

AMENDMENTS TO LB605

(Amendments to Standing Committee amendments, AM1010)

Introduced by Seiler, 33.

1 1. Strike section 52 and insert the following new sections:

2 Sec. 11. Section 28-306, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 28-306 (1) A person who causes the death of another unintentionally
5 while engaged in the operation of a motor vehicle in violation of the law
6 of the State of Nebraska or in violation of any city or village ordinance
7 commits motor vehicle homicide.

8 (2) Except as provided in subsection (3) of this section, motor
9 vehicle homicide is a Class I misdemeanor.

10 (3)(a) If the proximate cause of the death of another is the
11 operation of a motor vehicle in violation of section 60-6,213 or
12 60-6,214, motor vehicle homicide is a Class IIIA felony.

13 (b) If the proximate cause of the death of another is the operation
14 of a motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor
15 vehicle homicide is a Class IIA ~~III~~ felony. The court shall, as part of
16 the judgment of conviction, order the person not to drive any motor
17 vehicle for any purpose for a period of at least one year and not more
18 than fifteen years and shall order that the operator's license of such
19 person be revoked for the same period.

20 (c) If the proximate cause of the death of another is the operation
21 of a motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor
22 vehicle homicide is a Class II felony if the defendant has a prior
23 conviction for a violation of section 60-6,196 or 60-6,197.06, under a
24 city or village ordinance enacted in conformance with section 60-6,196,
25 or under a law of another state if, at the time of the conviction under
26 the law of such other state, the offense for which the defendant was

1 convicted would have been a violation of section 60-6,196. The court
2 shall, as part of the judgment of conviction, order the person not to
3 drive any motor vehicle for any purpose for a period of fifteen years and
4 shall order that the operator's license of such person be revoked for the
5 same period.

6 (d) An order of the court described in subdivision (b) or (c) of
7 this subsection shall be administered upon sentencing, upon final
8 judgment of any appeal or review, or upon the date that any probation is
9 revoked.

10 (4) The crime punishable under this section shall be treated as a
11 separate and distinct offense from any other offense arising out of acts
12 alleged to have been committed while the person was in violation of this
13 section.

14 Sec. 16. Section 28-311.08, Revised Statutes Cumulative Supplement,
15 2014, is amended to read:

16 28-311.08 (1) It shall be unlawful for any person to knowingly
17 intrude upon any other person without his or her consent or knowledge in
18 a place of solitude or seclusion.

19 (2) It shall be unlawful for any person to knowingly photograph,
20 film, record, or live broadcast an image of the intimate area of any
21 other person without his or her knowledge and consent when his or her
22 intimate area would not be generally visible to the public regardless of
23 whether such other person is located in a public or private place.

24 (3) For purposes of this section:

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

27 (b) Intrude means either the:

28 (i) Viewing of another person in a state of undress as it is
29 occurring; or

30 (ii) Recording by video, photographic, digital, or other electronic
31 means of another person in a state of undress; and

1 (c) Place of solitude or seclusion means a place where a person
2 would intend to be in a state of undress and have a reasonable
3 expectation of privacy, including, but not limited to, any facility,
4 public or private, used as a restroom, tanning booth, locker room, shower
5 room, fitting room, or dressing room.

6 (4)(a) Violation of this section involving an intrusion as defined
7 in subdivision (3)(b)(i) of this section or violation under subsection
8 (2) of this section is a Class I misdemeanor.

9 (b) Subsequent violation of this section involving an intrusion as
10 defined in subdivision (3)(b)(i) of this section, subsequent violation
11 under subsection (2) of this section, or violation of this section
12 involving an intrusion as defined in subdivision (3)(b)(ii) of this
13 section is a Class IV felony.

14 (c) Violation of this section is a Class IIA ~~III~~ felony if video or
15 an image recorded in violation of this section is distributed to another
16 person or otherwise made public in any manner which would enable it to be
17 viewed by another person.

18 (5) As part of sentencing following a conviction for a violation of
19 this section, the court shall make a finding as to the ages of the
20 defendant and the victim at the time the offense occurred. If the
21 defendant is found to have been nineteen years of age or older and the
22 victim is found to have been less than eighteen years of age at such
23 time, then the defendant shall be required to register under the Sex
24 Offender Registration Act.

25 (6) No person shall be prosecuted pursuant to subdivision (4)(b) or
26 (c) of this section unless the indictment for such offense is found by a
27 grand jury or a complaint filed before a magistrate within three years
28 after the later of:

29 (a) The commission of the crime;

30 (b) Law enforcement's or a victim's receipt of actual or
31 constructive notice of either the existence of a video or other

1 electronic recording made in violation of this section or the
2 distribution of images, video, or other electronic recording made in
3 violation of this section; or

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

6 Sec. 23. Section 28-394, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 28-394 (1) A person who causes the death of an unborn child
9 unintentionally while engaged in the operation of a motor vehicle in
10 violation of the law of the State of Nebraska or in violation of any city
11 or village ordinance commits motor vehicle homicide of an unborn child.

12 (2) Except as provided in subsection (3) of this section, motor
13 vehicle homicide of an unborn child is a Class I misdemeanor.

14 (3)(a) If the proximate cause of the death of an unborn child is the
15 operation of a motor vehicle in violation of section 60-6,213 or
16 60-6,214, motor vehicle homicide of an unborn child is a Class IV felony.

17 (b) Except as provided in subdivision (3)(c) of this section, if the
18 proximate cause of the death of an unborn child is the operation of a
19 motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor
20 vehicle homicide of an unborn child is a Class IV felony and the court
21 shall, as part of the judgment of conviction, order the person not to
22 drive any motor vehicle for any purpose for a period of at least sixty
23 days and not more than fifteen years after the date ordered by the court
24 and shall order that the operator's license of such person be revoked for
25 the same period. The revocation shall not run concurrently with any jail
26 term imposed.

