

FORTY-FIFTH DAY - MARCH 15, 2023**LEGISLATIVE JOURNAL****ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 15, 2023

PRAYER

The prayer was offered by Bruce Phillips, Neligh Faith Community Church, Neligh.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator Halloran.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Kelly presiding.

The roll was called and all members were present except Senators Aguilar and DeKay who were excused; and Senators M. Cavanaugh, Conrad, Day, Geist, Hardin, Hunt, Linehan, Vargas, and Walz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-fourth day was approved.

AMENDMENT - Print in Journal

Senator Briese filed the following amendment to [LB243](#):

[FA28](#)

Strike Section 1.

COMMITTEE REPORT

Natural Resources

LEGISLATIVE BILL 565. Placed on General File with amendment. [AM827](#) is available in the Bill Room.

(Signed) Bruce Bostelman, Chairperson

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524 1:30 PM

Wednesday, March 22, 2023

LB697
LB756
LB524
LB747
LB239

Room 1524 1:30 PM

Thursday, March 23, 2023

LB745
LB381
LB577
LB695
LB694

Room 1524 1:30 PM

Friday, March 24, 2023

LB369
LB387
LB388

(Signed) Lou Ann Linehan, Chairperson

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 56, 57, and 58 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 56, 57, and 58.

GENERAL FILE

LEGISLATIVE BILL 775. The first committee amendment [AM856](#), found on page 752 and considered on pages 754, 755, and 759, was renewed.

Senator M. Cavanaugh offered [MO74](#), found on page 762, to bracket until May 17, 2023.

Senator M. Cavanaugh withdrew her motion to bracket.

Senator M. Cavanaugh offered the following motion:

[MO76](#)

Bracket until May 18, 2023.

Senator M. Cavanaugh withdrew her motion to bracket.

Pending.

ANNOUNCEMENT

Speaker priority bill designations are as follows:

LBs 11, 78, 138, 206, 220, 276, 286, 296, 298, 308, 314, 335, 387, 388, 426, 462, 465, 580, 585, 630, 647, 664, 671, 757, and 799.

COMMITTEE REPORT

Health and Human Services

LEGISLATIVE BILL 181. Placed on General File with amendment.

[AM812](#)

1 1. Strike the original sections and insert the following new
 2 sections:
 3 Section 1. Section 38-2801, Revised Statutes Cumulative Supplement,
 4 2022, is amended to read:
 5 38-2801 Sections 38-2801 to 38-28,107 and section 2 of this act and
 6 the Nebraska Drug Product Selection Act shall be known and may be cited
 7 as the Pharmacy Practice Act.
 8 Sec. 2. A prescription that is valid when written remains valid for
 9 the period stated in the medical order notwithstanding the prescribing
 10 practitioner's subsequent death or retirement or the suspension or
 11 revocation of the prescribing practitioner's credential by the
 12 appropriate board, and a pharmacist may use professional judgment to fill
 13 or refill such a prescription which has sufficient fills remaining. This
 14 section shall not apply to a prescription issued by a veterinarian.
 15 Sec. 3. Section 38-2852, Reissue Revised Statutes of Nebraska, is
 16 amended to read:
 17 38-2852 Every applicant for licensure as a pharmacist shall be
 18 required to attain a grade to be determined by the board in an
 19 examination in pharmacy and ~~a grade of seventy-five~~ in an examination in
 20 jurisprudence of pharmacy.
 21 Sec. 4. Section 38-2867.01, Reissue Revised Statutes of Nebraska, is
 22 amended to read:
 23 38-2867.01 (1) Any person authorized to compound shall compound in
 24 compliance with the standards of chapters 795 and 797 of The United
 25 States Pharmacopeia and The National Formulary, as such chapters existed
 26 on January 1, ~~2023~~ ~~2015~~, and shall compound (a) as the result of a
 27 practitioner's medical order or initiative occurring in the course of
 1 practice based upon the relationship between the practitioner, patient,
 2 and pharmacist, (b) for the purpose of, or as an incident to, research,
 3 teaching, or chemical analysis and not for sale or dispensing, or (c) for
 4 office use only and not for resale.
 5 (2) Compounding in a hospital pharmacy may occur for any hospital
 6 which is part of the same health care system under common ownership or
 7 which is a member of or an affiliated member of a formal network or
 8 partnership agreement.
 9 (3)(a) Any authorized person may reconstitute a commercially
 10 available drug product in accordance with directions contained in

