

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 268

Introduced by Chambers, 11.

Read first time January 14, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
2 23-3406, 24-1106, 25-1140.09, 28-104, 28-303, 29-1602, 29-1822,
3 29-2004, 29-2005, 29-2006, 29-2020, 29-2027, 29-2282, 29-2407,
4 29-2519, 29-2521, 29-2523, 29-2801, 29-3205, 29-3920, 29-3928,
5 29-3929, 29-3930, 55-480, 83-1,110.02, and 83-4,143, Reissue Revised
6 Statutes of Nebraska, and sections 28-105, 29-1603, 29-2204,
7 29-2522, and 29-3922, Revised Statutes Cumulative Supplement, 2014;
8 to state findings and intent; to change provisions relating to
9 murder in the first degree; to change a penalty from death to life
10 imprisonment without possibility of parole; to eliminate a homicide-
11 case report, provisions on capital punishment, proportionality
12 review provisions, and obsolete provisions; to provide for
13 retroactive applicability of a penalty change; to change provisions
14 relating to restitution; to harmonize provisions; to repeal the
15 original sections; and to outright repeal sections 24-1105,
16 29-2521.01, 29-2521.03, 29-2521.04, 29-2524.01, 29-2524.02, 29-2525,
17 29-2527, 29-2528, 29-2811, 83-1,105.01, 83-1,132, 83-964, 83-965,
18 83-966, 83-967, 83-968, 83-969, 83-970, 83-971, and 83-972, Reissue
19 Revised Statutes of Nebraska, and sections 28-105.01, 29-2521.02,
20 29-2524, 29-2537, 29-2538, 29-2539, 29-2540, 29-2541, 29-2542,
21 29-2543, and 29-2546, Revised Statutes Cumulative Supplement, 2014.
22 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds that:

2 (1) Life is the most valuable possession of a human being. The State
3 of Nebraska should exercise utmost care to protect its residents' lives
4 from homicide, accident, and arbitrary taking by this state;

5 (2) The experience of this state with the death penalty has been
6 fraught with errors, frustration, and delay due to constitutional
7 mistakes in the statutes, defective legal procedures and implementation
8 of the statutes, lack of uniformity in application, and inordinately
9 heavy expenditures of money and time;

10 (3) The financial costs of attempting to implement the death penalty
11 statutes are not justifiable in light of the other needs of this state
12 and particularly because evidence does not establish that the death
13 penalty effectively deters first-degree murder;

14 (4) The history of attempts to carry out the death penalty in
15 Nebraska demonstrates an inordinate burden on the justice system and on
16 the lives of the innocent families and associates of both the victims and
17 the convicted parties;

18 (5) A maximum sentence of life imprisonment without possibility of
19 parole, subject only to the constitutional power of the Board of Pardons,
20 is preferable to the current capital punishment scheme. Such a maximum
21 sentence reflects this state's desire to ensure the safety of its
22 citizens, assist victims' families when possible, and yet preserve this
23 state's values of human life, uniform fairness, and basic decency;

24 (6) The Board of Pardons is established by the Constitution of
25 Nebraska and has the power to commute sentences. Parole, however, is a
26 function of the Board of Parole upon which the Legislature can set
27 limitations, and the changes made by this legislative bill are intended
28 to prohibit parole for those persons given the maximum sentence for
29 first-degree murder; and

30 (7) The existing capital punishment scheme is a failure and has
31 taken an unacceptable toll on the state's reputation for simple fairness,

1 basic decency, and care for the dignity of human life. This state rejects
2 the concept that by killing it can teach its residents not to kill.

3 Sec. 2. Section 23-3406, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 23-3406 (1) The contract negotiated between the county board and the
6 contracting attorney shall specify the categories of cases in which the
7 contracting attorney is to provide services.

8 (2) The contract negotiated between the county board and the
9 contracting attorney shall be awarded for at least a two-year term.
10 Removal of the contracting attorney short of the agreed term may be for
11 good cause only.

12 (3) The contract between the county board and the contracting
13 attorney may specify a maximum allowable caseload for each full-time or
14 part-time attorney who handles cases under the contract. Caseloads shall
15 allow each lawyer to give every client the time and effort necessary to
16 provide effective representation.

17 (4) The contract between the county board and the contracting
18 attorney shall provide that the contracting attorney be compensated at a
19 minimum rate which reflects the following factors:

20 (a) The customary compensation in the community for similar services
21 rendered by a privately retained counsel to a paying client or by
22 government or other publicly paid attorneys to a public client;

23 (b) The time and labor required to be spent by the attorney; and

24 (c) The degree of professional ability, skill, and experience called
25 for and exercised in the performance of the services.

26 (5) The contract between the county board and the contracting
27 attorney shall provide that the contracting attorney may decline to
28 represent clients with no reduction in compensation if the contracting
29 attorney is assigned more cases which require an extraordinary amount of
30 time and preparation than the contracting attorney can competently
31 handle.

1 (6) The contract between the contracting attorney and the county
2 board shall provide that the contracting attorney shall receive at least
3 ten hours of continuing legal education annually in the area of criminal
4 law. The contract between the county board and the contracting attorney
5 shall provide funds for the continuing legal education of the contracting
6 attorney in the area of criminal law.

7 (7) The contract between the county board and the contracting
8 attorney shall require that the contracting attorney provide legal
9 counsel to all clients in a professional, skilled manner consistent with
10 minimum standards set forth by the American Bar Association and the
11 Canons of Ethics for Attorneys in the State of Nebraska. The contract
12 between the county board and the contracting attorney shall provide that
13 the contracting attorney shall be available to eligible defendants upon
14 their request, or the request of someone acting on their behalf, at any
15 time the Constitution of the United States or the Constitution of
16 Nebraska requires the appointment of counsel.

17 (8) The contract between the county board and the contracting
18 attorney shall provide for reasonable compensation over and above the
19 normal contract price for cases which require an extraordinary amount of
20 time and preparation, ~~including capital cases.~~

21 Sec. 3. Section 24-1106, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 24-1106 (1) In cases which were appealable to the Supreme Court
24 before September 6, 1991, the appeal, if taken, shall be to the Court of
25 Appeals except in ~~capital cases~~, cases in which life imprisonment without
26 possibility of parole has been imposed, and cases involving the
27 constitutionality of a statute.

