

## LEGISLATIVE BILL 314

Approved by the Governor February 19, 1982

Introduced by Higgins, 9

AN ACT relating to public assistance; to amend section 71-1342, Reissue Revised Statutes of Nebraska, 1943, and section 68-703, Revised Statutes Supplement, 1981; to change provisions relating to the rules and regulations of the Director of Public Welfare; to exclude certain funeral payments from available resources; to provide for the creation of irrevocable trusts as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. The Director of Public Welfare shall, by rule and regulation, when determining need for public assistance on the basis of available resources, exclude from the definition of available resources all funds deposited in an irrevocable trust fund created pursuant to section 71-1342 for a prearranged funeral plan.

Sec. 2. That section 68-703, Revised Statutes Supplement, 1981, be amended to read as follows:

68-703. The powers and duties of the Director of Public Welfare are as follows:

(1) To administer the Department of Public Welfare as provided by law;

(2) To determine the general principles and outline the operation of public assistance, child welfare, and related activities;

(3) To establish rules and regulations which are in conformance with section 1 of this act for efficiently administering the department and performing the duties assigned to it;

(4) To organize the department;

(5) To appoint and fix the salaries of all necessary staff for performance of the duties of the department and in compliance with the rules and regulations of the merit system;

(6) To consult and cooperate with the Department of Public Institutions and the Department of Correctional Services so as to coordinate in an effective manner the

welfare activities of the department with those related activities affecting the welfare of persons in state institutions which are the responsibility of the Department of Public Institutions or the Department of Correctional Services;

(7) To consult and, under the general direction and guidance of the Adjutant General and the state Civil Defense Agency, to coordinate programs to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster;

(8) To take the official oath;

(9) To make such studies and reports as may be deemed necessary; and

(10) To provide such supervisory services as may be required to determine that county departments of public welfare are fulfilling their administrative duties in compliance with the statutes of Nebraska and state regulation.

The director shall be bonded under the blanket surety bond required by section 11-201.

Sec. 3. That section 71-1342, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1342. (1) (a) Whenever any person, referred to in this section as the depositor, makes an agreement with a funeral director, funeral firm, cemetery organization, or any person or organization referred to in this section as the beneficiary, for the final disposition of the body of a person referred to in this section as the potential decedent, wherein the use of personal property, under a prearranged funeral plan or the furnishing of services of a funeral director or embalmer in connection therewith is not immediately required, all payments made under the agreement, including interest and dividends, if any, shall be and remain trust funds until occurrence of the death of the potential decedent, unless the funds are sooner released upon demand to the depositor, after written notice to the beneficiary.

(b) Notwithstanding the provisions of subdivision (a) of this subsection, such agreements may be made irrevocable as to the first three thousand dollars of the funds paid under the agreement by each depositor.



(c) Any interest or dividends accruing to an irrevocable trust fund may be made irrevocable.

(d) Any depositor who makes an irrevocable agreement pursuant to this section may designate a different beneficiary at any time prior to death, after written notice to the current beneficiary.

(e) Nothing in this section shall prevent the sale and delivery of cemetery lots, graves, crypts, niches, columbaria or grave or lot markers or monuments before their use is required, or prepayment of cremation and interment fees.

(2) All such trust funds shall be deposited with a bank or trust company within the state whose deposits are insured by the Federal Deposit Insurance Corporation or invested in a savings and loan association within the state whose shares are insured by the Federal Savings and Loan Insurance Corporation and shall be held in a separate account in the name of the depositor in trust for the beneficiary until the trust fund is released under either of the conditions provided in ~~subsection (1)~~ subdivision (1) (a) of this section. In the event of the death of the depositor before the death of the potential decedent, title to such funds shall vest in the potential decedent, and the funds shall be used for the personal property and services to be furnished under the contract for the funeral of the potential decedent. The depositor shall be furnished with a copy of the receipts, certificates, or other appropriate documentary evidence showing that the funds have been deposited or invested in accordance with this section. The depositor or the beneficiary shall furnish the bank, trust company, or savings and loan association with a copy of the contract. Upon receipt of a certified copy of the certificate of death of the potential decedent, together with the written statement of the beneficiary that the agreement was complied with, the bank, trust company, or savings and loan association shall release such trust funds to the beneficiary.

Sec. 4. That original section 71-1342, Reissue Revised Statutes of Nebraska, 1943, and section 68-703, Revised Statutes Supplement, 1981, are repealed.

