adult, if such
10 adult's treating physician certifies that the installation or use of a
11 mobile tracking device on such adult's property is necessary to ensure
12 the safety of such adult;

13 (5) A person acting in good faith on behalf of a business entity for
14 a legitimate business purpose or a governmental entity for a legitimate
15 government purpose. This subdivision (5) does not apply to a private
16 investigator;

17 (6)(a) A private investigator who is acting in the normal course of
18 the business of private investigation on behalf of another person and who
19 has the consent of the owner of the property upon which the mobile
20 tracking device is installed, for the purpose of obtaining information
21 with reference to any of the following:

22 (i) Criminal offenses committed, threatened, or suspected against
23 the United States, a territory of the United States, a state, or any
24 person or legal entity;

25 (ii) Locating an individual known to be a fugitive from justice;

26 (iii) Locating lost or stolen property or other assets that have
27 been awarded by the court; or

28 (iv) Investigating claims related to workers' compensation.

29 (b) This subdivision (6) does not apply if the person on whose
30 behalf the private investigator is working is the subject of a protection
31 order or if the private investigator knows or reasonably should know that

1 the person on whose behalf the private investigator is working seeks the
2 investigator's services to aid in the commission of a crime;

3 (7) An owner or lessee of a motor vehicle who installs, or directs
4 the installation of, a mobile tracking device on the motor vehicle during
5 the period of ownership or lease, if any of the following applies:

6 (a) The mobile tracking device is removed before the motor vehicle's
7 title is transferred or the motor vehicle's lease expires;

8 (b) The new owner of the motor vehicle, in the case of a sale, or
9 the lessor of the motor vehicle, in the case of an expired lease,
10 consents in writing to the nonremoval of the mobile tracking device; or

11 (c) The owner of the motor vehicle at the time of the installation
12 of the mobile tracking device was the original manufacturer of the motor
13 vehicle; or

14 (8) A person or business entity that installs a mobile tracking
15 device on any fixed-wing aircraft or rotorcraft operated or managed by
16 the person or business entity pursuant to 14 C.F.R. part 91 or part 135
17 to track the position or movement of the fixed-wing aircraft or
18 rotorcraft.

19 **Sec. 15.** A violation of section 13 of this act is a Class IIIA
20 felony.

21 **Sec. 16.** Section 28-311.02, Revised Statutes Supplement, 2025, is
22 amended to read:

23 28-311.02 (1) It is the intent of the Legislature to enact laws
24 dealing with stalking offenses which will protect victims from being
25 willfully harassed, intentionally terrified, threatened, or intimidated
26 by individuals who intentionally follow, detain, stalk, or harass them or
27 impose any restraint on their personal liberty and which will not
28 prohibit constitutionally protected activities.

29 (2) For purposes of sections 28-311.02 to 28-311.05:

30 ~~(a) Harass means to engage in a knowing and willful course of~~
31 ~~conduct directed at a specific person which seriously terrifies,~~

1 ~~threatens, or intimidates the person and which serves no legitimate~~
2 ~~purpose;~~

3 ~~(a) (b) Course of conduct means a pattern of conduct composed of a~~
4 ~~series of acts over a period of time, however short, evidencing a~~
5 ~~continuity of purpose, including a series of acts of following,~~
6 ~~detaining, restraining the personal liberty of, or stalking the person or~~
7 ~~telephoning, contacting, or otherwise communicating with the person;~~

8 ~~(b) (c) Family or household member has the same meaning as in~~
9 ~~section 42-903; and means a spouse or former spouse of the victim,~~
10 ~~children of the victim, a person presently residing with the victim or~~
11 ~~who has resided with the victim in the past, a person who had a child in~~
12 ~~common with the victim, other persons related to the victim by~~
13 ~~consanguinity or affinity, or any person presently involved in a dating~~
14 ~~relationship with the victim or who has been involved in a dating~~
15 ~~relationship with the victim. For purposes of this subdivision, dating~~
16 ~~relationship means frequent, intimate associations primarily~~
17 ~~characterized by the expectation of affectional or sexual involvement but~~
18 ~~does not include a casual relationship or an ordinary association between~~
19 ~~persons in a business or social context; and~~

