

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 294

Introduced by Scheer, 19.

Read first time January 15, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
2 21-20,177, 29-812, 29-815, 86-2,108, and 86-2,112, Reissue Revised
3 Statutes of Nebraska, and sections 21-2,212, 27-413, 28-801,
4 28-801.01, 28-802, 28-804, 28-831, 43-246.01, 43-247, 43-248,
5 43-250, 43-251, 43-251.01, 43-254, 43-258, 43-286, and 43-2,108.01,
6 Revised Statutes Cumulative Supplement, 2014; to adopt the Human
7 Trafficking Victims Civil Remedy Act; to change certain service of
8 process provisions; to redefine offense of sexual assault; to change
9 penalties and provisions relating to prostitution, solicitation of
10 prostitution, pandering, keeping a place of prostitution, and human
11 trafficking; to change provisions relating to search warrants; to
12 change provisions relating to juvenile court jurisdiction and
13 temporary custody requirements; to change provisions relating to
14 intercepted communications; to provide for forfeiture of assets for
15 persons engaged in human trafficking; to create a fund; to harmonize
16 provisions; to provide operative dates; to repeal the original
17 sections; and to outright repeal section 21-20,177, Reissue Revised
18 Statutes of Nebraska, as amended by this legislative bill.
19 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the Human Trafficking Victims Civil Remedy Act.

3 Sec. 2. For purposes of the Human Trafficking Victims Civil Remedy
4 Act:

5 (1) Human trafficking means labor trafficking, labor trafficking of
6 a minor, sex trafficking, or sex trafficking of a minor, as those terms
7 are defined in section 28-830; and

8 (2) Trafficking victim has the same meaning as in section 28-830.

9 Sec. 3. (1) Any trafficking victim or his or her parent or legal
10 guardian who suffered or continues to suffer personal or psychological
11 injury as a result of such human trafficking may bring a civil action
12 against any person who knowingly (a) engaged in human trafficking of such
13 victim within this state or (b) aided or assisted with the human
14 trafficking of such victim within this state.

15 (2) A plaintiff who prevails in a civil action brought pursuant to
16 the Human Trafficking Victims Civil Remedy Act may recover his or her
17 actual damages, which are deemed to be a minimum of one hundred fifty
18 thousand dollars, plus any and all attorney's fees and costs reasonably
19 associated with the civil action. In addition to all other remedies
20 available under the act, the court may also award temporary, preliminary,
21 and permanent injunctive relief as the court deems necessary and
22 appropriate.

23 Sec. 4. Notwithstanding any other provision of law, any action to
24 recover damages under the Human Trafficking Victims Civil Remedy Act
25 shall be filed within ten years after the later of:

26 (1) The conclusion of any related criminal prosecution against the
27 person or persons from whom recovery is sought;

28 (2) The receipt of actual or constructive notice sent or given to
29 the trafficking victim or his or her parent or legal guardian by a member
30 of a law enforcement entity informing the victim or his or her parent or
31 legal guardian that the entity has identified the person who knowingly

1 (a) engaged in human trafficking of such victim or (b) aided or assisted
2 with the human trafficking of such victim;

3 (3) The time at which the human trafficking of the trafficking
4 victim, if he or she was eighteen years of age or older, ended; or

5 (4) The victim reaching the age of majority, if the victim was under
6 eighteen years of age at the time he or she was a victim of human
7 trafficking.

8 Sec. 5. In any action brought pursuant to the Human Trafficking
9 Victims Civil Remedy Act, a plaintiff may request to use a pseudonym
10 instead of his or her legal name in all court proceedings and records.
11 Upon finding that the use of a pseudonym is proper, the court shall
12 ensure that the pseudonym is used in all court proceedings and records.

13 Sec. 6. Section 21-2,212, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 21-2,212 (MBCA 15.10)(a)(1) Until January 1, 2016, the provisions of
16 this subsection apply. The registered agent of a foreign corporation
17 authorized to transact business in this state is the corporation's agent
18 for service of process, notice, or demand required or permitted by law to
19 be served on the foreign corporation. By being authorized to transact
20 business in this state, the foreign corporation's agent for service of
21 process also consents to service of process directed to the foreign
22 corporation's agent in this state for a search warrant issued pursuant to
23 sections 28-807 to 28-829, or for any other validly issued and properly
24 served subpoena, including those authorized under section 86-2,112, for
25 records or documents that are in the possession of the foreign
26 corporation and are located inside or outside of this state. The consent
27 to service of a subpoena or search warrant applies to a foreign
28 corporation that is a party or nonparty to the matter for which the
29 search warrant is sought.

30 (2) A foreign corporation may be served by registered or certified
31 mail, return receipt requested, addressed to the secretary of the foreign

1 corporation or the designated custodian of records at its principal
2 office shown in its application for a certificate of authority or in its
3 most recent biennial report if the foreign corporation:

4 (i) Has no registered agent or its registered agent cannot with
5 reasonable diligence be served;

6 (ii) Has withdrawn from transacting business in this state under
7 section 21-2,213; or

8 (iii) Has had its certificate of authority revoked under section
9 21-2,218.

10 (3) Service is perfected under subsection (b) of this section at the
11 earliest of:

12 (i) The date the foreign corporation receives the mail;

13 (ii) The date shown on the return receipt, if signed on behalf of
14 the foreign corporation; or

15 (iii) Five days after its deposit in the United States mail, as
16 evidenced by the postmark, if mailed postpaid and correctly addressed.

17 (4) This section does not prescribe the only means, or necessarily
18 the required means, of serving a foreign corporation.

19 (b) a)(1) Beginning January 1, 2016, the provisions of this
20 subsection apply. The registered agent of a foreign corporation
21 authorized to transact business in this state is the corporation's agent
22 for service of process, notice, or demand required or permitted by law to
23 be served on the foreign corporation. By being authorized to transact
24 business in this state, the foreign corporation's agent for service of
25 process also consents to service of process directed to the foreign
26 corporation's agent in this state for a search warrant issued pursuant to
27 sections ~~29-812 to 29-821~~ ~~28-807 to 28-829~~, or for any other validly
28 issued and properly served court order or subpoena, including those
29 authorized under sections 86-2,106 and section 86-2,112, for records or
30 documents that are in the possession of the foreign corporation and are
31 located inside or outside of this state. The consent to service of a

1 court order, subpoena, or search warrant applies to a foreign corporation
2 that is a party or nonparty to the matter for which the court order,
3 subpoena, or search warrant is sought.

4 (2 b) A foreign corporation may be served by registered or certified
5 mail, return receipt requested, addressed to the secretary of the foreign
6 corporation or the designated custodian of records at its principal
7 office shown in its application for a certificate of authority or in its
8 most recent biennial report if the foreign corporation:

9 (i 1) Has no registered agent or its registered agent cannot with
10 reasonable diligence be served;

11 (ii 2) Has withdrawn from transacting business in this state under
12 section 21-2,213; or

13 (iii 3) Has had its certificate of authority revoked under section
14 21-2,218.

15 (3 e) Service is perfected under subsection (b) of this section at
16 the earliest of:

17 (i 1) The date the foreign corporation receives the mail;

18 (ii 2) The date shown on the return receipt, if signed on behalf of
19 the foreign corporation; or

20 (iii 3) Five days after its deposit in the United States mail, as
21 evidenced by the postmark, if mailed postpaid and correctly addressed.

22 (4 d) This section does not prescribe the only means, or necessarily
23 the required means, of serving a foreign corporation.

24 Sec. 7. Section 21-20,177, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 21-20,177 (1) The registered agent of a foreign corporation
27 authorized to transact business in this state shall be the corporation's
28 agent for service of process, notice, or demand required or permitted by
29 law to be served on the foreign corporation. By being authorized to
30 transact business in this state, the foreign corporation's agent for
31 service of process shall also consent to service of process directed to

1 the foreign corporation's agent in Nebraska for a search warrant issued
2 pursuant to sections 29-812 to 29-821 ~~28-807 to 28-829~~, or for any other
3 validly issued and properly served court order or subpoena, including
4 those authorized under sections 86-2,106 and section 86-2,112, for
5 records or documents that are in the possession of the foreign
6 corporation and are located inside or outside of this state. The consent
7 to service of a court order, subpoena, or search warrant applies to a
8 foreign corporation that is a party or nonparty to the matter for which
9 the court order, subpoena, or search warrant is sought.