11 approved labeling provided by the product's manufacturer and other
12 manufacturer directions consistent with labeling.
13 (b) Any authorized person using beyond-use dating must follow the
14 approved product manufacturer's labeling or the standards of The United
15 States Pharmacopeia and The National Formulary if the product
16 manufacturer's labeling does not specify beyond-use dating.
17 (c) Any authorized person engaged in activities listed in this
18 subsection is not engaged in compounding, except that any variance from
19 the approved product manufacturer's labeling will result in the person
20 being engaged in compounding.
21 (4) Any authorized person splitting a scored tablet along scored
22 lines or adding flavoring to a commercially available drug product is not
23 engaged in compounding.
24 (5) No person shall compound:
25 (a) A drug that has been identified by the federal Food and Drug
26 Administration as withdrawn or removed from the market because the drug
27 was found to be unsafe or ineffective;
28 (b) A drug that is essentially a copy of an approved drug unless
29 there is a drug shortage as determined by the board or unless a patient
30 has an allergic reaction to the approved drug; or
31 (c) A drug that has been identified by the federal Food and Drug
1 Administration or the board as a product which may not be compounded.
2 Sec. 5. Section 38-2891, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:
4 38-2891 (1) A pharmacy technician shall only perform tasks which do
5 not require the professional judgment of a pharmacist and which are
6 subject to verification to assist a pharmacist in the practice of
7 pharmacy.
8 (2) A pharmacy technician may administer vaccines, and such
9 administration shall not be considered to be performing a task requiring
10 the professional judgment of a pharmacist, when:
11 (a) The vaccines are verified by the pharmacist responsible for the
12 supervision and verification of the activities of the pharmacy technician
13 prior to administration;
14 (b) Administration is limited to intra-muscular in the deltoid
15 muscle or subcutaneous on the arm to a person three years of age or
16 older;
17 (c) The pharmacy technician is certified as required by section
18 38-2890;
19 (d) The pharmacy technician has completed certificate training in
20 vaccine administration that includes, at a minimum, vaccine
21 administration, blood-borne pathogen exposure, safety measures during
22 administration, and biohazard handling;
23 (e) The pharmacy technician is currently certified in basic life-
24 support skills for health care providers as determined by the board; and
25 (f) The pharmacist responsible for the supervision and verification
26 of the activities of the pharmacy technician is on site.
27 (3) (2) The functions and tasks which shall not be performed by
28 pharmacy technicians include, but are not limited to:
29 (a) Receiving oral medical orders from a practitioner or his or her
30 agent except as otherwise provided in subsection (4) of section 38-2870;
31 (b) Providing patient counseling;
1 (c) Performing any evaluation or necessary clarification of a
2 medical order or performing any functions other than strictly clerical
3 functions involving a medical order;
4 (d) Supervising or verifying the tasks and functions of pharmacy
5 technicians;
6 (e) Interpreting or evaluating the data contained in a patient's
7 record maintained pursuant to section 38-2869;
8 (f) Releasing any confidential information maintained by the

9 pharmacy;

10 (g) Performing any professional consultations; and

11 (h) Drug product selection, with regard to an individual medical
12 order, in accordance with the Nebraska Drug Product Selection Act.

13 (4) ~~(3)~~ The director shall, with the recommendation of the board,

14 waive any of the limitations in subsection (2) of this section for
15 purposes of a scientific study of the role of pharmacy technicians
16 approved by the board. Such study shall be based upon providing improved
17 patient care or enhanced pharmaceutical care. Any such waiver shall state
18 the length of the study and shall require that all study data and results
19 be made available to the board upon the completion of the study. Nothing
20 in this subsection requires the board to approve any study proposed under
21 this subsection.

22 Sec. 6. Section 71-475, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-475 (1)(a) When administration of a drug occurs in a hospital
25 pursuant to a chart order, hospital personnel may provide the unused
26 portion of the drug to the patient upon discharge from the hospital for
27 continued use in treatment of the patient if:

28 (i) The drug has been opened and used for treatment of the patient
29 at the hospital and is necessary for the continued treatment of the
30 patient and would be wasted if not used by the patient; and

31 (ii) The drug is:

1 (A) In a multidose device or a multidose container; or

2 (B) In the form of a liquid reconstituted from a dry stable state to
3 a liquid resulting in a limited stability.

4 (b) A drug provided to a patient in accordance with this subsection
5 shall be labeled with the name of the patient, the name of the drug
6 including the quantity if appropriate, the date the drug was provided,
7 and the directions for use.

8 (2)(a) A licensed health care practitioner authorized to prescribe
9 controlled substances may provide to his or her patients being discharged
10 from a hospital a sufficient quantity of drugs adequate, in the judgment
11 of the practitioner, to continue treatment, which began in the hospital,
12 until the patient is reasonably able to access a pharmacy.

13 (b) The pharmacist-in-charge at the hospital shall maintain records
14 of the drugs provided to patients in accordance with this subsection
15 which shall include the name of the patient, the name of the drug
16 including the quantity if appropriate, the date the drug was provided,
17 and the directions for use.

18 (3) If a drug is provided to a patient in accordance with subsection
19 (1) or (2) of this section:

20 (a) The drug shall be kept in a locked cabinet or automated
21 medication system with access only by a licensed health care practitioner
22 authorized to prescribe, dispense, or administer controlled substances;

23 (b) Prior to providing the drug to the patient, a written or
24 electronic order shall be in the patient's record;

25 (c) The process at the hospital shall be under the direct
26 supervision of the prescriber;

27 (d) If the label is prepared by a nurse, the prescriber shall verify
28 the drug and the directions for the patient;

29 (e) When possible, the directions for the patient shall be
30 preprinted on the label by the pharmacist;

31 (f) The label shall include the name of the patient, the name of the
1 drug including the quantity if appropriate, the date the drug was
2 provided, and the directions for use;

3 (g) A written information sheet shall be given to the patient for
4 each drug provided; and

5 (h) Documentation in a readily retrievable format shall be
6 maintained each time a drug is provided to a patient from the hospital

7 pharmacy's inventory which shall include the date, the patient, the drug,
8 and the prescriber.