20 ~~(c) Harass means to engage in a knowing and willful course of~~
21 ~~conduct directed at a specific person which seriously terrifies,~~
22 ~~threatens, or intimidates the person and which serves no legitimate~~
23 ~~purpose.~~

24 ~~(d) Substantially conforming criminal violation means a guilty plea,~~
25 ~~a nolo contendere plea, or a conviction for a violation of any federal~~
26 ~~law or law of another state or any county, city, or village ordinance of~~
27 ~~this state or another state substantially similar to section 28-311.03.~~
28 ~~Substantially conforming is a question of law to be determined by the~~
29 ~~court.~~

30 **Sec. 17.** Section 28-311.04, Revised Statutes Supplement, 2025, is
31 amended to read:

1 28-311.04 A violation of section 28-311.03 is a Class IIIA felony.

2 ~~(1) Except as provided in subsection (2) of this section, any person~~
3 ~~convicted of violating section 28-311.03 is guilty of a Class I~~
4 ~~misdemeanor.~~

5 ~~(2) Any person convicted of violating section 28-311.03 is guilty of~~
6 ~~a Class IIIA felony if:~~

7 ~~(a) The person has a prior conviction under such section or a~~
8 ~~substantially conforming criminal violation within the last seven years;~~

9 ~~(b) The victim is under sixteen years of age;~~

10 ~~(c) The person possessed a deadly weapon at any time during the~~
11 ~~violation;~~

12 ~~(d) The person was also in violation of any protection order issued~~
13 ~~under the Protection Orders Act or any valid foreign protection order~~
14 ~~recognized pursuant to section 26-123 or 26-124 at any time during the~~
15 ~~violation; or~~

16 ~~(e) The person has been convicted of any felony in this state or has~~
17 ~~been convicted of a crime in another jurisdiction which, if committed in~~
18 ~~this state, would constitute a felony and the victim or a family or~~
19 ~~household member of the victim was also the victim of such previous~~
20 ~~felony.~~

21 **Sec. 18.** Section 28-311.08, Revised Statutes Cumulative Supplement,
22 2024, is amended to read:

23 28-311.08 (1) It shall be unlawful for any person to knowingly
24 intrude upon any other person without his or her consent in a place of
25 solitude or seclusion. Violation of this subsection is a Class I
26 misdemeanor. A second or subsequent violation of this subsection is a
27 Class IV felony.

28 (2) It shall be unlawful for any person to knowingly and
29 intentionally photograph, film, or otherwise record an image or video of
30 the intimate area of any other person without his or her knowledge and
31 consent when his or her intimate area would not be generally visible to

1 the public regardless of whether such other person is located in a public
2 or private place. Violation of this subsection is a Class IV felony.

3 (3) It shall be unlawful for any person to knowingly and
4 intentionally distribute or otherwise make public an image or video of
5 another person recorded in violation of subsection (2) of this section
6 without that person's consent. A first or second violation of this
7 subsection is a Class IIA felony. A third or subsequent violation of this
8 subsection is a Class II felony.

9 (4) It shall be unlawful for any person to knowingly and
10 intentionally distribute or otherwise make public an image or video of
11 another person's intimate area or of another person engaged in sexually
12 explicit conduct (a) if the other person had a reasonable expectation
13 that the image would remain private, (b) knowing the other person did not
14 consent to distributing or making public the image or video, and (c) if
15 distributing or making public the image or video serves no legitimate
16 purpose. Violation of this subsection is a Class I misdemeanor. A second
17 or subsequent violation of this subsection is a Class IV felony.

18 (5) It shall be unlawful for any person to threaten to distribute or
19 otherwise make public an image or video of another person's intimate area
20 or of another person engaged in sexually explicit conduct with the intent
21 to intimidate, threaten, or harass any person. Violation of this
22 subsection is a Class I misdemeanor.

23 (6) As part of sentencing following a conviction for a violation of
24 subsection (1), (2), or (3) of this section, the court shall make a
25 finding as to the ages of the defendant and the victim at the time the
26 offense occurred. If the defendant is found to have been nineteen years
27 of age or older and the victim is found to have been less than eighteen
28 years of age at such time, then the defendant shall be required to
29 register under the Sex Offender Registration Act.

