

AMENDMENTS TO LB 1113

Introduced by Judiciary Committee:

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

3 Section 1. (1) The purpose of sections 1 to 12 of this
4 act is to protect foreign national minors or minors holding dual
5 citizenship within the State of Nebraska.

6 (2) The Legislature recognizes that:

7 (a) Foreign national minors and minors holding dual
8 citizenship are essential to the maintenance of their culture,
9 traditions, and values;

10 (b) The governments of foreign countries have a duty to
11 care for the interests of their nationals and citizens abroad,
12 particularly foreign national minors and minors holding dual
13 citizenship;

14 (c) The governments of foreign countries have the right
15 to information and access in all cases involving minors who are
16 children of foreign nationals and minors holding dual citizenship;
17 and

18 (d) The state should be able to identify foreign national
19 minors and minors holding dual citizenship and their families in
20 order to provide services for them.

21 Sec. 2. For purposes of sections 1 to 12 of this act:

22 (1) Agency means the agency in a foreign country charged
23 with ensuring the welfare of minors who are nationals of that

1 country or who hold dual citizenship in that country and the United
2 States;

3 (2) Custodian means the nonparental caretaker of a
4 foreign national minor or minor holding dual citizenship who
5 has been entrusted by the parent of the minor with the day-to-day
6 care of the minor;

7 (3) Department means the Department of Health and Human
8 Services;

9 (4) Foreign national minor means an unmarried person who
10 is under the age of eighteen years and was born in a country other
11 than the United States; and

12 (5) Minor holding dual citizenship means an unmarried
13 person who is under the age of eighteen years and who holds
14 citizenship simultaneously in the United States and one other
15 country.

16 Sec. 3. The department, in conjunction with the
17 appropriate consulate, shall provide a method of early
18 identification of foreign national minors and minors holding dual
19 citizenship and their families in order to provide services which
20 assure all the protections afforded by all applicable treaties and
21 laws.

22 Sec. 4. (1) When a court makes a minor a ward of the
23 department, the department shall determine whether the minor is
24 a foreign national minor or a minor holding dual citizenship. If
25 such minor is a foreign national minor or a minor holding dual
26 citizenship, the department shall provide such minor and his or her
27 parent or custodian with the following information:

1 (a) Written information in English and the minor's native
2 language, explaining the juvenile court process and the rights of
3 the minor and his or her parents or custodian; and

4 (b) The address and telephone number of the nearest
5 consulate serving the minor.

6 (2) The department shall notify the appropriate consulate
7 in writing within ten working days after (a) the initial date the
8 department takes custody of a foreign national minor or a minor
9 holding dual citizenship or the date the department learns that
10 a minor in its custody is a foreign national minor or a minor
11 holding dual citizenship, whichever occurs first, (b) the parent of
12 a foreign national minor or a minor holding dual citizenship has
13 requested that the consulate be notified, or (c) the department
14 determines that a noncustodial parent of a foreign national minor
15 or a minor holding dual citizenship in its custody resides in the
16 country represented by the consulate.

17 (3) The department shall provide the consulate with the
18 name and date of birth of the foreign national minor or the
19 minor holding dual citizenship, the name of his or her parent or
20 custodian, and the name and telephone number of the departmental
21 caseworker directly responsible for the case.

22 (4) If the consulate needs additional specific
23 information regarding the case of the foreign national minor or
24 the minor holding dual citizenship, the consulate may contact the
25 department and the department may release any information not
26 required to be kept confidential under the Nebraska Juvenile Code
27 or other state or federal statutes.

1 Sec. 5. A consular representative may interview a foreign
2 national minor or minor holding dual citizenship who is a
3 citizen of the country represented by the consulate. The consular
4 representative shall contact the department to arrange for an
5 interview of a foreign national minor or a minor holding dual
6 citizenship.

7 Sec. 6. If a court makes a foreign national minor or a
8 minor holding dual citizenship a ward of the department and the
9 minor has become eligible for special immigrant juvenile status as
10 defined in 8 U.S.C. 1101(a)(27)(J), the consulate will assist the
11 department in obtaining the necessary documentation for completion
12 of the application for special immigrant juvenile status.

13 Sec. 7. The department may obtain a birth certificate
14 from the appropriate country for a foreign national minor or a
15 minor holding dual citizenship in the custody of the department.
16 The department may request the assistance of the consulate in
17 obtaining the necessary documentation to complete the application
18 for a birth certificate under this section.

19 Sec. 8. (1) Upon notification to a consulate pursuant
20 to section 4 of this act, the department shall request that the
21 consulate obtain through the agency the appropriate home studies of
22 potential families in such country who may be involved in the case
23 and forward the information to the departmental caseworker directly
24 responsible for the case.

25 (2) When a foreign national minor is placed in his or
26 her country or a minor holding dual citizenship is placed in the
27 country other than the United States in which he or she holds

1 citizenship, the department shall take all steps necessary to
2 obtain the cooperation of the consulate and the agency to ensure
3 the minor's welfare and provide whatever services are needed. The
4 department shall request copies of the monitoring reports prepared
5 by the agency concerning the welfare of the minor.

6 Sec. 9. The department will request the cooperation of
7 the appropriate consulate in order to notify a person who resides
8 in a foreign country and is required to appear in a court in this
9 state regarding the case of a foreign national minor or a minor
10 holding dual citizenship.

11 Sec. 10. The Director of Health and Human Services or his
12 or her designee shall meet as necessary with consular officials to
13 discuss, clarify, and coordinate activities, ideas and concerns of
14 a high-profile nature, timely media attention, and joint prevention
15 efforts regarding the protection and well-being of foreign national
16 minors and minors holding dual citizenship and families.

17 Sec. 11. The department may adopt and promulgate rules
18 and regulations to carry out sections 1 to 10 of this act.

19 Sec. 12. Nothing in sections 1 to 11 of this act shall
20 be construed as a waiver of immunities to which a consulate and
21 its consular agents are entitled under international law, the
22 Foreign Sovereign Immunities Act of 1976, 28 U.S.C. 1602 et seq.,
23 and international treaties in force between the United States and
24 foreign countries.

25 Sec. 13. Section 2-3202, Revised Statutes Cumulative
26 Supplement, 2004, is amended to read:

27 2-3202 For purposes of Chapter 2, article 32, and section

1 14 of this act, unless the context otherwise requires:

2 (1) Commission means the Nebraska Natural Resources
3 Commission;

4 (2) Natural resources district or district means a
5 natural resources district operating pursuant to Chapter 2, article
6 32;

7 (3) Board means the board of directors of a district;

8 (4) Director means a member of the board;

9 (5) Other special-purpose districts means rural
10 water districts, drainage districts, reclamation districts, and
11 irrigation districts;

12 (6) Manager means the chief executive hired by a majority
13 vote of the board to be the supervising officer of the district;
14 and

15 (7) Department means the Department of Natural Resources.

16 Sec. 14. (1) The district shall ensure that any water
17 project guarantees to the public access for recreational use at
18 designated access points. Recreational users, whether public or
19 private, shall abide by all applicable rules and regulations for
20 use of the water project adopted and promulgated by the district
21 or the political subdivision in which the water project is located.
22 Public recreational users may only access the water project through
23 such designated access points.

24 (2) For purposes of this section, water project means
25 a project authorized in section 2-3235 and designed and built on
26 and after the effective date of this act that (a) includes the
27 construction of a reservoir greater than one hundred fifty acres

1 of permanent pool or results in the construction, enlargement,
2 extension, or improvement of any stream of drainage or system of
3 control of surface water that results in a permanent pool greater
4 than one hundred fifty acres and (b) creates significant new
5 recreational benefits for the reservoir, stream, or surface water.
6 Water project does not include conservation and land-use projects
7 that do not create significant new recreational benefits.

8 Sec. 15. Section 2-3290, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 2-3290 A Except as otherwise provided in section 14 of
11 this act, a district which owns, leases, or has an easement on land
12 may allow the land to be used by the public for recreational
13 purposes and may adopt and promulgate rules and regulations
14 governing the use of such land as provided in sections 2-3292
15 to 2-32,100 unless the district does not have the right to use such
16 land for recreational purposes. For purposes of sections 2-3234.01
17 and 2-3290 to 2-32,101, unless the context otherwise requires,
18 recreation area shall mean land owned or leased by a district, or
19 on which a district has an easement, which the district authorizes
20 to be used by the public for recreational purposes.

21 In addition to the authority provided in section 2-3292
22 to establish and collect fees, a district may establish and collect
23 permit fees for public access to such land.

24 Sec. 16. Section 2-3296, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 2-3296 (1) A Except as otherwise provided in section
27 14 of this act, a district may permit and regulate swimming,

1 bathing, boating, wading, waterskiing, the use of any floatation
2 device, or any other water-related recreational activity in all
3 or any portion of a recreation area and may provide for special
4 conditions to apply to specific swimming, bathing, boating, wading,
5 or waterskiing areas. Any special conditions shall be posted on
6 appropriate signs in the areas to which they apply.

7 (2) Any person who swims, bathes, boats, wades,
8 water-skis, uses any floatation device, or engages in any other
9 water-related recreational activity in a recreation area when not
10 permitted by a district shall be guilty of a Class V misdemeanor.

11 Sec. 17. Section 2-3297, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 2-3297 (1) A district may provide for the protection,
14 use, or removal of any public real or personal property in a
15 recreation area and may regulate or prohibit the construction
16 or installation of any privately owned structure in a recreation
17 area. A Except as otherwise provided in section 14 of this act,
18 a district may close all or any portion of a recreation area to
19 any form of public use or access with the erection of appropriate
20 signs, without the adoption and promulgation of formal written
21 rules and regulations.

22 (2) Any person who, without the permission of the
23 district, damages, destroys, uses, or removes any public real
24 or personal property in a recreation area, constructs or installs
25 any privately owned structure in a recreation area, or enters
26 or remains upon all or any portion of a recreation area when
27 appropriate signs or public notices prohibiting such activity have

1 been erected or displayed shall be guilty of a Class V misdemeanor.