27 (c) If the proximate cause of the death of an unborn child is the
28 operation of a motor vehicle in violation of section 60-6,196 or
29 60-6,197.06 and the defendant has a prior conviction for a violation of
30 section 60-6,196 or a city or village ordinance enacted in conformance
31 with section 60-6,196, motor vehicle homicide of an unborn child is a

1 Class IIA ~~III~~ felony and the court shall, as part of the judgment of
2 conviction, order the person not to drive any motor vehicle for any
3 purpose for a period of at least sixty days and not more than fifteen
4 years after the date ordered by the court and shall order that the
5 operator's license of such person be revoked for the same period. The
6 revocation shall not run concurrently with any jail term imposed.

7 (4) The crime punishable under this section shall be treated as a
8 separate and distinct offense from any other offense arising out of acts
9 alleged to have been committed while the person was in violation of this
10 section.

11 Sec. 25. Section 28-416, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 28-416 (1) Except as authorized by the Uniform Controlled Substances
14 Act, it shall be unlawful for any person knowingly or intentionally: (a)
15 To manufacture, distribute, deliver, dispense, or possess with intent to
16 manufacture, distribute, deliver, or dispense a controlled substance; or
17 (b) to create, distribute, or possess with intent to distribute a
18 counterfeit controlled substance.

19 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
20 (10) of this section, any person who violates subsection (1) of this
21 section with respect to: (a) A controlled substance classified in
22 Schedule I, II, or III of section 28-405 which is an exceptionally
23 hazardous drug shall be guilty of a Class II felony; (b) any other
24 controlled substance classified in Schedule I, II, or III of section
25 28-405 shall be guilty of a Class IIA ~~III~~ felony; or (c) a controlled
26 substance classified in Schedule IV or V of section 28-405 shall be
27 guilty of a Class IIIA felony.

28 (3) A person knowingly or intentionally possessing a controlled
29 substance, except marijuana or any substance containing a quantifiable
30 amount of the substances, chemicals, or compounds described, defined, or
31 delineated in subdivision (c)(25) of Schedule I of section 28-405, unless

1 such substance was obtained directly or pursuant to a medical order
2 issued by a practitioner authorized to prescribe while acting in the
3 course of his or her professional practice, or except as otherwise
4 authorized by the act, shall be guilty of a Class IV felony.

5 (4)(a) Except as authorized by the Uniform Controlled Substances
6 Act, any person eighteen years of age or older who knowingly or
7 intentionally manufactures, distributes, delivers, dispenses, or
8 possesses with intent to manufacture, distribute, deliver, or dispense a
9 controlled substance or a counterfeit controlled substance (i) to a
10 person under the age of eighteen years, (ii) in, on, or within one
11 thousand feet of the real property comprising a public or private
12 elementary, vocational, or secondary school, a community college, a
13 public or private college, junior college, or university, or a
14 playground, or (iii) within one hundred feet of a public or private youth
15 center, public swimming pool, or video arcade facility shall be punished
16 by the next higher penalty classification than the penalty prescribed in
17 subsection (2), (7), (8), (9), or (10) of this section, depending upon
18 the controlled substance involved, for the first violation and for a
19 second or subsequent violation shall be punished by the next higher
20 penalty classification than that prescribed for a first violation of this
21 subsection, but in no event shall such person be punished by a penalty
22 greater than a Class IB felony.

23 (b) For purposes of this subsection:

24 (i) Playground shall mean any outdoor facility, including any
25 parking lot appurtenant to the facility, intended for recreation, open to
26 the public, and with any portion containing three or more apparatus
27 intended for the recreation of children, including sliding boards,
28 swingsets, and teeterboards;

29 (ii) Video arcade facility shall mean any facility legally
30 accessible to persons under eighteen years of age, intended primarily for
31 the use of pinball and video machines for amusement, and containing a

1 minimum of ten pinball or video machines; and

2 (iii) Youth center shall mean any recreational facility or
3 gymnasium, including any parking lot appurtenant to the facility or
4 gymnasium, intended primarily for use by persons under eighteen years of
5 age which regularly provides athletic, civic, or cultural activities.

6 (5)(a) Except as authorized by the Uniform Controlled Substances
7 Act, it shall be unlawful for any person eighteen years of age or older
8 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
9 induce, entice, seduce, or coerce any person under the age of eighteen
10 years to manufacture, transport, distribute, carry, deliver, dispense,
11 prepare for delivery, offer for delivery, or possess with intent to do
12 the same a controlled substance or a counterfeit controlled substance.

13 (b) Except as authorized by the Uniform Controlled Substances Act,
14 it shall be unlawful for any person eighteen years of age or older to
15 knowingly and intentionally employ, hire, use, cause, persuade, coax,
16 induce, entice, seduce, or coerce any person under the age of eighteen
17 years to aid and abet any person in the manufacture, transportation,
18 distribution, carrying, delivery, dispensing, preparation for delivery,
19 offering for delivery, or possession with intent to do the same of a
20 controlled substance or a counterfeit controlled substance.

21 (c) Any person who violates subdivision (a) or (b) of this
22 subsection shall be punished by the next higher penalty classification
23 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
24 this section, depending upon the controlled substance involved, for the
25 first violation and for a second or subsequent violation shall be
26 punished by the next higher penalty classification than that prescribed
27 for a first violation of this subsection, but in no event shall such
28 person be punished by a penalty greater than a Class IB felony.

29 (6) It shall not be a defense to prosecution for violation of
30 subsection (4) or (5) of this section that the defendant did not know the
31 age of the person through whom the defendant violated such subsection.

1 (7) Any person who violates subsection (1) of this section with
2 respect to cocaine or any mixture or substance containing a detectable
3 amount of cocaine in a quantity of:

4 (a) One hundred forty grams or more shall be guilty of a Class IB
5 felony;

6 (b) At least twenty-eight grams but less than one hundred forty
7 grams shall be guilty of a Class IC felony; or

8 (c) At least ten grams but less than twenty-eight grams shall be
9 guilty of a Class ID felony.