30 (7) No person shall be prosecuted under this section unless the
31 indictment for such offense is found by a grand jury or a complaint filed

1 before a magistrate within three years after the later of:

2 (a) The commission of the crime;

3 (b) Law enforcement's or a victim's receipt of actual or
4 constructive notice of either the existence of a video or other
5 electronic recording made in violation of this section or the
6 distribution of images, video, or other electronic recording made in
7 violation of this section; or

8 (c) The youngest victim of a violation of this section reaching the
9 age of twenty-one years.

10 (8) For purposes of this section:

11 (a) Intimate area means the naked or undergarment-clad genitalia,
12 pubic area, buttocks, or female breast of an individual;

13 (b) Intrude means either:

14 (i) Viewing another person in a state of undress as it is occurring,
15 whether directly or through electronic or other remote means, including,
16 but not limited to, by unmanned aircraft; or

17 (ii) Recording another person in a state of undress by video,
18 photographic, digital, or other electronic means including, but not
19 limited to, by unmanned aircraft; and

20 (c) Place of solitude or seclusion means a place where a person
21 would intend to be in a state of undress and have a reasonable
22 expectation of privacy, including, but not limited to, any facility,
23 public or private, used as a restroom, tanning booth, locker room, shower
24 room, fitting room, or dressing room; and -

25 (d) Unmanned aircraft means an aircraft, including an aircraft
26 commonly known as a drone, which is operated without the possibility of
27 direct human intervention from within or on the aircraft.

28 **Sec. 20.** Section 28-1205, Revised Statutes Supplement, 2025, is
29 amended to read:

30 28-1205 (1)(a) Any person who uses a firearm, a knife, brass or iron
31 knuckles, or any other deadly weapon to commit any felony which may be

1 prosecuted in a court of this state commits the offense of use of a
2 deadly weapon to commit a felony.

3 (b) Use of a deadly weapon, other than a firearm, to commit a felony
4 is a Class II felony.

5 (c) Use of a deadly weapon, which is a firearm, to commit a felony
6 is a Class IC felony.

7 (2)(a) Any person who possesses a firearm, a knife, brass or iron
8 knuckles, or a destructive device during the commission of any felony
9 which may be prosecuted in a court of this state commits the offense of
10 possession of a deadly weapon during the commission of a felony.

11 (b) Possession of a deadly weapon, other than a firearm, during the
12 commission of a felony is a Class III felony.

13 (c) Possession of a deadly weapon, which is a firearm, during the
14 commission of a felony is a Class II felony.

15 (3)(a) Any person who carries a firearm or a destructive device
16 during the commission of a dangerous misdemeanor commits the offense of
17 carrying a firearm or destructive device during the commission of a
18 dangerous misdemeanor.

19 (b) A violation of this subsection is a:

20 (i) Class I misdemeanor for a first or second offense; and

21 (ii) A Class IV felony for any third or subsequent offense.

22 (4) A violation of this section shall be treated as a separate and
23 distinct offense from the underlying crimes being committed, and a
24 sentence imposed under this section shall be consecutive to any other
25 sentence imposed.

26 (5) Possession of a deadly weapon may be proved through evidence
27 demonstrating either actual or constructive possession of a firearm, a
28 knife, brass or iron knuckles, or a destructive device during,
29 immediately prior to, or immediately after the commission of a felony.

30 (6) For purposes of this section:

31 (a) Dangerous misdemeanor means a misdemeanor violation of any of

1 the following offenses:

2 ~~(i) Stalking under section 28-311.03;~~

3 (i) ~~(ii)~~ Knowing violation of any protection order issued under the
4 Protection Orders Act;

5 (ii) ~~(iii)~~ Domestic assault under section 28-323;

6 (iii) ~~(iv)~~ Assault of an unborn child in the third degree under
7 section 28-399;

8 (iv) ~~(v)~~ Theft by shoplifting under section 28-511.01;

9 (v) ~~(vi)~~ Unauthorized use of a propelled vehicle under section
10 28-516;

11 (vi) ~~(vii)~~ Criminal mischief under section 28-519 if such violation
12 arises from an incident involving the commission of a misdemeanor crime
13 of domestic violence;

14 (vii) ~~(viii)~~ Impersonating a police officer under section 28-610;

15 (viii) ~~(ix)~~ Resisting arrest under section 28-904;