2 Sec. 18. Section 18-1755, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 18-1755 A city of the metropolitan, primary, first, or
5 second class or village acquiring an interest in real property by
6 purchase or eminent domain shall do so only after the governing
7 body has authorized the acquisition by action taken in a public
8 meeting after notice and public hearing. The city or village shall
9 guarantee to the public a right of access for recreational use to
10 the real property acquired for public purposes. Such access shall
11 be at designated access points. The right of access granted to the
12 public for recreational use shall meet or exceed such right held by
13 a private landowner adjacent to the real property.

14 Sec. 19. Section 20-504, Revised Statutes Cumulative
15 Supplement, 2004, is amended to read:

16 20-504 (1) On or before January 1, 2002, the Nebraska
17 State Patrol, the county sheriffs, all city and village police
18 departments, and any other law enforcement agency in this state
19 shall adopt a written policy that prohibits the detention of any
20 person or a motor vehicle stop when such action is motivated by
21 racial profiling and the action would constitute a violation of the
22 civil rights of the person.

23 (2) With respect to a motor vehicle stop, on and after
24 January 1, 2002, and until January 1, ~~2006~~ 2010, the Nebraska
25 State Patrol, the county sheriffs, all city and village police
26 departments, and any other law enforcement agency in this state
27 shall record and retain the following information using the form

1 developed and promulgated pursuant to section 20-505:

2 (a) The number of motor vehicle stops;

3 (b) The characteristics of race or ethnicity of the
4 person stopped. The identification of such characteristics shall
5 be based on the observation and perception of the law enforcement
6 officer responsible for reporting the motor vehicle stop and the
7 information shall not be required to be provided by the person
8 stopped;

9 (c) If the stop is for a law violation, the nature of the
10 alleged law violation that resulted in the motor vehicle stop;

11 (d) Whether a warning or citation was issued, an arrest
12 made, or a search conducted as a result of the motor vehicle stop.
13 Search does not include a search incident to arrest or an inventory
14 search; and

15 (e) Any additional information that the Nebraska
16 State Patrol, the county sheriffs, all city and village police
17 departments, or any other law enforcement agency in this state, as
18 the case may be, deems appropriate.

19 (3) The Nebraska Commission on Law Enforcement and
20 Criminal Justice may develop a uniform system for receiving
21 allegations of racial profiling. The Nebraska State Patrol, the
22 county sheriffs, all city and village police departments, and
23 any other law enforcement agency in this state shall provide
24 to the commission (a) a copy of each allegation of racial
25 profiling received and (b) written notification of the review
26 and disposition of such allegation. No information revealing the
27 identity of the law enforcement officer involved in the stop shall

1 be used, transmitted, or disclosed in violation of any collective
2 bargaining agreement provision or personnel rule under which such
3 law enforcement officer is employed. No information revealing
4 the identity of the complainant shall be used, transmitted, or
5 disclosed in the form alleging racial profiling.

6 (4) Any law enforcement officer who in good faith records
7 information on a motor vehicle stop pursuant to this section
8 shall not be held civilly liable for the act of recording
9 such information unless the law enforcement officer's conduct
10 was unreasonable or reckless or in some way contrary to law.

11 (5) On or before October 1, 2002, and annually thereafter
12 until January 1, ~~2006~~ 2010, the Nebraska State Patrol, the county
13 sheriffs, all city and village police departments, and all other
14 law enforcement agencies in this state shall provide to the
15 commission, in such form as the commission prescribes, a summary
16 report of the information recorded pursuant to subsection (2) of
17 this section.

18 (6) On and after January 1, 2002, and until April
19 1, ~~2006~~ 2010, the commission may, within the limits of its
20 existing appropriations, provide for a review of the prevalence
21 and disposition of motor vehicle stops based on racial profiling
22 and allegations reported pursuant to this section. The results of
23 such review shall be reported annually to the Governor and the
24 Legislature beginning on or before April 1, 2004, until April 1,
25 ~~2006~~ 2010.

26 Sec. 20. Section 28-311.02, Revised Statutes Cumulative
27 Supplement, 2004, is amended to read:

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

8 (2) For purposes of sections 28-311.02 to 28-311.05,
9 28-311.09, and 28-311.10:

10 (a) Harass means to engage in a knowing and willful
11 course of conduct directed at a specific person which seriously
12 terrifies, threatens, or intimidates the person and which serves no
13 legitimate purpose; and

14 (b) Course of conduct means a pattern of conduct composed
15 of a series of acts over a period of time, however short,
16 evidencing a continuity of purpose, including a series of acts
17 of following, detaining, restraining the personal liberty of,
18 or stalking the person or telephoning, contacting, or otherwise
19 communicating with the person;

20 (c) Family or household member means a spouse or former
21 spouse of the victim, children of the victim, a person presently
22 residing with the victim or who has resided with the victim in
23 the past, a person who had a child in common with the victim,
24 other persons related to the victim by consanguinity or affinity,
25 or any person presently involved in a dating relationship with
26 the victim or who has been involved in a dating relationship with
27 the victim. For purposes of this subdivision, dating relationship

1 means frequent, intimate associations primarily characterized by
2 the expectation of affectional or sexual involvement but does not
3 include a casual relationship or an ordinary association between
4 persons in a business or social context; and

5 (d) Substantially conforming criminal violation means
6 a guilty plea, a nolo contendere plea, or a conviction for
7 a violation of any federal law or law of another state or
8 any county, city, or town ordinance of this state or another
9 state substantially similar to section 28-311.03. Substantially
10 conforming is a question of law to be determined by the court.

11 Sec. 21. Section 28-311.03, Revised Statutes Cumulative
12 Supplement, 2004, is amended to read:

13 28-311.03 Any person who willfully harasses another
14 person or a family or household member of such person with
15 the intent to injure, terrify, threaten, or intimidate commits the
16 offense of stalking.

17 Sec. 22. Section 28-311.04, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-311.04 ~~Any~~ (1) Except as provided in subsection (2) of
20 this section, any person convicted of violating section 28-311.03
21 shall be is guilty of a Class I misdemeanor.

22 (2) Any ~~, except that~~ any person convicted of violating
23 such section 28-311.03 is guilty of a Class IV felony if:

24 (a) The person ~~who~~ has a prior conviction under such
25 section or a substantially conforming criminal violation within the
26 last seven years; ~~for acts committed against the same victim shall~~
27 be guilty of a Class IV felony.

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

2 (c) The person possessed a deadly weapon at any time
3 during the violation;

4 (d) The person was also in violation of section
5 28-311.09, 42-924, or 42-925 at any time during the violation; or

6 (e) The person has been convicted of any felony in this
7 state or has been convicted of a crime in another jurisdiction
8 which, if committed in this state, would constitute a felony and
9 the victim or a family or household member of the victim was also
10 the victim of such previous felony.

11 Sec. 23. Section 28-728, Revised Statutes Cumulative
12 Supplement, 2004, is amended to read:

13 28-728 (1) The Legislature finds that child abuse
14 and neglect are community problems requiring a cooperative
15 complementary response by law enforcement, child advocacy centers,
16 prosecutors, the Department of Health and Human Services, child
17 protective services division, and other agencies or entities
18 designed to protect children. It is the intent of the Legislature
19 to create a child abuse and neglect investigation team in each
20 county or contiguous group of counties and to create a child abuse
21 and neglect treatment team in each county or contiguous group of
22 counties.

23 (2) Each county or contiguous group of counties will
24 be assigned by the Department of Health and Human Services
25 to a child advocacy center. The purpose of a child advocacy
26 center is to provide a child-focused response to support the
27 physical, emotional, and psychological needs of children who are

1 victims of abuse or neglect. Each child advocacy center shall
2 meet accreditation criteria set forth by the National Children's
3 Alliance. Nothing in this section shall prevent a child from
4 receiving treatment or other services at any accredited child
5 advocacy center.

6 ~~(2)~~ The child abuse and neglect investigation team
7 shall develop (3) Each county attorney or the county attorney
8 representing a contiguous group of counties is responsible
9 for convening the child abuse and neglect investigation team
10 and ensuring that protocols are established and implemented.
11 A representative of the child advocacy center assigned to the
12 team shall assist the county attorney in facilitating case
13 review, developing and updating protocols, and arranging training
14 opportunities for the team. Each team must have protocols which, at
15 a minimum, shall include procedures for:

16 (a) Conducting joint investigations of child abuse and
17 other child abuse and neglect matters which the team deems
18 necessary;

19 (b) Ensuring that a law enforcement agency will
20 participate in the investigation;

21 (c) Conducting joint investigations of other child abuse
22 and neglect matters which the team deems necessary;

23 (d) Arranging for a videotaped forensic interview at
24 a child advocacy center for children sixteen years of age or
25 younger who are alleging sexual abuse or serious physical abuse or
26 neglect or who have witnessed a violent crime, been removed from a
27 clandestine drug lab, or recovered from a kidnapping;

1 (e) Reducing the risk of harm to child abuse and neglect
2 victims;

3 ~~(e)~~ (f) Ensuring that the child is in safe surroundings,
4 including removing the perpetrator when necessary;

5 ~~(f)~~ (g) Sharing of case information; and

6 ~~(g)~~ (h) How and when the team will meet; and -

7 (i) Responding to drug endangered children.

8 ~~(3) The child abuse and neglect treatment team~~
9 ~~shall develop~~ (4) Each county attorney or the county attorney
10 representing a contiguous group of counties is responsible for
11 convening the child abuse and neglect treatment team and ensuring
12 that protocols are established and implemented. A representative
13 of the child advocacy center appointed to the team shall assist
14 the county attorney in facilitating case review, developing and
15 updating protocols, and arranging training opportunities for the
16 team. Each team must have protocols which, at a minimum, shall
17 include procedures for:

18 (a) Case coordination and assistance, including the
19 location of services available within the area;

20 (b) Case staffings and the coordination, development,
21 implementation, and monitoring of treatment plans;

22 (c) Reducing the risk of harm to child abuse and neglect
23 victims;

24 (d) Assisting those child abuse and neglect victims who
25 are abused and neglected by perpetrators who do not reside in their
26 homes; and

27 (e) How and when the team will meet; and -

1 ~~(4) The child abuse and neglect teams may develop~~
2 ~~protocols which include procedures for working~~ (f) Working with
3 multiproblem delinquent youth.