28 (2) Any party to a case appealed to the Court of Appeals may file a
29 petition in the Supreme Court to bypass the review by the Court of
30 Appeals and for direct review by the Supreme Court. The procedure and
31 time for filing the petition shall be as provided by rules of the Supreme

1 Court. In deciding whether to grant the petition, the Supreme Court may
2 consider one or more of the following factors:

3 (a) Whether the case involves a question of first impression or
4 presents a novel legal question;

5 (b) Whether the case involves a question of state or federal
6 constitutional interpretation;

7 (c) Whether the case raises a question of law regarding the validity
8 of a statute;

9 (d) Whether the case involves issues upon which there is an
10 inconsistency in the decisions of the Court of Appeals or of the Supreme
11 Court; and

12 (e) Whether the case is one of significant public interest.

13 When a petition for direct review is granted, the case shall be
14 docketed for hearing before the Supreme Court.

15 (3) The Supreme Court shall by rule provide for the removal of a
16 case from the Court of Appeals to the Supreme Court for decision by the
17 Supreme Court at any time before a final decision has been made on the
18 case by the Court of Appeals. The removal may be on the recommendation of
19 the Court of Appeals or on motion of the Supreme Court. Cases may be
20 removed from the Court of Appeals for decision by the Supreme Court for
21 any one or more of the reasons set forth in subsection (2) of this
22 section or in order to regulate the caseload existing in either the Court
23 of Appeals or the Supreme Court. The Chief Judge of the Court of Appeals
24 and the Chief Justice of the Supreme Court shall regularly inform each
25 other of the number and nature of cases docketed in the respective court.

26 Sec. 4. Section 25-1140.09, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 25-1140.09 On the application of the county attorney or any party to
29 a suit in which a record of the proceedings has been made, ~~upon receipt~~
30 ~~of the notice provided in section 29-2525,~~ or upon the filing of a
31 praecipe for a bill of exceptions by an appealing party in the office of

1 the clerk of the district court as provided in section 25-1140, the court
2 reporter shall prepare a transcribed copy of the proceedings so recorded
3 or any part thereof. The reporter shall be entitled to receive, in
4 addition to his or her salary, a per-page fee as prescribed by the
5 Supreme Court for the original copy and each additional copy, to be paid
6 by the party requesting the same except as otherwise provided in this
7 section.

8 When the transcribed copy of the proceedings is required by the
9 county attorney, the fee therefor shall be paid by the county in the same
10 manner as other claims are paid. When the defendant in a criminal case,
11 after conviction, makes an affidavit that he or she is unable by reason
12 of his or her poverty to pay for such copy, the court or judge thereof
13 may, by order endorsed on such affidavit, direct delivery of such
14 transcribed copy to such defendant, and the fee shall be paid by the
15 county in the same manner as other claims are allowed and paid. ~~When such~~
16 ~~copy is prepared in any criminal case in which the sentence adjudged is~~
17 ~~capital, the fees therefor shall be paid by the county in the same manner~~
18 ~~as other claims are allowed or paid.~~

19 The fee for preparation of a bill of exceptions and the procedure
20 for preparation, settlement, signature, allowance, certification, filing,
21 and amendment of a bill of exceptions shall be regulated and governed by
22 rules of practice prescribed by the Supreme Court. The fee paid shall be
23 taxed, by the clerk of the district court, to the party against whom the
24 judgment or decree is rendered except as otherwise ordered by the
25 presiding district judge.

26 Sec. 5. Section 28-104, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 28-104 The terms offense and crime are synonymous as used in this
29 code and mean a violation of, or conduct defined by, any statute for
30 which a fine, or imprisonment, ~~or death~~ may be imposed.

31 Sec. 6. Section 28-105, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 28-105 (1) For purposes of the Nebraska Criminal Code and any
3 statute passed by the Legislature after the date of passage of the code,
4 felonies are divided into nine classes which are distinguished from one
5 another by the following penalties which are authorized upon conviction:

6 Class I felony	<u>Life imprisonment without possibility of parole</u> Death
7 Class IA felony	Life imprisonment
8 Class IB felony	Maximum – life imprisonment
9	Minimum – twenty years imprisonment
10 Class IC felony	Maximum – fifty years imprisonment
11	Mandatory minimum – five years imprisonment
12 Class ID felony	Maximum – fifty years imprisonment
13	Mandatory minimum – three years imprisonment
14 Class II felony	Maximum – fifty years imprisonment
15	Minimum – one year imprisonment
16 Class III felony	Maximum – twenty years imprisonment, or
17	twenty-five thousand dollars fine, or both
18	Minimum – one year imprisonment
19 Class IIIA felony	Maximum – five years imprisonment, or
20	ten thousand dollars fine, or both
21	Minimum – none
22 Class IV felony	Maximum – five years imprisonment, or
23	ten thousand dollars fine, or both
24	Minimum – none

25 (2)(a) All sentences of imprisonment for Class I, IA, IB, IC, ID,
26 II, and III felonies and sentences of one year or more for Class IIIA and
27 IV felonies shall be served in institutions under the jurisdiction of the
28 Department of Correctional Services.

29 (b) Sentences of less than one year shall be served in the county
30 jail except as provided in this subsection. If the department certifies

1 that it has programs and facilities available for persons sentenced to
2 terms of less than one year, the court may order that any sentence of six
3 months or more be served in any institution under the jurisdiction of the
4 department. Any such certification shall be given by the department to
5 the State Court Administrator, who shall forward copies thereof to each
6 judge having jurisdiction to sentence in felony cases.

7 (3) Nothing in this section shall limit the authority granted in
8 sections 29-2221 and 29-2222 to increase sentences for habitual
9 criminals.

10 (4) A person convicted of a felony for which a mandatory minimum
11 sentence is prescribed shall not be eligible for probation.

12 Sec. 7. Section 28-303, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 28-303 A person commits murder in the first degree if he or she
15 kills another person (1) purposely and with deliberate and premeditated
16 malice, or (2) in the perpetration of or attempt to perpetrate any sexual
17 assault in the first degree, arson, robbery, kidnapping, hijacking of any
18 public or private means of transportation, or burglary, or (3) by
19 administering poison or causing the same to be done; ~~or if by willful and~~
20 ~~corrupt perjury or subornation of the same he or she purposely procures~~
21 ~~the conviction and execution of any innocent person.~~ The determination of
22 whether murder in the first degree shall be punished as a Class I or
23 Class IA felony shall be made pursuant to sections 29-2519 to 29-2523
24 ~~29-2524~~.

25 Sec. 8. Section 29-1602, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 29-1602 All informations shall be filed in the court having
28 jurisdiction of the offense specified in the informations ~~therein~~, by the
29 prosecuting attorney of the proper county as informant. The prosecuting
30 attorney shall subscribe his or her name thereto and endorse thereon the
31 names of the witnesses known to him or her at the time of filing. After

1 the information has been filed, the prosecuting attorney shall endorse on
2 the information the names of such other witnesses as shall then be known
3 to him or her as the court in its discretion may prescribe, except that
4 if a notice of aggravation is contained in the information as provided in
5 section 29-1603, the prosecuting attorney may endorse additional
6 witnesses at any time up to and including the thirtieth day prior to the
7 trial of guilt.