16 (ix) ~~(x)~~ Operating a motor vehicle or vessel to avoid arrest under
17 section 28-905;

18 (x) ~~(xi)~~ Obstructing a peace officer under section 28-906; or

19 (xi) ~~(xii)~~ Any attempt under section 28-201 to commit an offense
20 described in subdivisions (6)(a)(i) through (x) ~~(xi)~~ of this section;

21 (b) Destructive device has the same meaning as in section 28-1213;

22 (c) Misdemeanor crime of domestic violence has the same meaning as
23 in section 28-1206; and

24 (d) Use of a deadly weapon includes the discharge, employment, or
25 visible display of any part of a firearm, a knife, brass or iron
26 knuckles, any other deadly weapon, or a destructive device during,
27 immediately prior to, or immediately after the commission of a felony or
28 communication to another indicating the presence of a firearm, a knife,
29 brass or iron knuckles, any other deadly weapon, or a destructive device
30 during, immediately prior to, or immediately after the commission of a
31 felony, regardless of whether such firearm, knife, brass or iron

1 knuckles, deadly weapon, or destructive device was discharged, actively
2 employed, or displayed.

3 **Sec. 21.** Section 28-1206, Revised Statutes Supplement, 2025, is
4 amended to read:

5 28-1206 (1) A person commits the offense of possession of a deadly
6 weapon by a prohibited person if he or she:

7 (a) Possesses a firearm, a knife, or brass or iron knuckles and he
8 or she:

9 (i) Has previously been convicted of a felony;

10 (ii) Is a fugitive from justice;

11 (iii) Is the subject of a current and valid protection order issued
12 under the Protection Orders Act or a current and valid foreign protection
13 order recognized under section 26-123 or 26-124 and is knowingly
14 violating such order; or

15 (iv) Is on probation pursuant to a deferred judgment for a felony
16 under section 29-2292 or 29-4803; or

17 (b) Possesses a firearm or brass or iron knuckles and he or she has
18 been convicted within the past seven years of a misdemeanor crime of
19 domestic violence.

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

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

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

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

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

30 (b) If in possession of a recreational license, possession of a
31 knife for purposes of butchering, dressing, or otherwise processing or

1 harvesting game, fish, or furs.

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

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

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

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

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

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

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

22 ~~(ii) (iii) False imprisonment in the second degree under section~~
23 ~~28-315;~~

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

26 ~~(iv) (v) Any attempt or conspiracy to commit any of such offenses.~~

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

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

31 (ii) In the case of a prosecution for a misdemeanor crime of

1 domestic violence for which a person was entitled to a jury trial in the
2 jurisdiction in which the case was tried, either:

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

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

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

7 (a) Archery equipment means:

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

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

12 (b) Recreational license means a state-issued license, certificate,
13 registration, permit, tag, sticker, or other similar document or
14 identifier evidencing permission to hunt, fish, or trap for furs in the
15 State of Nebraska.

16 **Sec. 22.** (1) For purposes of this section:

17 (a) Restricted area means an area of airspace within the state that:

18 (i) The Federal Aviation Administration has determined to be a
19 restricted area, either by way of a Notice to Airmen, Temporary Flight
20 Restriction, No Drone Zone, or other means; or

21 (ii) Is classified as a Class B, C, or D airspace by the Federal
22 Aviation Administration, as such classifications existed on January 1,
23 2026; and

24 (b) Unmanned aircraft means an aircraft, including an aircraft
25 commonly known as a drone, which is operated without the possibility of
26 direct human intervention from within or on the aircraft.

27 (2) Anyone who launches, operates, or causes to be launched or
28 operated, any unmanned aircraft system within the state shall present,
29 immediately upon request by any peace officer, a current certificate of
30 aircraft registration issued by the Federal Aviation Administration or a
31 registered identification number for the unmanned aircraft system.

1 (3) Except as provided in subsection (4) of this section, no person
2 shall launch, operate, or cause to be launched or operated, any unmanned
3 aircraft system in any restricted area unless such person:

4 (a) Has received approval from the Federal Aviation Administration
5 to operate an unmanned aircraft system in the restricted area and is
6 complying with all terms and conditions of such approval; and

7 (b) Prior to such operation, the person has notified all state,
8 county, and municipal law enforcement agencies with jurisdiction in the
9 area that the person will be operating an unmanned aircraft in the
10 restricted area and that such person has approval from the Federal
11 Aviation Administration for such operation.