4 Sec. 24. Section 28-729, Revised Statutes Cumulative
5 Supplement, 2004, is amended to read:

6 28-729 (1) A child abuse and neglect investigation team
7 shall include a representative from the county attorney's office,
8 a child protective services representative from the Department
9 of Health and Human Services, a representative from each law
10 enforcement agency which has jurisdiction within the county or
11 contiguous group of counties, a representative from the child
12 advocacy center, and representatives from such other agencies as
13 determined by the team.

14 (2) A child abuse and neglect treatment team shall
15 include a child protective services representative from the
16 Department of Health and Human Services, a juvenile probation
17 officer, a representative from the mental health profession
18 or medical profession actively practicing within the county or
19 contiguous group of counties, a representative from each school
20 district which provides services within the county or contiguous
21 group of counties, a representative from the child advocacy center,
22 and representatives from such other agencies as determined by
23 the team. For purposes of this subsection, more than one school
24 district may be represented by the same individual.

25 (3) The teams established pursuant to this section and
26 section 28-728 shall be encouraged to expand their membership to
27 include the various relevant disciplines which exist within the

1 county or contiguous group of counties. The additional members
2 shall have the requisite experience necessary as determined by the
3 core members of the teams. Consistent with requirements set out by
4 the teams, all members of both teams shall attend child abuse and
5 neglect training on an annual basis. Such training shall be no less
6 than eight hours annually and consist of the following components:

7 (a) Child abuse and neglect investigation procedures as
8 provided by law enforcement standards;

9 (b) Legal requirements and procedures for successful
10 prosecution of child abuse and neglect cases;

11 (c) Roles and responsibilities of child protective
12 services, law enforcement agencies, county attorneys, the Attorney
13 General, and judges;

14 (d) Characteristics of child development and family
15 dynamics;

16 (e) Recognition of various types of abuse and neglect;

17 (f) Duty of public and private individuals and agencies,
18 including schools, governmental agencies, physicians, and child
19 advocates, to report suspected or known child abuse;

20 (g) Multidisciplinary approaches to providing services to
21 children; and

22 (h) Weaknesses in the current child protection system.

23 (4) The representative of the county attorney shall
24 ~~establish each of the teams~~ and report the name and address of
25 each team member to the Nebraska Commission on Law Enforcement and
26 Criminal Justice. If more than one county is part of a team, the
27 representative of the participating county attorneys shall jointly

1 and cooperatively ~~establish the respective teams~~ and report their
2 results to the commission.

3 (5) Each team shall meet at a location agreed to by
4 the team. The number of meetings of the team shall be secondary
5 to the caseload of the team, but each team shall meet at least
6 quarterly. ~~Each team~~ The representative from the child advocacy
7 center assigned to the team shall annually report to the commission
8 the number of times the team met within a calendar year and any
9 changes in team membership. Each team shall select a chairperson
10 annually in the first quarter of each calendar year. Each team may
11 substitute a telephone conference call among team members in lieu
12 of meeting in person. If a team fails to convene, the commission
13 shall notify the Child Protection Division of the office of the
14 Attorney General and the division shall appoint the team members or
15 convene the team pursuant to sections 28-728 to 28-730. Nothing in
16 this section shall relieve the county attorney from ensuring that
17 the teams meet as required by this section.

18 Sec. 25. Section 28-730, Revised Statutes Cumulative
19 Supplement, 2004, is amended to read:

20 28-730 (1) Notwithstanding any other provision of law
21 regarding the confidentiality of records and when not prohibited by
22 the federal Privacy Act of 1974, as amended, juvenile court records
23 and any other pertinent information that may be in the possession
24 of school districts, law enforcement agencies, county attorneys,
25 the Attorney General, the Department of Health and Human Services,
26 child advocacy centers, and other team members concerning a child
27 whose case is being investigated or discussed by a child abuse and

1 neglect investigation team or a child abuse and neglect treatment
2 team shall be shared with the respective team members as part
3 of the discussion and coordination of efforts for investigative
4 or treatment purposes. Upon request by a team, any individual or
5 agency with information or records concerning a particular child
6 shall share all relevant information or records with the team as
7 determined by the team pursuant to the appropriate team protocol.
8 Only a team which has accepted the child's case for investigation
9 or treatment shall be entitled to access to such information.

10 (2) All information acquired by a team member or
11 other individuals pursuant to protocols developed by the team
12 shall be confidential and shall not be disclosed except to the
13 extent necessary to perform case consultations, to carry out a
14 treatment plan or recommendations, or for use in a legal proceeding
15 instituted by a county attorney or the Child Protection Division
16 of the office of the Attorney General. Information, documents, or
17 records otherwise available from the original sources shall not be
18 immune from discovery or use in any civil or criminal action merely
19 because the information, documents, or records were presented
20 during a case consultation if the testimony sought is otherwise
21 permissible and discoverable. Any person who presented information
22 before the team or who is a team member shall not be prevented from
23 testifying as to matters within the person's knowledge.

24 (3) Each team may review any case arising under the
25 Nebraska Criminal Code when a child is a victim or any case
26 arising under the Nebraska Juvenile Code. A member of a team who
27 participates in good faith in team discussion or any person who

1 in good faith cooperates with a team by providing information
2 or records about a child whose case has been accepted for
3 investigation or treatment by a team shall be immune from any
4 civil or criminal liability. The provisions of this subsection or
5 any other section granting or allowing the grant of immunity from
6 liability shall not be extended to any person alleged to have
7 committed an act of child abuse or neglect.

8 (4) A member of a team who publicly discloses information
9 regarding a case consultation in a manner not consistent with
10 sections 28-728 to 28-730 shall be guilty of a Class III
11 misdemeanor.

12 Sec. 26. Section 28-813, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 28-813 (1) It shall be unlawful for a person knowingly
15 to (a) print, copy, manufacture, prepare, produce, or reproduce
16 obscene material for the purpose of sale or distribution, (b)
17 publish, circulate, sell, rent, lend, transport in interstate
18 commerce, distribute, or exhibit any obscene material, (c) have in
19 his or her possession with intent to sell, rent, lend, transport,
20 or distribute any obscene material, or (d) promote any obscene
21 material or performance.

22 (2) It shall be unlawful for a person to place an order
23 for any advertising promoting the sale or distribution of material
24 represented or held out to be obscene, whether or not such material
25 exists in fact or is obscene. In all cases in which a charge ~~or~~ for
26 a violation of this section is brought against a person who cannot
27 be found in this state, the executive authority of this state may

1 demand extradition of such person from the executive authority of
2 the state in which such person may be found.

3 (3) A person commits an offense of promoting obscene
4 material if knowing its content and character he or she (a)
5 disseminates for monetary consideration any obscene material, (b)
6 produces, presents, or directs obscene performances for monetary
7 consideration, or (c) participates for monetary consideration in
8 that part of a performance which makes it obscene.

9 (4) Any person who violates this section shall be guilty
10 of a Class I misdemeanor.

11 Sec. 27. Section 29-4101, Revised Statutes Cumulative
12 Supplement, 2004, is amended to read:

13 29-4101 Sections 29-4101 to 29-4115 and section 30 of
14 this act shall be known and may be cited as the DNA Detection of
15 Sexual and Violent Offenders Act.

16 Sec. 28. Section 29-4102, Revised Statutes Cumulative
17 Supplement, 2004, is amended to read:

18 29-4102 The Legislature finds that DNA data banks are
19 an important tool in criminal investigations, in the exclusion
20 of individuals who are the subject of criminal investigations or
21 prosecutions, and in deterring and detecting recidivist acts, and
22 in locating and identifying missing persons and human remains.

23 Several states have enacted laws requiring persons convicted
24 of certain crimes, especially sex offenses, to provide genetic
25 samples for DNA typing tests. Moreover, it is the policy of
26 this state to assist federal, state, and local criminal justice
27 and law enforcement agencies in the identification and detection

1 of individuals in criminal investigations and in locating and
2 identifying missing persons and human remains. It is in the best
3 interest of this state to establish a State DNA Data Base for
4 DNA records and a State DNA Sample Bank as a repository for DNA
5 samples from individuals convicted of felony sex offenses and other
6 specified offenses.

7 Sec. 29. Section 29-4104, Revised Statutes Cumulative
8 Supplement, 2004, is amended to read:

9 29-4104 The State DNA Data Base is established. The
10 Nebraska State Patrol shall administer the State DNA Data Base and
11 shall provide DNA records to the Federal Bureau of Investigation
12 for storage and maintenance in the Combined DNA Index System.
13 The patrol shall provide for liaison with the Federal Bureau of
14 Investigation and other law enforcement agencies in regard to the
15 state's participation in the Combined DNA Index System. The State
16 DNA Data Base shall store and maintain DNA records related to:

- 17 (1) Forensic casework;
- 18 (2) Convicted offenders required to provide a DNA sample
19 under the DNA Detection of Sexual and Violent Offenders Act; and
- 20 (3) Anonymous DNA records used for research or quality
21 control; and
- 22 (4) Missing persons, relatives of missing persons, and
23 unidentified human remains.

24 Sec. 30. A person required to submit a DNA sample
25 pursuant to section 29-4106 shall be given the choice of having
26 the sample collected by a blood draw or a buccal cell collection
27 kit. Any person who collects a DNA sample pursuant to section

1 29-4106 shall honor the choice of collection method made by the
2 person providing the DNA sample. If the person required to submit
3 the DNA sample does not indicate a preference as to the method of
4 collection, either method may be used to collect the sample.

5 Sec. 31. Section 29-4106, Revised Statutes Cumulative
6 Supplement, 2004, is amended to read:

7 29-4106 (1) A person who is convicted of a felony sex
8 offense or other specified offense on or after September 13, 1997,
9 shall have a DNA sample ~~drawn~~ collected:

10 (a) Upon intake to a prison, jail, or other detention
11 facility or institution to which such person is sentenced. If the
12 person is already confined at the time of sentencing, the person
13 shall have a DNA sample ~~drawn~~ collected immediately after the
14 sentencing. Such DNA samples shall be ~~drawn~~ collected at the place
15 of incarceration or confinement. Such person shall not be released
16 unless and until a DNA sample has been ~~drawn~~ collected; or

17 (b) As a condition for any sentence which will not
18 involve an intake into a prison, jail, or other detention facility
19 or institution. Such DNA samples shall be ~~drawn~~ collected at a
20 detention facility or institution as specified by the court. Such
21 person shall not be released unless and until a DNA sample has been
22 ~~drawn~~ collected.