## LEGISLATIVE BILL 347

Approved by the Governor February 9, 1982

Introduced by Law Enforcement and Justice Advisory Committee, Nichol, 48, Chpn.; Beyer, 3; Pirsch, 10; Chronister, 18; Sieck, 24

AN ACT relating to crimes and punishments; to amend sections 18-301, 18-305 to 18-308, 18-312, 28-309, 28-518, 28-519, 28-707, 28-708, and 28-907, Reissue Revised Statutes of Nebraska, 1943; to harmonize penalty provisions with the Nebraska Criminal Code; to prohibit certain acts; to define and redefine offenses; to provide penalties; to eliminate obsolete offenses relating to streetcars; and to repeal the original sections, and also sections 18-303 and 18-304, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 18-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-301. Except as provided in section 70-624.04, any officer of any city or village in this state who shall be interested, directly or indirectly, in any contract to which the city or village is a party, or who shall enter into any contract to furnish or shall furnish to any contractor or subcontractor with a city or village of which he or she is an officer, any material to be used in performing any contract with such city or village, when the consideration of either of such type of contract is for more than ten thousand dollars in any one year, shall ~~upon conviction thereof, be fined in any sum not less than one thousand dollars nor more than five thousand dollars~~ be guilty of a Class I misdemeanor; Provided, the receiving of deposits, cashing of checks, and buying and selling warrants and bonds of indebtedness of any city or village of this state by a financial institution shall not be considered a contract under the provisions of this section; and provided further, that ownership of less than one per cent of the outstanding stock of any one class shall not constitute an interest, direct or indirect, within the meaning of this section. No contract may be divided for the purpose of evading the requirements of this section.

Sec. 2. That section 18-305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:



18-305. It shall be unlawful for any telephone company to furnish to any officer of any city or village in this state, whether such officer be elective or appointive, a telephone free of charge, or for a price less than is charged other customers for similar service, or for any such officer to accept such telephone or telephone service free of charge, or at a less price than shall be charged to other customers for similar service. Any violation of this section by a telephone company shall be ~~punished by a fine of not less than one hundred dollars nor more than five hundred dollars~~ a Class III misdemeanor, and the officer or agent of any such telephone company acting or assisting in such violation shall be ~~punished by imprisonment in the county jail not less than thirty days nor more than six months~~ guilty of a Class III misdemeanor. Any violation of this section by any officer of any such city or village shall ~~subject him to a fine of not less than one hundred dollars and not more than five hundred dollars, and to imprisonment in the county jail for a period of not more than ninety days~~ be a Class III misdemeanor; and he or she shall upon conviction forfeit the office held by him or her at the time of committing such offense.

Sec. 3. That section 18-306, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-306. It shall be unlawful for any person, partnership, or corporation, engaged in furnishing in any city or village in this state, artificial light, such as electric light, gas light, or light from oil, to furnish light to any officer, either elective or appointive, in any city or village wherein such person, partnership, or corporation is engaged in furnishing such lights, free or for a less price than is charged other customers in such city or village for similar services. Any violation of this section shall ~~be punished as follows:--if such violation is by a person or partnership engaged in the lighting business, by a fine of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment of the person or individuals composing such partnership in the county jail for a period of not less than thirty days nor more than ninety days;--if such violation is by a corporation it shall be punished by a fine of not less than two hundred dollars nor more than six hundred dollars;--Provided,--each~~ is a Class III misdemeanor. Each day any service is furnished or accepted in violation of this section shall be considered as a separate offense and punished accordingly.

Sec. 4. That section 18-307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

18-307. If any officer, either elective or appointive in any city or village in this state, shall accept free of charge, or for a price less than is charged other customers for similar services in such city or village, any light or lights from any lighting company, or services from any such lighting company, or from any person or partnership so engaged, such officer shall, upon conviction, be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and be imprisoned in the county jail for a period of not less than thirty days, nor more than ninety days; he is guilty of a Class III misdemeanor and shall moreover also forfeit the office held by him or her at the date of such offense.

Sec. 5. That section 18-308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-308. Any water company engaged in furnishing water in any city or village in this state, and any person, corporation, or partnership engaged in such services, who shall furnish to any officer, either elective or appointive, in such city or village, water free of charge, or for a price less than is at the time charged for similar service to other customers in such city or village, shall be deemed guilty of a Class III misdemeanor. In case the offender is a corporation, for each day such service is so furnished in violation hereof, it shall forfeit and pay a fine of not less than two hundred dollars nor more than six hundred dollars. In case the offender is a person or partnership, he or they shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment in the county jail for not less than thirty days nor more than ninety days. If any officer in any such city or village shall accept free of charge, or for a price less than is charged to other customers in such city or village, any of the services mentioned in this section, such officer shall be deemed guilty of a Class III misdemeanor, and, upon conviction, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, and by imprisonment in the county jail for a period of not less than thirty days nor more than ninety days, and shall moreover also forfeit the office held by him or her at the date of such violation. ; Provided, each Each day such service or services shall be furnished or accepted in violation of this section shall constitute a separate and distinct offense, and be punished accordingly.