12 (4) Subsection (3) of this section does not apply to commercial
13 operation of an unmanned aircraft system when:

14 (a) The operator holds a remote pilot certificate from the Federal
15 Aviation Administration under 14 C.F.R. part 107;

16 (b) The unmanned aircraft does not enter any restricted area
17 described in subdivision (1)(a)(i) of this section; and

18 (c) The operator has received approval for such operation from the
19 Federal Aviation Administration.

20 (5) A violation of this section is a Class III misdemeanor.

21 **Sec. 23.** (1) A person commits the offense of swatting if such
22 person:

23 (a) Knowingly makes, causes to be made, or directs a false or
24 misleading report of criminal activity or a need for emergency medical
25 services or assistance from firefighters;

26 (b) Such report is made to a law enforcement agency, public safety
27 answering point, or any other emergency response organization;

28 (c) The person knows or reasonably should know the report is false
29 or misleading; and

30 (d) The report results in the dispatch of law enforcement,
31 firefighters, or emergency response personnel.

1 (2) An offense under this section may be committed by any means of
2 communication, including, but not limited to, direct communication,
3 electronic communication, communication through a third party, or the use
4 of automated or digital systems.

5 (3)(a) Except as otherwise provided in this subsection, a violation
6 of this section is a Class I misdemeanor.

7 (b) A violation of this section is a Class II felony if the
8 violation proximately:

9 (i) Results in serious bodily injury to any person; or

10 (ii) Causes a law enforcement officer to deploy or threaten to
11 deploy deadly force.

12 (c) A violation of this section is a Class IB felony if the
13 violation proximately results in the death of any person, including any
14 law enforcement or emergency response personnel.

15 (4) Upon conviction for a violation of this section, the court
16 shall, in addition to any other punishment imposed, order the defendant
17 to make restitution, in accordance with sections 29-2280 to 29-2289, for
18 all reasonable costs incurred by any victim of the offense and by any
19 government entity as a result of the violation. Such expenses include,
20 but are not limited to, law enforcement, firefighting, and emergency
21 response personnel costs, tactical or specialized unit deployment,
22 medical treatment, and property damage.

23 (5) A violation of this section may be prosecuted in the county:

24 (a) In which the defendant made the false report;

25 (b) In which the recipient of the false report is located;

26 (c) Where the recipient responded to the false report; or

27 (d) Where the harm or risk of harm caused by the violation occurred.

28 (6) For purposes of this section:

29 (a) Law enforcement agency has the same meaning as in section
30 81-1401; and

31 (b) Public safety answering point has the same meaning as in section

1 86-1052.

2 **Sec. 24.** Section 29-2204.02, Reissue Revised Statutes of Nebraska,
3 is amended to read:

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

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

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

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

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

17 ~~(b) The defendant has been deemed a habitual criminal pursuant to~~
18 ~~section 29-2221; or~~

19 ~~(c) There are substantial and compelling reasons why the defendant~~
20 ~~cannot effectively and safely be supervised in the community, including,~~
21 ~~but not limited to, the criteria in subsections (2) and (3) of section~~
22 ~~29-2260. Unless other reasons are found to be present, that the offender~~
23 ~~has not previously succeeded on probation is not, standing alone, a~~
24 ~~substantial and compelling reason.~~

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

29 (2) ~~(4)~~ For any sentence of imprisonment for a Class III, IIIA, or
30 IV felony for an offense committed on or after August 30, 2015, imposed
31 consecutively or concurrently with (a) a sentence for a Class III, IIIA,

1 or IV felony for an offense committed prior to August 30, 2015, or (b) a
2 sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA
3 felony, the court shall impose an indeterminate sentence within the
4 applicable range in section 28-105 that does not include a period of
5 post-release supervision, in accordance with the process set forth in
6 section 29-2204.

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

16 (4) ~~(6)~~ If the defendant was under eighteen years of age at the time
17 he or she committed the crime for which he or she was convicted, the
18 court may, in its discretion, instead of imposing the penalty provided
19 for the crime, make such disposition of the defendant as the court deems
20 proper under the Nebraska Juvenile Code.