23 (2) A person who has been convicted of a felony sex
24 offense or other specified offense before September 13, 1997, and
25 who is still serving a term of confinement for such offense on
26 September 13, 1997, shall not be released prior to the expiration
27 of his or her maximum term of confinement unless and until a DNA

1 sample has been ~~drawn~~ collected.

2 Sec. 32. Section 29-4107, Revised Statutes Cumulative
3 Supplement, 2004, is amended to read:

4 29-4107 (1) Only individuals (a) who are physicians or
5 registered nurses, (b) who are trained to withdraw human blood for
6 scientific or medical purposes and are obtaining blood specimens
7 while working under orders of or protocols and procedures approved
8 by a physician, registered nurse, or other independent health care
9 practitioner licensed to practice by the state if the scope of
10 practice of that practitioner permits the practitioner to obtain
11 blood specimens, or (c) who are both employed by a licensed
12 institution or facility and have been trained to withdraw human
13 blood for scientific or medical purposes shall draw a DNA blood
14 sample under the DNA Detection of Sexual and Violent Offenders
15 Act. Withdrawal of blood shall be performed in a medically approved
16 manner using a collection kit provided or accepted by the Nebraska
17 State Patrol. The collection of buccal samples shall be performed
18 by any person approved or designated by the Nebraska State Patrol
19 and using a collection kit provided or accepted by the Nebraska
20 State Patrol. In addition to the DNA sample, one thumb print or
21 fingerprint shall be taken from the person from whom the DNA sample
22 is being ~~drawn~~ collected for the exclusive purpose of verifying
23 the identity of such person. The DNA sample and the thumb print or
24 fingerprint shall be delivered to the Nebraska State Patrol within
25 five working days after ~~drawing~~ collecting the sample.

26 (2) A person authorized to ~~draw~~ collect DNA samples under
27 this section is not criminally liable for ~~drawing~~ collecting a DNA

1 sample and transmitting DNA records pursuant to the act if he or
2 she performs these activities in good faith and is not civilly
3 liable for such activities if he or she performed such activities
4 in a reasonable manner according to generally accepted medical
5 and other professional practices standards for blood samples or in
6 accordance with the collection kit and procedures approved by the
7 Nebraska State Patrol for tissue samples.

8 Sec. 33. Section 29-4126, Revised Statutes Supplement,
9 2005, is amended to read:

10 29-4126 Notwithstanding any other provision of law:

11 (1) No DNA sample shall be obtained from any person for
12 any law enforcement purpose in connection with an investigation of
13 a crime without probable cause, a court order, or voluntary consent
14 as described in subdivision (2) of this section;

15 (2) In the absence of probable cause, if any person is
16 requested by a law enforcement person or agency to consent to
17 the taking of a DNA sample in connection with a law enforcement
18 investigation of a particular crime, such consent shall be deemed
19 voluntary only if:

20 (a) The sample is knowingly and voluntarily given in
21 connection with the investigation of a particular crime;

22 (b) The person was informed by a written advisory
23 prepared by the law enforcement agency that the request may be
24 refused and that such refusal does not provide probable cause or
25 reasonable suspicion to believe that the person has committed a
26 crime, and the person signs the advisory; and

27 (c) No threat, pressure, duress, or coercion of any kind

1 was employed, whether (i) direct or indirect, (ii) express or
2 implied, or (iii) physical or psychological;

3 (3) Any DNA sample obtained in violation of this section
4 is not admissible in any proceeding for any purpose whatsoever;

5 (4) A person shall be notified in writing by the law
6 enforcement agency immediately upon the determination that he or
7 she has not been implicated by his or her DNA sample in the
8 commission of the particular crime in connection with which the DNA
9 sample was obtained;

10 (5) ~~Such~~ Except as authorized in subdivision (7) of this
11 section, such sample and all identifying information pertaining to
12 the person shall be delivered to the person within ten days after
13 the notification required by subdivision (4) of this section with
14 a written explanation that the materials are being turned over in
15 compliance with this section;

16 (6) ~~The~~ Except as authorized in subdivision (7) of this
17 section, the law enforcement agency shall purge all records and
18 identifiable information pertaining to the person specified in
19 subdivisions (4) and (5) of this section;

20 (7) An accredited laboratory authorized to perform DNA
21 testing under section 29-4105 shall be allowed to maintain the
22 minimum records and supporting documentation of DNA tests that it
23 has performed as needed for the sole purpose of complying with
24 the laboratory accreditation standards as set forth by a national
25 accrediting body or public agency;

26 (8) No record authorized for retention under subdivision
27 (7) of this section shall be transferred, shared, or otherwise

1 provided to any national, state, county, or local law enforcement
2 agency unless such person has been implicated in the case by his or
3 her DNA sample;

4 ~~(7)~~ (9) Any aggrieved person may file an action in
5 district court against any person, including any law enforcement
6 agency, to enjoin such person or law enforcement agency from
7 violating this section; and

8 ~~(8)~~ (10) Any person aggrieved by a knowing violation of
9 this section may bring an action in district court for damages. A
10 person found by the court to be aggrieved by a violation of this
11 section shall receive damages of not less than one thousand dollars
12 and may recover reasonable costs and attorney's fees.

13 For purposes of this section, DNA means deoxyribonucleic
14 acid.

15 Sec. 34. Section 42-364, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 42-364 (1) When dissolution of a marriage or legal
18 separation is decreed, the court may include a parenting plan
19 developed under the Parenting Act, if a parenting plan has been so
20 developed, and such orders in relation to any minor child and the
21 child's maintenance as are justified, including placing the minor
22 child in the custody of the court or third parties or terminating
23 parental rights pursuant to this section if the best interests of
24 the minor child require such orders. Custody and time spent with
25 each parent shall be determined on the basis of the best interests
26 of the minor child with the objective of maintaining the ongoing
27 involvement of both parents in the minor child's life. A ~~decree~~

1 ~~of dissolution of a marriage or legal separation shall include the~~
2 ~~social security number of each party.~~ The social security number of
3 each parent and the minor child shall be furnished to the clerk of
4 the district court.

5 (2) In determining custody arrangements and the time to
6 be spent with each parent, the court shall consider the best
7 interests of the minor child which shall include, but not be
8 limited to:

9 (a) The relationship of the minor child to each parent
10 prior to the commencement of the action or any subsequent hearing;

11 (b) The desires and wishes of the minor child if of an
12 age of comprehension regardless of chronological age, when such
13 desires and wishes are based on sound reasoning;

14 (c) The general health, welfare, and social behavior of
15 the minor child; and

16 (d) Credible evidence of abuse inflicted on any family
17 or household member. For purposes of this subdivision, abuse and
18 family or household member shall have the meanings prescribed in
19 section 42-903.

20 (3) In determining custody arrangements and the time to
21 be spent with each parent, the court shall not give preference to
22 either parent based on the sex of the parent and no presumption
23 shall exist that either parent is more fit or suitable than the
24 other.

25 (4) Regardless of the custody determination of the court,
26 (a) each parent shall continue to have full and equal access to the
27 education and medical records of his or her child unless the court

1 orders to the contrary and (b) either parent may make emergency
2 decisions affecting the health or safety of his or her child while
3 the child is in the physical custody of such parent pursuant to a
4 visitation order entered by the court.

5 (5) After a hearing in open court, the court may place
6 the custody of a minor child with both parents on a shared or joint
7 custody basis when both parents agree to such an arrangement. In
8 that event, each parent shall have equal rights to make decisions
9 in the best interests of the minor child in his or her custody. The
10 court may place a minor child in joint custody after conducting a
11 hearing in open court and specifically finding that joint custody
12 is in the best interests of the minor child regardless of any
13 parental agreement or consent.

14 (6) In determining the amount of child support to be
15 paid by a parent, the court shall consider the earning capacity
16 of each parent and the guidelines provided by the Supreme Court
17 pursuant to section 42-364.16 for the establishment of child
18 support obligations. Upon application, hearing, and presentation
19 of evidence of an abusive disregard of the use of child support
20 money paid by one party to the other, the court may require the
21 party receiving such payment to file a verified report with the
22 court, as often as the court requires, stating the manner in
23 which such money is used. Child support paid to the party having
24 custody of the minor child shall be the property of such party
25 except as provided in section 43-512.07. The clerk of the district
26 court shall maintain a record, separate from all other judgment
27 dockets, of all decrees and orders in which the payment of child

1 support or spousal support has been ordered, whether ordered by a
2 district court, county court, separate juvenile court, or county
3 court sitting as a juvenile court. Orders for child support in
4 cases in which a party has applied for services under Title IV-D of
5 the federal Social Security Act, as amended, shall be reviewed as
6 provided in sections 43-512.12 to 43-512.18.

7 (7) Whenever termination of parental rights is placed
8 in issue by the pleadings or evidence, the court shall transfer
9 jurisdiction to a juvenile court established pursuant to the
10 Nebraska Juvenile Code unless a showing is made that the county
11 court or district court is a more appropriate forum. In making
12 such determination, the court may consider such factors as cost
13 to the parties, undue delay, congestion of dockets, and relative
14 resources available for investigative and supervisory assistance.
15 A determination that the county court or district court is a more
16 appropriate forum shall not be a final order for the purpose of
17 enabling an appeal. If no such transfer is made, the court shall
18 appoint an attorney as guardian ad litem to protect the interests
19 of any minor child. The court may terminate the parental rights
20 of one or both parents after notice and hearing when the court
21 finds such action to be in the best interests of the minor child
22 and it appears by the evidence that one or more of the following
23 conditions exist:

24 (a) The minor child has been abandoned by one or both
25 parents;

26 (b) One parent has or both parents have substantially and
27 continuously or repeatedly neglected the minor child and refused to

1 give such minor child necessary parental care and protection;

2 (c) One parent is or both parents are unfit by reason of
3 debauchery, habitual use of intoxicating liquor or narcotic drugs,
4 illegal possession or sale of illegal substances, or repeated lewd
5 and lascivious behavior, which conduct is found by the court to be
6 seriously detrimental to the health, morals, or well-being of the
7 minor child; or

8 (d) One parent is or both parents are unable to discharge
9 parental responsibilities because of mental illness or mental
10 deficiency and there are reasonable grounds to believe that such
11 condition will continue for a prolonged indeterminate period.