Sec. 6. That section 18-312, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-312. Any person, firm, or corporation that shall violate any of the provisions of sections 18-310 to 18-312 shall be deemed guilty of a Class V misdemeanor, ~~and, upon conviction thereof, shall be fined in a sum not less than ten dollars nor more than one hundred dollars, and in the case of a person may be committed to jail until the fine and costs are paid.~~

Sec. 7. That section 28-309, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-309. (1) A person commits the offense of assault in the second degree if he or she:

(a) Intentionally or knowingly causes bodily injury to another person with a dangerous instrument; ~~or~~

(b) Recklessly causes serious bodily injury to another person with a dangerous instrument; or ;

(c) While during confinement or in legal custody of the Department of Correctional Services or in any county jail, unlawfully strikes or wounds another.

(2) Assault in the second degree shall be a Class IV felony.

Sec. 8. That section 28-518, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-518. (1) Theft constitutes a Class III felony when the value of the thing involved is over one thousand dollars.

(2) Theft constitutes a Class IV felony when the value of the thing involved is three hundred dollars or more, but not over one thousand dollars.

(3) Theft constitutes a Class I misdemeanor when the value of the thing involved is more than one hundred dollars, but less than three hundred dollars.

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

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

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

Sec. 9. That section 28-519, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-519. (1) A person commits criminal mischief if he or she:

(a) Damages property of another intentionally or recklessly; or

(b) Intentionally ~~or--recklessly~~ tampers with property of another so as to endanger person or property; or

(c) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

(2) Criminal mischief is a Class IV felony if the actor intentionally causes pecuniary loss in excess of three hundred dollars, or a substantial interruption or impairment of public communication, transportation, supply of water, gas or power, or other public service.

(3) Criminal mischief is a Class II misdemeanor if the actor intentionally causes pecuniary loss in excess of one hundred dollars.

(4) Criminal mischief is a Class III misdemeanor if the actor intentionally or recklessly causes pecuniary loss in an amount of one hundred dollars or less, or if his or her action results in no pecuniary loss.

Sec. 10. That section 28-707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-707. (1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

(a) Placed in a situation that endangers his or her life or health; or



(b) Cruelly confined or cruelly punished; or

(c) Deprived of necessary food, clothing, shelter, or care.

(2) The statutory privilege between patient and physician and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently.

(4) Child abuse is a Class IV felony if the offense is committed knowingly and intentionally.

Sec. 11. That section 28-708, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-708. (1) A person commits abuse of an incompetent or disabled person if he or she knowingly, intentionally, or negligently causes or permits an incompetent person or a disabled person to be:

(a) Placed in a situation that endangers his or her life or health; or

(b) Cruelly confined or cruelly punished; or

(c) Deprived of necessary food, clothing, shelter, or care.

(2) The statutory privilege between patient and physician and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Abuse of an incompetent or disabled person is a Class I misdemeanor if the offense is committed negligently.

(4) Abuse of an incompetent or disabled person is a Class IV felony if the offense is committed knowingly and intentionally.

Sec. 12. That section 28-907, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-907. (1) A person commits the offense of false reporting if he or she:

(a) Furnishes information he or she knows to be false to any peace officer or other official with the intent to instigate an investigation of an alleged criminal matter or to impede the investigation of an actual criminal matter; or

(b) Furnishes information he or she knows to be false alleging the existence of an emergency in which human life or property are in jeopardy to any hospital, ambulance company, or other person or governmental agency which deals with emergencies involving danger to life or property; or

(c) Furnishes any information, or causes such information to be furnished or conveyed by electric, electronic, telephonic, or mechanical means, knowing the same to be false concerning the need for assistance of a fire department or any personnel or equipment of such department; or

~~(e)~~ (d) Furnishes any information he or she knows to be false concerning the location of any explosive in any building or other property to any person.

(2) False reporting is a Class I misdemeanor.

Sec. 13. That original sections 18-301, 18-305 to 18-308, 18-312, 28-309, 28-518, 28-519, 28-707, 28-708, and 28-907, Reissue Revised Statutes of Nebraska, 1943, and also sections 13-303 and 18-304, Reissue Revised Statutes of Nebraska, 1943, are repealed.