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

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

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

29 (iii) When imposing a sentence following revocation of post-release
30 supervision, advise the offender on the record the time the offender will
31 serve on his or her term of imprisonment, including credit for time

1 served, assuming that no good time for which the offender will be
2 eligible is lost.

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

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

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

14 **Sec. 25.** Section 29-2308, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 29-2308 (1) In all criminal cases that now are or may hereafter be
17 pending in the Court of Appeals or Supreme Court, the appellate court may
18 reduce the sentence rendered by the district court against the accused
19 when in its opinion the sentence is excessive, and it shall be the duty
20 of the appellate court to render such sentence against the accused as in
21 its opinion may be warranted by the evidence.

22 (2) No judgment shall be set aside, new trial granted, or judgment
23 rendered in any criminal case on the grounds of misdirection of the jury
24 or the improper admission or rejection of evidence or for error as to any
25 matter of pleading or procedure if the appellate court, after an
26 examination of the entire cause, considers that no substantial
27 miscarriage of justice has actually occurred.

28 ~~(2) In all criminal cases based on offenses subject to determinate~~
29 ~~sentencing under subsection (2) of section 29-2204.02, the appellate~~
30 ~~court may determine that a sentence is excessive because the district~~
31 ~~court did not provide substantial and compelling reasons for imposing a~~

1 ~~sentence other than probation.~~

2 **Sec. 33.** Section 29-4103, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 29-4103 For purposes of the DNA Identification Information Act:

5 (1) Combined DNA Index System means the Federal Bureau of
6 Investigation's national DNA identification index system that allows the
7 storage and exchange of DNA records submitted by state and local forensic
8 DNA laboratories;

9 (2) DNA means deoxyribonucleic acid which is located in the cells
10 and provides an individual's personal genetic blueprint. DNA encodes
11 genetic information that is the basis of human heredity and forensic
12 identification;

13 (3) DNA record means the DNA identification information stored in
14 the State DNA Database or the Combined DNA Index System which is derived
15 from DNA typing test results;

16 (4) DNA sample means a blood, tissue, or bodily fluid sample
17 provided by any person covered by the DNA Identification Information Act
18 for analysis or storage, or both;

19 (5) DNA typing tests means the laboratory procedures which evaluate
20 the characteristics of a DNA sample which are of value in establishing
21 the identity of an individual;

22 (6) Law enforcement agency includes a police department, a town
23 marshal, a county sheriff, and the Nebraska State Patrol;

24 (7) Other specified offense means:

25 ~~(a) False misdemeanor stalking pursuant to sections 28-311.02 to~~
26 ~~28-311.05 or false imprisonment in the second degree pursuant to section~~
27 ~~28-315; or~~

28 ~~(b) An attempt, conspiracy, or solicitation to commit any of the~~
29 ~~following offenses: False stalking pursuant to sections 28-311.02 to~~
30 ~~28-311.05, false imprisonment in the first degree pursuant to section~~
31 ~~28-314, false imprisonment in the second degree pursuant to section~~

1 28-315, knowing and intentional sexual abuse of a vulnerable adult or
2 senior adult pursuant to subdivision (1)(c) of section 28-386, or a
3 violation of the Sex Offender Registration Act pursuant to section
4 29-4011; and

5 (8) Released means any release, parole, furlough, work release,
6 prerelease, or release in any other manner from a prison, a jail, or any
7 other detention facility or institution.

8 **Sec. 43.** Section 84-941.01, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 84-941.01 Potentially disqualifying conviction includes a conviction
11 for:

12 (1) Criminal attempt as provided in section 28-201, conspiracy as
13 provided in section 28-202, or aiding and abetting as provided in section
14 28-206, to commit an offense listed in this section;

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

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

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

18 (5) Assault in the first or second degree as provided in sections
19 28-308 and 28-309;

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

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

22 (8) A violation relating to mobile tracking devices under section 13
23 of this act;

24 (9) ~~(8)~~ Kidnapping as provided in section 28-313;

25 (10) ~~(9)~~ False imprisonment as provided in sections 28-314 and
26 28-315;

27 (11) ~~(10)~~ A sexual act subject to criminal penalties as provided in
28 sections 28-317 to 28-322.05;