10 (2) A foreign corporation may be served by registered or certified
11 mail, return receipt requested, addressed to the secretary of the foreign
12 corporation or the designated custodian of records at its principal
13 office shown in its application for a certificate of authority or in its
14 most recent annual report if the foreign corporation has:

15 (a) No registered agent or its registered agent cannot with
16 reasonable diligence be served;

17 (b) Withdrawn from transacting business in this state under section
18 21-20,178; or

19 (c) Had its certificate of authority revoked under section
20 21-20,180.

21 (3) Service shall be perfected under subsection (2) of this section
22 at the earliest of:

23 (a) The date the foreign corporation receives the mail;

24 (b) The date shown on the return receipt if signed on behalf of the
25 foreign corporation; or

26 (c) Five days after its deposit in the United States mail as
27 evidenced by the postmark if mailed postage prepaid and correctly
28 addressed.

29 (4) This section shall not be construed to prescribe the only means
30 or necessarily the required means of serving a foreign corporation.

31 Sec. 8. Section 27-413, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 27-413 For purposes of sections 27-414 and 27-415, offense of sexual
3 assault means sexual assault under section 28-319 or 28-320, sexual
4 assault of a child under section 28-319.01 or 28-320.01, sexual assault
5 by use of an electronic communication device under section 28-320.02,
6 sexual abuse of an inmate or parolee under sections 28-322.01 to
7 28-322.03, ~~and~~ sexual abuse of a protected individual under section
8 28-322.04, an attempt or conspiracy to commit any of the crimes listed in
9 this section, or the commission of or conviction for a crime in another
10 jurisdiction that is substantially similar to any crime listed in this
11 section.

12 Sec. 9. Section 28-801, Revised Statutes Cumulative Supplement,
13 2014, is amended to read:

14 28-801 (1) Except as provided in subsection (5) of this section, any
15 person who performs, offers, or agrees to perform any act of sexual
16 contact or sexual penetration, as those terms are defined in section
17 28-318, with any person not his or her spouse, in exchange for money or
18 other thing of value, commits prostitution.

19 (2) Any person convicted of violating subsection (1) of this section
20 shall be punished as follows:

21 (a) If such person has had no prior convictions or has had one prior
22 conviction, such person shall be guilty of a Class II misdemeanor. If the
23 court places such person on probation, such order of probation shall
24 include, as one of its conditions, that such person shall satisfactorily
25 attend and complete an appropriate mental health and substance abuse
26 assessment conducted by a licensed mental health professional or
27 substance abuse professional authorized to complete such assessment; and

28 (b) If such person has had two or more prior convictions, such
29 person shall be guilty of a Class I misdemeanor. If the court places such
30 person on probation, such order of probation shall include, as one of its
31 conditions, that such person shall satisfactorily attend and complete an

1 appropriate mental health and substance abuse assessment conducted by a
2 licensed mental health professional or substance abuse professional
3 authorized to complete such assessment.

4 (3) It is an affirmative defense to prosecution under this section
5 that such person was a trafficking victim as defined in section 28-830.

6 (4) For purposes of this section, prior conviction means any
7 conviction on or after July 14, 2006, for violation of subsection (1) of
8 this section or any conviction on or after July 14, 2006, for violation
9 of a city or village ordinance relating to prostitution.

10 (5) If the law enforcement officer determines, after a reasonable
11 detention for investigative purposes, that a person suspected of or
12 charged with a violation of subsection (1) of this section is a person
13 under eighteen years of age, such person shall be immune from criminal
14 prosecution as an adult for an a-prostitution offense under this section,
15 but shall be subject to juvenile court jurisdiction under subdivision (1)
16 (e) of section 43-246.01, and shall be subject to temporary custody under
17 section 43-248, and further disposition under the Nebraska Juvenile Code.
18 A law enforcement officer who takes a person under eighteen years of age
19 into custody under this section shall immediately report an allegation of
20 a violation of section 28-831 to the Department of Health and Human
21 Services which shall commence an investigation within twenty-four hours
22 under the Child Protection and Family Safety Act.

23 Sec. 10. Section 28-801.01, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 28-801.01 (1) Any person who solicits another person not his or her
26 spouse to perform any act of sexual contact or sexual penetration, as
27 those terms are defined in section 28-318, in exchange for money or other
28 thing of value, commits solicitation of prostitution.

29 (2) Any person convicted of violating subsection (1) of this section
30 shall be punished as follows:

31 (a) If such person has had no prior convictions, such person shall

1 be guilty of a Class IV felony ~~I misdemeanor~~ and pay a fine of not less
2 than two hundred fifty dollars, unless the person solicited is under the
3 age of eighteen years, in which case such person violating this section
4 shall be guilty of a Class III IV felony. If the court places such person
5 on probation, such order of probation shall include in ~~, as one of~~ its
6 conditions (i) ~~,~~ the payment of a fine of not less than two hundred fifty
7 dollars, (ii) that ~~and~~ such person shall satisfactorily attend and
8 complete an appropriate mental health and substance abuse assessment
9 conducted by a licensed mental health professional or substance abuse
10 professional authorized to complete such assessment, and (iii) that such
11 person shall satisfactorily attend and complete, at his or her own
12 expense, an educational program designed to educate participants on the
13 effect of prostitution on the participants' health, on the person
14 solicited, and on the community; and

15 (b) If such person has had one or more prior convictions, such
16 person shall be guilty of a Class III IV felony and pay a fine of not
17 less than five hundred dollars. If the court places such person on
18 probation, such order of probation shall include in ~~, as one of~~ its
19 conditions (i) ~~,~~ the payment of a fine of not less than five hundred
20 dollars, (ii) that ~~and~~ such person shall satisfactorily attend and
21 complete an appropriate mental health and substance abuse assessment
22 conducted by a licensed mental health professional or substance abuse
23 professional authorized to complete such assessment, and (iii) that such
24 person shall satisfactorily attend and complete, at his or her own
25 expense, an educational program designed to educate participants on the
26 effect of prostitution on the participants' health, on the person
27 solicited, and on the community.

28 ~~(3) It is an affirmative defense to prosecution under this section~~
29 ~~that such person was a trafficking victim as defined in section 28-830.~~

30 Sec. 11. Section 28-802, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 28-802 (1) A person commits pandering if such person:

2 (a) Entices another person to become a prostitute; or

3 (b) Procures or harbors therein an inmate for a house of
4 prostitution or for any place where prostitution is practiced or allowed;
5 or

6 (c) Inveigles, entices, persuades, encourages, or procures any
7 person to come into or leave this state for the purpose of prostitution
8 or debauchery; or

9 (d) Receives or gives or agrees to receive or give any money or
10 other thing of value for procuring or attempting to procure any person to
11 become a prostitute or commit an act of prostitution or come into this
12 state or leave this state for the purpose of prostitution or debauchery.

13 (2) Pandering is a Class ~~III~~ IV felony for a first offense, unless
14 the person being enticed, procured, harbored, or otherwise persuaded to
15 become a prostitute is under the age of eighteen years, in which case
16 pandering is a Class ~~II~~ III felony for a first offense. Pandering is a
17 Class ~~II~~ III felony for a second or subsequent offense.

18 Sec. 12. Section 28-804, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 28-804 (1) Any person who has or exercises control over the use of
21 any place which offers seclusion or shelter for the practice of
22 prostitution and who knowingly grants or permits the use of such place
23 for the purpose of prostitution commits the offense of keeping a place of
24 prostitution.

25 (2) Keeping a place of prostitution is a Class IV felony ~~I~~
26 ~~misdemeanor~~, unless any person using such place for the practice of
27 prostitution is under the age of eighteen years, in which case any person
28 convicted of keeping a place of prostitution shall be guilty of a Class
29 III ~~IV~~ felony.