9 (4)(a) When a hospital, an ambulatory surgical center, or a health
10 care practitioner facility provides medication that is ordered at least
11 twenty-four hours in advance for surgical procedures and is administered
12 to a patient at the hospital, ambulatory surgical center, or health care
13 practitioner facility, any unused portion of the medication shall be
14 offered to the patient upon discharge when it is required for continuing
15 treatment. The unused portion of any such medication accepted by the
16 patient upon discharge shall be labeled by the prescriber or a pharmacist
17 consistent with labeling requirements in section 71-2479.

18 (b) For purposes of this subsection, medication means any topical
19 antibiotic, anti-inflammatory, dilation, or glaucoma drop or ointment
20 that a hospital, ambulatory surgical center, or health care practitioner
21 facility has on stand-by or is retrieved from a dispensing system for a
22 specified patient for use during a procedure or visit.

23 (c) If the medication is used in an operating room or emergency
24 department setting, the prescriber is responsible for counseling the
25 patient on its proper use and administration and no other patient
26 counseling is required under section 38-2869.

27 Sec. 7. Section 71-2461.01, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 71-2461.01 (1) Central fill means the preparation, other than by
30 compounding, of a drug, device, or biological pursuant to a medical order
31 where the preparation occurs in a pharmacy other than the pharmacy
1 dispensing to the patient or caregiver as defined in section 38-2809.

2 (2) If the dispensing pharmacy and central fill pharmacy are under
3 common ownership, the central fill pharmacy may deliver such drug,
4 device, or biological to the patient or caregiver on behalf of the
5 dispensing pharmacy.

6 Sec. 8. Section 71-2479, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 71-2479 (1) Any prescription for a legend drug which is not a
9 controlled substance shall be kept by the pharmacy or the practitioner
10 who holds a pharmacy license in a readily retrievable format and shall be
11 maintained for a minimum of five years. The pharmacy or practitioner
12 shall make all such files readily available to the department and law
13 enforcement for inspection without a search warrant.

14 (2) Before dispensing a legend drug which is not a controlled
15 substance pursuant to a written, oral, or electronic prescription, a
16 label shall be affixed to the container in which the drug is dispensed.
17 Such label shall bear (a) the name, address, and telephone number of the
18 pharmacy or practitioner and the name and address of the central fill
19 pharmacy if central fill is used, (b) the name of the patient, (c) the
20 date of filling, (d) the serial number of the prescription under which it
21 is recorded in the practitioner's prescription records, (e) the name of
22 the prescribing practitioner, (f) the directions for use, (g) the name of
23 the drug, device, or biological unless instructed to omit by the
24 prescribing practitioner, (h) the strength of the drug or biological, if
25 applicable, (i) the quantity of the drug, device, or biological in the
26 container, except unit-dose containers, (j) the dosage form of the drug
27 or biological, and (k) any cautionary statements contained in the
28 prescription.

29 (3) For multidrug containers, more than one drug, device, or
30 biological may be dispensed in the same container when (a) such container
31 is prepackaged by the manufacturer, packager, or distributor and shipped
1 directly to the pharmacy in this manner or (b) the container does not
2 accommodate greater than a thirty-one-day supply of compatible dosage
3 units and is labeled to identify each drug or biological in the container
4 in addition to all other information required by law.

5 Sec. 9. Sections 1, 2, 3, 4, 6, 7, 8, and 10 of this act become
 6 operative three calendar months after adjournment of this legislative
 7 session. The other sections of this act become operative on their
 8 effective date.
 9 Sec. 10. Original sections 38-2852, 38-2867.01, and 71-475, Reissue
 10 Revised Statutes of Nebraska, and sections 38-2801, 71-2461.01, and
 11 71-2479, Revised Statutes Cumulative Supplement, 2022, are repealed.
 12 Sec. 11. Original section 38-2891, Revised Statutes Cumulative
 13 Supplement, 2022, is repealed.
 14 Sec. 12. Since an emergency exists, this act takes effect when
 15 passed and approved according to law.

(Signed) Ben Hansen, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary
 Room 1113 1:30 PM

Wednesday, March 22, 2023

LB581
 LB89
 LB23
 LB391
 LR20CA

(Signed) Justin Wayne, Chairperson

Urban Affairs
 Room 1510 1:30 PM

Tuesday, March 21, 2023

LB532 (cancel)

Room 1510 1:30 PM

Tuesday, March 21, 2023

AM861

Note: AMENDMENT TO LB 532

(Signed) Terrell McKinney, Chairperson

Nebraska Retirement Systems
 Room 1307 12:30 PM

Wednesday, March 22, 2023

LB686

(Signed) Mike McDonnell, Chairperson

AMENDMENTS - Print in Journal

Senator Riepe filed the following amendment to LB626:

[AM626](#)

1 1. Strike the original sections and all amendments thereto and

2 insert the following new sections:

3 Section 1. Section 28-3,102, Reissue Revised Statutes of Nebraska,

4 is amended to read:

5 28-3,102 Sections 28-3,102 to 28-3,111 shall be known and may be

6 cited as the ~~Pain-Capable~~ Unborn Child Protection Act.