29 (12) ~~(11)~~ Domestic assault as provided in section 28-323;

30 (13) ~~(12)~~ Robbery as provided in section 28-324;

31 (14) ~~(13)~~ Arson as provided in sections 28-502, 28-503, and 28-504;

1 (15) ~~(14)~~ Fraud subject to criminal penalties as provided in
2 sections 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;

3 (16) ~~(15)~~ Theft as provided in sections 28-511, 28-512, 28-513, and
4 28-515;

5 (17) ~~(16)~~ Forgery as provided in sections 28-602 and 28-603;

6 (18) ~~(17)~~ Incest as provided in section 28-703;

7 (19) ~~(18)~~ Child abuse as provided in section 28-707;

8 (20) ~~(19)~~ Human trafficking, labor trafficking, sex trafficking,
9 labor trafficking of a minor, or sex trafficking of a minor as provided
10 in section 28-831;

11 (21) ~~(20)~~ False reporting as provided in section 28-907;

12 (22) Swatting under section 23 of this act;

13 (23) ~~(21)~~ Perjury as provided in section 28-915;

14 (24) ~~(22)~~ Assault on an officer, an emergency responder, certain
15 employees, or a health care professional in the first degree as provided
16 in section 28-929;

17 (25) ~~(23)~~ Assault on an officer, an emergency responder, certain
18 employees, or a health care professional in the second degree as provided
19 in section 28-930;

20 (26) ~~(24)~~ Assault on an officer, an emergency responder, certain
21 employees, or a health care professional in the third degree as provided
22 in section 28-931;

23 (27) ~~(25)~~ Assault on an officer, an emergency responder, certain
24 employees, or a health care professional using a motor vehicle as
25 provided in section 28-931.01;

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

31 (29) ~~(27)~~ An offense for which registration is required under the

1 Sex Offender Registration Act; or

2 ~~(30)~~ ~~(28)~~ Any offense under the laws of another jurisdiction that is
3 substantially equivalent to any of the offenses listed in this section.

4 **Sec. 44.** Section 86-2,103, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 86-2,103 (1) A district court may issue a warrant or other order for
7 the installation of a mobile tracking device, and such order may
8 authorize the use of that device within the jurisdiction of the court and
9 outside that jurisdiction if the device is installed in that
10 jurisdiction.

11 (2) For purposes of this section, mobile tracking device means any:

12 (a) Electronic an~~electronic~~ or mechanical device which permits the
13 tracking of the movement of a person or object; or -

14 (b) Software program installed on a person's electronic device which
15 permits the tracking of the movement of a person or object.

16 **Sec. 45.** Sections 35, 36, and 37 of this act become operative on
17 July 1, 2026. Sections 19, 26, 27, 28, 29, 30, 31, 32, 34, 39, and 47 of
18 this act become operative on January 1, 2027. Sections 1, 2, 3, 4, 5, 6,
19 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 33,
20 38, 42, 43, 44, and 48 of this act become operative three calendar months
21 after the adjournment of this legislative session. The other sections of
22 this act become operative on their effective date.

23 **Sec. 46.** If any section in this act or any part of any section is
24 declared invalid or unconstitutional, the declaration shall not affect
25 the validity or constitutionality of the remaining portions.

26 **Sec. 47.** Original section 29-4315, Revised Statutes Cumulative
27 Supplement, 2024, and sections 28-358.01 and 42-927, Revised Statutes
28 Supplement, 2025, are repealed.

29 **Sec. 48.** Original sections 7-203, 25-824, 25-1802, 25-1804, 27-804,
30 29-2204.02, 29-2308, 29-4103, 42-371, 84-941.01, and 86-2,103, Reissue
31 Revised Statutes of Nebraska, sections 28-311.08 and 59-1608.04, Revised

1 Statutes Cumulative Supplement, 2024, and sections 26-102, 26-114,
2 28-101, 28-311.02, 28-311.04, 28-1205, and 28-1206, Revised Statutes
3 Supplement, 2025, are repealed.

4 **Sec. 49.** Original sections 43-1409 and 43-1412.01, Reissue Revised
5 Statutes of Nebraska, are repealed.

6 **Sec. 50.** Since an emergency exists, this act takes effect when
7 passed and approved according to law.