10 (8) Any person who violates subsection (1) of this section with
11 respect to base cocaine (crack) or any mixture or substance containing a
12 detectable amount of base cocaine in a quantity of:

13 (a) One hundred forty grams or more shall be guilty of a Class IB
14 felony;

15 (b) At least twenty-eight grams but less than one hundred forty
16 grams shall be guilty of a Class IC felony; or

17 (c) At least ten grams but less than twenty-eight grams shall be
18 guilty of a Class ID felony.

19 (9) Any person who violates subsection (1) of this section with
20 respect to heroin or any mixture or substance containing a detectable
21 amount of heroin in a quantity of:

22 (a) One hundred forty grams or more shall be guilty of a Class IB
23 felony;

24 (b) At least twenty-eight grams but less than one hundred forty
25 grams shall be guilty of a Class IC felony; or

26 (c) At least ten grams but less than twenty-eight grams shall be
27 guilty of a Class ID felony.

28 (10) Any person who violates subsection (1) of this section with
29 respect to amphetamine, its salts, optical isomers, and salts of its
30 isomers, or with respect to methamphetamine, its salts, optical isomers,
31 and salts of its isomers, in a quantity of:

1 (a) One hundred forty grams or more shall be guilty of a Class IB
2 felony;

3 (b) At least twenty-eight grams but less than one hundred forty
4 grams shall be guilty of a Class IC felony; or

5 (c) At least ten grams but less than twenty-eight grams shall be
6 guilty of a Class ID felony.

7 (11) Any person knowingly or intentionally possessing marijuana
8 weighing more than one ounce but not more than one pound shall be guilty
9 of a Class III misdemeanor.

10 (12) Any person knowingly or intentionally possessing marijuana
11 weighing more than one pound shall be guilty of a Class IV felony.

12 (13) Any person knowingly or intentionally possessing marijuana
13 weighing one ounce or less or any substance containing a quantifiable
14 amount of the substances, chemicals, or compounds described, defined, or
15 delineated in subdivision (c)(25) of Schedule I of section 28-405 shall:

16 (a) For the first offense, be guilty of an infraction, receive a
17 citation, be fined three hundred dollars, and be assigned to attend a
18 course as prescribed in section 29-433 if the judge determines that
19 attending such course is in the best interest of the individual
20 defendant;

21 (b) For the second offense, be guilty of a Class IV misdemeanor,
22 receive a citation, and be fined four hundred dollars and may be
23 imprisoned not to exceed five days; and

24 (c) For the third and all subsequent offenses, be guilty of a Class
25 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
26 be imprisoned not to exceed seven days.

27 (14) Any person convicted of violating this section, if placed on
28 probation, shall, as a condition of probation, satisfactorily attend and
29 complete appropriate treatment and counseling on drug abuse provided by a
30 program authorized under the Nebraska Behavioral Health Services Act or
31 other licensed drug treatment facility.

1 (15) Any person convicted of violating this section, if sentenced to
2 the Department of Correctional Services, shall attend appropriate
3 treatment and counseling on drug abuse.

4 (16) Any person knowingly or intentionally possessing a firearm
5 while in violation of subsection (1) of this section shall be punished by
6 the next higher penalty classification than the penalty prescribed in
7 subsection (2), (7), (8), (9), or (10) of this section, but in no event
8 shall such person be punished by a penalty greater than a Class IB
9 felony.

10 (17) A person knowingly or intentionally in possession of money used
11 or intended to be used to facilitate a violation of subsection (1) of
12 this section shall be guilty of a Class IV felony.

13 (18) In addition to the penalties provided in this section:

14 (a) If the person convicted or adjudicated of violating this section
15 is eighteen years of age or younger and has one or more licenses or
16 permits issued under the Motor Vehicle Operator's License Act:

17 (i) For the first offense, the court may, as a part of the judgment
18 of conviction or adjudication, (A) impound any such licenses or permits
19 for thirty days and (B) require such person to attend a drug education
20 class;

21 (ii) For a second offense, the court may, as a part of the judgment
22 of conviction or adjudication, (A) impound any such licenses or permits
23 for ninety days and (B) require such person to complete no fewer than
24 twenty and no more than forty hours of community service and to attend a
25 drug education class; and

26 (iii) For a third or subsequent offense, the court may, as a part of
27 the judgment of conviction or adjudication, (A) impound any such licenses
28 or permits for twelve months and (B) require such person to complete no
29 fewer than sixty hours of community service, to attend a drug education
30 class, and to submit to a drug assessment by a licensed alcohol and drug
31 counselor; and

1 (b) If the person convicted or adjudicated of violating this section
2 is eighteen years of age or younger and does not have a permit or license
3 issued under the Motor Vehicle Operator's License Act:

4 (i) For the first offense, the court may, as part of the judgment of
5 conviction or adjudication, (A) prohibit such person from obtaining any
6 permit or any license pursuant to the act for which such person would
7 otherwise be eligible until thirty days after the date of such order and
8 (B) require such person to attend a drug education class;

9 (ii) For a second offense, the court may, as part of the judgment of
10 conviction or adjudication, (A) prohibit such person from obtaining any
11 permit or any license pursuant to the act for which such person would
12 otherwise be eligible until ninety days after the date of such order and
13 (B) require such person to complete no fewer than twenty hours and no
14 more than forty hours of community service and to attend a drug education
15 class; and

16 (iii) For a third or subsequent offense, the court may, as part of
17 the judgment of conviction or adjudication, (A) prohibit such person from
18 obtaining any permit or any license pursuant to the act for which such
19 person would otherwise be eligible until twelve months after the date of
20 such order and (B) require such person to complete no fewer than sixty
21 hours of community service, to attend a drug education class, and to
22 submit to a drug assessment by a licensed alcohol and drug counselor.

23 A copy of an abstract of the court's conviction or adjudication
24 shall be transmitted to the Director of Motor Vehicles pursuant to
25 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
26 juvenile is prohibited from obtaining a license or permit under this
27 subsection.