7 Sec. 2. Section 28-3,103, Reissue Revised Statutes of Nebraska, is

8 amended to read:

9 28-3,103 For purposes of the ~~Pain-Capable~~ Unborn Child Protection
10 Act:

11 (1) Abortion means the use or prescription of any instrument,
12 medicine, drug, or other substance or device to terminate the pregnancy
13 of a woman known to be pregnant with an intention other than to increase
14 the probability of a live birth, to preserve the life or health of the
15 child after live birth, or to remove a dead unborn child who died as the
16 result of natural causes in utero, accidental trauma, or a criminal
17 assault on the pregnant woman or her unborn child, and which causes the
18 premature termination of the pregnancy;

19 (2) Attempt to perform or induce an abortion means an act, or an
20 omission of a statutorily required act, that, under the circumstances as
21 the actor believes them to be, constitutes a substantial step in a course
22 of conduct planned to culminate in the performance or induction of an
23 abortion in this state in violation of the ~~Pain-Capable~~ Unborn Child
24 Protection Act;

25 (3) Fertilization means the fusion of a human spermatozoon with a
26 human ovum;

27 (4) Medical emergency means a condition which, in reasonable medical
1 judgment, so complicates the medical condition of the pregnant woman as
2 to necessitate the immediate abortion of her pregnancy to avert her death
3 or for which a delay will create a serious risk of substantial and
4 irreversible physical impairment of a major bodily function. No condition
5 shall be deemed a medical emergency if based on a claim or diagnosis that
6 the woman will engage in conduct which would result in her death or in
7 substantial and irreversible physical impairment of a major bodily
8 function;

9 (5) Postfertilization age means the age of the unborn child as
10 calculated from the fertilization of the human ovum;

11 (6) Reasonable medical judgment means a medical judgment that would
12 be made by a reasonably prudent physician, knowledgeable about the case
13 and the treatment possibilities with respect to the medical conditions
14 involved;

15 (7) Physician means any person licensed to practice medicine and
16 surgery or osteopathic medicine under the Uniform Credentialing Act;

17 (8) Probable postfertilization age of the unborn child means what,
18 in reasonable medical judgment, will with reasonable probability be the
19 postfertilization age of the unborn child at the time the abortion is
20 planned to be performed;

21 (9) Unborn child or fetus each mean an individual organism of the
22 species homo sapiens from fertilization until live birth; and
23 (10) Woman means a female human being whether or not she has reached
24 the age of majority.

25 Sec. 3. Section 28-3,106, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 28-3,106 (1) Except as provided in subsection (2) of this section,
28 ~~no~~ ~~No~~ person shall perform or induce or attempt to perform or induce an
29 abortion upon a woman when it has been determined, by the physician
30 performing or inducing the abortion or by another physician upon whose
31 determination that physician relies, that the probable postfertilization
1 age of the woman's unborn child is ~~twelve~~ ~~twenty~~ or more weeks.

2 (2) Subsection (1) of this section does not apply if ~~unless~~, in

3 reasonable medical judgment:

4 (a) ~~The woman (1) she~~ has a condition which so complicates her
5 medical condition as to necessitate the abortion of her pregnancy to
6 avert her death or to avert serious risk of substantial and irreversible
7 physical impairment of a major bodily function ~~or (2) it is necessary to~~
8 ~~preserve the life of an unborn child.~~ No such condition shall be deemed
9 to exist if it is based on a claim or diagnosis that the woman will
10 engage in conduct which would result in her death or in substantial and
11 irreversible physical impairment of a major bodily function; -

12 (b) An abortion is necessary to preserve the life of an unborn
13 child; or

14 (c) There is a fetal anomaly incompatible with life.

15 (3) If an abortion is necessary under subdivision (2)(a) of this
16 section ~~In such a case,~~ the physician shall terminate the pregnancy in
17 the manner which, in reasonable medical judgment, provides the best
18 opportunity for the unborn child to survive, unless, in reasonable
19 medical judgment, termination of the pregnancy in that manner would pose
20 a greater risk either of the death of the pregnant woman or of the
21 substantial and irreversible physical impairment of a major bodily
22 function of the woman than would another available method. No such
23 greater risk shall be deemed to exist if it is based on a claim or
24 diagnosis that the woman will engage in conduct which would result in her
25 death or in substantial and irreversible physical impairment of a major
26 bodily function.

27 (4) For purposes of this section, fetal anomaly incompatible with
28 life means a fetal anomaly diagnosed before birth that will with
29 reasonable certainty result in the death of the unborn child within three
30 months. Fetal anomaly incompatible with life does not include a condition
31 which can be treated.