30 Sec. 13. Section 28-831, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 28-831 (1) Any person who knowingly engages in labor trafficking or
2 sex trafficking shall be guilty of a Class IIIA felony, unless otherwise
3 provided in subsection (2) of this section ~~No person shall knowingly~~
4 ~~engage in labor trafficking or sex trafficking.~~

5 (2) If an actor knowingly engages in labor trafficking or sex
6 trafficking by:

7 (a) Inflicting or threatening to inflict serious personal injury, as
8 defined by section 28-318, on another person, the actor is guilty of a
9 Class III felony; or

10 (b) Physically restraining or threatening to physically restrain the
11 other person, the actor is guilty of a Class III felony. ;

12 ~~(c) Abusing or threatening to abuse the legal process against~~
13 ~~another person to cause arrest or deportation for violation of federal~~
14 ~~immigration law, the actor is guilty of a Class IV felony;~~

15 ~~(d) Controlling or threatening to control another person's access to~~
16 ~~a controlled substance listed in Schedule I, II or III of section 28-405,~~
17 ~~the actor is guilty of a Class IV felony;~~

18 ~~(e) Exploiting another person's substantial functional impairment as~~
19 ~~defined in section 28-368 or substantial mental impairment as defined in~~
20 ~~section 28-369, the actor is guilty of a Class IV felony;~~

21 ~~(f) Knowingly destroying, concealing, removing, confiscating, or~~
22 ~~possessing any actual or purported passport or other immigration~~
23 ~~document, or any other actual or purported government identification~~
24 ~~document, of the other person, the actor is guilty of a Class IV felony;~~
25 ~~or~~

26 ~~(g) Causing or threatening to cause financial harm to another~~
27 ~~person, including debt bondage, the actor is guilty of a Class I~~
28 ~~misdemeanor.~~

29 (3) No person shall engage in labor trafficking of a minor or sex
30 trafficking of a minor. An actor who engages in labor trafficking of a
31 minor or sex trafficking of a minor shall be punished as follows:

1 (a) In cases in which the actor uses overt force or the threat of
2 force against the trafficking victim, the actor is guilty of a Class II
3 felony;

4 (b) In cases in which the trafficking victim has not attained the
5 age of fifteen years, the actor is guilty of a Class II felony; or

6 (c) In cases involving a trafficking victim between the ages of
7 fifteen and eighteen years, and the actor does not use overt force or
8 threat of force against the trafficking victim, the actor is guilty of a
9 Class III felony.

10 (4) Any person who benefits, financially or by receiving anything of
11 value, from participation in a venture which has, as part of the venture,
12 an act that is in violation of this section, is guilty of a Class IIIA ~~IV~~
13 felony.

14 Sec. 14. Section 29-812, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 29-812 A search warrant authorized by sections 29-812 to 29-821 may
17 be issued by any judge of the county court, district court, Court of
18 Appeals, or Supreme Court for execution anywhere within the State of
19 Nebraska or for service upon any publicly or privately held corporation,
20 partnership, or other legal entity located within or outside the State of
21 Nebraska. A similar search warrant authorized by such sections may be
22 issued, subject to section 24-519, by any clerk magistrate within the
23 county in which the property sought is located.

24 Sec. 15. Section 29-815, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 29-815 (1) The warrant must be executed and returned within ten
27 days after its date. The officer taking property under the warrant shall
28 give to the person from whom or from whose premises the property was
29 taken a copy of the warrant and a receipt for the property or shall leave
30 the copy and the receipt at the place from which the property was taken.
31 The return shall be made promptly and shall be accompanied by a written

1 inventory of any property taken. The inventory shall be made in the
2 presence of the applicant for the warrant and the person from whose
3 possession or premises the property was taken if they are present, or in
4 the presence of at least one credible witness other than the applicant
5 for the warrant or the person from whose possession or premises the
6 property was taken, and shall be verified by the officer. The judge or
7 magistrate shall deliver a copy of the inventory upon request to the
8 person from whom or from whose premises the property was taken and to the
9 applicant for the warrant.

10 (2) The return and inventory required by subsection (1) of this
11 section may be submitted to the magistrate or judge in person or by
12 facsimile or other electronic means.

13 Sec. 16. Section 43-246.01, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 43-246.01 The juvenile court shall have:

16 (1) Exclusive original jurisdiction as to:

17 (a) Any juvenile described in subdivision (3) of section 43-247;

18 (b) Any juvenile who was under sixteen years of age at the time the
19 alleged offense was committed and the offense falls under subdivision (1)
20 of section 43-247;

21 (c) A party or proceeding described in subdivision (5) or (7) of
22 section 43-247; ~~and~~

23 (d) Any juvenile who was under fourteen years of age at the time the
24 alleged offense was committed and the offense falls under subdivision (2)
25 of section 43-247; and

26 (e) Any juvenile who has committed an act in violation of section
27 28-801, but is immune from criminal prosecution under subsection (5) of
28 section 28-801.

29 (2) Exclusive original jurisdiction as to:

30 (a) Beginning January 1, 2015, any juvenile who is alleged to have
31 committed an offense under subdivision (1) of section 43-247 and who was

1 sixteen years of age at the time the alleged offense was committed, and
2 beginning January 1, 2017, any juvenile who is alleged to have committed
3 an offense under subdivision (1) of section 43-247 and who was sixteen
4 years of age or seventeen years of age at the time the alleged offense
5 was committed; and

6 (b) Any juvenile who was fourteen years of age or older at the time
7 the alleged offense was committed and the offense falls under subdivision
8 (2) of section 43-247 except offenses enumerated in subdivision (1)(a)
9 (ii) of section 29-1816.

10 Proceedings initiated under this subdivision (2) may be transferred
11 as provided in section 43-274; and

12 (3) Concurrent original jurisdiction with the county court or
13 district court as to:

14 (a) Any juvenile described in subdivision (4) of section 43-247;

15 (b) Any proceeding under subdivision (6), (8), (9), or (10) of
16 section 43-247; and

17 (c) Any juvenile described in subdivision (1)(a)(ii) of section
18 29-1816.

19 Proceedings initiated under this subdivision (3) may be transferred
20 as provided in section 43-274.

21 Sec. 17. Section 43-247, Revised Statutes Cumulative Supplement,
22 2014, is amended to read:

23 43-247 The juvenile court in each county shall have jurisdiction of:

24 (1) Any juvenile who has committed an act other than a traffic
25 offense which would constitute a misdemeanor or an infraction under the
26 laws of this state, or violation of a city or village ordinance;

27 (2) Any juvenile who has committed an act which would constitute a
28 felony under the laws of this state;

29 (3) Any juvenile (a) who is homeless or destitute, or without proper
30 support through no fault of his or her parent, guardian, or custodian;
31 who is abandoned by his or her parent, guardian, or custodian; who lacks

1 proper parental care by reason of the fault or habits of his or her
2 parent, guardian, or custodian; whose parent, guardian, or custodian
3 neglects or refuses to provide proper or necessary subsistence,
4 education, or other care necessary for the health, morals, or well-being
5 of such juvenile; whose parent, guardian, or custodian is unable to
6 provide or neglects or refuses to provide special care made necessary by
7 the mental condition of the juvenile; or who is in a situation or engages
8 in an occupation, ~~including prostitution,~~ dangerous to life or limb or
9 injurious to the health or morals of such juvenile, (b) who, by reason of
10 being wayward or habitually disobedient, is uncontrolled by his or her
11 parent, guardian, or custodian; who deports himself or herself so as to
12 injure or endanger seriously the morals or health of himself, herself, or
13 others; or who is habitually truant from home or school, or (c) who is
14 mentally ill and dangerous as defined in section 71-908;

15 (4) Any juvenile who has committed an act which would constitute a
16 traffic offense as defined in section 43-245;

17 (5) The parent, guardian, or custodian of any juvenile described in
18 this section;

19 (6) The proceedings for termination of parental rights;

20 (7) Any juvenile who has been voluntarily relinquished, pursuant to
21 section 43-106.01, to the Department of Health and Human Services or any
22 child placement agency licensed by the Department of Health and Human
23 Services;

24 (8) Any juvenile who was a ward of the juvenile court at the
25 inception of his or her guardianship and whose guardianship has been
26 disrupted or terminated;

27 (9) The adoption or guardianship proceedings for a child over which
28 the juvenile court already has jurisdiction under another provision of
29 the Nebraska Juvenile Code;

30 (10) The paternity or custody determination for a child over which
31 the juvenile court already has jurisdiction; ~~and~~

1 (11) The proceedings under the Young Adult Bridge to Independence
2 Act; and -

3 (12) Any juvenile who has committed an act in violation of section
4 28-801, but is immune from criminal prosecution under subsection (5) of
5 section 28-801.

6 Notwithstanding the provisions of the Nebraska Juvenile Code, the
7 determination of jurisdiction over any Indian child as defined in section
8 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and
9 the district court shall have exclusive jurisdiction in proceedings
10 brought pursuant to section 71-510.

11 Sec. 18. Section 43-248, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 43-248 A peace officer may take a juvenile into temporary custody
14 without a warrant or order of the court and proceed as provided in
15 section 43-250 when:

16 (1) A juvenile has violated a state law or municipal ordinance and
17 the officer has reasonable grounds to believe such juvenile committed
18 such violation;

19 (2) A juvenile is seriously endangered in his or her surroundings
20 and immediate removal appears to be necessary for the juvenile's
21 protection;

22 (3) The officer believes the juvenile to be mentally ill and
23 dangerous as defined in section 71-908 and that the harm described in
24 that section is likely to occur before proceedings may be instituted
25 before the juvenile court;

26 (4) The officer has reasonable grounds to believe that the juvenile
27 has run away from his or her parent, guardian, or custodian;

28 (5) A probation officer has reasonable cause to believe that a
29 juvenile is in violation of probation and that the juvenile will attempt
30 to leave the jurisdiction or place lives or property in danger;

31 (6) The officer has reasonable grounds to believe the juvenile is

1 truant from school; or

2 (7) The officer has reasonable grounds to believe the juvenile is
3 subject to juvenile court jurisdiction ~~immune from prosecution for~~
4 ~~prostitution~~ under subsection (5) of section 28-801.