8 Sec. 9. Section 29-1603, Revised Statutes Cumulative Supplement,
9 2014, is amended to read:

10 29-1603 (1) All informations shall be in writing and signed by the
11 county attorney, complainant, or some other person, and the offenses
12 charged in the informations ~~therein~~ shall be stated with the same
13 fullness and precision in matters of substance as is required in
14 indictments in like cases.

15 (2)(a) Any information charging a violation of section 28-303 and in
16 which life imprisonment without possibility of parole ~~the death penalty~~
17 is sought shall contain a notice of aggravation which alleges one or more
18 aggravating circumstances, as such aggravating circumstances are provided
19 in section 29-2523. The notice of aggravation shall be filed as provided
20 in section 29-1602. It shall constitute sufficient notice to describe the
21 alleged aggravating circumstances in the language provided in section
22 29-2523.

23 (b) The state shall be permitted to add to or amend a notice of
24 aggravation at any time up to and including the thirtieth day prior to
25 the trial of guilt.

26 (c) The existence or contents of a notice of aggravation shall not
27 be disclosed to the jury until after the verdict is rendered in the trial
28 of guilt.

29 (3) Different offenses and different degrees of the same offense may
30 be joined in one information, in all cases in which the same might by
31 different counts be joined in one indictment; and in all cases a

1 defendant or defendants shall have the same right, as to proceedings
2 therein, as the defendant or defendants would have if prosecuted for the
3 same offense upon indictment.

4 Sec. 10. Section 29-1822, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 29-1822 A person who becomes mentally incompetent after the
7 commission of a crime or misdemeanor shall not be tried for the offense
8 during the continuance of the incompetency. If, after the verdict of
9 guilty and before judgment is pronounced, such person becomes mentally
10 incompetent, then no judgment shall be given while such incompetency
11 continues shall continue; and if, after judgment and before execution of
12 the sentence, such person shall become mentally incompetent, then in case
13 the punishment be capital, the execution thereof shall be stayed until
14 the recovery of such person from the incompetency.

15 Sec. 11. Section 29-2004, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 29-2004 (1) All parties may stipulate that the jury may be selected
18 up to thirty-one days prior to the date of trial. The stipulation must be
19 unanimous among all parties and evidenced by a joint stipulation to the
20 county court.

21 (2) In all cases, except as may be otherwise expressly provided, the
22 accused shall be tried by a jury drawn, summoned, and impaneled according
23 to provisions of the code of civil procedure, except that whenever in the
24 opinion of the court the trial is likely to be a protracted one, the
25 court may, immediately after the jury is impaneled and sworn, direct the
26 calling of one or two additional jurors, to be known as alternate jurors.
27 Such jurors shall be drawn from the same source and in the same manner,
28 and have the same qualifications as regular jurors, and be subject to
29 examination and challenge as such jurors, except that each party shall be
30 allowed one peremptory challenge to each alternate juror. The alternate
31 jurors shall take the proper oath or affirmation, and shall be seated

1 near the regular jurors with equal facilities for seeing and hearing the
2 proceedings in the cause, and shall attend at all times upon the trial of
3 the cause in company with the regular jurors. They shall obey all orders
4 and admonitions of the court, and if the regular jurors are ordered to be
5 kept in the custody of an officer during the trial of the cause, the
6 alternate jurors shall also be kept with the other jurors and, except as
7 hereinafter provided, shall be discharged upon the final submission of
8 the cause to the jury. If an information charging a violation of section
9 28-303 and in which the sentence of life imprisonment without possibility
10 of parole ~~death penalty~~ is sought contains a notice of aggravation, the
11 alternate jurors shall be retained as provided in section 29-2520. If,
12 before the final submission of the cause a regular juror dies or is
13 discharged, the court shall order the alternate juror, if there is but
14 one, to take his or her place in the jury box. If there are two alternate
15 jurors the court shall select one by lot, who shall then take his or her
16 place in the jury box. After an alternate juror is in the jury box he or
17 she shall be subject to the same rules as a regular juror.

18 Sec. 12. Section 29-2005, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 29-2005 Every person arraigned for any crime punishable by
21 imprisonment for life without possibility of parole ~~with death,~~ or
22 imprisonment for life, shall be admitted on his or her trial to a
23 peremptory challenge of twelve jurors. ~~Every , and no more;~~ every person
24 arraigned for any offense that may be punishable by imprisonment for a
25 term exceeding eighteen months and less than life, shall be admitted to a
26 peremptory challenge of six jurors. ~~In ; and in~~ all other criminal
27 trials, the defendant shall be allowed a peremptory challenge of three
28 jurors. The attorney prosecuting on behalf of the state shall be admitted
29 to a peremptory challenge of twelve jurors in all cases when the offense
30 is punishable by imprisonment for life without possibility of parole ~~with~~
31 ~~death~~ or imprisonment for life, six jurors when the offense is punishable

1 by imprisonment for a term exceeding eighteen months and less than life,
2 and three jurors in all other cases. In each case for which ; ~~Provided,~~
3 ~~that in all cases where~~ alternate jurors are called, as provided in
4 section 29-2004, ~~then in that case~~ both the defendant and the attorney
5 prosecuting for the state shall each be allowed one added peremptory
6 challenge to each alternate juror.

7 Sec. 13. Section 29-2006, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 29-2006 (1) The following shall be good causes for challenge to any
10 person called as a juror or alternate juror, on the trial of any
11 indictment:

12 (a 1) That he or she was a member of the grand jury which found the
13 indictment;

14 (b) ~~That he or she (2) that~~ he has formed or expressed an opinion as
15 to the guilt or innocence of the accused. However ; ~~Provided,~~ if a juror
16 or alternate juror states ~~shall state~~ that he or she has formed or
17 expressed an opinion as to the guilt or innocence of the accused, the
18 court shall thereupon proceed to examine, on oath, such juror or
19 alternate juror as to the ground of such opinion; and if it appears ~~shall~~
20 ~~appear~~ to have been founded upon reading newspaper statements,
21 communications, comments or reports, or upon rumor or hearsay, and not
22 upon conversations with witnesses of the transactions or reading reports
23 of their testimony or hearing them testify, and the juror or alternate
24 juror says ~~shall say~~ on oath that he or she feels able, notwithstanding
25 such opinion, to render an impartial verdict upon the law and the
26 evidence, the court, if satisfied that such juror or alternate juror is
27 impartial and will render such verdict, may, in its discretion, admit
28 such juror or alternate juror as competent to serve in such case;