28 Sec. 36. Section 28-621, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 28-621 (1) A person commits the offense of criminal possession of a
31 financial transaction device if, with the intent to defraud, such person

1 has in his or her possession or under his or her control any financial
2 transaction device issued to a different account holder or which he or
3 she knows or reasonably should know to be lost, stolen, forged, altered,
4 or counterfeited.

5 (2) Any person committing the offense of criminal possession of one
6 financial transaction device shall be guilty of a Class III misdemeanor.

7 (3) Any person committing the offense of criminal possession of two
8 or three financial transaction devices, each issued to different account
9 holders, shall be guilty of a Class IV felony.

10 (4) Any person committing the offense of criminal possession of four
11 or more financial transaction devices, each issued to different account
12 holders, shall be guilty of a Class IIA ~~III~~ felony.

13 Sec. 37. Section 28-622, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 28-622 (1) A person commits the offense of unlawful circulation of a
16 financial transaction device in the first degree if such person sells or
17 has in his or her possession or under his or her control with the intent
18 to deliver, circulate, or sell two or more financial transaction devices
19 which he or she knows or reasonably should know to be lost, stolen,
20 forged, altered, counterfeited, or delivered under a mistake as to the
21 identity or address of the account holder.

22 (2) Any person committing the offense of unlawful circulation of a
23 financial transaction device in the first degree shall be guilty of a
24 Class IIA ~~III~~ felony.

25 Sec. 38. Section 28-627, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 28-627 (1) A person commits the offense of unlawful manufacture of a
28 financial transaction device if, with intent to defraud, such person:

29 (a) Falsely makes or manufactures, by printing, embossing, or
30 magnetically encoding, a financial transaction device;

31 (b) Falsely alters or adds service marks, optical characters, or

1 holographic images to a device which is, purports to be, or is circulated
2 to become or represent if completed a financial transaction device; or

3 (c) Falsely completes a financial transaction device by adding to an
4 incomplete device to make it appear to be a complete one.

5 (2) Any person committing the offense of unlawful manufacture of a
6 financial transaction device shall be guilty of a Class IIA ~~III~~ felony.

7 Sec. 43. Section 28-707, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 28-707 (1) A person commits child abuse if he or she knowingly,
10 intentionally, or negligently causes or permits a minor child to be:

11 (a) Placed in a situation that endangers his or her life or physical
12 or mental health;

13 (b) Cruelly confined or cruelly punished;

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

15 (d) Placed in a situation to be sexually exploited by allowing,
16 encouraging, or forcing such minor child to solicit for or engage in
17 prostitution, debauchery, public indecency, or obscene or pornographic
18 photography, films, or depictions;

19 (e) Placed in a situation to be sexually abused as defined in
20 section 28-319, 28-319.01, or 28-320.01; or

21 (f) Placed in a situation to be a trafficking victim as defined in
22 section 28-830.

23 (2) The statutory privilege between patient and physician, between
24 client and professional counselor, and between husband and wife shall not
25 be available for excluding or refusing testimony in any prosecution for a
26 violation of this section.

27 (3) Child abuse is a Class I misdemeanor if the offense is committed
28 negligently and does not result in serious bodily injury as defined in
29 section 28-109 or death.

30 (4) Child abuse is a Class IIIA felony if the offense is committed
31 knowingly and intentionally and does not result in serious bodily injury

1 as defined in section 28-109 or death.

2 (5) Child abuse is a Class IIIA felony if the offense is committed
3 negligently and results in serious bodily injury as defined in section
4 28-109.

5 (6) Child abuse is a Class IIA ~~III~~ felony if the offense is
6 committed negligently and results in the death of such child.

7 (7) Child abuse is a Class II felony if the offense is committed
8 knowingly and intentionally and results in serious bodily injury as
9 defined in such section.

10 (8) Child abuse is a Class IB felony if the offense is committed
11 knowingly and intentionally and results in the death of such child.

12 (9) For purposes of this section, negligently refers to criminal
13 negligence and means that a person knew or should have known of the
14 danger involved and acted recklessly, as defined in section 28-109, with
15 respect to the safety or health of the minor child.

16 Sec. 54. Section 28-1212.03, Revised Statutes Cumulative Supplement,
17 2014, is amended to read:

18 28-1212.03 Any person who possesses, receives, retains, or disposes
19 of a stolen firearm knowing that it has been or believing that it has
20 been stolen shall be guilty of a Class IIA ~~III~~ felony unless the firearm
21 is possessed, received, retained, or disposed of with intent to restore
22 it to the owner.

23 Sec. 61. Section 29-2204, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 29-2204 (1) Except when a term of life imprisonment is required by
26 law, in imposing an indeterminate sentence upon an offender the court
27 shall fix the minimum and the maximum terms of the sentence to be served
28 within the limits provided by law. The maximum term shall not be greater
29 than the maximum limit provided by law, and:

30 (a) The minimum term fixed by the court shall not be more than one-
31 third of the maximum term imposed by the court;

1 (b) The length of time between the minimum term and the maximum term
2 shall be at least three years if the court makes specific findings
3 supported by evidence proved beyond a reasonable doubt that a greater
4 minimum sentence than provided by subdivision (1)(a) of this section is
5 reasonable and necessary; or

6 (c) The minimum term shall be the minimum limit provided by law.

7 (2) When a maximum term of life is imposed by the court for a Class
8 IB felony, the minimum term fixed by the court shall be:

9 (a) Any term of years not less than the minimum limit provided by
10 law; or

11 (b) A term of life imprisonment.

12 (3) When a maximum term of life is imposed by the court for a Class
13 IA felony, the minimum term fixed by the court shall be:

14 (a) A term of life imprisonment; or

15 (b) Any term of years not less than the minimum limit provided by
16 law, whenever the defendant was under eighteen years of age at the time
17 he or she committed the crime for which he or she was convicted.