1 Sec. 4. Section 28-3,107, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-3,107 (1) Any physician who performs or induces or attempts to
4 perform or induce an abortion shall report to the Department of Health
5 and Human Services, on a schedule and in accordance with forms and rules
6 and regulations adopted and promulgated by the department:

7 (a) If a determination of probable postfertilization age was made,
8 the probable postfertilization age determined and the method and basis of
9 the determination;

10 (b) If a determination of probable postfertilization age was not
11 made, the basis of the determination that a medical emergency existed;

12 (c) If the probable postfertilization age was determined to be
13 ~~twelve twenty~~ or more weeks, the basis of the determination that an
14 abortion was necessary for a reason provided in subsection (2) of section
15 28-3,106 ~~the pregnant woman had a condition which so complicated her~~
16 ~~medical condition as to necessitate the abortion of her pregnancy to~~
17 ~~avert her death or to avert serious risk of substantial and irreversible~~
18 ~~physical impairment of a major bodily function, or the basis of the~~
19 ~~determination that it was necessary to preserve the life of an unborn~~
20 ~~child; and~~

21 (d) The method used for the abortion and, in the case of an abortion
22 performed when the probable postfertilization age was determined to be
23 ~~twelve twenty~~ or more weeks, whether the method of abortion used was one
24 that, in reasonable medical judgment, provided the best opportunity for
25 the unborn child to survive or, if such a method was not used, the basis
26 of the determination that termination of the pregnancy in that manner
27 would pose a greater risk either of the death of the pregnant woman or of
28 the substantial and irreversible physical impairment of a major bodily
29 function of the woman than would other available methods.

30 (2) By June 30 of each year, the department shall issue a public
31 report providing statistics for the previous calendar year compiled from

1 all of the reports covering that year submitted in accordance with this
2 section for each of the items listed in subsection (1) of this section.
3 Each such report shall also provide the statistics for all previous
4 calendar years during which this section was in effect, adjusted to
5 reflect any additional information from late or corrected reports. The
6 department shall take care to ensure that none of the information
7 included in the public reports could reasonably lead to the
8 identification of any pregnant woman upon whom an abortion was performed.
9 (3) Any physician who fails to submit a report by the end of thirty
10 days following the due date shall be subject to a late fee of five
11 hundred dollars for each additional thirty-day period or portion of a
12 thirty-day period the report is overdue. Any physician required to report
13 in accordance with the ~~Pain-Capable~~ Unborn Child Protection Act who has
14 not submitted a report, or has submitted only an incomplete report, more
15 than one year following the due date, may, in an action brought in the
16 manner in which actions are brought to enforce the Uniform Credentialing
17 Act pursuant to section 38-1,139, be directed by a court of competent
18 jurisdiction to submit a complete report within a time period stated by
19 court order or be subject to civil contempt. Failure by any physician to
20 conform to any requirement of this section, other than late filing of a
21 report, constitutes unprofessional conduct pursuant to section 38-2021.
22 Failure by any physician to submit a complete report in accordance with a
23 court order constitutes unprofessional conduct pursuant to section
24 38-2021. Intentional or reckless falsification of any report required
25 under this section is a Class V misdemeanor.
26 (4) Within ninety days after October 15, 2010, the department shall
27 adopt and promulgate rules and regulations to assist in compliance with
28 this section.
29 Sec. 5. Section 28-3,109, Reissue Revised Statutes of Nebraska, is
30 amended to read:
31 28-3,109 (1) Any woman upon whom an abortion has been performed in
1 violation of the ~~Pain-Capable~~ Unborn Child Protection Act or the father
2 of the unborn child who was the subject of such an abortion may maintain
3 an action against the person who performed the abortion in an intentional
4 or a reckless violation of the ~~Pain-Capable~~ Unborn Child Protection Act
5 for actual damages. Any woman upon whom an abortion has been attempted in
6 violation of the ~~Pain-Capable~~ Unborn Child Protection Act may maintain an
7 action against the person who attempted to perform the abortion in an
8 intentional or a reckless violation of the ~~Pain-Capable~~ Unborn Child
9 Protection Act for actual damages.
10 (2) A cause of action for injunctive relief against any person who
11 has intentionally violated the ~~Pain-Capable~~ Unborn Child Protection Act
12 may be maintained by the woman upon whom an abortion was performed or
13 attempted to be performed in violation of the ~~Pain-Capable~~ Unborn Child
14 Protection Act, by any person who is the spouse, parent, sibling, or
15 guardian of, or a current or former licensed health care provider of, the
16 woman upon whom an abortion has been performed or attempted to be
17 performed in violation of the ~~Pain-Capable~~ Unborn Child Protection Act,
18 by a county attorney with appropriate jurisdiction, or by the Attorney
19 General. The injunction shall prevent the abortion provider from
20 performing further abortions in violation of the ~~Pain-Capable~~ Unborn
21 Child Protection Act in this state.
22 (3) If judgment is rendered in favor of the plaintiff in an action
23 described in this section, the court shall also render judgment for
24 reasonable attorney's fees in favor of the plaintiff against the
25 defendant.
26 (4) If judgment is rendered in favor of the defendant and the court
27 finds that the plaintiff's suit was frivolous and brought in bad faith,
28 the court shall also render judgment for reasonable attorney's fees in
29 favor of the defendant against the plaintiff.