5 Sec. 19. Section 43-250, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 43-250 (1) A peace officer who takes a juvenile into temporary
8 custody under section 29-401 or subdivision (1), (4), or (5) of section
9 43-248 shall immediately take reasonable measures to notify the
10 juvenile's parent, guardian, custodian, or relative and shall proceed as
11 follows:

12 (a) The peace officer may release a juvenile taken into temporary
13 custody under section 29-401 or subdivision (1) or (4) of section 43-248;

14 (b) The peace officer may require a juvenile taken into temporary
15 custody under section 29-401 or subdivision (1) or (4) of section 43-248
16 to appear before the court of the county in which such juvenile was taken
17 into custody at a time and place specified in the written notice prepared
18 in triplicate by the peace officer or at the call of the court. The
19 notice shall also contain a concise statement of the reasons such
20 juvenile was taken into custody. The peace officer shall deliver one copy
21 of the notice to such juvenile and require such juvenile or his or her
22 parent, guardian, other custodian, or relative, or both, to sign a
23 written promise that such signer will appear at the time and place
24 designated in the notice. Upon the execution of the promise to appear,
25 the peace officer shall immediately release such juvenile. The peace
26 officer shall, as soon as practicable, file one copy of the notice with
27 the county attorney or city attorney and, when required by the court,
28 also file a copy of the notice with the court or the officer appointed by
29 the court for such purpose; or

30 (c) The peace officer may retain temporary custody of a juvenile
31 taken into temporary custody under section 29-401 or subdivision (1),

1 (4), ~~or (5)~~, or (7) of section 43-248 and deliver the juvenile, if
2 necessary, to the probation officer and communicate all relevant
3 available information regarding such juvenile to the probation officer.
4 The probation officer shall determine the need for detention of the
5 juvenile as provided in section 43-260.01. Upon determining that the
6 juvenile should be placed in a secure or nonsecure placement and securing
7 placement in such secure or nonsecure setting by the probation officer,
8 the peace officer shall implement the probation officer's decision to
9 release or to detain and place the juvenile. When secure detention of a
10 juvenile is necessary, such detention shall occur within a juvenile
11 detention facility except:

12 (i) When a juvenile described in subdivision (1), ~~or (2)~~, or (12) of
13 section 43-247, except for a status offender, is taken into temporary
14 custody within a metropolitan statistical area and where no juvenile
15 detention facility is reasonably available, the juvenile may be
16 delivered, for temporary custody not to exceed six hours, to a secure
17 area of a jail or other facility intended or used for the detention of
18 adults solely for the purposes of identifying the juvenile and
19 ascertaining his or her health and well-being and for safekeeping while
20 awaiting transport to an appropriate juvenile placement or release to a
21 responsible party;

22 (ii) When a juvenile described in subdivision (1), ~~or (2)~~, or (12)
23 of section 43-247, except for a status offender, is taken into temporary
24 custody outside of a metropolitan statistical area and where no juvenile
25 detention facility is reasonably available, the juvenile may be
26 delivered, for temporary custody not to exceed twenty-four hours
27 excluding nonjudicial days and while awaiting an initial court
28 appearance, to a secure area of a jail or other facility intended or used
29 for the detention of adults solely for the purposes of identifying the
30 juvenile and ascertaining his or her health and well-being and for
31 safekeeping while awaiting transport to an appropriate juvenile placement

1 or release to a responsible party;

2 (iii) Whenever a juvenile is held in a secure area of any jail or
3 other facility intended or used for the detention of adults, there shall
4 be no verbal, visual, or physical contact between the juvenile and any
5 incarcerated adult and there shall be adequate staff to supervise and
6 monitor the juvenile's activities at all times. This subdivision shall
7 not apply to a juvenile charged with a felony as an adult in county or
8 district court if he or she is sixteen years of age or older;

9 (iv) If a juvenile is under sixteen years of age or is a juvenile as
10 described in subdivision (3) of section 43-247, he or she shall not be
11 placed within a secure area of a jail or other facility intended or used
12 for the detention of adults;

13 (v) If, within the time limits specified in subdivision (1)(c)(i) or
14 (1)(c)(ii) of this section, a felony charge is filed against the juvenile
15 as an adult in county or district court, he or she may be securely held
16 in a jail or other facility intended or used for the detention of adults
17 beyond the specified time limits;

18 (vi) A status offender or nonoffender taken into temporary custody
19 shall not be held in a secure area of a jail or other facility intended
20 or used for the detention of adults. Until January 1, 2013, a status
21 offender accused of violating a valid court order may be securely
22 detained in a juvenile detention facility longer than twenty-four hours
23 if he or she is afforded a detention hearing before a court within
24 twenty-four hours, excluding nonjudicial days, and if, prior to a
25 dispositional commitment to secure placement, a public agency, other than
26 a court or law enforcement agency, is afforded an opportunity to review
27 the juvenile's behavior and possible alternatives to secure placement and
28 has submitted a written report to the court; and

29 (vii) A juvenile described in subdivision (1), ~~or (2)~~, or (12) of
30 section 43-247, except for a status offender, may be held in a secure
31 area of a jail or other facility intended or used for the detention of

1 adults for up to six hours before and six hours after any court
2 appearance.

3 (2) When a juvenile is taken into temporary custody pursuant to
4 subdivision (2) ~~or (7)~~ of section 43-248, the peace officer shall deliver
5 the custody of such juvenile to the Department of Health and Human
6 Services which shall make a temporary placement of the juvenile in the
7 least restrictive environment consistent with the best interests of the
8 juvenile as determined by the department. The department shall supervise
9 such placement and, if necessary, consent to any necessary emergency
10 medical, psychological, or psychiatric treatment for such juvenile. The
11 department shall have no other authority with regard to such temporary
12 custody until or unless there is an order by the court placing the
13 juvenile in the custody of the department. If the peace officer delivers
14 temporary custody of the juvenile pursuant to this subsection, the peace
15 officer shall make a full written report to the county attorney within
16 twenty-four hours of taking such juvenile into temporary custody. If a
17 court order of temporary custody is not issued within forty-eight hours
18 of taking the juvenile into custody, the temporary custody by the
19 department shall terminate and the juvenile shall be returned to the
20 custody of his or her parent, guardian, custodian, or relative.

21 (3) If the peace officer takes the juvenile into temporary custody
22 pursuant to subdivision (3) or (7) of section 43-248, the peace officer
23 may place the juvenile at a mental health facility for evaluation and
24 emergency treatment or may deliver the juvenile to the Department of
25 Health and Human Services as provided in subsection (2) of this section.
26 At the time of the admission or turning the juvenile over to the
27 department, the peace officer responsible for taking the juvenile into
28 custody pursuant to subdivision (3) of section 43-248 shall execute a
29 written certificate as prescribed by the Department of Health and Human
30 Services which will indicate that the peace officer believes the juvenile
31 to be mentally ill and dangerous, a summary of the subject's behavior

1 supporting such allegations, and that the harm described in section
2 71-908 is likely to occur before proceedings before a juvenile court may
3 be invoked to obtain custody of the juvenile. A copy of the certificate
4 shall be forwarded to the county attorney. The peace officer shall notify
5 the juvenile's parents, guardian, custodian, or relative of the
6 juvenile's placement.

7 (4) When a juvenile is taken into temporary custody pursuant to
8 subdivision (6) of section 43-248, the peace officer shall deliver the
9 juvenile to the enrolled school of such juvenile.

10 (5) A juvenile taken into custody pursuant to a legal warrant of
11 arrest shall be delivered to a probation officer who shall determine the
12 need for detention of the juvenile as provided in section 43-260.01. If
13 detention is not required, the juvenile may be released without bond if
14 such release is in the best interests of the juvenile, the safety of the
15 community is not at risk, and the court that issued the warrant is
16 notified that the juvenile had been taken into custody and was released.

17 (6) In determining the appropriate temporary placement of a juvenile
18 under this section, the peace officer shall select the placement which is
19 least restrictive of the juvenile's freedom so long as such placement is
20 compatible with the best interests of the juvenile and the safety of the
21 community.