18 ~~(a)(i) Until July 1, 1998, fix the minimum and maximum limits of the~~
19 ~~sentence to be served within the limits provided by law, except that when~~
20 ~~a maximum limit of life is imposed by the court for a Class IB felony,~~
21 ~~the minimum limit may be any term of years not less than the statutory~~
22 ~~mandatory minimum; and~~

23 ~~(ii) Beginning July 1, 1998:~~

24 ~~(A) Fix the minimum and maximum limits of the sentence to be served~~
25 ~~within the limits provided by law for any class of felony other than a~~
26 ~~Class IV felony, except that when a maximum limit of life is imposed by~~
27 ~~the court for a Class IB felony, the minimum limit may be any term of~~
28 ~~years not less than the statutory mandatory minimum. If the criminal~~
29 ~~offense is a Class IV felony, the court shall fix the minimum and maximum~~
30 ~~limits of the sentence, but the minimum limit fixed by the court shall~~
31 ~~not be less than the minimum provided by law nor more than one-third of~~

1 ~~the maximum term and the maximum limit shall not be greater than the~~
2 ~~maximum provided by law; or~~

3 ~~(B) Impose a definite term of years, in which event the maximum term~~
4 ~~of the sentence shall be the term imposed by the court and the minimum~~
5 ~~term shall be the minimum sentence provided by law;~~

6 ~~(b) Advise the offender on the record the time the offender will~~
7 ~~serve on his or her minimum term before attaining parole eligibility~~
8 ~~assuming that no good time for which the offender will be eligible is~~
9 ~~lost; and~~

10 ~~(c) Advise the offender on the record the time the offender will~~
11 ~~serve on his or her maximum term before attaining mandatory release~~
12 ~~assuming that no good time for which the offender will be eligible is~~
13 ~~lost.~~

14 ~~If any discrepancy exists between the statement of the minimum limit~~
15 ~~of the sentence and the statement of parole eligibility or between the~~
16 ~~statement of the maximum limit of the sentence and the statement of~~
17 ~~mandatory release, the statements of the minimum limit and the maximum~~
18 ~~limit shall control the calculation of the offender's term. If the court~~
19 ~~imposes more than one sentence upon an offender or imposes a sentence~~
20 ~~upon an offender who is at that time serving another sentence, the court~~
21 ~~shall state whether the sentences are to be concurrent or consecutive.~~

22 ~~(4) (2)(a) When the court is of the opinion that imprisonment may be~~
23 ~~appropriate but desires more detailed information as a basis for~~
24 ~~determining the sentence to be imposed than has been provided by the~~
25 ~~presentence report required by section 29-2261, the court may shall~~
26 ~~commit an offender to the Department of Correctional Services for a~~
27 ~~period not exceeding ninety days. During that time, the ~~The~~ department~~
28 ~~shall conduct a complete study of the offender as provided in section 54~~
29 ~~of this act during that time, inquiring into such matters as his or her~~
30 ~~previous delinquency or criminal experience, social background,~~
31 ~~capabilities, and mental, emotional, and physical health and the~~

1 ~~rehabilitative resources or programs which may be available to suit his~~
2 ~~or her needs. By the expiration of the period of commitment or by the~~
3 ~~expiration of such additional time as the court shall grant, not~~
4 ~~exceeding a further period of ninety days, the offender shall be returned~~
5 ~~to the court for sentencing and the court shall be provided with a~~
6 ~~written report of the results of the study, including whatever~~
7 ~~recommendations the department believes will be helpful to a proper~~
8 ~~resolution of the case. After receiving the report and the~~
9 ~~recommendations, the court shall proceed to sentence the offender in~~
10 ~~accordance with subsection (1) of this section. The term of the sentence~~
11 ~~shall run from the date of original commitment under this subsection.~~

12 ~~(b) In order to encourage the use of this procedure in appropriate~~
13 ~~cases, all costs incurred during the period the defendant is held in a~~
14 ~~state institution under this subsection shall be a responsibility of the~~
15 ~~state and the county shall be liable only for the cost of delivering the~~
16 ~~defendant to the institution and the cost of returning him or her to the~~
17 ~~appropriate court for sentencing or such other disposition as the court~~
18 ~~may then deem appropriate.~~

19 ~~(5 3) Except when a term of life is required by law, whenever the~~
20 ~~defendant was under eighteen years of age at the time he or she committed~~
21 ~~the crime for which he or she was convicted, the court may, in its~~
22 ~~discretion, instead of imposing the penalty provided for the crime, make~~
23 ~~such disposition of the defendant as the court deems proper under the~~
24 ~~Nebraska Juvenile Code. Until October 1, 2013, prior to making a~~
25 ~~disposition which commits the juvenile to the Office of Juvenile~~
26 ~~Services, the court shall order the juvenile to be evaluated by the~~
27 ~~office if the juvenile has not had an evaluation within the past twelve~~
28 ~~months.~~

29 (6)(a) When imposing an indeterminate sentence upon an offender
30 under this section, the court shall:

31 (i) Advise the offender on the record the time the offender will

1 serve on his or her minimum term before attaining parole eligibility
2 assuming that no good time for which the offender will be eligible is
3 lost; and

4 (ii) Advise the offender on the record the time the offender will
5 serve on his or her maximum term before attaining mandatory release
6 assuming that no good time for which the offender will be eligible is
7 lost.

8 (b) If any discrepancy exists between the statement of the minimum
9 limit of the sentence and the statement of parole eligibility or between
10 the statement of the maximum limit of the sentence and the statement of
11 mandatory release, the statements of the minimum limit and the maximum
12 limit shall control the calculation of the offender's term.