29 ~~(3) in indictments for an offense the punishment whereof is capital,~~
30 ~~that his opinions are such as to preclude him from finding the accused~~
31 ~~guilty of an offense punishable with death; (4) that he~~

1 (c) That he or she is a relation within the fifth degree to the
2 person alleged to be injured or attempted to be injured, or to the person
3 on whose complaint the prosecution was instituted, or to the defendant;

4 (d) That he or she ~~(5) that he~~ has served on the petit jury which
5 was sworn in the same cause against the same defendant and which jury
6 either rendered a verdict which was set aside or was discharged, after
7 hearing the evidence;

8 (e) That he or she ~~(6) that he~~ has served as a juror in a civil case
9 brought against the defendant for the same act;

10 (f) That he or she ~~(7) that he~~ has been in good faith subpoenaed as
11 a witness in the case; or

12 (g) That he or she ~~(8) that he~~ is a habitual drunkard. ~~;(9)~~

13 (2) In addition, the same challenges as are shall be allowed in
14 ~~criminal prosecutions that are allowed to parties in civil cases shall be~~
15 allowed in criminal prosecutions.

16 Sec. 14. Section 29-2020, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 29-2020 In ~~Except as provided in section 29-2525 for cases when the~~
19 ~~punishment is capital,~~ in all criminal cases when a defendant feels
20 aggrieved by any opinion or decision of the court, he or she may order a
21 bill of exceptions. The ordering, preparing, signing, filing, correcting,
22 and amending of the bill of exceptions shall be governed by the rules
23 established in such matters in civil cases.

24 Sec. 15. Section 29-2027, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 29-2027 In all trials for murder the jury before whom such trial is
27 had, if they find the prisoner guilty thereof, shall ascertain in their
28 verdict whether it is murder in the first or second degree or
29 manslaughter. If ~~;~~ ~~and if~~ such person is convicted by confession in open
30 court, the court shall proceed by examination of witnesses in open court,
31 to determine the degree of the crime, and shall pronounce sentence

1 accordingly or as provided in sections 29-2519 to 29-2523 ~~29-2524~~ for
2 murder in the first degree.

3 Sec. 16. Section 29-2204, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 29-2204 (1) Except when the defendant is found guilty of a Class I
6 or Class IA felony ~~a term of life imprisonment is required by law~~, in
7 imposing an indeterminate sentence upon an offender the court shall:

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

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

14 (a A)(i) Fix the minimum and maximum limits of the sentence to be
15 served within the limits provided by law for any class of felony other
16 than a Class IV felony, except that when a maximum limit of life is
17 imposed by the court for a Class IB felony, the minimum limit may be any
18 term of years not less than the statutory mandatory minimum. If the
19 criminal offense is a Class IV felony, the court shall fix the minimum
20 and maximum limits of the sentence, but the minimum limit fixed by the
21 court shall not be less than the minimum provided by law nor more than
22 one-third of the maximum term and the maximum limit shall not be greater
23 than the maximum provided by law; or

24 (ii B) Impose a definite term of years, in which event the maximum
25 term of the sentence shall be the term imposed by the court and the
26 minimum term shall be the minimum sentence provided by law;

27 (b) Advise the offender on the record the time the offender will
28 serve on his or her minimum term before attaining parole eligibility
29 assuming that no good time for which the offender will be eligible is
30 lost; and

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

1 serve on his or her maximum term before attaining mandatory release
2 assuming that no good time for which the offender will be eligible is
3 lost.

4 If any discrepancy exists between the statement of the minimum limit
5 of the sentence and the statement of parole eligibility or between the
6 statement of the maximum limit of the sentence and the statement of
7 mandatory release, the statements of the minimum limit and the maximum
8 limit shall control the calculation of the offender's term. If the court
9 imposes more than one sentence upon an offender or imposes a sentence
10 upon an offender who is at that time serving another sentence, the court
11 shall state whether the sentences are to be concurrent or consecutive.

12 (2)(a) When the court is of the opinion that imprisonment may be
13 appropriate but desires more detailed information as a basis for
14 determining the sentence to be imposed than has been provided by the
15 presentence report required by section 29-2261, the court shall commit an
16 offender to the Department of Correctional Services for a period not
17 exceeding ninety days. The department shall conduct a complete study of
18 the offender during that time, inquiring into such matters as his or her
19 previous delinquency or criminal experience, social background,
20 capabilities, and mental, emotional, and physical health and the
21 rehabilitative resources or programs which may be available to suit his
22 or her needs. By the expiration of the period of commitment or by the
23 expiration of such additional time as the court shall grant, not
24 exceeding a further period of ninety days, the offender shall be returned
25 to the court for sentencing and the court shall be provided with a
26 written report of the results of the study, including whatever
27 recommendations the department believes will be helpful to a proper
28 resolution of the case. After receiving the report and the
29 recommendations, the court shall proceed to sentence the offender in
30 accordance with subsection (1) of this section. The term of the sentence
31 shall run from the date of original commitment under this subsection.

1 (b) In order to encourage the use of this procedure in appropriate
2 cases, all costs incurred during the period the defendant is held in a
3 state institution under this subsection shall be a responsibility of the
4 state and the county shall be liable only for the cost of delivering the
5 defendant to the institution and the cost of returning him or her to the
6 appropriate court for sentencing or such other disposition as the court
7 may then deem appropriate.

8 (3) Except when the defendant is found guilty of a Class I or Class
9 IA felony a term of life is required by law, whenever the defendant was
10 under eighteen years of age at the time he or she committed the crime for
11 which he or she was convicted, the court may, in its discretion, instead
12 of imposing the penalty provided for the crime, make such disposition of
13 the defendant as the court deems proper under the Nebraska Juvenile Code.
14 Until October 1, 2013, prior to making a disposition which commits the
15 juvenile to the Office of Juvenile Services, the court shall order the
16 juvenile to be evaluated by the office if the juvenile has not had an
17 evaluation within the past twelve months.

18 Sec. 17. Section 29-2282, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 29-2282 In determining restitution, if the offense results in
21 damage, destruction, or loss of property, the court may require: (1)
22 Return of the property to the victim, if possible; (2) payment of the
23 reasonable value of repairing the property, including property returned
24 by the defendant; or (3) payment of the reasonable replacement value of
25 the property, if return or repair is impossible, impractical, or
26 inadequate. If the offense results in bodily injury, the court may
27 require payment of necessary medical care, including, but not limited to,
28 physical or psychological treatment and therapy, and payment for income
29 lost due to such bodily injury. If the offense results in the death of
30 the victim, the court may require payment to be made to the estate of the
31 victim for any pain and suffering of the victim caused by the offense,

1 for the cost of any medical care prior to death, and for funeral and
2 burial expenses.