12 (8) Whenever termination of parental rights is placed in
13 issue, the court shall inform a parent who does not have legal
14 counsel of the parent's right to retain counsel and of the parent's
15 right to retain legal counsel at county expense if such parent is
16 unable to afford legal counsel. If such parent is unable to afford
17 legal counsel and requests the court to appoint legal counsel, the
18 court shall immediately appoint an attorney to represent the parent
19 in the termination proceedings. The court shall order the county to
20 pay the attorney's fees and all reasonable expenses incurred by the
21 attorney in protecting the rights of the parent. At such hearing,
22 the guardian ad litem shall take all action necessary to protect
23 the interests of the minor child. The court shall fix the fees and
24 expenses of the guardian ad litem and tax the same as costs but may
25 order the county to pay on finding the responsible party indigent
26 and unable to pay.

27 (9) Modification proceedings relating to support,

1 custody, visitation, or removal of children from the jurisdiction
2 of the court shall be commenced by filing a complaint to modify.
3 Modification of a parenting plan is governed by the Parenting Act.
4 Proceedings to modify a parenting plan shall be commenced by filing
5 a complaint to modify. Service of process and other procedure shall
6 comply with the requirements for a dissolution action.

7 Sec. 35. Section 42-364.13, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 42-364.13 (1) Any order for support entered by the
10 court shall specifically provide that any person ordered to pay a
11 judgment shall be required to furnish to the clerk of the district
12 court his or her address, telephone number, and social security
13 number, the name of his or her employer, whether or not such
14 person has access to employer-related health insurance coverage
15 and, if so, the health insurance policy information, and any other
16 information the court deems relevant until such judgment is paid
17 in full. The person shall also be required to advise the clerk of
18 any changes in such information between the time of entry of the
19 decree and the payment of the judgment in full. If both parents
20 are parties to the action, such order shall provide that each be
21 required to furnish to the clerk of the district court all of the
22 information required by this subsection. Failure to comply with
23 this section shall be punishable by contempt.

24 (2) All support orders entered by the court shall include
25 the birthdate ~~and social security number~~ of any child for whom the
26 order requires the provision of support.

27 (3) Until the Title IV-D Division has operative the

1 statewide automated data processing and retrieval system necessary
2 for centralized collection and disbursement of support order
3 payments:

4 (a) If any case contains an order or judgment for child,
5 medical, or spousal support, the order shall include the following
6 statements:

7 In the event that the (plaintiff or defendant) fails to
8 pay any child, medical, or spousal support payment, as such failure
9 is certified each month by the district court clerk in cases in
10 which court-ordered support is delinquent in an amount equal to
11 the support due and payable for a one-month period of time, he
12 or she shall be subject to income withholding and may be required
13 to appear in court on a date to be determined by the court and
14 show cause why such payment was not made. In the event that the
15 (plaintiff or defendant) fails to pay and appear as ordered, a
16 warrant shall be issued for his or her arrest.

17 (b) If the court orders income withholding regardless
18 of whether or not payments are in arrears pursuant to section
19 43-1718.01 or 43-1718.02, the statement in this subsection may be
20 altered to read as follows:

21 In the event that the (plaintiff or defendant) fails to
22 pay any child, medical, or spousal support payment, as such failure
23 is certified each month by the district court clerk in cases in
24 which court-ordered support is delinquent in an amount equal to the
25 support due and payable for a one-month period of time, he or she
26 may be required to appear in court on a date to be determined by
27 the court and show cause why such payment was not made. In the

1 event that the (plaintiff or defendant) fails to pay and appear as
2 ordered, a warrant shall be issued for his or her arrest.

3 (4) When the Title IV-D Division has operative the
4 statewide automated data processing and retrieval system necessary
5 for centralized collection and disbursement of support order
6 payments:

7 (a) If any case contains an order or judgment for child,
8 medical, or spousal support, the order shall include the following
9 statements:

10 In the event that the (plaintiff or defendant) fails to
11 pay any child, medical, or spousal support payment, as such failure
12 is certified each month by the State Disbursement Unit in cases
13 in which court-ordered support is delinquent in an amount equal
14 to the support due and payable for a one-month period of time, he
15 or she shall be subject to income withholding and may be required
16 to appear in court on a date to be determined by the court and
17 show cause why such payment was not made. In the event that the
18 (plaintiff or defendant) fails to pay and appear as ordered, a
19 warrant shall be issued for his or her arrest.

20 (b) If the court orders income withholding regardless
21 of whether or not payments are in arrears pursuant to section
22 43-1718.01 or 43-1718.02, the statement in this subsection may be
23 altered to read as follows:

24 In the event that the (plaintiff or defendant) fails to
25 pay any child, medical, or spousal support payment, as such failure
26 is certified each month by the State Disbursement Unit in cases
27 in which court-ordered support is delinquent in an amount equal to

1 the support due and payable for a one-month period of time, he or
2 she may be required to appear in court on a date to be determined
3 by the court and show cause why such payment was not made. In the
4 event that the (plaintiff or defendant) fails to pay and appear as
5 ordered, a warrant shall be issued for his or her arrest.

6 Sec. 36. Section 42-1103, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 42-1103 A domestic relations order is a qualified
9 domestic relations order only if such order or accompanying
10 document:

11 (1) Clearly specifies the following:

12 (a) The name, social security number, and last-known
13 mailing address, if any, of the member;

14 (b) The name, social security number, and last-known
15 mailing address, if any, of the alternate payee covered by the
16 order;

17 (c) The statewide public retirement system or systems to
18 which the order applies;

19 (d) The number of payments or period to which such order
20 applies; and

21 (e) The amount or percentage of the member's benefits
22 to be paid by each statewide public retirement system to each
23 alternate payee or the manner in which such amount or percentage is
24 determined;

25 (2) Does not require a statewide public retirement system
26 to provide any type or form of benefit, or any option, not
27 otherwise provided under the plan;

1 (3) Does not require a statewide public retirement system
2 to provide increased benefits determined on the basis of actuarial
3 value;

4 (4) Does not require a statewide public retirement system
5 to pay to an alternate payee benefits which are required to be
6 paid to another alternate payee under another order previously
7 determined to be a qualified domestic relations order; and

8 (5) Does not require the payment of benefits to an
9 alternate payee before the earliest retirement date of a member.

10 Sec. 37. Section 43-256, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-256 When the court enters an order continuing
13 placement or detention pursuant to section 43-253, upon request
14 of the juvenile, or his or her parent, guardian, or attorney, the
15 court shall hold a hearing within a ~~reasonable time~~ forty-eight
16 hours, at which hearing the burden of proof shall be upon the
17 state to show probable cause that such juvenile is within the
18 jurisdiction of the court. Strict rules of evidence shall not apply
19 at the probable cause hearing. The juvenile shall be released if
20 probable cause is not shown. At the option of the court, it may
21 hold the adjudication hearing provided in section 43-279 as soon as
22 possible instead of the probable cause hearing if held within a
23 reasonable period of time. This section and section 43-255 shall
24 not apply to a juvenile (1) who has escaped from a commitment or
25 (2) who has been taken into custody for his or her own protection
26 as provided in subdivision (3) of section 43-248 in which case the
27 juvenile shall be held on order of the court with jurisdiction for

1 a reasonable period of time.

2 Sec. 38. Section 43-271, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-271 (1)(a) A juvenile taken into custody pursuant to
5 sections 43-248, 43-250, and 43-253 shall be brought before the
6 court for adjudication as soon as possible after the petition is
7 filed. On the return of the summons or other process, or mailing
8 of the notice in lieu of summons, or as soon thereafter as legally
9 may be, the court shall proceed to hear and dispose of the case as
10 provided in section 43-279.

11 (b) The hearing as to a juvenile in custody of the
12 probation officer or the court shall be held as soon as possible
13 but, in all cases, within a six-month period after the petition
14 is filed, and as to a juvenile not in such custody as soon as
15 practicable but, in all cases, within a six-month period after the
16 petition is filed. The computation of the six-month period provided
17 for in this section shall be made as provided in section 29-1207,
18 as applicable.

19 (2) Any juvenile taken into custody pursuant to sections
20 43-248, 43-250, and 43-253 may request a detention review hearing.
21 The detention review hearing shall be conducted within forty-eight
22 hours after the request.

23 Sec. 39. Section 43-408, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-408 (1) Whenever any juvenile is committed under any
26 provision of law to the Office of Juvenile Services, to any
27 facility operated by the Office of Juvenile Services, or to the

1 custody of the Administrator of the Office of Juvenile Services, a
2 superintendent of a facility, or an administrator of a program, the
3 juvenile is deemed committed to the Office of Juvenile Services.
4 Juveniles committed to the Office of Juvenile Services shall also
5 be considered committed to the care and custody of the Department
6 of Health and Human Services for the purpose of obtaining health
7 care and treatment services.

8 (2) The committing court shall order the initial level
9 of treatment for a juvenile committed to the Office of Juvenile
10 Services. Prior to determining the initial level of treatment for
11 a juvenile, the court may solicit a recommendation regarding the
12 initial level of treatment from the Office of Juvenile Services.
13 Under this section, the committing court shall not order a specific
14 placement for a juvenile. The court shall continue to maintain
15 jurisdiction over any juvenile committed to the Office of Juvenile
16 Services until such time that the juvenile is discharged from
17 the Office of Juvenile Services. The court shall conduct review
18 hearings every six months, or at the request of the juvenile, for
19 any juvenile committed to the Office of Juvenile Services who is
20 placed outside his or her home, except for a juvenile residing
21 at a youth rehabilitation and treatment center. The court shall
22 determine whether an out-of-home placement made by the Office of
23 Juvenile Services is in the best interests of the juvenile, with
24 due consideration being given by the court to public safety. If
25 the court determines that the out-of-home placement is not in the
26 best interests of the juvenile, the court may order other treatment
27 services for the juvenile.