22 Sec. 20. Section 43-251, Revised Statutes Cumulative Supplement,
23 2014, is amended to read:

24 43-251 (1) When a juvenile is taken into custody pursuant to
25 sections 43-248 and 43-250, the court or magistrate may take any action
26 for preadjudication placement or detention prescribed in the Nebraska
27 Juvenile Code.

28 (2) Any juvenile taken into custody under the Nebraska Juvenile Code
29 for allegedly being mentally ill and dangerous shall not be placed in a
30 staff secure juvenile facility, jail, or detention facility designed for
31 juveniles who are accused of criminal acts or for juveniles as described

1 in subdivision (1), (2), ~~or (4)~~, or (12) of section 43-247 either as a
2 temporary placement by a peace officer, as a temporary placement by a
3 court, or as an adjudication placement by the court.

4 Sec. 21. Section 43-251.01, Revised Statutes Cumulative Supplement,
5 2014, is amended to read:

6 43-251.01 All placements and commitments of juveniles for
7 evaluations or as temporary or final dispositions are subject to the
8 following:

9 (1) No juvenile shall be confined in an adult correctional facility
10 as a disposition of the court;

11 (2) A juvenile who is found to be a juvenile as described in
12 subdivision (3) of section 43-247 shall not be placed in an adult
13 correctional facility, the secure youth confinement facility operated by
14 the Department of Correctional Services, or a youth rehabilitation and
15 treatment center or committed to the Office of Juvenile Services;

16 (3) A juvenile who is found to be a juvenile as described in
17 subdivision (1), (2), ~~or (4)~~, or (12) of section 43-247 shall not be
18 assigned or transferred to an adult correctional facility or the secure
19 youth confinement facility operated by the Department of Correctional
20 Services;

21 (4) A juvenile under the age of fourteen years shall not be placed
22 with or committed to a youth rehabilitation and treatment center; and

23 (5) A juvenile shall not be detained in secure detention or placed
24 at a youth rehabilitation and treatment center unless detention or
25 placement of such juvenile is a matter of immediate and urgent necessity
26 for the protection of such juvenile or the person or property of another
27 or if it appears that such juvenile is likely to flee the jurisdiction of
28 the court.

29 Sec. 22. Section 43-254, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 43-254 Pending the adjudication of any case, and subject to

1 subdivision (5) of section 43-251.01, if it appears that the need for
2 placement or further detention exists, the juvenile may be (1) placed or
3 detained a reasonable period of time on order of the court in the
4 temporary custody of either the person having charge of the juvenile or
5 some other suitable person, (2) kept in some suitable place provided by
6 the city or county authorities, (3) placed in any proper and accredited
7 charitable institution, (4) placed in a state institution, except any
8 adult correctional facility, when proper facilities are available and the
9 only local facility is a city or county jail, at the expense of the
10 committing county on a per diem basis as determined from time to time by
11 the head of the particular institution, (5) placed in the temporary care
12 and custody of the Department of Health and Human Services when it does
13 not appear that there is any need for secure detention, except that
14 beginning October 1, 2013, no juvenile alleged to be a juvenile described
15 in subdivision (1), (2), (3)(b), ~~or (4)~~, or (12) of section 43-247 shall
16 be placed in the care and custody or under the supervision of the
17 Department of Health and Human Services, or (6) beginning October 1,
18 2013, offered supervision options as determined pursuant to section
19 43-260.01, through the Office of Probation Administration as ordered by
20 the court and agreed to in writing by the parties, if the juvenile is
21 alleged to be a juvenile described in subdivision (1), (2), (3)(b), ~~or~~
22 (4), or (12) of section 43-247 and it does not appear that there is any
23 need for secure detention. The court may assess the cost of such
24 placement or detention in whole or in part to the parent of the juvenile
25 as provided in section 43-290.

26 If a juvenile has been removed from his or her parent, guardian, or
27 custodian pursuant to subdivision (2) of section 43-248, the court may
28 enter an order continuing detention or placement upon a written
29 determination that continuation of the juvenile in his or her home would
30 be contrary to the health, safety, or welfare of such juvenile and that
31 reasonable efforts were made to preserve and reunify the family if

1 required under subsections (1) through (4) of section 43-283.01.

2 Sec. 23. Section 43-258, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 43-258 (1) Pending the adjudication of any case under the Nebraska
5 Juvenile Code, the court may order the juvenile examined by a physician,
6 surgeon, psychiatrist, duly authorized community mental health service
7 program, or psychologist to aid the court in determining (a) a material
8 allegation in the petition relating to the juvenile's physical or mental
9 condition, (b) the juvenile's competence to participate in the
10 proceedings, (c) the juvenile's responsibility for his or her acts, or
11 (d) whether or not to provide emergency medical treatment.

12 (2)(a) Pending the adjudication of any case under the Nebraska
13 Juvenile Code and after a showing of probable cause that the juvenile is
14 within the court's jurisdiction, for the purposes of subsection (1) of
15 this section, the court may order such juvenile to be placed with the
16 Department of Health and Human Services for evaluation, except that on
17 and after October 1, 2013, no juvenile alleged to be a juvenile as
18 described in subdivision (1), (2), (3)(b), ~~or (4)~~, or (12) of section
19 43-247 shall be placed with the Department of Health and Human Services.
20 If a juvenile is placed with the Department of Health and Human Services
21 under this subdivision, the department shall make arrangements for an
22 appropriate evaluation. The department shall determine whether the
23 evaluation will be made on a residential or nonresidential basis.
24 Placement with the department for the purposes of this section shall be
25 for a period not to exceed thirty days. If necessary to complete the
26 evaluation, the court may order an extension not to exceed an additional
27 thirty days. Any temporary placement of a juvenile made under this
28 section shall be in the least restrictive environment consistent with the
29 best interests of the juvenile and the safety of the community.

30 (b) Beginning October 1, 2013, pending the adjudication of any case
31 in which a juvenile is alleged to be a juvenile as described in

1 subdivision (1), (2), (3)(b), ~~or (4)~~, or (12) of section 43-247 and after
2 a showing of probable cause that the juvenile is within the court's
3 jurisdiction, for the purposes of subsection (1) of this section, the
4 court may order an evaluation to be arranged by the Office of Probation
5 Administration. Any temporary placement of a juvenile made under this
6 section shall be in the least restrictive environment consistent with the
7 best interests of the juvenile and the safety of the community.

8 (3) Upon completion of the evaluation, the juvenile shall be
9 returned to the court together with a written or electronic report of the
10 results of the evaluation. Such report shall include an assessment of the
11 basic needs of the juvenile and recommendations for continuous and long-
12 term care and shall be made to effectuate the purposes in subdivision (1)
13 of section 43-246. The juvenile shall appear before the court for a
14 hearing on the report of the evaluation results within ten days after the
15 court receives the evaluation.

16 (4) During any period of detention or evaluation prior to
17 adjudication, costs incurred on behalf of a juvenile shall be paid as
18 provided in section 43-290.01.

19 (5) The court shall provide copies of the evaluation report and any
20 evaluations of the juvenile to the juvenile's attorney and the county
21 attorney or city attorney prior to any hearing in which the report or
22 evaluation will be relied upon.

23 Sec. 24. Section 43-286, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 43-286 (1) When any juvenile is adjudicated to be a juvenile
26 described in subdivision (1), (2), ~~or (4)~~, or (12) of section 43-247:

27 (a)(i) This subdivision applies until October 1, 2013. The court may
28 continue the dispositional portion of the hearing, from time to time upon
29 such terms and conditions as the court may prescribe, including an order
30 of restitution of any property stolen or damaged or an order requiring
31 the juvenile to participate in community service programs, if such order

1 is in the interest of the juvenile's reformation or rehabilitation, and,
2 subject to the further order of the court, may:

3 (A) Place the juvenile on probation subject to the supervision of a
4 probation officer;

5 (B) Permit the juvenile to remain in his or her own home or be
6 placed in a suitable family home, subject to the supervision of the
7 probation officer; or

8 (C) Cause the juvenile to be placed in a suitable family home or
9 institution, subject to the supervision of the probation officer. If the
10 court has committed the juvenile to the care and custody of the
11 Department of Health and Human Services, the department shall pay the
12 costs of the suitable family home or institution which are not otherwise
13 paid by the juvenile's parents.