3 Sec. 18. Section 29-2407, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 29-2407 Judgments for fines and costs in criminal cases shall be a
6 lien upon all the property of the defendant within the county from the
7 time of docketing the case by the clerk of the proper court, and
8 judgments upon forfeited recognizance shall be a like lien from the time
9 of forfeiture. No property of any convict shall be exempt from execution
10 issued upon any such judgment as set out in this section against such
11 convict except in cases when the convict is sentenced to a Department of
12 Correctional Services adult correctional facility for a period of more
13 than two years ~~or to suffer death~~, in which cases there shall be the same
14 exemptions as at the time may be provided by law for civil cases. The
15 lien on real estate of any such judgment for costs shall terminate as
16 provided in section 25-1716.

17 Sec. 19. A sentence of life imprisonment without possibility of
18 parole imposed for a Class I felony means that, subject only to the
19 constitutional power of the Board of Pardons in Article IV, section 13,
20 of the Constitution of Nebraska to modify such sentence by commutation, a
21 person so sentenced shall not under any circumstances whatsoever be
22 paroled. A sentence of life imprisonment imposed for a Class IA felony
23 means that a person so sentenced shall be eligible for consideration of
24 parole only under the conditions prescribed by sections 83-192 and
25 83-1,106 to 83-1,125.

26 Sec. 20. The changes made by this legislative bill shall not (1)
27 limit the discretionary authority of the sentencing court to order
28 restitution as part of any sentence or (2) alter the discretion and
29 authority of the Department of Correctional Services to determine the
30 appropriate security measures and conditions during the confinement of
31 any committed offender.

1 Sec. 21. In any criminal proceeding in which the death penalty has
2 been imposed but not carried out prior to the effective date of this act,
3 such penalty shall be changed to life imprisonment without possibility of
4 parole.

5 Sec. 22. Section 29-2519, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 29-2519 ~~(1)~~ The Legislature hereby finds that it is reasonable and
8 necessary to establish mandatory standards for the imposition of the
9 sentence of life imprisonment without possibility of parole ~~death~~; that
10 the imposition of life imprisonment without possibility of parole the
11 ~~death penalty~~ in every instance of the commission of the crimes specified
12 in section 28-303 fails to allow for mitigating factors which may dictate
13 against the penalty of life imprisonment without possibility of parole
14 ~~death~~; and that the rational imposition of the ~~death~~ sentence of life
15 imprisonment without possibility of parole requires the establishment of
16 specific legislative guidelines to be applied in individual cases by the
17 court. The Legislature therefor determines that the sentence of life
18 imprisonment without possibility of parole ~~death penalty~~ should be
19 imposed only for the crimes set forth in section 28-303 and, in addition,
20 that it shall only be imposed in those instances when the aggravating
21 circumstances existing in connection with the crime outweigh the
22 mitigating circumstances, as set forth in sections 29-2520 to 29-2523
23 ~~29-2524~~.

24 ~~(2) The Legislature hereby finds and declares that:~~

25 ~~(a) The decision of the United States Supreme Court in Ring v.~~
26 ~~Arizona (2002) requires that Nebraska revise its sentencing process in~~
27 ~~order to ensure that rights of persons accused of murder in the first~~
28 ~~degree, as required under the Sixth and Fourteenth Amendments of the~~
29 ~~United States Constitution, are protected;~~

30 ~~(b) The changes made by Laws 2002, LB 1, Ninety-seventh Legislature,~~
31 ~~Third Special Session, are intended to be procedural only in nature and~~

1 ~~ameliorative of the state's prior procedures for determination of~~
2 ~~aggravating circumstances in the sentencing process for murder in the~~
3 ~~first degree;~~

4 ~~(c) The changes made by Laws 2002, LB 1, Ninety-seventh Legislature,~~
5 ~~Third Special Session, are not intended to alter the substantive~~
6 ~~provisions of sections 28-303 and 29-2520 to 29-2524;~~

7 ~~(d) The aggravating circumstances defined in section 29-2523 have~~
8 ~~been determined by the United States Supreme Court to be "functional~~
9 ~~equivalents of elements of a greater offense" for purposes of the~~
10 ~~defendant's Sixth Amendment right, as applied to the states under the~~
11 ~~Fourteenth Amendment, to a jury determination of such aggravating~~
12 ~~circumstances, but the aggravating circumstances are not intended to~~
13 ~~constitute elements of the crime generally unless subsequently so~~
14 ~~required by the state or federal constitution; and~~

15 ~~(e) To the extent that such can be applied in accordance with state~~
16 ~~and federal constitutional requirements, it is the intent of the~~
17 ~~Legislature that the changes to the murder in the first degree sentencing~~
18 ~~process made by Laws 2002, LB 1, Ninety-seventh Legislature, Third~~
19 ~~Special Session, shall apply to any murder in the first degree sentencing~~
20 ~~proceeding commencing on or after November 23, 2002.~~

21 Sec. 23. Section 29-2521, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 29-2521 (1) When a person has been found guilty of murder in the
24 first degree and (a) a jury renders a verdict finding the existence of
25 one or more aggravating circumstances as provided in section 29-2520 or
26 (b)(i) the information contains a notice of aggravation as provided in
27 section 29-1603 and (ii) such person waives his or her right to a jury
28 determination of the alleged aggravating circumstances, the sentence of
29 such person shall be determined by:

30 (a) A panel of three judges, including the judge who presided at the
31 trial of guilt or who accepted the plea and two additional active

1 district court judges named at random by the Chief Justice of the Supreme
2 Court. The judge who presided at the trial of guilt or who accepted the
3 plea shall act as the presiding judge for the sentencing determination
4 proceeding under this section; or

5 (b) If the Chief Justice of the Supreme Court has determined that
6 the judge who presided at the trial of guilt or who accepted the plea is
7 disabled or disqualified after receiving a suggestion of such disability
8 or disqualification from the clerk of the court in which the finding of
9 guilty was entered, a panel of three active district court judges named
10 at random by the Chief Justice of the Supreme Court. The Chief Justice of
11 the Supreme Court shall name one member of the panel at random to act as
12 the presiding judge for the sentencing determination proceeding under
13 this section.