1 (3) After the initial level of treatment is ordered by
2 the committing court, the Office of Juvenile Services shall provide
3 treatment services which conform to the court's level of treatment
4 determination. Within thirty days after making an actual placement,
5 the Office of Juvenile Services shall provide the committing court
6 with written notification of where the juvenile has been placed.
7 At least once every six months thereafter, until the juvenile is
8 discharged from the care and custody of the Office of Juvenile
9 Services, the office shall provide the committing court with
10 written notification of the juvenile's actual placement and the
11 level of treatment that the juvenile is receiving.

12 (4) For transfer hearings, the burden of proof to justify
13 the transfer is on the Office of Juvenile Services, the standard
14 of proof is clear and convincing evidence, and the strict rules of
15 evidence do not apply. Transfers of juveniles from one place of
16 treatment to another are subject to section 43-251.01 and to the
17 following:

18 (a) Except as provided in subdivision (b) of this
19 subsection, if the Office of Juvenile Services proposes to transfer
20 the juvenile from a less restrictive to a more restrictive place of
21 treatment, a plan outlining the proposed change and the reasons for
22 the proposed change shall be presented to the court which committed
23 the juvenile. Such change shall occur only after a hearing and a
24 finding by the committing court that the change is in the best
25 interests of the juvenile, with due consideration being given by
26 the court to public safety. At the hearing, the juvenile has the
27 right to be represented by counsel;

1 (b) The Office of Juvenile Services may make an immediate
2 temporary change without prior approval by the committing court
3 only if the juvenile is in a harmful or dangerous situation,
4 is suffering a medical emergency, is exhibiting behavior which
5 warrants temporary removal, or has been placed in a non-state-owned
6 facility and such facility has requested that the juvenile be
7 removed. Approval of the committing court shall be sought within
8 fifteen days of making an immediate temporary change, at which time
9 a hearing shall occur before the court. The court shall determine
10 whether it is in the best interests of the juvenile to remain in
11 the new place of treatment, with due consideration being given by
12 the court to public safety. At the hearing, the juvenile has the
13 right to be represented by counsel; and

14 (c) If the proposed change seeks to transfer the juvenile
15 from a more restrictive to a less restrictive place of treatment
16 or to transfer the juvenile from the juvenile's current place of
17 treatment to another which has the same level of restriction as
18 the current place of treatment, the Office of Juvenile Services
19 shall notify the juvenile, the juvenile's parents, custodian, or
20 legal guardian, the committing court, the county attorney, the
21 counsel for the juvenile, and the guardian ad litem of the proposed
22 change. The juvenile has fifteen days after the date of the notice
23 to request an administrative hearing with the Office of Juvenile
24 Services, at which time the Office of Juvenile Services shall
25 determine whether it is in the best interests of the juvenile for
26 the proposed change to occur, with due consideration being given
27 by the office to public safety. The juvenile may be represented

1 by counsel at the juvenile's own expense. If the juvenile is
2 aggrieved by the administrative decision of the Office of Juvenile
3 Services, the juvenile may appeal that decision to the committing
4 court within fifteen days after the Office of Juvenile Services'
5 decision. At the hearing before the committing court, the juvenile
6 has the right to be represented by counsel.

7 (5) If a juvenile is placed in detention after the
8 initial level of treatment is determined by the committing court,
9 the committing court shall hold a hearing every fourteen days to
10 review the status of the juvenile. Placement of a juvenile in
11 detention shall not be considered as a treatment service.

12 ~~(5)~~ (6) The committing court's review of a change of
13 place of treatment pursuant to this section does not apply to
14 parole revocation hearings.

15 Sec. 40. Section 43-1412, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-1412 (1) The method of trial shall be the same as that
18 in other civil proceedings, except that the trial shall be by the
19 court without a jury unless a jury is requested (a) by the alleged
20 father, in a proceeding instituted by the mother or the guardian or
21 next friend, or (b) by the mother, in a proceeding instituted by
22 the alleged father. It being contrary to public policy that such
23 proceedings should be open to the general public, no one but the
24 parties, their counsel, and others having a legitimate interest in
25 the controversy shall be admitted to the courtroom during the trial
26 of the case. The alleged father and the mother shall be competent
27 to testify. The uncorroborated testimony (i) of the mother, in

1 a proceeding instituted by the mother or the guardian or next
2 friend, or (ii) of the alleged father, in a proceeding instituted
3 by the alleged father, shall not alone be sufficient to support a
4 verdict or finding that the alleged father is actually the father.
5 Refusal by the alleged father to comply with an order of the
6 court for genetic testing shall be deemed corroboration of the
7 allegation of paternity. A signed and notarized acknowledgment of
8 paternity or a certified copy or certified reproduction thereof
9 shall be admissible in evidence in any proceeding to establish
10 paternity without the need for foundation testimony or other proof
11 of authenticity or accuracy.

12 If it is determined in this proceeding that the alleged
13 father is actually the father of the child, a judgment shall be
14 entered declaring the alleged father to be the father of the child.

15 (2) A default judgment shall be entered upon a showing of
16 service and failure of the defendant to answer or otherwise appear.

17 (3) If a judgment is entered under this section declaring
18 the alleged father to be the father of the child, the court shall
19 retain jurisdiction of the cause and enter such order of support,
20 including the amount, if any, of any court costs and attorney's
21 fees which the court in its discretion deems appropriate to be
22 paid by the father, as may be proper under the procedure and in
23 the manner specified in section 43-512.04. If it is not determined
24 in the proceeding that the alleged father is actually the father
25 of the child, the court shall, if it finds that the action
26 was frivolous, award court costs and attorney's fees incurred by
27 the alleged father, with such costs and fees to be paid by the

1 plaintiff.

2 (4) All judgments under this section declaring the
3 alleged father to be the father of the child shall include
4 the father's social security number. The social security number of
5 the declared father of the child shall be furnished to the clerk of
6 the district court in a document accompanying the judgment.

7 Sec. 41. Section 43-3001, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-3001 (1) Notwithstanding any other provision of law
10 regarding the confidentiality of records and when not prohibited by
11 the federal Privacy Act of 1974, as amended, juvenile court records
12 and any other pertinent information that may be in the possession
13 of school districts, county attorneys, the Attorney General, law
14 enforcement agencies, child advocacy centers, state probation
15 personnel, state parole personnel, youth detention facilities,
16 medical personnel, treatment or placement programs, the Department
17 of Health and Human Services, the Department of Correctional
18 Services, the State Foster Care Review Board, child abuse and
19 neglect investigation teams, child abuse and neglect treatment
20 teams, or other multidisciplinary teams for abuse, neglect, or
21 delinquency concerning a child who is in the custody of the
22 state may be shared with individuals and agencies who have been
23 identified in a court order authorized by this section.

24 (2) In any judicial proceeding concerning a child who is
25 currently, or who may become at the conclusion of the proceeding, a
26 ward of the court or state or under the supervision of the court,
27 an order may be issued which identifies individuals and agencies

1 who shall be allowed to receive otherwise confidential information
2 concerning the ~~juvenile~~ child for legitimate and official purposes.
3 The individuals and agencies who may be identified in the
4 court order are the child's attorney or guardian ad litem, the
5 parents' attorney, foster parents, appropriate school personnel,
6 county attorneys, the Attorney General, authorized court personnel,
7 law enforcement agencies, state probation personnel, state parole
8 personnel, youth detention facilities, medical personnel, treatment
9 or placement programs, the Department of Health and Human Services,
10 the Office of Juvenile Services, the Department of Correctional
11 Services, the State Foster Care Review Board, child abuse and
12 neglect investigation teams, child abuse and neglect treatment
13 teams, and other multidisciplinary teams for abuse, neglect, or
14 delinquency. Unless the order otherwise states, the order shall be
15 effective until the child leaves the custody of the state or until
16 a new order is issued.

17 (3) All information acquired by an individual or agency
18 pursuant to this section shall be confidential and shall not
19 be disclosed except to other persons who have a legitimate and
20 official interest in the information and are identified in the
21 court order issued pursuant to this section with respect to the
22 child in question. A person who receives such information or
23 who cooperates in good faith with other individuals and agencies
24 identified in the appropriate court order by providing information
25 or records about a child shall be immune from any civil or criminal
26 liability. The provisions of this section granting immunity from
27 liability shall not be extended to any person alleged to have

1 committed an act of child abuse or neglect.

2 (4) Any person who publicly discloses information
3 received pursuant to this section shall be guilty of a Class III
4 misdemeanor.

5 Sec. 42. Section 43-3342.05, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-3342.05 (1) The ~~State Disbursement and~~ Child Support
8 Advisory Commission is created. Commission members shall include:

9 (a) Two district court judges whose jurisdiction includes
10 domestic relations, to be appointed by the Supreme Court;

11 (b) One member of the Nebraska State Bar Association who
12 practices primarily in the area of domestic relations;

13 (c) One county attorney who works in child support;

14 (d) One professional who works in the field of economics
15 or mathematics or another field of expertise relevant to child
16 support;

17 ~~(e) Two members of the Legislature;~~

18 ~~(f)~~ (e) One custodial parent who has a court order to
19 receive child support;

20 ~~(g)~~ (f) One noncustodial parent who is under a support
21 order to pay child support;

22 (g) The chairperson of the Judiciary Committee of the
23 Legislature, who shall serve as the chairperson of the commission;

24 (h) The chairperson of the Health and Human Services
25 Committee of the Legislature;

26 ~~(h)~~ (i) The vendor operating the State Disbursement Unit
27 State Treasurer or his or her designee; as an ex officio member;

1 ~~(i)~~ (j) The State Court Administrator or his or her
2 designee; ~~as an ex officio member,~~ and

3 ~~(j)~~ (k) The director of the Title IV-D Division or his or
4 her designee, ~~as an ex officio member.~~

5 (2) (a) ~~The terms of all members on the State Disbursement~~
6 ~~Advisory Commission, as established by Laws 2000, LB 972, shall~~
7 ~~terminate on June 30, 2002. The Executive Board of the Legislative~~
8 ~~Council shall appoint the members of the State Disbursement and~~
9 ~~Child Support Advisory Commission under subdivisions (1)(a) through~~
10 ~~(1)(g) of this section. Members shall serve terms of two years,~~
11 ~~except that the initial terms of members appointed for terms~~
12 ~~commencing on July 1, 2002, under subdivisions (1)(f) and (1)(g)~~
13 ~~of this section shall be one year to provide for staggered terms~~
14 ~~for commission members. In the case of a vacancy, a successor~~
15 ~~shall be appointed for the unexpired term by the Executive Board~~
16 ~~of the Legislative Council. Members whose terms have expired shall~~
17 ~~continue to serve until their successors have been appointed.~~
18 ~~The commission shall select a chairperson, annually, from its~~
19 ~~membership. A chairperson may serve more than one year. The Supreme~~
20 ~~Court shall notify the Executive Board of the Legislative Council~~
21 ~~of its intent to review the child support guidelines pursuant to~~
22 ~~section 42-364.16. Following such notification, the chairperson of~~
23 ~~the commission shall call a meeting of the commission.~~

24 (b) Each time the commission meets pursuant to
25 subdivision (2)(a) of this section, the Supreme Court shall make
26 appointments to fill the membership under subdivision (1)(a) of
27 this section and the chairperson of the Executive Board shall make

1 appointments to fill each membership under subdivisions (1) (b)
2 through (f) of this section. The terms of these members shall
3 expire after the commission has fulfilled its duties pursuant to
4 subsection (3) of this section.