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

17 Sec. 78. Section 60-6,197.03, Revised Statutes Cumulative
18 Supplement, 2014, is amended to read:

19 60-6,197.03 Any person convicted of a violation of section 60-6,196
20 or 60-6,197 shall be punished as follows:

21 (1) Except as provided in subdivision (2) of this section, if such
22 person has not had a prior conviction, such person shall be guilty of a
23 Class W misdemeanor, and the court shall, as part of the judgment of
24 conviction, order that the operator's license of such person be revoked
25 for a period of six months from the date ordered by the court. The
26 revocation order shall require that the person apply for an ignition
27 interlock permit pursuant to section 60-6,211.05 for the revocation
28 period and have an ignition interlock device installed on any motor
29 vehicle he or she operates during the revocation period. Such revocation
30 shall be administered upon sentencing, upon final judgment of any appeal
31 or review, or upon the date that any probation is revoked.

1 If the court places such person on probation or suspends the
2 sentence for any reason, the court shall, as one of the conditions of
3 probation or sentence suspension, order that the operator's license of
4 such person be revoked for a period of sixty days from the date ordered
5 by the court. The court shall order that during the period of revocation
6 the person apply for an ignition interlock permit pursuant to section
7 60-6,211.05. Such order of probation or sentence suspension shall also
8 include, as one of its conditions, the payment of a five-hundred-dollar
9 fine;

10 (2) If such person has not had a prior conviction and, as part of
11 the current violation, had a concentration of fifteen-hundredths of one
12 gram or more by weight of alcohol per one hundred milliliters of his or
13 her blood or fifteen-hundredths of one gram or more by weight of alcohol
14 per two hundred ten liters of his or her breath, such person shall be
15 guilty of a Class W misdemeanor, and the court shall, as part of the
16 judgment of conviction, revoke the operator's license of such person for
17 a period of one year from the date ordered by the court. The revocation
18 order shall require that the person apply for an ignition interlock
19 permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the
20 revocation period and have an ignition interlock device installed on any
21 motor vehicle he or she operates during the revocation period. Such
22 revocation shall be administered upon sentencing, upon final judgment of
23 any appeal or review, or upon the date that any probation is revoked.

24 If the court places such person on probation or suspends the
25 sentence for any reason, the court shall, as one of the conditions of
26 probation or sentence suspension, order that the operator's license of
27 such person be revoked for a period of one year from the date ordered by
28 the court. The revocation order shall require that the person apply for
29 an ignition interlock permit pursuant to subdivision (1)(b) of section
30 60-6,197.01 for the revocation period and have an ignition interlock
31 device installed on any motor vehicle he or she operates during the

1 revocation period. Such revocation shall be administered upon sentencing,
2 upon final judgment of any appeal or review, or upon the date that any
3 probation is revoked. Such order of probation or sentence suspension
4 shall also include, as conditions, the payment of a five-hundred-dollar
5 fine and either confinement in the city or county jail for two days or
6 the imposition of not less than one hundred twenty hours of community
7 service;

8 (3) Except as provided in subdivision (5) of this section, if such
9 person has had one prior conviction, such person shall be guilty of a
10 Class W misdemeanor, and the court shall, as part of the judgment of
11 conviction, order that the operator's license of such person be revoked
12 for a period of eighteen months from the date ordered by the court. The
13 revocation order shall require that the person not drive for a period of
14 forty-five days and that the person apply for an ignition interlock
15 permit and have an ignition interlock device installed on any motor
16 vehicle he or she owns or operates for at least one year. The court shall
17 also issue an order pursuant to subdivision (1)(b) of section
18 60-6,197.01. If the person has an ignition interlock device installed as
19 required under this subdivision, the person shall not be eligible for
20 reinstatement of his or her operator's license until he or she has had
21 the ignition interlock device installed for the period ordered by the
22 court. The revocation shall be administered upon sentencing, upon final
23 judgment of any appeal or review, or upon the date that any probation is
24 revoked.

25 If the court places such person on probation or suspends the
26 sentence for any reason, the court shall, as one of the conditions of
27 probation or sentence suspension, order that the operator's license of
28 such person be revoked for a period of eighteen months from the date
29 ordered by the court. The revocation order shall require that the person
30 not drive for a period of forty-five days and that the person apply for
31 an ignition interlock permit and installation of an ignition interlock

1 device for not less than a one-year period pursuant to section
2 60-6,211.05. The court shall also issue an order pursuant to subdivision
3 (1)(b) of section 60-6,197.01. If the person has an ignition interlock
4 device installed as required under this subdivision, the person shall not
5 be eligible for reinstatement of his or her operator's license until he
6 or she has had the ignition interlock device installed for the period
7 ordered by the court. The order of probation or sentence suspension shall
8 also include, as conditions, the payment of a five-hundred-dollar fine
9 and either confinement in the city or county jail for ten days or the
10 imposition of not less than two hundred forty hours of community service;

11 (4) Except as provided in subdivision (6) of this section, if such
12 person has had two prior convictions, such person shall be guilty of a
13 Class W misdemeanor, and the court shall, as part of the judgment of
14 conviction, order that the operator's license of such person be revoked
15 for a period of fifteen years from the date ordered by the court and
16 shall issue an order pursuant to section 60-6,197.01. Such orders shall
17 be administered upon sentencing, upon final judgment of any appeal or
18 review, or upon the date that any probation is revoked.

19 If the court places such person on probation or suspends the
20 sentence for any reason, the court shall, as one of the conditions of
21 probation or sentence suspension, order that the operator's license of
22 such person be revoked for a period of at least two years but not more
23 than fifteen years from the date ordered by the court. The revocation
24 order shall require that the person not drive for a period of forty-five
25 days, after which the court may order that during the period of
26 revocation the person apply for an ignition interlock permit and
27 installation of an ignition interlock device issued pursuant to section
28 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of
29 section 60-6,197.01. Such order of probation or sentence suspension shall
30 also include, as conditions, the payment of a one-thousand-dollar fine
31 and confinement in the city or county jail for thirty days;

1 (5) If such person has had one prior conviction and, as part of the
2 current violation, had a concentration of fifteen-hundredths of one gram
3 or more by weight of alcohol per one hundred milliliters of his or her
4 blood or fifteen-hundredths of one gram or more by weight of alcohol per
5 two hundred ten liters of his or her breath or refused to submit to a
6 test as required under section 60-6,197, such person shall be guilty of a
7 Class I misdemeanor, and the court shall, as part of the judgment of
8 conviction, order payment of a one-thousand-dollar fine and revoke the
9 operator's license of such person for a period of at least eighteen
10 months but not more than fifteen years from the date ordered by the court
11 and shall issue an order pursuant to section 60-6,197.01. Such revocation
12 and order shall be administered upon sentencing, upon final judgment of
13 any appeal or review, or upon the date that any probation is revoked. The
14 court shall also sentence such person to serve at least ninety days'
15 imprisonment in the city or county jail or an adult correctional
16 facility.