14 (2) In the sentencing determination proceeding before a panel of
15 judges when the right to a jury determination of the alleged aggravating
16 circumstances has been waived, the panel shall, as soon as practicable
17 after receipt of the written report resulting from the presentence
18 investigation ordered as provided in section 29-2261, hold a hearing. At
19 such hearing, evidence may be presented as to any matter that the
20 presiding judge deems relevant to sentence and shall include matters
21 relating to the aggravating circumstances alleged in the information, to
22 any of the mitigating circumstances set forth in section 29-2523, and to
23 sentence excessiveness or disproportionality. The Nebraska Evidence Rules
24 shall apply to evidence relating to aggravating circumstances. Each
25 aggravating circumstance shall be proved beyond a reasonable doubt. Any
26 evidence at the sentencing determination proceeding which the presiding
27 judge deems to have probative value may be received. The state and the
28 defendant or his or her counsel shall be permitted to present argument
29 for or against the sentence of life imprisonment without possibility of
30 parole ~~death~~. The presiding judge shall set forth the general order of
31 procedure at the outset of the sentencing determination proceeding. The

1 panel shall make written findings of fact based upon the trial of guilt
2 and the sentencing determination proceeding, identifying which, if any,
3 of the alleged aggravating circumstances have been proven to exist beyond
4 a reasonable doubt. Each finding of fact with respect to each alleged
5 aggravating circumstance shall be unanimous. If the panel is unable to
6 reach a unanimous finding of fact with respect to an aggravating
7 circumstance, such aggravating circumstance shall not be weighed in the
8 sentencing determination proceeding. After the presentation and receipt
9 of evidence and argument, the panel shall determine an appropriate
10 sentence as provided in section 29-2522.

11 (3) When a jury renders a verdict finding the existence of one or
12 more aggravating circumstances as provided in section 29-2520, the panel
13 of judges shall, as soon as practicable after receipt of the written
14 report resulting from the presentence investigation ordered as provided
15 in section 29-2261, hold a hearing to receive evidence of mitigation and
16 sentence excessiveness or disproportionality. Evidence may be presented
17 as to any matter that the presiding judge deems relevant to (a)
18 mitigation, including, but not limited to, the mitigating circumstances
19 set forth in section 29-2523, and (b) sentence excessiveness or
20 disproportionality as provided in subdivision (3) of section 29-2522. Any
21 such evidence which the presiding judge deems to have probative value may
22 be received. The state and the defendant and his or her counsel shall be
23 permitted to present argument for or against the sentence of life
24 imprisonment without possibility of parole death. The presiding judge
25 shall set forth the general order of procedure at the outset of the
26 sentencing determination proceeding. After the presentation and receipt
27 of evidence and argument, the panel shall determine an appropriate
28 sentence as provided in section 29-2522.

29 Sec. 24. Section 29-2522, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 29-2522 The panel of judges for the sentencing determination

1 proceeding shall either unanimously fix the sentence at life imprisonment
2 without possibility of parole death or, if the sentence of life
3 imprisonment without possibility of parole death was not unanimously
4 agreed upon by the panel, fix the sentence at life imprisonment. Such
5 sentence determination shall be based upon the following considerations:

6 (1) Whether the aggravating circumstances as determined to exist
7 justify imposition of a sentence of life imprisonment without possibility
8 of parole death;

9 (2) Whether sufficient mitigating circumstances exist which approach
10 or exceed the weight given to the aggravating circumstances; or

11 (3) Whether the sentence of life imprisonment without possibility of
12 parole death is excessive or disproportionate to the penalty imposed in
13 similar cases, considering both the crime and the defendant.

14 In each case, the determination of the panel of judges shall be in
15 writing and refer to the aggravating and mitigating circumstances weighed
16 in the determination of the panel.

17 ~~If an order is entered sentencing the defendant to death, a date for~~
18 ~~execution shall not be fixed until after the conclusion of the appeal~~
19 ~~provided for by section 29-2525.~~

20 Sec. 25. Section 29-2523, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 29-2523 The aggravating and mitigating circumstances referred to in
23 sections 29-2519 to 29-2523 ~~29-2524~~ shall be as follows:

24 (1) Aggravating Circumstances:

25 (a) The offender was previously convicted of another murder or a
26 crime involving the use or threat of violence to the person, or has a
27 substantial prior history of serious assaultive or terrorizing criminal
28 activity;

29 (b) The murder was committed in an effort to conceal the commission
30 of a crime, or to conceal the identity of the perpetrator of such crime;

31 (c) The murder was committed for hire, or for pecuniary gain, or the

1 defendant hired another to commit the murder for the defendant;

2 (d) The murder was especially heinous, atrocious, cruel, or
3 manifested exceptional depravity by ordinary standards of morality and
4 intelligence;

5 (e) At the time the murder was committed, the offender also
6 committed another murder;

7 (f) The offender knowingly created a great risk of death to at least
8 several persons;

9 (g) The victim was a public servant having lawful custody of the
10 offender or another in the lawful performance of his or her official
11 duties and the offender knew or should have known that the victim was a
12 public servant performing his or her official duties;

13 (h) The murder was committed knowingly to disrupt or hinder the
14 lawful exercise of any governmental function or the enforcement of the
15 laws; or

16 (i) The victim was a law enforcement officer engaged in the lawful
17 performance of his or her official duties as a law enforcement officer
18 and the offender knew or reasonably should have known that the victim was
19 a law enforcement officer.

20 (2) Mitigating Circumstances:

21 (a) The offender has no significant history of prior criminal
22 activity;

23 (b) The offender acted under unusual pressures or influences or
24 under the domination of another person;

25 (c) The crime was committed while the offender was under the
26 influence of extreme mental or emotional disturbance;

27 (d) The age of the defendant at the time of the crime;

28 (e) The offender was an accomplice in the crime committed by another
29 person and his or her participation was relatively minor;

30 (f) The victim was a participant in the defendant's conduct or
31 consented to the act; or

1 (g) At the time of the crime, the capacity of the defendant to
2 appreciate the wrongfulness of his or her conduct or to conform his or
3 her conduct to the requirements of law was impaired as a result of mental
4 illness, mental defect, or intoxication.