5 (c) Members shall serve without compensation but shall
6 be reimbursed for their actual and necessary expenses incurred in
7 the performance of their duties as provided in sections 81-1174 to
8 81-1177.

9 ~~(b)~~ (d) If determined to be necessary to perform the
10 duties of the commission, the commission may hire, contract, or
11 otherwise obtain the services of consultants, researchers, aides,
12 and other necessary support staff with prior approval of the
13 chairperson of the Executive Board of the Legislative Council.

14 ~~(e)~~ (e) For administrative purposes, the commission shall
15 be managed and administered by the Legislative Council.

16 (3) ~~The commission shall meet at least quarterly. The~~
17 duties of the commission shall include, but are not limited to:

18 ~~(a) Recommending to the department, if appropriate, ways~~
19 ~~to improve or enhance the effectiveness of the State Disbursement~~
20 ~~Unit and the Customer Service Unit;~~

21 ~~(b) Recommending performance indicators for the State~~
22 ~~Disbursement Unit and the Customer Service Unit;~~

23 ~~(c) Recommending legislation which would clarify and~~
24 ~~improve state law regarding support for children as it relates to~~
25 ~~the State Disbursement Unit;~~

26 ~~(d) Addressing any child support issues generally as such~~
27 ~~issues effect the State of Nebraska and its citizens;~~

1 ~~(e)~~ (a) Reviewing the child support guidelines adopted by
2 the Supreme Court and recommending, if appropriate, any ~~amendments~~
3 changes to the guidelines. Whenever practicable, the commission
4 shall base its recommendations on economic data and statistics
5 collected in the State of Nebraska. In reviewing the guidelines
6 and formulating recommendations, the commission may conduct public
7 hearings around the state; and

8 ~~(f)~~ Monitoring federal legislation and making
9 recommendations for changing state law as needed; and

10 ~~(g)~~ (b) Presenting reports, as deemed necessary, of
11 its activities and recommendations to the Supreme Court and the
12 Executive Board. of the Legislative Council.

13 (4) The Supreme Court shall review the commission's
14 reports. The Supreme Court may amend the child support guidelines
15 established pursuant to section 42-364.16 based upon the
16 commission's recommendations.

17 Sec. 43. Section 47-619, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 47-619 Sections 47-619 to 47-633 and section 47 of this
20 act shall be known and may be cited as the Community Corrections
21 Act.

22 Sec. 44. Section 47-620, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 47-620 It is the intent of the Legislature that the
25 Community Corrections Act:

26 (1) Provide for the development and establishment of
27 community-based facilities and programs in Nebraska for adult

1 ~~felons~~ offenders and encourage the use of such facilities
2 and programs by sentencing courts and the Board of Parole as
3 alternatives to incarceration or reincarceration, in order to
4 reduce prison overcrowding and enhance offender supervision in the
5 community; and

6 (2) Serve the interests of society by promoting the
7 rehabilitation of offenders and deterring offenders from engaging
8 in further criminal activity, by making community-based facilities
9 and programs available to ~~probationers and parolees~~ adult offenders
10 while emphasizing offender culpability, offender accountability,
11 and public safety and reducing reliance upon incarceration as a
12 means of managing nonviolent offenders.

13 Sec. 45. Section 47-623, Revised Statutes Supplement,
14 2005, is amended to read:

15 47-623 (1) The council shall include the following voting
16 members:

17 (a) The executive director of the Nebraska Commission on
18 Law Enforcement and Criminal Justice;

19 (b) The Director of Correctional Services;

20 (c) The chairperson of the Board of Parole;

21 (d) The Parole Administrator; and

22 (e) ~~Seven~~ Nine members appointed by the Governor with
23 the approval of a majority of the Legislature, consisting of: One
24 representative from a list of persons nominated by the Nebraska
25 Criminal Defense Attorneys Association; one representative from
26 a list of persons nominated by the Nebraska County Attorneys
27 Association; one full-time officer or employee of a law enforcement

1 agency; one mental health and substance abuse professional; ~~and~~
2 from each congressional district, one provider of community-based
3 behavioral health services; and two at-large members.

4 (2) The council shall include the following nonvoting
5 members:

6 (a) The State Court Administrator;

7 (b) The probation administrator;

8 (c) Two members of the Legislature, appointed by the
9 Executive Board of the Legislative Council;

10 (d) Two judges of the district court and one judge of the
11 Nebraska Prisoner Reentry Court, appointed by the Chief Justice of
12 the Supreme Court; and

13 (e) The Director of Health and Human Services or his or
14 her designee.

15 (3) The terms of office for members initially appointed
16 under subdivision (1)(e) of this section shall be three years.

17 Upon completion of the initial terms of such members, the Governor
18 shall appoint (a) a representative from law enforcement, ~~and a~~

19 mental health and substance abuse professional, and one at-large
20 member for terms of one year; (b) a representative of the

21 Nebraska Criminal Defense Attorneys Association, one provider
22 of community-based behavioral health services from the first

23 congressional district, and one provider of community-based
24 behavioral health services from the third congressional district,

25 and one at-large member for terms of two years, and (c) a
26 representative of the Nebraska County Attorneys Association and a

27 provider of community-based behavioral health services from the

1 second congressional district for terms of three years. Succeeding
2 appointees shall be appointed for terms of three years. An
3 appointee to a vacancy occurring from an unexpired term shall serve
4 out the term of his or her predecessor. Members whose terms have
5 expired shall continue to serve until their successors have been
6 appointed and qualified.

7 (4) The council shall by majority vote elect a
8 chairperson from among the members of the council.

9 (5) The members of the council shall be reimbursed for
10 their actual and necessary expenses incurred while engaged in
11 the performance of their official duties as provided in sections
12 81-1174 to 81-1177.

13 Sec. 46. Section 47-624, Revised Statutes Supplement,
14 2005, is amended to read:

15 47-624 The council shall:

16 (1) Develop standards for eligible community correctional
17 facilities and programs in which offenders can participate, taking
18 into consideration the following factors:

19 (a) Qualifications of staff;

20 (b) Suitability of programs;

21 (c) Offender needs;

22 (d) Probation population;

23 (e) Parole population; and

24 (f) Other applicable criminal justice data;

25 (2) Develop and implement a plan to establish statewide
26 operation and use of a continuum of community correctional
27 facilities and programs;

1 (3) Develop, in consultation with the probation
2 administrator and the Parole Administrator, standards for the use
3 of community correctional facilities and programs by the Nebraska
4 Probation System and the parole system;

5 (4) Develop, recommend, and review sentencing guidelines
6 for adoption by the Supreme Court as set forth in section 47-630;

7 (5) Analyze and mandate the consistent use of offender
8 risk assessment tools;

9 (6) Develop standards for eligibility of probationers and
10 parolees in certain community correctional facilities and programs;

11 (7) Educate the courts and the Board of Parole about
12 the availability and use of community correctional facilities and
13 programs;

14 (8) Enter into contracts, if necessary, for carrying out
15 the purposes of the Community Corrections Act;

16 (9) In order to ensure adequate funding for substance
17 abuse treatment programs for probationers, consult with the
18 probation administrator as provided in section 29-2262.07 and
19 develop or assist with the development of programs as provided in
20 subdivision (14) of section 29-2252;

21 (10) In order to ensure adequate funding for substance
22 abuse treatment programs for parolees, consult with the Office
23 of Parole Administration as provided in section 83-1,107.02 and
24 develop or assist with the development of programs as provided in
25 subdivision (8) of section 83-1,102;

26 (11) If necessary to perform the duties of the
27 council, hire, contract for, or otherwise obtain the services of

1 consultants, researchers, aides, and other necessary support staff;

2 (12) Study substance abuse treatment services in and
3 related to the criminal justice system, recommend improvements, and
4 evaluate the implementation of improvements;

5 (13) Study, develop, and implement minimum standards for
6 the development and use of community correctional facilities and
7 programs;

8 (14) Develop and implement a plan for statewide use of
9 community correctional facilities and programs; and

10 (15) Grant funds to entities including local governmental
11 agencies, nonprofit organizations, and behavioral health services
12 which will support the intent of the act; and

13 ~~(15)~~ (16) Perform such other duties as may be necessary
14 to carry out the policy of the state established in the act.

15 Sec. 47. For a local entity to receive funds under the
16 Community Corrections Act, the council shall ensure there is a
17 local advisory committee made up of a broad base of community
18 members concerned with the justice system. Submission of a detailed
19 plan including a budget, program standards, and policies as
20 developed by the local advisory committee will be required as
21 set forth by the council. Such funds shall be used for the
22 implementation of the recommendations of the council, the expansion
23 of sentencing options, the education of the public, the provision
24 of supplemental community-based corrections programs, and the
25 promotion of coordination between state and county community-based
26 corrections programs.

27 Sec. 48. Section 47-625, Revised Statutes Supplement,

1 2005, is amended to read:

2 47-625 (1) The Governor shall appoint the director of the
3 council.