17 If the court places such person on probation or suspends the
18 sentence for any reason, the court shall, as one of the conditions of
19 probation or sentence suspension, order that the operator's license of
20 such person be revoked for a period of at least eighteen months but not
21 more than fifteen years from the date ordered by the court. The
22 revocation order shall require that the person not drive for a period of
23 forty-five days and that during the period of revocation the person apply
24 for an ignition interlock permit and installation of an ignition
25 interlock device for not less than a one-year period issued pursuant to
26 section 60-6,211.05. The court shall also issue an order pursuant to
27 subdivision (1)(b) of section 60-6,197.01. If the person has an ignition
28 interlock device installed as required under this subdivision, the person
29 shall not be eligible for reinstatement of his or her operator's license
30 until he or she has had the ignition interlock device installed for the
31 period ordered by the court. The order of probation or sentence

1 suspension shall also include, as conditions, the payment of a one-
2 thousand-dollar fine and confinement in the city or county jail for
3 thirty days;

4 (6) If such person has had two prior convictions and, as part of the
5 current violation, had a concentration of fifteen-hundredths of one gram
6 or more by weight of alcohol per one hundred milliliters of his or her
7 blood or fifteen-hundredths of one gram or more by weight of alcohol per
8 two hundred ten liters of his or her breath or refused to submit to a
9 test as required under section 60-6,197, such person shall be guilty of a
10 Class IIIA felony, and the court shall, as part of the judgment of
11 conviction, revoke the operator's license of such person for a period of
12 fifteen years from the date ordered by the court and shall issue an order
13 pursuant to section 60-6,197.01. Such revocation and order shall be
14 administered upon sentencing, upon final judgment of any appeal or
15 review, or upon the date that any probation is revoked. The court shall
16 also sentence such person to serve at least one hundred eighty days'
17 imprisonment in the city or county jail or an adult correctional
18 facility.

19 If the court places such person on probation or suspends the
20 sentence for any reason, the court shall, as one of the conditions of
21 probation or sentence suspension, order that the operator's license of
22 such person be revoked for a period of at least five years but not more
23 than fifteen years from the date ordered by the court. The revocation
24 order shall require that the person not drive for a period of forty-five
25 days, after which the court may order that during the period of
26 revocation the person apply for an ignition interlock permit and
27 installation of an ignition interlock device issued pursuant to section
28 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of
29 section 60-6,197.01. Such order of probation or sentence suspension shall
30 also include, as conditions, the payment of a one-thousand-dollar fine,
31 confinement in the city or county jail for sixty days, and, upon release

1 from such confinement, the use of a continuous alcohol monitoring device
2 and abstention from alcohol use at all times for no less than sixty days;

3 (7) Except as provided in subdivision (8) of this section, if such
4 person has had three prior convictions, such person shall be guilty of a
5 Class IIIA felony, and the court shall, as part of the judgment of
6 conviction, order that the operator's license of such person be revoked
7 for a period of fifteen years from the date ordered by the court and
8 shall issue an order pursuant to section 60-6,197.01. Such orders shall
9 be administered upon sentencing, upon final judgment of any appeal or
10 review, or upon the date that any probation is revoked. The court shall
11 also sentence such person to serve at least one hundred eighty days'
12 imprisonment in the city or county jail or an adult correctional
13 facility.

14 If the court places such person on probation or suspends the
15 sentence for any reason, the court shall, as one of the conditions of
16 probation or sentence suspension, order that the operator's license of
17 such person be revoked for a period of fifteen years from the date
18 ordered by the court. The revocation order shall require that the person
19 not drive for a period of forty-five days, after which the court may
20 order that during the period of revocation the person apply for an
21 ignition interlock permit and installation of an ignition interlock
22 device issued pursuant to section 60-6,211.05 and shall issue an order
23 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
24 probation or sentence suspension shall also include, as conditions, the
25 payment of a two-thousand-dollar fine, confinement in the city or county
26 jail for ninety days, and, upon release from such confinement, the use of
27 a continuous alcohol monitoring device and abstention from alcohol use at
28 all times for no less than ninety days;

29 (8) If such person has had three prior convictions and, as part of
30 the current violation, had a concentration of fifteen-hundredths of one
31 gram or more by weight of alcohol per one hundred milliliters of his or

1 her blood or fifteen-hundredths of one gram or more by weight of alcohol
2 per two hundred ten liters of his or her breath or refused to submit to a
3 test as required under section 60-6,197, such person shall be guilty of a
4 Class IIA ~~III~~ felony, and the court shall, as part of the judgment of
5 conviction, revoke the operator's license of such person for a period of
6 fifteen years from the date ordered by the court and shall issue an order
7 pursuant to section 60-6,197.01. Such revocation and order shall be
8 administered upon sentencing, upon final judgment of any appeal or
9 review, or upon the date that any probation is revoked.