5 Sec. 26. Section 29-2801, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 29-2801 If any person, except persons convicted of some crime or
8 offense for which they stand committed, ~~or persons committed for treason~~
9 ~~or felony, the punishment whereof is capital, plainly and specially~~
10 ~~expressed in the warrant of commitment, now or in the future, is or shall~~
11 be confined in any jail of this state, or ~~is shall~~ be unlawfully deprived
12 of his or her liberty, and makes ~~shall make~~ application, either by
13 himself ~~him~~ or herself or by any person on his or her behalf, to any one
14 of the judges of the district court, or to any county judge, and does at
15 the same time produce to such judge a copy of the commitment or cause of
16 detention of such person, or if the person so imprisoned or detained is
17 imprisoned or detained without any legal authority, upon making the same
18 appear to such judge, by oath or affirmation, it is the duty of the judge
19 ~~shall be his duty~~ forthwith to allow a writ of habeas corpus, which writ
20 shall be issued forthwith by the clerk of the district court, or by the
21 county judge, as the case may require, under the seal of the court
22 whereof the person allowing such writ is a judge, directed to the proper
23 officer, person, or persons who detain ~~detains~~ such prisoner.

24 Sec. 27. Section 29-3205, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 29-3205 The Uniform Rendition of Prisoners as Witnesses in Criminal
27 Proceedings Act shall ~~Sections 29-3201 to 29-3210 do~~ not apply to any
28 person in this state confined as mentally ill ~~or under sentence of death~~.

29 Sec. 28. Section 29-3920, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 29-3920 The Legislature finds that:

1 (1) County property owners should be given some relief from the
2 obligation of providing mandated indigent defense services which in most
3 instances are required because of state laws establishing crimes and
4 penalties;

5 (2) Property tax relief can be accomplished if the state begins to
6 assist the counties with the obligation of providing indigent defense
7 services required by state laws establishing crimes and penalties;

8 (3) Property tax relief in the form of state assistance to the
9 counties of Nebraska in providing for indigent defense services will also
10 increase accountability because the state, which is the governmental
11 entity responsible for passing criminal statutes, will likewise be
12 responsible for paying some of the costs;

13 (4) Property tax relief in the form of state assistance to the
14 counties of Nebraska in providing for indigent defense services will also
15 improve inconsistent and inadequate funding of indigent defense services
16 by the counties;

17 (5) Property tax relief in the form of state assistance to the
18 counties of Nebraska in providing for indigent defense services will also
19 lessen the impact on county property taxpayers of the cost of a high
20 profile first-degree murder ~~death-penalty~~ case which can significantly
21 affect the finances of the counties; and

22 (6) To accomplish property tax relief in the form of the state
23 assisting the counties of Nebraska in providing for indigent defense
24 services, the Commission on Public Advocacy Operations Cash Fund should
25 be established to fund the operation of the Commission on Public Advocacy
26 and to fund reimbursement requests as determined by section 29-3933.

27 Sec. 29. Section 29-3922, Revised Statutes Cumulative Supplement,
28 2014, is amended to read:

29 29-3922 For purposes of the County Revenue Assistance Act:

30 (1) Chief counsel means an attorney appointed to be the primary
31 administrative officer of the commission pursuant to section 29-3928;

1 (2) Commission means the Commission on Public Advocacy;

2 (3) Commission staff means attorneys, investigators, and support
3 staff who are performing work for the first-degree murder ~~capital~~
4 litigation division, appellate division, DNA testing division, and major
5 case resource center;

6 (4) Contracting attorney means an attorney contracting to act as a
7 public defender pursuant to sections 23-3404 to 23-3408;

8 (5) Court-appointed attorney means an attorney other than a
9 contracting attorney or a public defender appointed by the court to
10 represent an indigent person;

11 (6) Indigent defense services means legal services provided to
12 indigent persons by an indigent defense system in first-degree murder
13 ~~capital~~ cases, felony cases, misdemeanor cases, juvenile cases, mental
14 health commitment cases, child support enforcement cases, and paternity
15 establishment cases;

16 (7) Indigent defense system means a system of providing services,
17 including any services necessary for litigating a case, by a contracting
18 attorney, court-appointed attorney, or public defender;

19 (8) Indigent person means a person who is indigent and unable to
20 obtain legal counsel as determined pursuant to subdivision (3) of section
21 29-3901; and

22 (9) Public defender means an attorney appointed or elected pursuant
23 to sections 23-3401 to 23-3403.

24 Sec. 30. Section 29-3928, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 29-3928 The commission shall appoint a chief counsel. The
27 responsibilities and duties of the chief counsel shall be defined by the
28 commission and shall include the overall supervision of the workings of
29 the various divisions of the commission. The chief counsel shall be
30 qualified for his or her position, shall have been licensed to practice
31 law in the State of Nebraska for at least five years prior to the

1 effective date of the appointment, and shall be experienced in the
2 practice of criminal defense, including the defense of first-degree
3 murder ~~capital~~ cases. The chief counsel shall serve at the pleasure of
4 the commission. The salary of the chief counsel shall be set by the
5 commission.

6 Sec. 31. Section 29-3929, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 29-3929 The primary duties of the chief counsel shall be to provide
9 direct legal services to indigent defendants, and the chief counsel
10 shall:

11 (1) Supervise the operations of the appellate division, the first-
12 degree murder ~~capital~~ litigation division, the DNA testing division, and
13 the major case resource center;

14 (2) Prepare a budget and disburse funds for the operations of the
15 commission;

16 (3) Present to the commission an annual report on the operations of
17 the commission, including an accounting of all funds received and
18 disbursed, an evaluation of the cost-effectiveness of the commission, and
19 recommendations for improvement;

20 (4) Convene or contract for conferences and training seminars
21 related to criminal defense;

22 (5) Perform other duties as directed by the commission;

23 (6) Establish and administer projects and programs for the operation
24 of the commission;

25 (7) Appoint and remove employees of the commission and delegate
26 appropriate powers and duties to them;

27 (8) Adopt and promulgate rules and regulations for the management
28 and administration of policies of the commission and the conduct of
29 employees of the commission;

30 (9) Transmit monthly to the commission a report of the operations of
31 the commission for the preceding calendar month;

1 (10) Execute and carry out all contracts, leases, and agreements
2 authorized by the commission with agencies of federal, state, or local
3 government, corporations, or persons; and

4 (11) Exercise all powers and perform all duties necessary and proper
5 in carrying out his or her responsibilities.

6 Sec. 32. Section 29-3930, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 29-3930 The following divisions are established within the
9 commission:

10 (1) The first-degree murder ~~capital~~ litigation division shall be
11 available to assist in the defense of first-degree murder ~~capital~~ cases
12 in Nebraska, subject to caseload standards of the commission;

13 (2) The appellate division shall be available to prosecute appeals
14 to the Court of Appeals and the Supreme Court, subject to caseload
15 standards of the commission;

16 (3) The violent crime and drug defense division shall be available
17 to assist in the defense of certain violent and drug crimes as defined by
18 the commission, subject to the caseload standards of the commission;

19 (4) The DNA testing division shall be available to assist in
20 representing persons who are indigent who have filed a motion pursuant to
21 the DNA Testing Act, subject to caseload standards; and

22 (5) The major case resource center shall be available to assist
23 public defenders, contracting attorneys, or court-appointed attorneys
24 with the defense of a felony offense, subject to caseload standards of
25 the commission.