30 (5) No damages or attorney's fees may be assessed against the woman
31 upon whom an abortion was performed or attempted to be performed except
1 as provided in subsection (4) of this section.

2 Sec. 6. Section 28-3,110, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 28-3,110 In every civil or criminal proceeding or action brought
5 under the ~~Pain-Capable~~ Unborn Child Protection Act, the court shall rule
6 whether the anonymity of any woman upon whom an abortion has been
7 performed or attempted shall be preserved from public disclosure if she
8 does not give her consent to such disclosure. The court, upon motion or
9 sua sponte, shall make such a ruling and, upon determining that her
10 anonymity should be preserved, shall issue orders to the parties,
11 witnesses, and counsel and shall direct the sealing of the record and
12 exclusion of individuals from courtrooms or hearing rooms to the extent
13 necessary to safeguard her identity from public disclosure. Each such
14 order shall be accompanied by specific written findings explaining why
15 the anonymity of the woman should be preserved from public disclosure,
16 why the order is essential to that end, how the order is narrowly
17 tailored to serve that interest, and why no reasonable less restrictive
18 alternative exists. In the absence of written consent of the woman upon
19 whom an abortion has been performed or attempted, anyone, other than a
20 public official, who brings an action under section 28-3,109 shall do so
21 under a pseudonym. This section shall not be construed to conceal the
22 identity of the plaintiff or of witnesses from the defendant or from
23 attorneys for the defendant.

24 Sec. 7. Section 28-3,111, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 28-3,111 If any one or more provisions, sections, subsections,
27 sentences, clauses, phrases, or words of the ~~Pain-Capable~~ Unborn Child
28 Protection Act or the application thereof to any person or circumstance
29 is found to be unconstitutional, the same is hereby declared to be
30 severable and the balance of the ~~Pain-Capable~~ Unborn Child Protection Act
31 shall remain effective notwithstanding such unconstitutionality. The
1 Legislature hereby declares that it would have passed the ~~Pain-Capable~~
2 Unborn Child Protection Act, and each provision, section, subsection,
3 sentence, clause, phrase, or word thereof, irrespective of the fact that
4 any one or more provisions, sections, subsections, sentences, clauses,
5 phrases, or words of the ~~Pain-Capable~~ Unborn Child Protection Act, or the
6 application of the ~~Pain-Capable~~ Unborn Child Protection Act, would be
7 declared unconstitutional.

8 Sec. 8. Section 38-2021, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 38-2021 Unprofessional conduct means any departure from or failure
11 to conform to the standards of acceptable and prevailing practice of
12 medicine and surgery or the ethics of the profession, regardless of
13 whether a person, patient, or entity is injured, or conduct that is
14 likely to deceive or defraud the public or is detrimental to the public
15 interest, including, but not limited to:

16 (1) Performance by a physician of an abortion as defined in
17 subdivision (1) of section 28-326 under circumstances when he or she will
18 not be available for a period of at least forty-eight hours for
19 postoperative care unless such postoperative care is delegated to and
20 accepted by another physician;
21 (2) Performing an abortion upon a minor without having satisfied the
22 requirements of sections 71-6901 to 71-6911;
23 (3) The intentional and knowing performance of a partial-birth
24 abortion as defined in subdivision (8) of section 28-326, unless such
25 procedure is necessary to save the life of the mother whose life is
26 endangered by a physical disorder, physical illness, or physical injury,
27 including a life-endangering physical condition caused by or arising from

28 the pregnancy itself; and
 29 (4) Performance by a physician of an abortion in violation of the
 30 ~~Pain-Capable~~ Unborn Child Protection Act.
 31 Sec. 9. Original sections 28-3,102, 28-3,103, 28-3,106, 28-3,107,
 1 28-3,109, 28-3,110, and 28-3,111, Reissue Revised Statutes of Nebraska,
 2 and section 38-2021, Revised Statutes Cumulative Supplement, 2022, are
 3 repealed.
 4 Sec. 10. The following section is outright repealed: Section
 5 28-3,104, Reissue Revised Statutes of Nebraska.
 6 Sec. 11. Since an emergency exists, this act takes effect when
 7 passed and approved according to law.

Senator Brewer filed the following amendment to [LB138](#):
[AM837](#) is available in the Bill Room.

Senator M. Cavanaugh filed the following amendment to [LB749](#):
[AM759](#)

1 1. On page 3, line 17, strike "IV felony" and insert "I
 2 misdemeanor".

Senator Brandt filed the following amendment to [LB61](#):
[FA29](#)

Strike the enacting clause.

Senator Brandt filed the following amendment to [LB61](#):
[FA30](#)

Strike the enacting clause.

COMMITTEE REPORT

Transportation and Telecommunications

The Transportation and Telecommunications Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Russell L. Kreachbaum, Jr. - Board of Public Roads Classifications and Standards

Aye: 6. Bostelman, Brandt, DeKay, Fredrickson, Geist, Moser. Nay: 0.
 Absent: 0. Present and not voting: 2. Cavanaugh, M., DeBoer.

The Transportation and Telecommunications Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

John C. Ernst - Nebraska Motor Vehicle Industry Licensing Board

Aye: 7. Bostelman, Brandt, DeBoer, DeKay, Fredrickson, Geist, Moser.
 Nay: 0. Absent: 0. Present and not voting: 1. Cavanaugh, M..