14 Under subdivision (1)(a)(i) of this section, upon a determination by
15 the court that there are no parental, private, or other public funds
16 available for the care, custody, and maintenance of a juvenile, the court
17 may order a reasonable sum for the care, custody, and maintenance of the
18 juvenile to be paid out of a fund which shall be appropriated annually by
19 the county where the petition is filed until a suitable provision may be
20 made for the juvenile without such payment.

21 (ii) This subdivision applies beginning October 1, 2013. The court
22 may continue the dispositional portion of the hearing, from time to time
23 upon such terms and conditions as the court may prescribe, including an
24 order of restitution of any property stolen or damaged or an order
25 requiring the juvenile to participate in community service programs, if
26 such order is in the interest of the juvenile's reformation or
27 rehabilitation, and, subject to the further order of the court, may:

28 (A) Place the juvenile on probation subject to the supervision of a
29 probation officer; or

30 (B) Permit the juvenile to remain in his or her own home or be
31 placed in a suitable family home or institution, subject to the

1 supervision of the probation officer;

2 (b)(i) This subdivision applies to all juveniles committed to the
3 Office of Juvenile Services prior to July 1, 2013. The court may commit
4 such juvenile to the Office of Juvenile Services, but a juvenile under
5 the age of fourteen years shall not be placed at the Youth Rehabilitation
6 and Treatment Center-Geneva or the Youth Rehabilitation and Treatment
7 Center-Kearney unless he or she has violated the terms of probation or
8 has committed an additional offense and the court finds that the
9 interests of the juvenile and the welfare of the community demand his or
10 her commitment. This minimum age provision shall not apply if the act in
11 question is murder or manslaughter.

12 (ii) This subdivision applies to all juveniles committed to the
13 Office of Juvenile Services for placement at a youth rehabilitation and
14 treatment center on or after July 1, 2013.

15 When it is alleged that the juvenile has exhausted all levels of
16 probation supervision and options for community-based services and
17 section 43-251.01 has been satisfied, a motion for commitment to a youth
18 rehabilitation and treatment center may be filed and proceedings held as
19 follows:

20 (A) The motion shall set forth specific factual allegations that
21 support the motion and a copy of such motion shall be served on all
22 persons required to be served by sections 43-262 to 43-267; and

23 (B) The juvenile shall be entitled to a hearing before the court to
24 determine the validity of the allegations. At such hearing the burden is
25 upon the state by a preponderance of the evidence to show that:

26 (I) All levels of probation supervision have been exhausted;

27 (II) All options for community-based services have been exhausted;
28 and

29 (III) Placement at a youth rehabilitation and treatment center is a
30 matter of immediate and urgent necessity for the protection of the
31 juvenile or the person or property of another or if it appears that such

1 juvenile is likely to flee the jurisdiction of the court.

2 After the hearing, the court may commit such juvenile to the Office
3 of Juvenile Services for placement at a youth rehabilitation and
4 treatment center as a condition of an order of intensive supervised
5 probation. Upon commitment by the court to the Office of Juvenile
6 Services, the court shall immediately notify the Office of Juvenile
7 Services of the commitment. Intensive supervised probation for purposes
8 of this subdivision means that the Office of Juvenile Services shall be
9 responsible for the care and custody of the juvenile until the Office of
10 Juvenile Services discharges the juvenile from commitment to the Office
11 of Juvenile Services. Upon discharge of the juvenile, the court shall
12 hold a review hearing on the conditions of probation and enter any order
13 allowed under subdivision (1)(a) of this section.

14 The Office of Juvenile Services shall notify those required to be
15 served by sections 43-262 to 43-267, all interested parties, and the
16 committing court of the pending discharge of a juvenile from the youth
17 rehabilitation and treatment center sixty days prior to discharge and
18 again in every case not less than thirty days prior to discharge. Upon
19 notice of pending discharge by the Office of Juvenile Services, the court
20 shall set a continued disposition hearing in anticipation of reentry. The
21 Office of Juvenile Services shall work in collaboration with the Office
22 of Probation Administration in developing an individualized reentry plan
23 for the juvenile as provided in section 43-425. The Office of Juvenile
24 Services shall provide a copy of the individualized reentry plan to the
25 juvenile, the juvenile's attorney, and the county attorney or city
26 attorney prior to the continued disposition hearing. At the continued
27 disposition hearing, the court shall review and approve or modify the
28 individualized reentry plan, place the juvenile under probation
29 supervision, and enter any other order allowed by law. No hearing is
30 required if all interested parties stipulate to the individualized
31 reentry plan by signed motion. In such a case, the court shall approve

1 the conditions of probation, approve the individualized reentry plan, and
2 place the juvenile under probation supervision.

3 The Office of Juvenile Services is responsible for transportation of
4 the juvenile to and from the youth rehabilitation and treatment center.
5 The Office of Juvenile Services may contract for such services. A plan
6 for a juvenile's transport to return to the community shall be a part of
7 the individualized reentry plan. The Office of Juvenile Services may
8 approve family to provide such transport when specified in the
9 individualized reentry plan; or

10 (c) Beginning July 1, 2013, and until October 1, 2013, the court may
11 commit such juvenile to the Office of Juvenile Services for community
12 supervision.

13 (2) When any juvenile is found by the court to be a juvenile
14 described in subdivision (3)(b) of section 43-247, the court may enter
15 such order as it is empowered to enter under subdivision (1)(a) of this
16 section or until October 1, 2013, enter an order committing or placing
17 the juvenile to the care and custody of the Department of Health and
18 Human Services.

19 (3) When any juvenile is adjudicated to be a juvenile described in
20 subdivision (1), (2), (3)(b), ~~or (4)~~, or (12) of section 43-247 because
21 of a nonviolent act or acts and the juvenile has not previously been
22 adjudicated to be such a juvenile because of a violent act or acts, the
23 court may, with the agreement of the victim, order the juvenile to attend
24 juvenile offender and victim mediation with a mediator or at an approved
25 center selected from the roster made available pursuant to section
26 25-2908.

27 (4) When a juvenile is placed on probation and a probation officer
28 has reasonable cause to believe that such juvenile has committed or is
29 about to commit a substance abuse violation, a noncriminal violation, or
30 a violation of a condition of his or her probation, the probation officer
31 shall take appropriate measures as provided in section 43-286.01.

1 (5)(a) When a juvenile is placed on probation or under the
2 supervision of the court and it is alleged that the juvenile is again a
3 juvenile described in subdivision (1), (2), (3)(b), ~~or (4)~~, or (12) of
4 section 43-247, a petition may be filed and the same procedure followed
5 and rights given at a hearing on the original petition. If an
6 adjudication is made that the allegations of the petition are true, the
7 court may make any disposition authorized by this section for such
8 adjudications.

9 (b) When a juvenile is placed on probation or under the supervision
10 of the court for conduct under subdivision (1), (2), (3)(b), ~~or (4)~~, or
11 (12) of section 43-247 and it is alleged that the juvenile has violated a
12 term of probation or supervision or that the juvenile has violated an
13 order of the court, a motion to revoke probation or supervision or to
14 change the disposition may be filed and proceedings held as follows:

15 (i) The motion shall set forth specific factual allegations of the
16 alleged violations and a copy of such motion shall be served on all
17 persons required to be served by sections 43-262 to 43-267;

18 (ii) The juvenile shall be entitled to a hearing before the court to
19 determine the validity of the allegations. At such hearing the juvenile
20 shall be entitled to those rights relating to counsel provided by section
21 43-272 and those rights relating to detention provided by sections 43-254
22 to 43-256. The juvenile shall also be entitled to speak and present
23 documents, witnesses, or other evidence on his or her own behalf. He or
24 she may confront persons who have given adverse information concerning
25 the alleged violations, may cross-examine such persons, and may show that
26 he or she did not violate the conditions of his or her probation or
27 supervision or an order of the court or, if he or she did, that
28 mitigating circumstances suggest that the violation does not warrant
29 revocation of probation or supervision or a change of disposition. The
30 hearing shall be held within a reasonable time after the juvenile is
31 taken into custody;

1 (iii) The hearing shall be conducted in an informal manner and shall
2 be flexible enough to consider evidence, including letters, affidavits,
3 and other material, that would not be admissible in an adversarial
4 criminal trial;

5 (iv) The juvenile shall be given a preliminary hearing in all cases
6 when the juvenile is confined, detained, or otherwise significantly
7 deprived of his or her liberty as a result of his or her alleged
8 violation of probation, supervision, or court order. Such preliminary
9 hearing shall be held before an impartial person other than his or her
10 probation officer or any person directly involved with the case. If, as a
11 result of such preliminary hearing, probable cause is found to exist, the
12 juvenile shall be entitled to a hearing before the court in accordance
13 with this subsection;

14 (v) If the juvenile is found by the court to have violated the terms
15 of his or her probation or supervision or an order of the court, the
16 court may modify the terms and conditions of the probation, supervision,
17 or other court order, extend the period of probation, supervision, or
18 other court order, or enter any order of disposition that could have been
19 made at the time the original order was entered; and

20 (vi) In cases when the court revokes probation, supervision, or
21 other court order, it shall enter a written statement as to the evidence
22 relied on and the reasons for revocation.