26 Sec. 33. Section 55-480, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 55-480 Though not specifically mentioned in the Nebraska Code of
29 Military Justice ~~this code~~, all disorders and neglects to the prejudice
30 of good order and discipline in the armed forces, all conduct of a nature
31 to bring discredit upon the armed forces, and all crimes and offenses ~~not~~

1 ~~capital~~, of which persons subject to ~~the~~ this code may be guilty, shall
2 be taken cognizance of by a court-martial, according to the nature and
3 degree of the offense, and shall be punished at the discretion of that
4 court.

5 Sec. 34. Section 83-1,110.02, Reissue Revised Statutes of Nebraska,
6 is amended to read:

7 83-1,110.02 (1) A committed offender who is otherwise eligible for
8 parole, who is not under sentence of life imprisonment without
9 possibility of parole ~~death~~ or of life imprisonment, and who because of
10 an existing medical or physical condition is determined by the department
11 to be terminally ill or permanently incapacitated may be considered for
12 medical parole by the board. A committed offender may be eligible for
13 medical parole in addition to any other parole. The department shall
14 identify committed offenders who may be eligible for medical parole based
15 upon their medical records.

16 (2) The board shall decide to grant medical parole only after a
17 review of the medical, institutional, and criminal records of the
18 committed offender and such additional medical evidence from board-
19 ordered examinations or investigations as the board in its discretion
20 determines to be necessary. The decision to grant medical parole and to
21 establish conditions of release on medical parole in addition to the
22 conditions stated in subsection (3) of this section is within the sole
23 discretion of the board.

24 (3) As conditions of release on medical parole, the board shall
25 require that the committed offender agree to placement for medical
26 treatment and that he or she be placed for a definite or indefinite
27 period of time in a hospital, a hospice, or another housing accommodation
28 suitable to his or her medical condition, including, but not limited to,
29 his or her family's home, as specified by the board.

30 (4) The parole term of a medical parolee shall be for the remainder
31 of his or her sentence as reduced by any adjustment for good conduct

1 pursuant to the Nebraska Treatment and Corrections Act.

2 Sec. 35. Section 83-4,143, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 83-4,143 (1) It is the intent of the Legislature that the court
5 target the felony offender (a) who is eligible and by virtue of his or
6 her criminogenic needs is suitable to be sentenced to intensive
7 supervision probation with placement at the incarceration work camp, (b)
8 for whom the court finds that other conditions of a sentence of intensive
9 supervision probation, in and of themselves, are not suitable, and (c)
10 who, without the existence of an incarceration work camp, would, in all
11 likelihood, be sentenced to prison.

12 (2) When the court is of the opinion that imprisonment is
13 appropriate, but that a brief and intensive period of regimented,
14 structured, and disciplined programming within a secure facility may
15 better serve the interests of society, the court may place an offender in
16 an incarceration work camp for a period not to exceed one hundred eighty
17 days as a condition of a sentence of intensive supervision probation. The
18 court may consider such placement if the offender (a) is a male or female
19 offender convicted of a felony offense in a district court, (b) is
20 medically and mentally fit to participate, with allowances given for
21 reasonable accommodation as determined by medical and mental health
22 professionals, and (c) has not previously been incarcerated for a violent
23 felony crime. Offenders convicted of a crime under section 28-303 or
24 sections 28-319 to 28-322.04 ~~or of any capital crime~~ are not eligible to
25 be placed in an incarceration work camp.

26 (3) It is also the intent of the Legislature that the Board of
27 Parole may recommend placement of felony offenders at the incarceration
28 work camp. The offenders recommended by the board shall be offenders
29 currently housed at other Department of Correctional Services adult
30 correctional facilities and shall complete the incarceration work camp
31 programming prior to release on parole.

1 (4) When the Board of Parole is of the opinion that a felony
2 offender currently incarcerated in a Department of Correctional Services
3 adult correctional facility may benefit from a brief and intensive period
4 of regimented, structured, and disciplined programming immediately prior
5 to release on parole, the board may direct placement of such an offender
6 in an incarceration work camp for a period not to exceed one hundred
7 eighty days as a condition of release on parole. The board may consider
8 such placement if the felony offender (a) is medically and mentally fit
9 to participate, with allowances given for reasonable accommodation as
10 determined by medical and mental health professionals, and (b) has not
11 previously been incarcerated for a violent felony crime. Offenders
12 convicted of a crime under section 28-303 or sections 28-319 to 28-322.04
13 ~~or of any capital crime~~ are not eligible to be placed in an incarceration
14 work camp.

15 (5) The Director of Correctional Services may assign a felony
16 offender to an incarceration work camp if he or she believes it is in the
17 best interests of the felony offender and of society, except that
18 offenders convicted of a crime under section 28-303 or sections 28-319 to
19 28-322.04 ~~28-321 or of any capital crime~~ are not eligible to be assigned
20 to an incarceration work camp pursuant to this subsection.

21 Sec. 36. Original sections 23-3406, 24-1106, 25-1140.09, 28-104,
22 28-303, 29-1602, 29-1822, 29-2004, 29-2005, 29-2006, 29-2020, 29-2027,
23 29-2282, 29-2407, 29-2519, 29-2521, 29-2523, 29-2801, 29-3205, 29-3920,
24 29-3928, 29-3929, 29-3930, 55-480, 83-1,110.02, and 83-4,143, Reissue
25 Revised Statutes of Nebraska, and sections 28-105, 29-1603, 29-2204,
26 29-2522, and 29-3922, Revised Statutes Cumulative Supplement, 2014, are
27 repealed.

28 Sec. 37. The following sections are outright repealed: Sections
29 24-1105, 29-2521.01, 29-2521.03, 29-2521.04, 29-2524.01, 29-2524.02,
30 29-2525, 29-2527, 29-2528, 29-2811, 83-1,105.01, 83-1,132, 83-964,
31 83-965, 83-966, 83-967, 83-968, 83-969, 83-970, 83-971, and 83-972,

1 Reissue Revised Statutes of Nebraska, and sections 28-105.01, 29-2521.02,
2 29-2524, 29-2537, 29-2538, 29-2539, 29-2540, 29-2541, 29-2542, 29-2543,
3 and 29-2546, Revised Statutes Cumulative Supplement, 2014.