10 If the court places such person on probation or suspends the
11 sentence for any reason, the court shall, as one of the conditions of
12 probation or sentence suspension, order that the operator's license of
13 such person be revoked for a period of fifteen years from the date
14 ordered by the court. The revocation order shall require that the person
15 not drive for a period of forty-five days, after which the court may
16 order that during the period of revocation the person apply for an
17 ignition interlock permit and installation of an ignition interlock
18 device issued pursuant to section 60-6,211.05 and shall issue an order
19 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
20 probation or sentence suspension shall also include, as conditions, the
21 payment of a two-thousand-dollar fine, confinement in the city or county
22 jail for one hundred twenty days, and, upon release from such
23 confinement, the use of a continuous alcohol monitoring device and
24 abstention from alcohol use at all times for no less than one hundred
25 twenty days;

26 (9) Except as provided in subdivision (10) of this section, if such
27 person has had four or more prior convictions, such person shall be
28 guilty of a Class IIA ~~III~~ felony with a minimum sentence of two years'
29 imprisonment, and the court shall, as part of the judgment of conviction,
30 order that the operator's license of such person be revoked for a period
31 of fifteen years from the date ordered by the court and shall issue an

1 order pursuant to section 60-6,197.01. Such orders shall be administered
2 upon sentencing, upon final judgment of any appeal or review, or upon the
3 date that any probation is revoked.

4 If the court places such person on probation or suspends the
5 sentence for any reason, the court shall, as one of the conditions of
6 probation or sentence suspension, order that the operator's license of
7 such person be revoked for a period of fifteen years from the date
8 ordered by the court. The revocation order shall require that the person
9 not drive for a period of forty-five days, after which the court may
10 order that during the period of revocation the person apply for an
11 ignition interlock permit and installation of an ignition interlock
12 device issued pursuant to section 60-6,211.05 and shall issue an order
13 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
14 probation or sentence suspension shall also include, as conditions, the
15 payment of a two-thousand-dollar fine, confinement in the city or county
16 jail for one hundred eighty days, and, upon release from such
17 confinement, the use of a continuous alcohol monitoring device and
18 abstention from alcohol use at all times for no less than one hundred
19 eighty days; and

20 (10) If such person has had four or more prior convictions and, as
21 part of the current violation, had a concentration of fifteen-hundredths
22 of one gram or more by weight of alcohol per one hundred milliliters of
23 his or her blood or fifteen-hundredths of one gram or more by weight of
24 alcohol per two hundred ten liters of his or her breath or refused to
25 submit to a test as required under section 60-6,197, such person shall be
26 guilty of a Class II felony with a minimum sentence of two years'
27 imprisonment and the court shall, as part of the judgment of conviction,
28 revoke the operator's license of such person for a period of fifteen
29 years from the date ordered by the court and shall issue an order
30 pursuant to section 60-6,197.01. Such revocation and order shall be
31 administered upon sentencing, upon final judgment of any appeal or

1 review, or upon the date that any probation is revoked.

2 If the court places such person on probation or suspends the
3 sentence for any reason, the court shall, as one of the conditions of
4 probation or sentence suspension, order that the operator's license of
5 such person be revoked for a period of fifteen years from the date
6 ordered by the court. The revocation order shall require that the person
7 not drive for a period of forty-five days, after which the court may
8 order that during the period of revocation the person apply for an
9 ignition interlock permit and installation of an ignition interlock
10 device issued pursuant to section 60-6,211.05 and shall issue an order
11 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
12 probation or sentence suspension shall also include, as conditions, the
13 payment of a two-thousand-dollar fine, confinement in the city or county
14 jail for one hundred eighty days, and, upon release from such
15 confinement, the use of a continuous alcohol monitoring device and
16 abstention from alcohol use at all times for no less than one hundred
17 eighty days.

18 Sec. 79. Section 60-6,197.06, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 60-6,197.06 (1) Unless otherwise provided by law pursuant to an
21 ignition interlock permit, any person operating a motor vehicle on the
22 highways or streets of this state while his or her operator's license has
23 been revoked pursuant to section 28-306, section 60-698, subdivision (4),
24 (5), (6), (7), (8), (9), or (10) of section 60-6,197.03, or section
25 60-6,198, or pursuant to subdivision (2)(c) or (2)(d) of section 60-6,196
26 or subdivision (4)(c) or (4)(d) of section 60-6,197 as such subdivisions
27 existed prior to July 16, 2004, shall be guilty of a Class IV felony, and
28 the court shall, as part of the judgment of conviction, revoke the
29 operator's license of such person for a period of fifteen years from the
30 date ordered by the court and shall issue an order pursuant to section
31 60-6,197.01. Such revocation and order shall be administered upon

1 sentencing, upon final judgment of any appeal or review, or upon the date
2 that any probation is revoked.

3 (2) If such person has had a conviction under this section or under
4 subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197,
5 as such subsections existed prior to July 16, 2004, prior to the date of
6 the current conviction under this section, such person shall be guilty of
7 a Class IIA ~~III~~ felony, and the court shall, as part of the judgment of
8 conviction, revoke the operator's license of such person for a period of
9 fifteen years from the date ordered by the court and shall issue an order
10 pursuant to section 60-6,197.01. Such revocation and order shall be
11 administered upon sentencing, upon final judgment of any appeal or
12 review, or upon the date that any probation is revoked.

13 2. On page 24, line 7; page 26, line 2; page 28, line 3; page 32,
14 line 8; and page 38, line 6, strike "III", show as stricken, and insert
15 "IIA".

16 3. On page 39, line 27, strike the new matter and reinstate the
17 stricken matter.

18 4. On page 77, line 14, strike "subsection (4) of section 29-2204"
19 and insert "subsection (2) of section 53 of this act".

20 5. On page 97, line 31, after the period insert "The rules and
21 regulations shall establish procedures to ensure that each parolee is
22 subject to a minimum of nine months of supervision, and place priority on
23 providing supervision lengths that enable meaningful transition periods
24 for all offenders.".

25 6. On page 106, line 27, strike "subdivision (2)(b) of section
26 29-2204" and insert "section 53 of this act"; and in line 28 strike
27 "subdivision (1)(a) of".

28 7. On page 109, add the sections added to this legislative bill by
29 this amendment to the sections listed in section 96.

30 8. Renumber the remaining sections and correct internal references
31 and the repealer accordingly.