4 (2) The director shall:

5 (a) Supervise, develop, and oversee the actions and
6 proceedings of the council;

7 (b) Ensure, by working in consultation with the council,
8 consistency between sentencing guidelines and the availability of
9 community correctional facilities and programs; ~~and~~

10 (c) Administer contracts entered into by the council with
11 community correctional facilities or programs; and -

12 (d) Establish and administer grants, projects, and
13 programs for the operation of the council.

14 Sec. 49. Section 83-192, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 83-192 (1) The Board of Parole shall:

17 (a) Determine the time of release on parole of committed
18 offenders eligible for such release;

19 (b) Fix the conditions of parole, revoke parole, issue
20 or authorize the issuance of warrants for the arrest of parole
21 violators, and impose other sanctions short of revocation for
22 violation of conditions of parole;

23 (c) Determine the time of discharge from parole;

24 (d) Visit and inspect any facility, state or local, for
25 the detention of persons charged with or convicted of an offense
26 and for the safekeeping of such other persons as may be remanded to
27 such facility in accordance with law;

1 (e) Within two years after July 1, 1994, ~~implement~~
2 ~~objective parole risk-assessment criteria which shall be used~~
3 ~~by the members of the board as additional considerations in~~
4 ~~determining whether to grant or deny parole to any particular~~
5 ~~offender who is eligible for parole. For purposes of this~~
6 ~~subdivision, objective parole risk-assessment criteria shall~~
7 ~~mean criteria which statistically have been shown to be good~~
8 ~~predictors of risk to society of release on parole~~ 2006, implement
9 the utilization of a validated risk and needs assessment in
10 coordination with the Department of Correctional Services and the
11 Office of Parole Administration. The assessment shall be prepared
12 and completed by the department or the office for use by the board
13 in determining release on parole;

14 (f) Review the record of every committed offender as
15 follows:

16 (i) If a committed offender has a parole eligibility date
17 within five years of his or her date of incarceration, his or her
18 record shall be reviewed annually;

19 (ii) If a committed offender has a parole eligibility
20 date which is more than five but not more than ten years from his
21 or her date of incarceration, his or her record shall be reviewed
22 during the first year of incarceration, and when he or she is
23 within three years of his or her earliest parole eligibility date,
24 his or her record shall be reviewed annually;

25 (iii) If a committed offender has a parole eligibility
26 date which is more than ten but not more than thirty years from his
27 or her date of incarceration, his or her record shall be reviewed

1 during the first year of incarceration, every five years thereafter
2 until he or she is within five years of his or her earliest parole
3 eligibility date, and annually thereafter;

4 (iv) If a committed offender has a parole eligibility
5 date which is more than thirty years from his or her date of
6 incarceration, his or her record shall be reviewed during his or
7 her first, tenth, and twentieth year of incarceration, and when
8 he or she is within five years of his or her earliest parole
9 eligibility date, his or her record shall be reviewed annually; and

10 (v) If a committed offender is serving a minimum life
11 sentence, his or her record shall be reviewed during the first
12 year of incarceration and every ten years thereafter until such
13 time as the sentence is commuted. If such sentence is commuted, the
14 committed offender's record shall be reviewed annually when he or
15 she is within five years of his or her earliest parole eligibility
16 date.

17 Such review shall include the circumstances of the
18 offense, the presentence investigation report, the committed
19 offender's previous social history and criminal record, his or
20 her conduct, employment, and attitude during commitment, and the
21 reports of such physical and mental examinations as have been made.
22 The board shall meet with such committed offender and counsel him
23 or her concerning his or her progress and prospects for future
24 parole.

25 The review schedule shall be based on court-imposed
26 sentences or statutory minimum sentences, whichever are greater.
27 Nothing in such schedule shall prohibit the board from reviewing a

1 committed offender's case at any time;

2 (g) Appoint and remove all employees of the board as
3 prescribed by the State Personnel System and delegate appropriate
4 powers and duties to them; and

5 (h) Exercise all powers and perform all duties necessary
6 and proper in carrying out its responsibilities of the board under
7 the Nebraska Treatment and Corrections Act.

8 (2) The chairperson of the board shall:

9 (a) Supervise the administration and operation of the
10 board;

11 (b) Serve in an advisory capacity to the director in
12 administering parole services within any facility and in the
13 community;

14 (c) Interpret the parole program to the public with a
15 view toward developing a broad base of public support;

16 (d) Conduct research for the purpose of evaluating and
17 improving the effectiveness of the parole system;

18 (e) Recommend parole legislation to the Governor;

19 (f) Adopt and promulgate rules and regulations for the
20 administration and operation of the board; and

21 (g) Exercise all other powers and perform all other
22 duties necessary and proper in carrying out his or her
23 responsibilities as chairperson.

24 (3) The provisions of this section shall not prohibit a
25 committed offender from requesting that the board review his or her
26 record, except that the board shall not be required to review a
27 committed offender's record more than once a year.

1 Sec. 50. Section 83-1,114, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-1,114 (1) Whenever the Board of Parole considers the
4 release of a committed offender who is eligible for release on
5 parole, it shall order his or her release unless it is of the
6 opinion that his or her release should be deferred because:

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

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

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

13 (d) His or her continued correctional treatment, medical
14 care, or vocational or other training in the facility will
15 substantially enhance his or her capacity to lead a law-abiding
16 life when released at a later date.

17 (2) In making its determination regarding a committed
18 offender's release on parole, the Board of Parole shall take into
19 account each of the following factors:

20 (a) The offender's personality, including his or her
21 maturity, stability, sense of responsibility and any apparent
22 development in his or her personality which may promote or hinder
23 his or her conformity to law;

24 (b) The adequacy of the offender's parole plan;

25 (c) The offender's ability and readiness to assume
26 obligations and undertake responsibilities;

27 (d) The offender's intelligence and training;

1 (e) The offender's family status and whether he or she
2 has relatives who display an interest in him or her or whether
3 he or she has other close and constructive associations in the
4 community;

5 (f) The offender's employment history, his or her
6 occupational skills, and the stability of his or her past
7 employment;

8 (g) The type of residence, neighborhood or community in
9 which the offender plans to live;

10 (h) The offender's past use of narcotics, or past
11 habitual and excessive use of alcohol;

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

15 (j) The offender's prior criminal record, including
16 the nature and circumstances, recency and frequency of previous
17 offenses;

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

19 (l) The offender's conduct in the facility, including
20 particularly whether he or she has taken advantage of the
21 opportunities for self-improvement, whether he or she has been
22 punished for misconduct within six months prior to his or
23 her hearing or reconsideration for parole release, whether any
24 reductions of term have been forfeited, and whether such reductions
25 have been restored at the time of hearing or reconsideration;

26 (m) The offender's behavior and attitude during any
27 previous experience of probation or parole and the recency of such

1 experience; ~~and~~

2 (n) The risk and needs assessment completed pursuant to
3 section 83-192; and

4 ~~(n)~~ (o) Any other factors the board determines to be
5 relevant.

6 Sec. 51. Section 83-1,115, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 83-1,115 Before making a determination regarding a
9 committed offender's release on parole, the Board of Parole shall
10 consider the following:

11 (1) A report prepared by the institutional caseworkers
12 relating to his or her personality, social history, and adjustment
13 to authority, and including any recommendations which the staff of
14 the facility may make;

15 (2) All official reports of his or her prior criminal
16 record, including reports and records of earlier probation and
17 parole experiences;

18 (3) The presentence investigation report;

19 (4) Recommendations regarding his or her parole made at
20 the time of sentencing by the sentencing judge;

21 (5) The reports of any physical, mental, and psychiatric
22 examinations of the offender;

23 (6) Any relevant information which may be submitted by
24 the offender, his or her attorney, the victim of his or her crime,
25 or by other persons; ~~and~~

26 (7) The risk and needs assessment completed pursuant to
27 section 83-192; and

1 ~~(7)~~ (8) Such other relevant information concerning the
2 offender as may be reasonably available.

3 Sec. 52. Section 86-291, Revised Statutes Cumulative
4 Supplement, 2004, is amended to read:

5 86-291 The Attorney General or any county attorney may
6 make application to any district court of this state for an order
7 authorizing or approving the interception of wire, electronic,
8 or oral communications, and such court may grant, subject to
9 sections 86-271 to 86-295, an order authorizing or approving the
10 interception of wire, electronic, or oral communications by law
11 enforcement officers having responsibility for the investigation of
12 the offense as to which application is made, when such interception
13 may provide or has provided evidence of the commission of the
14 offense of murder, kidnapping, robbery, bribery, extortion, dealing
15 in narcotic or other dangerous drugs, sexual assault of a child
16 or a vulnerable adult, visual depiction or possessing a visual
17 depiction of sexually explicit conduct of a child, or child
18 enticement by means of a computer, or any conspiracy to commit any
19 such offenses offense.

20 At the same time a county attorney first makes
21 application to the district court for an initial order authorizing
22 or approving the interception of wire, electronic, or oral
23 communications, the county attorney shall submit the application to
24 the Attorney General or his or her designated deputy or assistant.
25 Within twenty-four hours of receipt by the office of the Attorney
26 General of the application from the county attorney, the Attorney
27 General or his or her designated deputy or assistant, as the case

1 may be, shall state to the district court where the order is
2 sought his or her recommendation as to whether the order should be
3 granted. The court shall not issue the order until it has received
4 the recommendation or until seventy-two hours after receipt of the
5 application from the county attorney, whichever is sooner, unless
6 the court finds exigent circumstances existing which necessitate
7 the immediate issuance of the order. The court may issue the order
8 and disregard the recommendation of the Attorney General or his or
9 her designated deputy or assistant.

10 Sec. 53. Original sections 2-3290, 2-3296, 2-3297,
11 18-1755, 28-311.04, 28-813, 42-364, 42-364.13, 42-1103, 43-256,
12 43-271, 43-408, 43-1412, 43-3001, 43-3342.05, 47-612, 47-620,
13 83-192, 83-1,114, and 83-1,115, Reissue Revised Statutes of
14 Nebraska, sections 2-3202, 20-504, 28-311.02, 28-311.03, 28-728,
15 28-729, 28-730, 29-4101, 29-4102, 29-4104, 29-4106, 29-4107, and
16 86-291, Revised Statutes Cumulative Supplement, 2004, and sections
17 29-4126, 47-623, 47-624, and 47-625, Revised Statutes Supplement,
18 2005, are repealed.