The Transportation and Telecommunications Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

James Ediger - Nebraska Information Technology Commission

Aye: 7. Bostelman, Brandt, DeBoer, DeKay, Fredrickson, Geist, Moser.
Nay: 0. Absent: 0. Present and not voting: 1. Cavanaugh, M..

The Transportation and Telecommunications Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Leah Barrett - Nebraska Information Technology Commission

Aye: 7. Bostelman, Brandt, DeBoer, DeKay, Fredrickson, Geist, Moser.
Nay: 0. Absent: 0. Present and not voting: 1. Cavanaugh, M..

The Transportation and Telecommunications Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Bret R. Blackman - Nebraska Information Technology Commission

Aye: 7. Bostelman, Brandt, DeBoer, DeKay, Fredrickson, Geist, Moser.
Nay: 0. Absent: 0. Present and not voting: 1. Cavanaugh, M..

The Transportation and Telecommunications Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Katie Niemoller - Nebraska Information Technology Commission

Aye: 7. Bostelman, Brandt, DeBoer, DeKay, Fredrickson, Geist, Moser.
Nay: 0. Absent: 0. Present and not voting: 1. Cavanaugh, M..

The Transportation and Telecommunications Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Zachary J. Mellender - Nebraska Information Technology Commission

Aye: 7. Bostelman, Brandt, DeBoer, DeKay, Fredrickson, Geist, Moser.
Nay: 0. Absent: 0. Present and not voting: 1. Cavanaugh, M..

(Signed) Suzanne Geist, Chairperson

GENERAL FILE

LEGISLATIVE BILL 775. The first committee amendment [AM856](#), found on page 752 and considered on pages 754, 755, and 759 and in this day's Journal, was renewed.

Senator M. Cavanaugh offered the following motion:

[MO79](#)

Bracket until May 19, 2023.

Pending.

POINT OF ORDER

Senator Slama requested a point of order regarding Rule 2, Section 9.

EASE

The Legislature was at ease from 11:34 a.m. until 11:43 a.m.

The Chair sustained the point of order.

Pursuant to Rule 2, Section 9, Senator Slama took exception to the words spoken by Senator M. Cavanaugh in debate, "we are witnessing a genocide".

Senator Slama offered the following motion:

Censure Senator M. Cavanaugh pursuant to the point of order taken previously.

Speaker Arch did not immediately take up the Slama motion to censure.

AMENDMENTS - Print in Journal

Senator Kauth filed the following amendment to [LB574](#):

[AM872](#)

1 1. On page 7, line 29, strike "October 1, 2023" and insert "October 22, 2023".

Senator Kauth filed the following amendment to [LB574](#):

[AM873](#)

(Amendments to Final Reading copy)

1 1. On page 7, line 29, strike "October 1, 2023" and insert "October 22, 2023".

Senator Kauth filed the following amendment to [LB575](#):

[AM874](#)

1 1. On page 4, line 22, strike "August 1, 2023" and insert "August 2, 2023".

Senator Kauth filed the following amendment to [LB575](#):

[AM875](#)

(Amendments to Final Reading copy)

1 1. On page 4, line 22, strike "August 1, 2023" and insert "August 2,
2 2023".

RESOLUTIONS

LEGISLATIVE RESOLUTION 60. Introduced by Jacobson, 42; Kauth, 31.

WHEREAS, the Nebraska School Counselors Association presented the 2022 Nebraska Elementary School Counselor of the Year and 2023 Nebraska School Counselor of the Year awards to Kara Hahn of Jefferson Elementary School in the North Platte Public School District; and

WHEREAS, school counselors work with all students to support them in three areas: academic achievement, career planning and readiness, and social and emotional development; and

WHEREAS, school counselors deliver their services through classroom instruction, small group intervention, and individual advisement and counseling; and

WHEREAS, Ms. Hahn demonstrated excellence as a school counselor by developing and implementing a comprehensive school counseling program, which reduced the number of students who were identified as being at risk for both internalizing behaviors and externalizing behaviors on the Student Risk Screening Scale in her school.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Kara Hahn on receiving the 2022 Nebraska Elementary School Counselor of the Year and 2023 Nebraska School Counselor of the Year awards.

2. That copies of this resolution be sent to Kara Hahn and Jefferson Elementary School in the North Platte Public School District.

Laid over.

LEGISLATIVE RESOLUTION 61. Introduced by Kauth, 31; Armendariz, 18; Blood, 3; Bostar, 29; Bostelman, 23; Brewer, 43; DeBoer, 10; Dungan, 26; Ibach, 44; Jacobson, 42; McDonnell, 5; Moser, 22; Murman, 38; Raybould, 28.