23 (6) Costs incurred on behalf of a juvenile under this section shall
24 be paid as provided in section 43-290.01.

25 (7) When any juvenile is adjudicated to be a juvenile described in
26 subdivision (4) of section 43-247, the juvenile court shall within thirty
27 days of adjudication transmit to the Director of Motor Vehicles an
28 abstract of the court record of adjudication.

29 Sec. 25. Section 43-2,108.01, Revised Statutes Cumulative
30 Supplement, 2014, is amended to read:

31 43-2,108.01 Sections 43-2,108.01 to 43-2,108.05 apply only to

1 persons who were under the age of eighteen years when the offense took
2 place and, after being taken into custody, arrested, cited in lieu of
3 arrest, or referred for prosecution without citation, the county attorney
4 or city attorney (1) released the juvenile without filing a juvenile
5 petition or criminal complaint, (2) offered juvenile pretrial diversion
6 or mediation to the juvenile under the Nebraska Juvenile Code, (3) filed
7 a juvenile court petition describing the juvenile as a juvenile described
8 in subdivision (1), (2), (3)(b), ~~or (4)~~, or (12) of section 43-247, (4)
9 filed a criminal complaint in county court against the juvenile under
10 state statute or city or village ordinance for misdemeanor or infraction
11 possession of marijuana or misdemeanor or infraction possession of drug
12 paraphernalia, or (5) filed a criminal complaint in county court against
13 the juvenile for any other misdemeanor or infraction under state statute
14 or city or village ordinance, other than for a traffic offense that may
15 be waived.

16 Sec. 26. Section 86-2,108, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 86-2,108 (1)(a) A governmental entity acting under subsection (2) of
19 section 86-2,106 shall (i) when a court order is sought, include in the
20 application a request, which the court shall grant, for an order delaying
21 the notification required under such subsection for a period not to
22 exceed ninety days if the court determines that there is reason to
23 believe that notification of the existence of the court order may have an
24 adverse result or (ii) when an administrative subpoena is obtained, delay
25 the notification required under such subsection for a period not to
26 exceed ninety days upon the execution of a written certification of a
27 supervisory official that there is reason to believe that notification of
28 the existence of the subpoena may have an adverse result.

29 (b) For purposes of this section:

30 (i) Adverse result means:

31 (A) Endangering the life or physical safety of an individual;

- 1 (B) Flight from prosecution;
- 2 (C) Destruction of or tampering with evidence;
- 3 (D) Intimidation of potential witnesses; or
- 4 (E) Otherwise seriously jeopardizing an investigation or unduly
- 5 delaying a trial; and

6 (ii) Supervisory official means the investigative agent in charge,
7 the assistant investigative agent in charge, an equivalent of an
8 investigating agency's headquarters or regional office, the chief
9 prosecuting attorney, the first assistant prosecuting attorney, or an
10 equivalent of a prosecuting attorney's headquarters or regional office.

11 (c) The governmental entity shall maintain a true copy of
12 certification under subdivision (a)(ii) of this subsection.

13 (d) Extensions of the delay of notification provided in sections
14 86-2,106 and 86-2,107 of up to ninety days each may be granted by the
15 court upon application, or by certification by a governmental entity, but
16 only in accordance with subsection (2) of this section.

17 (e) Upon expiration of the period of delay of notification under
18 subdivision (a) or (d) of this subsection, the governmental entity shall
19 serve upon or deliver by registered or first-class mail to the customer
20 or subscriber a copy of the process or request together with notice that:

21 (i) States with reasonable specificity the nature of the law
22 enforcement inquiry; and

23 (ii) Informs such customer or subscriber:

24 (A) That information maintained for such customer or subscriber by
25 the provider named in such process or request was supplied to or
26 requested by that governmental entity and the date on which the supplying
27 or request took place;

28 (B) That notification of such customer or subscriber was delayed;

29 (C) What governmental entity or court made the certification or
30 determination pursuant to which that delay was made; and

31 (D) Which provision of sections 86-2,104 to 86-2,109 allowed such

1 delay.

2 (2) A governmental entity acting under section 86-2,106, except as
3 provided in ~~when it is not required to notify the subscriber or customer~~
4 ~~under subdivision (2)(a) of section 86-2,106 or to the extent that it may~~
5 ~~delay such notice pursuant to~~ subsection (1) of this section, may apply
6 to a court for an order commanding a provider of electronic communication
7 service or remote computing service to whom a warrant, subpoena, or court
8 order is directed, for such period as the court deems appropriate, not to
9 notify any other person of the existence of the warrant, subpoena, or
10 court order. The court shall enter such an order if it determines that
11 there is reason to believe that notification of the existence of the
12 warrant, subpoena, or court order will result in an adverse result.

13 Sec. 27. Section 86-2,112, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 86-2,112 (1) The Attorney General or any county attorney may
16 administer oaths and affirmations, subpoena witnesses and compel their
17 attendance, take evidence, and require the production of records
18 including books, papers, documents, and tangible things which constitute
19 or contain evidence relevant or material to the investigation or
20 enforcement of the laws of this state when it reasonably appears that
21 such action is necessary and proper. The attendance of witnesses and the
22 production of records shall be required from any place within the State
23 of Nebraska and service of subpoenas may be made upon any publicly or
24 privately held corporation, partnership or other legal entity located
25 within or outside the State of Nebraska. Witnesses summoned by the
26 Attorney General or a county attorney shall be paid the same fees that
27 are paid witnesses in the courts of the State of Nebraska and mileage at
28 the rate provided in section 81-1176.

29 (2) The Attorney General or a county attorney may apply to a court
30 for an order commanding the person or entity to which a subpoena is
31 directed not to notify any other person of the existence of the subpoena.

1 The court shall enter such an order if it determines that there is reason
2 to believe that notification of the existence of the subpoena will result
3 in an adverse result, as such term is defined in section 86-2,108.

4 Sec. 28. (1) In addition to any other civil or criminal penalties
5 provided by law, any property used in the commission of a violation of
6 section 28-831 may be forfeited as provided in this section.

7 (a) The following property shall be subject to forfeiture if used or
8 intended for use as an instrumentality in or used in furtherance of a
9 violation of section 28-831:

10 (i) Conveyances, including aircraft, vehicles or vessels;

11 (ii) Books, records, telecommunication equipment, or computers;

12 (iii) Money or weapons;

13 (iv) Everything of value furnished, or intended to be furnished, in
14 exchange for an act in violation and all proceeds traceable to the
15 exchange;

16 (v) Negotiable instruments and securities;

17 (vi) Any property, real or personal, directly or indirectly acquired
18 or received in a violation or as an inducement to violate;

19 (vii) Any property traceable to proceeds from a violation; and

20 (viii) Any real property, including any right, title and interest in
21 the whole of or any part of any lot or tract of land used in furtherance
22 of a violation of section 28-831.

23 (b)(i) No property used by any person as a common carrier in the
24 transaction of business as a common carrier is subject to forfeiture
25 under this section unless it appears that the owner or other person in
26 charge of the property is a consenting party or privy to a violation of
27 section 28-831;

28 (ii) No property is subject to forfeiture under this section by
29 reason of any act or omission proved by the owner thereof to have been
30 committed or omitted without his or her knowledge or consent. If the
31 confiscating authority has reason to believe that the property is a

1 leased or rented property, then the confiscating authority shall notify
2 the owner of the property within five days after the confiscation or
3 within five days after forming reason to believe that the property is
4 leased or rented property;

5 (iii) Forfeiture of property encumbered by a bona fide security
6 interest is subject to the interest of the secured party if such party
7 neither had knowledge of nor consented to the act or omission.

8 (2) No property shall be forfeited under this section, to the extent
9 of the interest of an owner, by reason of any act or omission established
10 by the owner to have been committed or omitted without his or her
11 knowledge or consent.

12 (3) Seizure without process may be made if the seizure is incident
13 to an arrest or a search under a search warrant.

14 (4)(a) When any property is seized under this section, proceedings
15 shall be instituted within a reasonable period of time from the date of
16 seizure or the subject property shall be immediately returned to the
17 party from whom seized.