WHEREAS, on February 22, 2023, Sergeant Tu Tran of the Lincoln Police Department's Southeast Team selflessly risked his own life rescuing a woman from her car that had slid off the road and into a pond in south Lincoln during freezing conditions; and

WHEREAS, this incident is Sergeant Tran's second water rescue in less than six months following a similar situation, when he and two bystanders saved a man after his car crashed into a pond in southeast Lincoln; and

WHEREAS, Sergeant Tran's actions in these situations are exemplary and indicative of the professionalism and dedication to duty the people of

Nebraska have come to expect from Nebraska's law enforcement officers; and

WHEREAS, Sergeant Tran's bravery and quick action in the line of duty are a credit to his profession; and

WHEREAS, Sergeant Tran's heroic actions are deserving of the gratitude and recognition of the Legislature and the people of the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature expresses gratitude to Sergeant Tu Tran of the Lincoln Police Department for his heroic actions, bravery, and dedication to his duty as a law enforcement officer.

2. That the Legislature recognizes the many contributions of law enforcement officers who selflessly risk their own lives protecting the people they serve.

3. That a copy of this resolution be sent to Sergeant Tu Tran of the Lincoln Police Department.

Laid over.

LEGISLATIVE RESOLUTION 62. Introduced by Kauth, 31; Armendariz, 18; Blood, 3; Bostar, 29; Bostelman, 23; Brewer, 43; Dungan, 26; Geist, 25; Hughes, 24; Ibach, 44; Jacobson, 42; McDonnell, 5; McKinney, 11; Moser, 22; Murman, 38; Raybould, 28.

WHEREAS, the 2023 Nebraska School Activities Association Class A Girls State Basketball Championship was held on March 4, 2023, at Pinnacle Bank Arena in Lincoln, Nebraska; and

WHEREAS, the Millard South High School girls basketball team won the 2023 Class A Girls State Basketball Championship; and

WHEREAS, Millard South defeated Lincoln High in the championship game by a score of 72-60; and

WHEREAS, this is a first state championship for the Millard South girls basketball team since 1996; and

WHEREAS, such a team achievement is made possible through the support of parents, teachers, administrators, classmates, and the community; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Millard South High School girls basketball team and its coaches on winning the 2023 Class A Girls State Basketball Championship.

2. That copies of this resolution be sent to the Millard South High School girls basketball team.

Laid over.

LEGISLATIVE RESOLUTION 63. Introduced by Brewer, 43; Albrecht, 17; Arch, 14; Ballard, 21; Blood, 3; Bostar, 29; Bostelman, 23; Brandt, 32; Briese, 41; Clements, 2; DeBoer, 10; Dover, 19; Dungan, 26; Erdman, 47; Geist, 25; Halloran, 33; Hansen, B., 16; Holdcroft, 36; Hughes, 24; Ibach, 44; Kauth, 31; Linehan, 39; Lippincott, 34; Lowe, 37; McDonnell, 5; McKinney, 11; Moser, 22; Murman, 38; Raybould, 28; Riepe, 12; Sanders, 45; Slama, 1; Vargas, 7; von Gillern, 4; Walz, 15; Wayne, 13.

WHEREAS, Paralyzed Veterans of America is a congressionally chartered veterans service organization that was founded in 1946; and

WHEREAS, Paralyzed Veterans of America has developed a unique expertise on issues faced by veterans of the armed forces who have experienced spinal cord injury and dysfunction; and

WHEREAS, Paralyzed Veterans of America uses its expertise to be a leading advocate for quality health care for its members; and

WHEREAS, Paralyzed Veterans of America is a leader in research and education addressing spinal cord injury and dysfunction; and

WHEREAS, Paralyzed Veterans of America is a national advocate for the civil rights of paralyzed veterans and strives to find opportunities that maximize the independence of its members; and

WHEREAS, Paralyzed Veterans of America Great Plains Chapter has been serving veterans across Nebraska and Western Iowa for over fifty years; and

WHEREAS, Paralyzed Veterans of America members from across the country will be gathering in Omaha, Nebraska, for the 77th Annual Convention.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the week of May 8 through May 13, 2023, as Paralyzed Veterans of America Week in Nebraska.

Laid over.

ANNOUNCEMENT

Senator Brewer announced the Government, Military and Veterans Affairs Committee will hold an executive session Thursday, March 16, 2023, after their hearing, in Room 1507.

UNANIMOUS CONSENT - Add Cointroducers

Unanimous consent to add Senators as cointroducers. No objections. So ordered.

Senator McDonnell name added to LB256.

Senator Fredrickson name added to LB294.

Senator Fredrickson name added to LB307.

Senator Conrad name added to LB504.
Senator Fredrickson name added to LB516.
Senator Fredrickson name added to LB585.
Senator Fredrickson name added to LB586.
Senator Conrad name added to LB629.
Senator Dungan name added to LB736.
Senator Conrad name added to LB741.
Senator Conrad name added to LB801.

VISITORS

Visitors to the Chamber were students from St. Wenceslaus Elementary, Wahoo; students, teachers, and sponsors from Central Valley Public High School, Greeley; students from Guardian Angels Central Catholic, West Point; TeenPact Leadership Schools; Isaac, Kathee, Gideon, Hope, Esther, and Eve Terwilleger, Lincoln.

The Doctor of the Day was Dr. John Jacobsen of Kearney.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Brewer, the Legislature adjourned until 9:00 a.m., Thursday, March 16, 2023.

Brandon Metzler
Clerk of the Legislature