18 (b) A petition for forfeiture shall be filed by the Attorney General
19 or a county attorney in the name of the State of Nebraska, and may be
20 filed in the county in which the seizure is made, the county in which the
21 criminal prosecution is brought, or the county in which the owner of the
22 seized property is found. Forfeiture proceedings may be brought in the
23 district court or the county court. A copy of the petition shall be
24 served upon the following persons by service of process in the same
25 manner as in civil cases:

26 (i) The owner of the property, if address is known;

27 (ii) Any secured party who has registered a lien or filed a
28 financing statement as provided by law, if the identity of the secured
29 party can be ascertained by the entity filing the petition by making a
30 good faith effort to ascertain the identity of the secured party;

31 (iii) Any other bona fide lienholder or secured party or other

1 person holding an interest in the property in the nature of a security
2 interest of whom the seizing law enforcement agency has actual knowledge;
3 and

4 (iv) Any person in possession of property subject to forfeiture at
5 the time that it was seized.

6 (5) If the property is a motor vehicle susceptible of titling under
7 the Motor Vehicle Certificate of Title Act or a vessel susceptible of
8 titling under the State Boat Act and, if there is any reasonable cause to
9 believe that the motor vehicle or vessel has been titled, inquiry of the
10 Department of Motor Vehicles shall be made as to what the records of the
11 department show as to who is the record owner of the motor vehicle or
12 vessel and who, if anyone, holds any lien or security interest that
13 affects the motor vehicle or vessel.

14 (6) If the property is a motor vehicle or vessel and is not titled
15 in the State of Nebraska, then an attempt shall be made to ascertain the
16 name and address of the person in whose name the motor vehicle or vessel
17 is licensed, and if the motor vehicle or vessel is licensed in a state
18 which has in effect a certificate of title law, inquiry of the
19 appropriate agency of that state shall be made as to what the records of
20 the agency show as to who is the record owner of the motor vehicle or
21 vessel and who, if anyone, holds any lien, security interest or other
22 instrument in the nature of a security device that affects the motor
23 vehicle or vessel.

24 (7) If the property is of a nature that a financing statement is
25 required by the laws of this state to be filed to perfect a security
26 interest affecting the property and if there is any reasonable cause to
27 believe that a financing statement covering the security interest has
28 been filed under the laws of this state, inquiry shall be made as to what
29 the records show as to who is the record owner of the property and who,
30 if anyone, has filed a financing statement affecting the property.

31 (8) If the property is an aircraft or part thereof and if there is

1 any reasonable cause to believe that an instrument in the nature of a
2 security device affects the property, inquiry shall be made as to what
3 the records of the Federal Aviation Administration show as to who is the
4 record owner of the property and who, if anyone, holds an instrument in
5 the nature of a security device which affects the property.

6 (9) If the answer to an inquiry states that the record owner of the
7 property is any person other than the person who was in possession of it
8 when it was seized, or states that any person holds any lien,
9 encumbrance, security interest, other interest in the nature of a
10 security interest, mortgage, or deed of trust that affects the property,
11 the record owner and also any lienholder, secured party, other person who
12 holds an interest in the property in the nature of a security interest,
13 or holder of an encumbrance, mortgage, or deed of trust that affects the
14 property is to be named in the petition of forfeiture and is to be served
15 with process in the same manner as in civil cases.

16 (10) If the owner of the property cannot be found and served with a
17 copy of the petition of forfeiture, or if no person was in possession of
18 the property subject to forfeiture at the time that it was seized and the
19 owner of the property is unknown, there shall be filed with the clerk of
20 the court in which the proceeding is pending an affidavit to such effect,
21 whereupon the clerk of the court shall publish notice of the hearing
22 addressed to "the Unknown Owner of, " filling in the blank
23 space with a reasonably detailed description of the property subject to
24 forfeiture. Service by publication shall be completed in the same manner
25 as is provided in the code of civil procedure for the service of process
26 in civil actions in the district courts of this state.

27 (11) No proceedings instituted pursuant to this section shall
28 proceed to hearing unless the judge conducting the hearing is satisfied
29 that this section has been complied with. Any answer received from an
30 inquiry required by this section shall be introduced into evidence at the
31 hearing.

1 (12)(a) an owner of property that has been seized shall file an
2 answer within thirty days after the completion of service of process. If
3 an answer is not filed, the court shall hear evidence that the property
4 is subject to forfeiture and forfeit the property to the seizing law
5 enforcement agency. If an answer is filed, a time for hearing on
6 forfeiture shall be set within thirty days after filing the answer or at
7 the succeeding term of court if court would not be in session within
8 thirty days after filing the answer. The court may postpone the
9 forfeiture hearing to a date past the time any criminal action is pending
10 against the owner upon request of any party.

11 (b) If the owner of the property has filed an answer denying that
12 the property is subject to forfeiture, then the burden is on the
13 petitioner to prove that the property is subject to forfeiture. However,
14 if an answer has not been filed by the owner of the property, the
15 petition for forfeiture may be introduced into evidence and is prima
16 facie evidence that the property is subject to forfeiture. The burden of
17 proof placed upon the petitioner in regard to property forfeited under
18 this section shall be by a preponderance of the evidence.

19 (c) At the hearing any claimant of any right, title, or interest in
20 the property may prove his or her lien, encumbrance, security interest,
21 other interest in the nature of a security interest, mortgage, or deed of
22 trust to be bona fide and created without knowledge or consent that the
23 property was to be used so as to cause the property to be subject to
24 forfeiture.

25 (d) If it is found that the property is subject to forfeiture, then
26 the judge shall forfeit the property. However, if proof at the hearing
27 discloses that the interest of any bona fide lienholder, secured party,
28 other person holding an interest in the property in the nature of a
29 security interest, or any holder of a bona fide encumbrance, mortgage, or
30 deed of trust is greater than or equal to the present value of the
31 property, the court shall order the property released to him. If the

1 interest is less than the present value of the property and if the proof
2 shows that the property is subject to forfeiture, the court shall order
3 the property forfeited.

4 (13) Unless otherwise provided in this section, all personal
5 property which is forfeited under this section shall be liquidated and,
6 after deduction of court costs and the expense of liquidation, the
7 proceeds shall be remitted to the State Treasurer for credit to the Human
8 Trafficking Victim Assistance Fund.

9 (14) All money forfeited under this section shall be deposited and
10 credited in the same manner as provided in subsection (13) of this
11 section.

12 (15) All real estate forfeited under this section shall be sold to
13 the highest bidder at a public auction for cash, the auction to be
14 conducted by the county sheriff, or his or her designee, at such place,
15 on such notice, and in accordance with the same procedure, as far as
16 practicable, as is required in the case of sales of land under execution
17 at law. The proceeds of the sale shall first be applied to the cost and
18 expense in administering and conducting the sale, then to the
19 satisfaction of all mortgages, deeds of trust, liens, and encumbrances of
20 record on the property. The remaining proceeds shall be forwarded and
21 deposited in the same manner as provided in subsection (13) of this
22 section.

23 (16) The forfeiture procedure set forth in this section is the sole
24 remedy of any claimant, and no court shall have jurisdiction to interfere
25 therewith by replevin, injunction, supersedeas, or in any other manner.

26 Sec. 29. The Human Trafficking Victim Assistance Fund is created.
27 The fund shall contain the amounts remitted pursuant to section 28 of
28 this act. The fund shall be administered by the Nebraska Commission on
29 Law Enforcement and Criminal Justice. All money credited to such fund
30 shall be used to support care, treatment, and other services for victims
31 of human trafficking and commercial sexual exploitation of a child. Any

1 money in the fund available for investment shall be invested by the state
2 investment officer pursuant to the Nebraska Capital Expansion Act and the
3 Nebraska State Funds Investment Act.

4 Sec. 30. Sections 6, 31, and 33 of this act become operative on
5 January 1, 2016. The other sections of this act become operative on their
6 effective date.

7 Sec. 31. Original section 21-2,212, Revised Statutes Cumulative
8 Supplement, 2014, is repealed.

9 Sec. 32. Original sections 29-812, 29-815, 86-2,108, and 86-2,112,
10 Reissue Revised Statutes of Nebraska, and sections 27-413, 28-801,
11 28-801.01, 28-802, 28-804, 28-831, 43-246.01, 43-247, 43-248, 43-250,
12 43-251, 43-251.01, 43-254, 43-258, 43-286, and 43-2,108.01, Revised
13 Statutes Cumulative Supplement, 2014, are repealed.

14 Sec. 33. The following section is outright repealed: Section
15 21-20,177, Reissue Revised Statutes of Nebraska, as amended by this
16 legislative bill.